



## Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384  
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pcouncil.org  
Donald K. Hansen, Chairman Donald O. McIsaac, Executive Director

August 7, 2007

Dr. William Hogarth  
National Marine Fisheries Service  
1315 East-West Hwy, Room 14555  
Silver Spring, MD 20910

RE: In-season Management for Pacific Whiting, Widow Rockfish, and Canary Rockfish

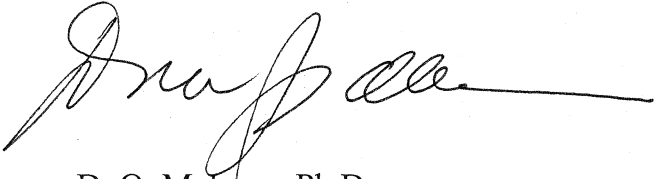
Dear Dr. <sup>Bill</sup>Hogarth:

We have received notice from the states of Washington and Oregon that they intend to bring forward consideration of in-season action regarding completing the Pacific Whiting fishery within the constraints of the catch limit in place for widow rockfish, at the upcoming September 9-14, 2007 Council meeting in Portland, Oregon (see attached letter from Philip Anderson and Curt Melcher dated August 1, 2007). At the same time, it has become apparent that intensified in-season management is necessary to optimize protective regulations for canary rockfish.

It is regionally important that any fishery reopening be done quickly, that is, on or before October 1, should the Pacific Council recommend such action and should the National Marine Fisheries Service agree. Towards that end, we forward here a draft proposed rule and justification rationale (Addendum 1 and 2, enclosed) with a request for advance review of a potential Council recommendation. Addendum 1 deals with the release of a portion of the widow rockfish reserve buffer to increase the current catch limit in the Pacific Whiting fishery. Addendum 2 institutes an existing shallow area boundary in the fishery to further minimize canary rockfish bycatch. The Pacific Council has not acted on these issues; the draft proposed rule represents a current expectation of Council action at the next meeting, with a hypothetical number for a revised catch limit on widow rockfish and the hypothetical adoption of a 150 fathom depth restriction. However, we ask for front loading of the review process to the extent possible under the presumption that final action by the Pacific Council will correspond closely to the enclosed material.

Should you or your staff have any questions on this matter, please do not hesitate to contact me or John DeVore at the Pacific Council office.

Sincerely,

A handwritten signature in black ink, appearing to read "D. O. McIsaac", with a long horizontal line extending to the right.

D. O. McIsaac, Ph.D.  
Executive Director

DOM:kam

Enclosures:

ODFW/WDFW Widow Rockfish Letter

Addendum 1: Widow Rockfish Buffer Release Proposed Regulation

Addendum 2: Canary Rockfish Depth Restriction Proposed Regulation

c: Council Members  
Mr. Sam Rauch  
Mr. Alan Reisenhoover  
Mr. Robert Lohn  
Mr. Frank Lockhart  
Mr. Rod McInnis  
Mr. Galen Tromble  
Ms. Marian Macpherson  
Ms. Eileen Cooney  
Ms. Yvonne deReynier  
Dr. John Coon  
Mr. John DeVore  
Mr. Merrick Burden  
Ms. Kelly Ames  
Mr. Tom Ghio



August 1, 2007

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PFMC

Dr. Donald O. McIsaac, Executive Director  
Pacific Fishery Management Council  
7700 Northeast Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

Dear Dr. <sup>Don</sup> McIsaac:

The Oregon and Washington Departments of Fish and Wildlife hereby submit this request that the Pacific Fishery Management Council reconsider the amount of widow rockfish provided to the directed whiting fishery at the upcoming September Council meeting in Portland, Oregon.

As you know, the primary whiting fishery reached their widow rockfish bycatch cap of 220 mt last week. In response, the National Marine Fisheries Service, based on the direction provided by the Pacific Fishery Management Council, closed the primary whiting fishery, effective July 26, 2007. A large portion of the available whiting optimum yield amount remains uncaught at this time, and a large set-aside buffer of widow rockfish also remains available under the adopted optimum yield catch limit. The states of Oregon and Washington derive a significant amount of revenue from the whiting fishery and their respective coastal communities are heavily dependent upon the commercial whiting industry. The earlier than anticipated attainment of the widow bycatch cap will severely affect our coastal fishing communities. It is very important that the fishery re-open as quickly as possible if it is biologically appropriate to do so.

At this time, it is unclear how much widow rockfish will be taken in all fisheries coastwide by the end of the year and, thus, how much could remain available for access to the whiting resource. We are anxious to receive the Council's Groundfish Management Team's estimate of the projected total mortalities of overfished rockfish at the Council's September 2007 meeting. After reviewing those estimates, and hearing public comment on the issues at hand, we intend to put forward an appropriate motion regarding this request.

We look forward to discussing this further in September.

Sincerely,

Handwritten signature of Curt Melcher in black ink.

Curt Melcher  
Oregon Department of Fish and Wildlife

Sincerely,

Handwritten signature of Philip Anderson in black ink.

Philip Anderson  
Washington Department of Fish and Wildlife

**Addendum 1. Hypothetical proposed rule for purposes of advance regulatory review, for a change in the bycatch limit of widow rockfish in the Pacific Whiting fishery, and expected justification rationale to be considered for adoption at the September 9–14 meeting of the Pacific Fishery Management Council.**

**Hypothetical Proposed Rule**

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 660.373, paragraph (b)(4) is revised to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

\* \* \* \* \*

(b) \* \* \*

(4) Bycatch limits in the whiting fishery. The bycatch limits for the whiting fishery may be used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at §660.370 (c)(1)(ii). These limits are routine management measures under §660.370 (c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. The whiting fishery bycatch limits for the sectors identified in §660.323(a) are 4.7 mt of canary rockfish, ~~220~~ 270 mt of widow rockfish, and 25 mt of darkblotched rockfish. {added at 69 FR 77012, December 23, 2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 22808, May 3, 2005; revised at 70 FR 58066, October 5, 2005; revised at 71 FR 29257, May 22, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 58289, October 3, 2006; revised at 71 FR 78638, December 29, 2006; revised at 71 FR 19390, April 18, 2007}

\* \* \* \* \*

*The only revision above, for the purpose of front loading regulatory review of a potential Pacific Council action, is the hypothetical increase in the widow rockfish catch limit of 50 mt, from 220 mt to 270 mt.*

**Expected Justification Rationale**

Widow rockfish, an overfished groundfish species, co-occurs with Pacific whiting and is, therefore, commonly caught in Pacific whiting fisheries. Beginning in 2005, the Pacific Council recommended and NMFS implemented a bycatch limit for certain overfished species that co-occur with whiting in whiting-directed fisheries, particularly canary, darkblotched, and widow rockfish; these species are also constraining to the whiting fishery in 2007. Implementing bycatch limits allowed NMFS to set a higher OY for Pacific whiting in 2007 than would otherwise have been possible. Because catch in the Pacific whiting fishery can be tracked by NMFS with near real-time data, NMFS has the ability to manage the Pacific whiting fishery to stay within bycatch limits. Based on the most recent catch data for the shore-based sector and real-time observer data for the at-sea sector, the nontribal Pacific whiting sector has taken 234 mt of the 220 mt widow rockfish bycatch limit. In order to allow the non-tribal Pacific whiting sector to harvest their allocation of whiting and avoid the negative socioeconomic impacts of keeping the

fishery closed for the remainder of the year, the Pacific Council will consider whether some of the widow rockfish set aside and not projected to be taken by other sectors by the Pacific Council's Groundfish Management Team (GMT)) could be moved into the whiting fishery's projected take for 2007. This implies a reconsideration of the bycatch limits as stated in regulation at 50CFR 660.373(b)(4). Of the 75 mt of widow rockfish estimated to be available in the set-aside buffer, the Pacific Council is expected to recommend 50 mt of the set-aside buffer into the widow rockfish bycatch limit for the Pacific whiting fishery. Without this action, the Pacific whiting fishery will remain closed, causing a multi-million dollar forfeiture of about 48,616 mt of Pacific whiting otherwise available for harvest. If approved, NMFS would implement an increase in the 2007 bycatch limit for Pacific whiting, as stated at 50 CFR 660.373(b)(4), from 220 mt of widow rockfish to 270 mt. This action would leave about 25 mt of widow rockfish in the set-aside buffer.

**Addendum 2. Hypothetical proposed rule for purposes of advance regulatory review, for a depth restriction in the nontribal Pacific Whiting fishery to protect canary rockfish, and expected justification rationale to be considered for adoption at the September 9 – 14 meeting of the Pacific Fishery Management Council.**

**Hypothetical Proposed Rule**

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 660.373, paragraph (c) is revised to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

\* \* \* \* \*

(b) \* \* \*

(c) Closed areas. Pacific whiting may not be taken and retained in the following portions of the fishery management area: {revised at 71 FR 66122, November 13, 2006}

(1) Klamath River Salmon Conservation Zone. The ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80' N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W. long. (approximately 12 nm from shore), and on the south by 41°26.80' N. lat. (approximately 6 nm south of the Klamath River mouth). {revised at 71 FR 78638, December 29, 2006}

(2) Columbia River Salmon Conservation Zone. The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N. lat. to 124°13.30' W. long., then southerly along a line of 167 True to 46°11.10' N. lat. and 124°11' W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty. {revised at 71 FR 78638, December 29, 2006}

(3) Ocean Salmon Conservation Zone. All waters shoreward of a boundary line approximating the 100 fm (183 m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100 fm (183 m) depth contour are provided at §660.393(a). {added at 71 FR 78638, December 29, 2006}

(4) Canary Rockfish Conservation Zone. All waters shoreward of a boundary line approximating the 150 fm (274 m) depth contour after September 1, 2007 through December 31, 2007. Latitude and longitude coordinates defining the boundary line approximating the 150 fm (274 m) depth contour are provided at §660.393(h). {revised at 71 FR 78638, December 29, 2006}

\* \* \* \* \*

***The only revision above, for the purpose of front loading regulatory review of a potential Pacific Council action, is the hypothetical specification of a 150-fm depth restriction for the remainder of the 2007 nontribal Pacific whiting fishery (closed shoreward of 150 fm after September 1, 2007 through December 31, 2007) to protect canary rockfish.***

### **Expected Justification Rationale**

Canary rockfish, an overfished groundfish species, co-occurs with Pacific whiting and is, therefore, commonly caught in Pacific whiting fisheries. Beginning in 2005, the Pacific Council recommended and NMFS implemented a bycatch limit for certain overfished species that co-occur with whiting in whiting-directed fisheries, particularly canary, darkblotched, and widow rockfish; these species are also constraining to the whiting fishery in 2007. Implementing bycatch limits allowed NMFS to set a higher OY for Pacific whiting in 2007 than would otherwise have been possible. Because catch in the Pacific whiting fishery can be tracked by NMFS with near real-time data, NMFS has the ability to manage the Pacific whiting fishery to stay within bycatch limits. Based on the most recent catch data for the shore-based sector and real-time observer data for the at-sea sector, the nontribal Pacific whiting sector has taken 3.92 mt of the 4.7 mt canary rockfish bycatch limit. In order to allow the non-tribal Pacific whiting sector to harvest their allocation of whiting while minimizing impacts to the canary rockfish resource, the Pacific Council will consider specifying a depth restriction of 150 fm for the remainder of the 2007 nontribal Pacific whiting fishery (the best available science indicates canary rockfish rarely occur in depths greater than 150 fm). With only 0.78 mt of canary rockfish available under the 2007 canary rockfish bycatch limit of 4.7 mt, it is unlikely that the allocation of Pacific whiting to the nontribal sector of the Pacific whiting fishery could be attained without this depth restriction. If approved, NMFS would implement a depth restriction to the nontribal 2007 Pacific whiting fishery after September 1, 2007, which closes waters shoreward of a line approximating 150 fm (274 m) to maintain an acceptable level of canary rockfish bycatch in the fishery while allowing the nontribal sector to attain their allocation of canary rockfish. While increased impacts to the darkblotched rockfish resource are expected by closing these nearshore waters, the impacts should not exceed 25 mt and the specified 25 mt darkblotched bycatch limit allows NMFS to close the fishery before an unacceptable harvest of darkblotched rockfish can occur.