Mr. Robert Lohn, Regional Director
NOAA – Fisheries
7600 Sand Point Way N.E
Seattle, WA  98115

Re:   Emergency Rule to Prohibit New Participation in the Whiting Fishery by American Fishery Act Vessels

Dear Mr. Lohn:

Midwater Trawlers Cooperative members have been involved in the whiting fisheries since 1982, starting with at-sea foreign joint ventures, and moved into American at-sea markets as they became dominant and replaced foreign processing vessels. About this same time the shoreside whiting fishery started, and within a few short years the Pacific Fisheries Management Council listed shoreside whiting as being overcapitalized in their Strategic Plan. The vessels that have historically participated in the shoreside whiting fishery and have become dependant on this source of revenue are now seeing this fishery turn into a derby nightmare. These vessels are now suffering huge losses due to inaction to protect this fishery from harm being done by the American Fisheries Act.

The harm to the shoreside whiting fishery is obvious, there is over 4 million pounds of excess AFA vessel capacity that has no shoreside whiting history that can be landed daily. These vessels have all participated in the at-sea whiting fisheries for years and are now finding time to move into the shoreside whiting fishery.

What makes this possible?

- Bering Sea pollock is no longer an open access fishery due to the American Fisheries Act.

- AFA vessels are now able to harvest their allocated pollock when they want to, with the ability to lease or trade their pollock freely. This gives them the freedom to participate in other fisheries for which they have no historical participation.

- Without the mandated sideboards to protect the Pacific Councils fishermen from the adverse impacts of AFA, these large vessels are now able to move into the unprotected and overcapitalized shoreside whiting fishery causing conservation and economic impacts.

- Shoreside Whiting and Pollock use the same gear type and deck arrangements, thus making it possible for these large vessels to enter this fishery with no or minor expense.

David Jincks, President
880 SE Bay Blvd  *  Newport, OR  97365  *  Phone: (541) 265-9317  *  Email: jincks@pioneer.net
The Bering Sea Pollock TAC is in decline, this is sending owners out looking for new fisheries. The only fishery that never got sector specific protection was the whiting fishery, even though the Pacific Council and the Secretary of Commerce was told to do so by law.

The Washington Department of Fish and Game made the statement that the large AFA vessels with no prior shoreside whiting history that entered the fishery in 2006 made substantial investments to enter this fishery is incorrect. Any vessel that qualified for AFA benefits and delivered Pollock to shoreside markets in Alaska, makes it possible for them to spillover into the shoreside whiting fishery with no expense. These fisheries are identical, the investments were made for the pollock fishery not shoreside whiting.

The fallout of not taking swift action to approve the emergency rule to protect the shoreside whiting fishery for the 2007 fishing season will be felt by the whole West Coast. If the emergency rule is not implemented the Pacific Council will need to prepare for the spillover from a shoreside whiting derby disaster.

**What will the fallout be with no emergency rule?**

- Destabilization of the shoreside whiting fishery in 2007, the huge amount of excess capacity that is moving into this fishery will cause vessels to alter their long time conservative fishing strategies. Whiting fishermen will need to harvest at an accelerated rate due to the season being cut in half.

- With the addition of two more large AFA vessels with no prior shoreside whiting history that have been promised markets for 2007 if the emergency is not implemented will shorten the shoreside fishery to less than 30 days if the TAC remains the same. This means the traditional shoreside whiting vessels will spillover into the non-whiting fisheries that they haven’t participated in.

- The trawl individual quota process that the Federal Government has spent a large sum of money on will never reach completion while vessels are allowed to enter the shoreside whiting fishery on pure speculation. The new large AFA entrants will stall this process in the hopes of gaining catch history while this process struggles through the Council.

The Washington Department of Fish and Game in protesting the emergency rule and defending their States need to protect these vessels and the purchase of latent permits, puts them on record of supporting speculation fishing. Speculation is the most destructive form of fishing when a Council is working towards an IQ fishery. This is spelled out clearly in the Federal Register / Vol. 69, No. 6 / Friday, January 9, 2004. Specific language being. The control date for the trawl IQ program (November 6, 2003) is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program. For one State to endorse and support this type of action is sending a message to the trawl TIQC committee that the doors open, come on in.

The emergency rule is only temporary; it gives the Pacific Council time to finish what should have been done years ago. It’s now time to get behind the Pacific Council and support the decision that was made

David Jincks, President
880 E. Bay Blvd * Newport, OR 97365 * (541) 270-3208 * Fax 265.4557 * Email: jincks@pioneer.net
to protect the shoreside whiting fishery by emergency rule for 2007. Everyone needs to realize that this is no longer about the AFA vessels that entered the shoreside fishery in 2006; it’s about the additional AFA vessels that will be in the shoreside fishery in 2007.

The Washington Department of Fish and Game made the comment that AFA vessels have participated in this fishery for years, and trade their pollock or lease it to another vessel to be able to fish shoreside whiting. This is true; these vessels have been part of this fishery since before AFA was enacted by Congress. These vessels were part of this fishery before limited entry; the participation of these vessels is well documented. AFA sideboards was about protecting fisheries and fishermen from the adverse affects coming from vessels that had no prior history, not from the vessels that had always participated in this fishery. The North Pacific protected their fisheries by placing sideboard restrictions on all AFA vessels, restricting them to only the fisheries that they had recent participation in.

The hard facts demonstrate that you have an emergency on your hands; the adverse impacts have already increased and will only become worse as the 2007 season nears. This is an avoidable groundfish disaster, support the Pacific Fisheries Management Councils vote to move forward with an emergency rule. Do not let economic speculation in a fishery do damage to the trawl IQ program that we have invested a large amount of Federal Dollars and personal time in.

Thank you.

Sincerely,

[Signature]

David Jincks
Midwater Trawlers Cooperative

cc: Dr. William Hogarth
Mr. Frank Lockhart
Dr. Donald McIsaac
Mr. Kurt Melcher

David Jincks, President
880 E. Bay Blvd * Newport, OR 97365 * (541) 270-3208 * Fax 265.4557 * Email: jincks@pioneer.net
October 24, 2006

Dr. Donald McIsaac
Pacific Fisheries Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220

Dear Dr. McIsaac:

Having testified in favor of the adoption of an emergency rule excluding AFA vessels with no historical deliveries at the September 11, 2006 council meeting; I am deeply disturbed by Washington State Department of Fisheries trying to end run the political process.

After lengthy and passionate testimony by both sides the council did the right thing and took the appropriate step to stop the siphoning off of the whiting TAC by AFA vessels with no prior shore-side history.

Apparently, WDOF disagrees with this process and continues to put their spin on the landing numbers to some what soften the adverse effects the increased landing by the new AFA participants have on the traditional whiting fisherman.

I will not try and confuse the issue with more smoke and mirrors but use just one of their number: 12:3%. I can’t help but wonder if WDOF budget was reduced by over 12 percent would Mr. Anderson and Dr. Koenings think it might possibly have an adverse effect on their department?

Finally, to believe that the AFA vessel owners, as businessmen invested large sums of monies with their eyes closed and were unaware of the published control dates to quote Dr. Koening is indeed “indefensible.”
Sincerely,

Mike Storey
Captain F/V Pegasus

Cc. Dr. William Hogarth
    Mr. Robert Lohn
    Mr. Frank Lockhart
    Dr. Donald McIsaac
October 26, 2006

Dear Dr. Donald McLsaac
Pacific Fisheries Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

I am writing to you concerning the impact the of large AFA vessels recently introduced into the Pacific whiting fisheries. We own and operate the F/V Last Straw. We have been fishing for Pacific whiting since 1998. This fishery constitutes nearly 40% of our yearly income. The Pacific whiting is very crucial to our livelihood. With the introduction of the large AFA vessels into the whiting fishery, our season has been shortened, causing us to lose income and threatening our business survival. These vessels have no historical participation in this fishery. Every one of these vessels due to their large size has a significant impact on the whiting fishery.

I have personally fished for whiting since 1980, our boat has history with whiting at least back to 1979, and shore side whiting since 1998. We are a family business that has worked to establish a history in this fishery. Large vessels without established shore-side fishing history negatively impact our market. When the Olympic Pollock fishery was rationalized the American Fisheries Act established the AFA vessels would not be allowed to impact another fishery.

The Whiting fishery has not been protected by sideboards as required by the American Fisheries Act. When the Pacific Council moves ahead quickly, and, provides the Inshore Whiting fishery with the protection established in the American Fisheries Act, the destabilizing of this fishery can be avoided.

We ask that you immediately implement regulations as required by the American Fisheries Act that will protect the shore-side whiting boats with history in the fishery. Restrict these new large AFA vessels as required by law. Please act quickly to protect our fishery.

We’ve worked for years developing this fishery and need this emergency rule to manage it. Washington and those large AFA boats are just trying to take advantage of our small
success. By allowing them to do this I believe our business will not survive. We feel the financial results from 2006. Please stay on the Council's September emergency rule.

Thank you

Sincerely

Brett Hearne
October 26, 2006

Dr. Donald Mclsaac
Pacific Fisheries Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Dear Dr. Donald Mclsaac,

My name is Wade Hearne, my father is shore-side whiting fisherman and owner operator of the F/V Last Straw that holds a west coast ground fish trawl permit. This vessel was mainly used for ground fish in the early 90s but after the restriction were implicated we have become increasingly more reliant on the mid water fishery of pacific whiting. Today I would now estimate that our participation in the shore side whiting season brings 40% of the gross income earned by the vessel for my family and the crew of the vessel. I also have been crewing on the vessel during the whiting season to pay for my college education at Oregon state university and rely totally on this season for all of my income.

After reading the Mid-Water Trawlers Co operative letter to Chairman Hansen I understand that after the American Fisheries Act (AFA) in the north pacific eliminating an Olympic season requires those vessels affected to prevent (AFA) vessels from impacting other fisheries, however I personally witnessed AFA vessels trawling for shore side whiting. As explained by David Jinks and the Midwater Trawlers to the Pacific Fisheries Management Council I now understand that AFA vessels impacting the shore side whiting is against the law, and that it is the Pacific Fishery Management Council (PFMC) to prevent such vessels from doing so. I have also come to understand that PFMC had once had to on its agenda that to prevent such vessels, but dropped it from the agenda because of a large workload.

I would like to ask PFMC to please make this a priority on the agenda because whiting has become such a large part of many of the trawlers on the Oregon coast not just my families I know that my family, our business, our crew and my education rely on the shore side whiting fishery.

Sincerely,

Wade Hearne
October 27, 2006

Dr. Donald McIsaac
P.F.M.C.
7700 NE Ambassador Place, Suite 1041
Portland, Or 97220-91384

Dear Dr. McIsaac,

Due to the ground fish cutbacks, I have recently started working on the F/V LAST STRAW in hopes that shore side whiting will help sustain a year round income. Without the Council's emergency vote to prevent AFA spillover, I anticipate a very short dangerous derby fishery that won’t do anything for myself or the others who developed the fishery to what it has become so far. Please stay on the Council's September emergency rule. Thank You

Sincerely,

Mike Blohm
October 26, 2006

Dr. Donald McIsaac
P.F.M.C.
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Dear Dr. Donald McIsaac

Hello, My name is Troy George. I have been employed on the fishing vessel “Last Straw” since 2001. I depend on Pacific Whiting for a majority of my annual income. I believe we should keep with our emergency rule. My family and I are a part of this community and this community also depends on shore side whiting.

I also feel that the State of Washington’s decision is not favorable for all as an industry. Their actions seem corrupt and ill favored. Please stay on the Council’s September emergency rule

Sincerely,

Troy George
First mate
October 25, 2006

Donald Hansen, Chairman  
Pacific Fishery Management Council  
770 Northeast Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

Re:  Impacts of the Proposed Emergency Rule

Dear Chairman Hansen:

The Swasand family and their partners have been living and fishing in Washington for more than fifty years. Our company, along with a number of other long-time Washington fishermen, own and operate the catcher/processor STARBOUND. Fishing is our way of life and the revenue is our primary source of income.

I know that I speak for me, my family and all of the other owners of the STARBOUND when I say that we are deeply concerned and disturbed by the Pacific Fishery Management Council’s recommendation that the NMFS impose an emergency rule restricting AFA vessels holding valid West Coast Groundfish Permits from participating in the mothership and catcher/processor sector of the 2007 Pacific Whiting Fishery. The exclusion of AFA vessels using permits that are and have regularly and recently been used in the Pacific Whiting fishery is arbitrary, capricious and patently unfair -- particularly given the significant investment required to participate in the fishery and the complete lack of evidence supporting the restriction on the offshore sector. The imposition of this rule on the offshore sector is not supportable by the facts or the law.

We wish to advise the Council that -- in the context of these facts and the elevated standard that must be met to implement an emergency rule -- we vigorously oppose the implementation of the emergency rule as it relates to the offshore sectors. Shortly, we will provide additional factual information accompanied by a legal analysis detailing the many reasons why the emergency rule should not and cannot be implemented. We believe that after the Council considers the correct evidence and completes a comprehensive analysis of the issues, it will agree that the emergency rule should not be implemented.

Thank you for the opportunity to provide these comments and we will remain available should you, the other members of the Council or your staff have further questions.

Sincerely,

Cary K. Swasand
October 27, 2006

Dr. Donald McIsaac,
P.F.M.C.
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Dear Dr. McIsaac,

I am a deck hand on the F/V Last Straw. I came to this vessel due to gronymfish cut backs and am now on a Shore Side Whiting boat. The money I make from this fishery sustains myself and my family for the majority of the year. In September 2006 there was an emergency rule that I am greatly in favor of. If this ruling falls through due to a corrupt and unfair governing body it could force me to lose my job and leave a community which I have grown to love. Please heed this warning and help out an already successful and crowded fishery.

Sincerely,

Trenton J. Capovilla
From: "jon silva" <jon_silva_17@hotmail.com>
Date: Mon, 30 Oct 2006 08:02:13
To: donald.mcisaac@noaa.gov
Subject: Shoreside Whiting

Dear Mr. Donald McIsaac:

My name is Jon Silva, I'm the owner/opperater of the F/V Jeanette Marrie. I'm writing to let you know I STRONGLY support the "Emergence Rule."

If this Rule does not take effect IT WILL DESTORY THE WHITING FISHERY. I looked up the word destory in the Webster dictionary. So I'm passing it on to you.

"To Destory is to reduce something to nothingness or to take away its powers and functions so that restoraton is impossible."

Thank you for your time,

PRES. Jon Silva
Dear Sir,

I am writing in support of the 2007 emergency rule for the shoreside Whiting fishery.

I am the captain of the F/V Excalibur. We participate in the shoreside Whiting fishery every year. This year we were affected by the large AFA vessels that came and participated in this fishery. We saw a shortened season and lost revenue for our workers and our business. The huge capacity of these vessels will continue to cause the seasons to be shortened. Which in turn will cause, loss of jobs, revenue, and will trickle down to our surrounding communities. The impact will be intense and wide spread.

We urge you to consider the history of this fishery and the people and boats that make their living in this fishery. Please support the Pacific Fisheries Management Council on this matter. In September they voted in favor of an emergency rule. Please join them, and help push this into affect.

Once again, these large AFA vessels entering the shoreside fishery have made no investment to enter this fishery. These vessels have moved down from Alaska where they generally would be located. In which they have caught all their Pollock quotes or have leased the quote (for big money) and then have come down to reap that which has been allotted to the West Coast Fishermen.

In short, I would like your support for the 2007 emergency rule for the shoreside Whiting Fishery.

Sincerely

Mike Retherford
Owner/Operator, F/V Excalibur
RE: Emergency Rule

Dear MR Lohn:

Hi, my name Thomas ludwig asking you to support the PFMC decision to put the emergency rule in place for the 2007 whiting season. To give the council the time to analyze amendment 15 and put protective measures in place to stop over capitalization of the whiting fishery. As required by the American Fisheries Act.

Just a few big boat's would hurt dozen's of families and much needed job's and revenue that they depend on to make a living on. This is very important to me because so many friend's and families I know that are fishermen, or depend on fishing related job's. So please give the PFMC the time they need to help us.

Sincerely,

Thomas Ludwig
My name is Tony Hewitt.
I am 6 years old.
Please give the council more time so they can help save all our moss jobs.

Thank you.
Tony Hewitt.
From: Ismael Nava

Re: Emergency Rule

I have been a crew member on the F/V Raven for the past three years. Before I was on this vessel I was a fisherman in Alaska for five years, where I lost my job there due to cutbacks. This year AFA vessels that pack four times more than our size, with no shore side history, are gaining access to shore side whiting fishery. Due to this, it shortened our whiting season by more than two weeks early, compared to last year, which had the same quota. If more vessels are allowed to in the next years to come, then my job will be a risk and many other local fisherman that wait for the whiting season every year.

I hope that The National Marine Fisheries will see the urgency to take action on this important issue. Please, we need your help and support for the councils decision to put an emergency rule in place for 2007.

Sincerely,
Ismael Nava
Date: 10/24/06

To: Robert Lohn, Regional Director
    NOAA-Fisheries

Re: Emergency Rule

My name is Brian Junes and I am writing asking you to support the PFMC decision to put the emergency rule in place for the 2007 whiting season. The council needs this time to analyze amendment 15 and put protective measures in place to stop the over capitalization of the whiting fisheries as required by the American Fisheries Act.

I have been a crew member on the F/V Raven for the last 3 years. Prior to that I worked for 4 years at a fish processing plant in Warrenton Oregon. My family and many of my friends and associates rely heavily on the seasonal income. Over the last few years the seasons have become shorter, financially hurting many around me. If larger vessels are allowed into next years whiting season, it will have a huge negative impact on my family, friends, and community.

Please allow the PFMC the sufficient time they need to protect my friends, family, and community.

Sincerely,

[Signature]
Brian Junes
F/V Raven
Dear Sir,

I am writing in support of the 2007 emergency rule for the shoreside Whiting fishery.

I am a crew member aboard the fishing vessel Excalibur. I work aboard my father’s boat along side my brother. We work hard and rely on this fishery. This fishery is a big part of the earnings that we anticipate each year. We look forward to this season and rely heavily on the income from it. We are a smaller vessel, but hold our own in this fishery. The fishery offers a lot of boats and crew members a livelihood.

As I spoke earlier, this business is family ran and operated. We all are local and put back into our communities. We urge you to help protect this fishery with the 2007 emergency rule. Not only do you protect the integrity of this fishery, you protect the lives that are directly affected by this situation.

These large AFA vessel that have moved down from Alaska, will wreck havoc on this fishery and the families that have worked their way into this fishery. We will loose all the way around, if there isn’t a halt to this process. Not only will the present be interrupted our future will be changed forever.

Please support the Pacific Fisheries Management Council on this emergency rule. Thank you for your time and effort in this matter.

Mikey B Retherford

Crew/Captain F/V Excalibur