

December 5, 2006

Mr. Robert Lohn, Regional Administrator
National Marine Fisheries Service
7600 Sand Point Way NE, BIN C15700
Seattle, WA 98115-0070

RE: Request Explanation for NOAA Fisheries Denial of CCA Modification

Dear Mr. Lohn,

My name is Gerry Richter. As you know I sit on the Pacific Fishery Management Council's (PFMC) Groundfish Advisory Panel (GAP). I am Vice President of the Point Conception Groundfisherman's Association.

I am writing you for two purposes.

First I am respectfully requesting a written explanation, detailing the specific reasons why NOAA Fisheries decided to overturn the PFMC's June 16, 2006 decision to modify the Cow Cod Conservation Area (CCA) boundaries. The purpose and reason for modifying the CCA was to provide regulatory relief for economically impacted fishermen in southern California.

The Cow Cod Conservation Area (CCA) was implemented in 2001. It is a 4600 square mile closed area allowing no ground fishing deeper than 20 fathoms. 70% of the CCA area is located in waters deeper than 150 fathoms. The maximum preferred depth of Cow Cod is 150 fathoms, so 70% of the closed area takes place in water that exceeds the Cow Cod's known range and depth limitations.

The hastily conceived and enacted CCA inadvertently, and unnecessarily, eliminated prime historically productive fishing areas for Blackgill rockfish, thornyheads, and sablefish, without providing additional protection to overfished cow cod.

According to the PFMCs Groundfish Strategic Plan "Transition To Sustainability", "the building blocks for scientific understanding from which Council and NOAA Fisheries base fishery management decisions are: **data collection, analytical evaluation of data, interpretation of results, and application of information for management decisions.**"

Following these scientific building blocks, we have worked to propose a scientifically sound plan to modify the CCA in a way that provides additional fishing opportunity without jeopardizing efforts to protect overfished cowcod.

Data collection includes: West Coast Groundfish Observer Program which shows in 6,285 observed sets, there have been ZERO occurrences of Cow Cod in the limited entry and open access fixed gear fisheries outside of 150 fathoms, south of 40 deg. 10 min. N Lat. between August 2001 and April 2006.

Analytical evaluation of data:

Includes California Department of Fish and Game (CDFG) Supplemental Analysis CCA comment; Amendment 16-4 2007-2008 Pacific Groundfish Specifications authored by Mr. Tom Barnes and Ms. Susan Ashcraft.

Specific pages to note within the comment are:

Page 5, Item #6 which speaks to health of Blackgill, talks of minimal Bocaccio impacts, and supports our claim on the Black coral depth distributions. Attachment (1) below.

Page 7, Item #7 which supports the observer data

Page 7, Item #8 which shows estimated Cow Cod bycatch rates (Safely within the margin) and also the highly restrictive VMS 15 minute ping rate mandated by NOAA enforcement.

Interpretation of results:

Resulted in four alternatives put before the Council

- 1) Status Quo
- 2) Outer boundary line to be set at 175 fathoms (PCGA's preferred option)
- 3) Much smaller areas set at 175 fathoms (Compromise with enforcement)
- 4) Five very small block type areas (enforcement option)

Application of information for management decisions:

Resulted in the PFMC approving alternative (2) On June 16, 2006

NOAA Fisheries overturned the Council's decision without providing any reason or justification for this action.

Please provide me with a written explanation, detailing the specific reasons why NOAA Fisheries decided to overturn the PFMC June 16, 2006 decision to modify the Cowcod Conservation Area, and provide needed regulatory and economic relief to the Pacific groundfish fishery.

Please send your response to:

Gerry Richter
217 Calle Manzanita
Santa Barbara, CA 93105
gdrfish@msn.com

Secondly, I am respectfully requesting that NOAA Fisheries provide me with an accounting of what additional data, information, or processes that NOAA Fisheries would require in order reconsider this decision. Please send your response to the above address.

Attachment (1) below provides a historic overview of the consideration process.

Thank you,

Gerry Richter
GAP Fixed Gear Representative
VP Point Conception Groundfisherman's Association
President B&G Seafoods
CDFG Groundfish Task Force member

Attachment One

Cow Cod Conservation Area (CCA) implemented in 2001, a 4600 square mile closed area allowing no groundfishing deeper than 20 fathoms. 70% of the CCA closed area deeper than 150 fathoms, which is the maximum preferred depth of Cow Cod. Closure eliminated prime historically productive areas for Blackgill rockfish, thornyheads, and sablefish.

Tim Athens went before the California Fish and Game Commission May 2005 and asked that the Commission request CDFG to examine creating an outer boundary line depth of 175 fathoms for limited entry fixed gear vessels equipped with VMS. Commission unanimously approved and directed the Dept. to work with the Point Conception Groundfisherman's Association (PCGA) to develop a suite of CCA options to be presented to the Council June 2006.

PCGA meets with CDFG October 6, 2005 to develop options.
PCGA meets again with CDFG February 17, 2006 to refine options.
Several conference calls and e-mails follow before final slate of options submitted to the Council June 2006.

Four options put before the Council

- 1) Status Quo
- 2) Outer boundary line to be set at 175 fathoms (PCGA's preferred option)
- 3) Much smaller areas set at 175 fathoms (Compromise with enforcement)
- 4) Five very small block type areas (enforcement option)

June Council: PCGA testifies numerous times in front of the Council supporting the 175 fm lines.

Supporting testimony includes the following:

1) West Coast Groundfish Observer Program which shows in 6,285 observed sets, there have been ZERO occurrences of Cow Cod in the limited entry and open access fixed gear fisheries outside of 150 fathoms, south of 40 deg. 10 min. N Lat. between August 2001 and April 2006.

2) Conservationists try to use newly discovered Black Coral found in the CCA. We find in The Journal of Marine Education: Volume 21, Number 4 of 2005 that the deepest those Corals were seen was 300 meters with most found shallower than 225 meters. That's around 152 fathoms at the deepest and we informed the Council that we studied the charted observations of the Corals and assured the Council that with the 175 fathom proposals those said Corals would be protected.

3) Conservationists try to suggest targeted species within the CCA are depleted. We tell the Council that new assessment on Blackgill comes in at

52.3% depletion, which is very healthy stock. Thornyhead assessment comes in at 63% depletion, which is outstanding. Sablefish is at 35.2%, which is precautionary rate but has been very consistently near that level for several years.

Council adopts PCGA preferred option 2 and puts out to public comment.

Supporting public comment found in the DEIS is: CDFG Supplemental Analysis CCA comment; Amendment 16-4 2007-2008 Pacific Groundfish Specifications authored by Mr. Tom Barnes and Ms. Susan Ashcraft.

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