



The Ocean
Conservancy



November 7, 2006

Chairman Donald Hansen
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Re: Groundfish Bycatch-Reduction Work Plan

Dear Chairman Hansen and Members of the Pacific Council:

We are writing on behalf of NRDC, Pacific Marine Conservation Council, The Ocean Conservancy, Oceana, and our more than 1.5 million members and activists, to comment on the Groundfish Bycatch Work Plan (Agenda Item D.2) (hereinafter, work plan or plan). We urge the Council to improve this work plan before adopting it by: (1) adding gear flexibility to the list of measures covered by the plan; (2) developing a plan for improved observer coverage and hard bycatch caps; and (3) making it recognizable as a work plan by (a) clearly identifying *who* will take *what* steps to achieve the desired bycatch-reduction result for each measure addressed in the plan and (b) clearly identifying *when* key milestones and final results will be achieved.

Overview

As we demonstrate below, this version of the plan includes a detailed schedule only for harvest specifications, a measure already occurring. Bycatch reduction targets for harvest specifications are not discussed; in fact, the Council is using that process this year not to minimize but risk *increasing* bycatch of cowcod (Proposed ABC and Optimum Yield Specifications and Management Measures for the 2007-2008 Pacific Coast Groundfish Fishery EIS p. 285). The plans for most other measures highlighted in the work plan lack meaningful schedules and clear actions necessary to accomplish results. A particularly egregious example of the failure to produce a real work plan is the timetable and deliverables for "bycatch data collection, analysis and delivery," (see work plan pp. 8 and 9) which concludes a year from now with nothing more than a meeting that has "develop workplan" on its agenda. This potentially endless loop is not an effective plan for getting the job done.

Developing a bycatch reduction work plan is particularly important because Amendment 18 contains a laundry list of measures intended to meet the requirement under the Magnuson-Stevens Act (MSA) to account for and minimize bycatch. Many of these measures have yet to be implemented, however, and Amendment 18 contains no schedule

for moving them forward. Amendment 18 thus suffers from one of the same deficiencies that caused the court to find its predecessor, Amendment 13, in violation of the MSA—listing “a series of measures that NMFS and the Council might consider for adoption at some undetermined point in the future.” *Pacific Marine Conservation Council v. Evans*, 200 F. Supp.2d at 1201 (N.D. Cal. 2002). To meet the requirements of the MSA, NMFS and the Council need a serious workplan and definitive schedule for completing the measures in Amendment 18 that have not yet been put in place, rather than the open-ended timetable criticized by the federal courts.

Adopting a work plan makes sense not only from a legal point of view, but also for practical, organizational, and financial reasons. A bycatch reduction work plan could provide valuable information to the public and affected parties, helping them prepare for the future. It can also promote orderly scheduling of regulatory processes and help identify resource needs. By advancing bycatch reduction measures, it can improve the efficiency—and the revenues—of fishing. For those same reasons, we support adoption of procedures for periodic updates of the work plan, as suggested by staff. The preliminary schedule included in this work plan covers only the next two years. An annual update makes sense given the complexity of the Council schedule and the value of anticipating process and resource needs fairly far in advance.

Detailed comments

Add gear flexibility measures. The most important measure missing from this Work Plan, in our view, is gear flexibility. Switching from bottom trawl gear to hook and line or pot gear is a step capable of creating significant reductions in bycatch and bottom habitat impacts relative to current levels. A number of fishermen are actively interested in opportunities for greater flexibility to choose cleaner gears; the sooner the Council moves in this direction, the better. We believe gear flexibility options could be achieved over the next two years if a step-by-step plan were developed, encompassing any needed analysis, infrastructure development, public involvement and pilot testing. While we believe gear switching could be done on a pilot scale without formal inter-sector allocations, such allocations probably constitute the main infrastructure needed before broader scale implementation is possible. We appreciate that the Council and NMFS have begun the sector allocation process, and anticipate completing it (under one scenario) by April 2008. Significant portions of the process needed to develop, evaluate and test gear flexibility measures could be carried out in parallel with the sector allocation process, with adoption scheduled once the allocation process is complete. We see no reason why planning for gear flexibility cannot begin right away, and recommend establishing this set of measures as a priority and adding it to the plan and schedule.

Add improved observer coverage and hard bycatch caps. The Council has recognized that setting hard caps is a useful bycatch minimization tool. The Council’s preferred alternative in the Bycatch Mitigation Program Final Environmental Impact Statement included the use of overfished groundfish catch caps and groundfish discard caps (Bycatch FEIS at ES-7), as does Amendment 18. That amendment found that hard bycatch caps are being used in the whiting fishery but that additional infrastructure is needed before such caps will be appropriate for other groundfish sectors. We disagree

with the work plan's statements that this cannot be done within a 2- to 3-year time frame and therefore no action need be proposed. The bycatch work plan ought to begin to lay out the necessary steps and a timeline for implementing hard bycatch caps, including improved observer coverage and reporting, plus appropriate cap levels for species taken as bycatch. This type of planning is necessary to build the infrastructure necessary for implementing hard bycatch caps.

Add specific actions, actors, results, milestones, and completion dates. Let's use "data collection, analysis and delivery" as an example. The Work Plan (p. 3) summarizes recommendations by NMFS's Northwest Fisheries Science Center to speed up delivery of processed observer data. It does not, however, identify why data should be sped up or by how much. In our view, this set of measures is the foundation for progress on many other measures, and at a minimum is critical for determining total fishing mortality, ensuring accountability, and feeding timely information into stock assessments and the determination of catch levels and management measures. In the recent past, Council members have often found themselves recommending future catch levels and management measures without full information on total mortality levels from the previous year or the success of last year's management measures. We expect that processed data on a monthly basis would be sufficient for improving data delivery for catch specifications and stock assessment purposes.

NMFS's recommendations—e.g. shorten fish ticket upload time; shorten logbook data upload time; ensure fish ticket consistency among states; add identifier to fish tickets and logbooks for EFPs—appear capable of expediting data delivery sufficiently for near-term purposes. Why have they been relegated to a series of apparently aimless meetings, instead of being converted into clear action steps with a timeline and results? In fact, PacFIN has made more progress on this issue already than the work plan anticipates making over the next year.

For other purposes, such as implementing sector bycatch caps and individual or co-operative fishing quotas, the target reporting time for processed data delivery may be weekly or close to real time. The Council and NMFS need to identify: (1) what specific changes are needed to speed up the data collection and delivery process (e.g. electronic logbooks?); and (2) a realistic and appropriate timeframe for making these changes.

Amendment 18 highlights Open Access Limitation as another bycatch reduction measure, but as with other proposed measures, the work plan fails to provide a timetable or identify specific deliverables. Ironically, a hypothetical timeline for this process reviewed by the Council in September 2006 would serve well as a work plan (see Agenda Item C.4.a Attachment 1, Sept. 2006). We suggest incorporating that schedule into the bycatch work plan. If there are caveats about whether sufficient resources are available or modifications that are needed, it would be better to make them than to leave the bycatch work plan schedule vacant.

In closing, we would like to underscore the importance of focused attention on bycatch reduction--to maintain past gains and continue moving forward. To provide that kind of

attention, the Council and NMFS need to strengthen this work plan. We appreciate the opportunity to comment, and look forward to working with all parties to move bycatch reduction measures forward.

Sincerely

Karen Garrison
Natural Resources Defense Council

Peter Huhtala
Pacific Marine Conservation Council

Meghan Jeans
The Ocean Conservancy

Ben Enticknap
Oceana