Dear Council Members,

The National Coalition for Marine Conservation (NCMC), founded in 1973 by conservation-minded fishermen, opposes authorizing a west coast-based high seas longline fishery in the eastern Pacific on the grounds that pelagic longlining carries too high a price tag in terms of its well-documented environmental costs, as well as its proven high management costs because of the significant time and resources required to monitor and manage such an indiscriminate method of fishing.

We share the environmental community's concern about the impact of a high seas longline fishery on endangered loggerhead and leatherback sea turtles. We are also concerned, however, about the potential longline bycatch of non-target fish. By the Council's own estimation, although the target species is North Pacific swordfish, at least 28 non-target species are likely to be caught as bycatch in a longline fishery. Among these species are a number for which Amendment 2 identifies "conservation concerns": bigeye tuna ("overfishing occurring and stock overfished"), yellowfin tuna ("overfishing may be occurring"), striped marlin ("stock size low compared to historic levels...stock is depleted") and albacore tuna ("current fishing effort high...overfishing could occur"). In addition, major non-target species include shortfin mako sharks, which are listed as "Near Threatened" by the IUCN, and Pacific bluefin tuna, for which the Western & Central Pacific Fisheries Commission (WCPFC) is considering measures to prevent an increase in fishing effort.
The proposal to open the high seas beyond the United States EEZ to a west coast-based longline fishery is predicated on implementation of new fishing methods – the use of circle hooks and mackerel-type bait, as now used in the Hawaii-based longline fishery - aimed at reducing the take of endangered sea turtles, as required by the Endangered Species Act. But as Amendment 2 points out, “(n)o controlled experiments have been conducted in the Hawaii fishery to determine if the use of circle hooks and mackerel bait results in different CPUEs (catch rates) for finfish in comparison to J-hooks and squid bait.”

Under the Council’s proposal to authorize a high seas longline fishery, turtle takes will continue, albeit with measures to close the fishery when an as-yet-undefined cap is reached, while the catch of non-target finfish, many of them fully- or over-exploited, will increase significantly.

Turtle Takes Treated as a “Quota”

The likelihood of continued mortality of endangered loggerhead and leatherback sea turtles in a longline fishery which could add effort from 20 or more vessels (Alternatives 2-4) is, in our opinion, reason enough to continue the prohibition on longlining (Alternative 1; No Action). Turtle take caps (allowable takes) associated with the various alternatives are not delineated in the Amendment, but instead would be evaluated subsequent to approval of the fishery and established subject to a new Biological Opinion performed by the National Marine Fisheries Service. This approach suggests the Council and the Agency are treating turtle takes as an allowable catch, with a quota, rather than as an outcome to be avoided.

We are concerned that federal fishery managers are working backward from their a priori determination to establish a fishery and later determine how to accommodate it under the ESA. We say this because the substantial Hawaii longline fishery was permitted to resume in the North Pacific without coordination between the Western Pacific and Pacific Councils in developing their respective plans and thus without accounting for the potential additional impact of a west coast-based fishery on the high seas. Nor does this proposal account for the possibility of re-opening the west coast EEZ to longlining, which the Council is also proposing under a separate action (an EFP to test the viability of a swordfish longline fishery within 200 miles of the coastline). This ad hoc “allocation” of turtle takes to accumulating longline effort undermines the intent of the ESA along with the public’s confidence in the process.

An Unmanageable Longline Fishery Will Contribute to Overfishing

The Council’s consideration of the impact of the high seas longline fishery on finfish is equally problematic. While acknowledging an increase in mortality on a number of species that are already subject to overfishing, in an overfished condition, or whose status is unknown, Amendment 2 dismisses these
“conservation concerns” by arguing that a) the expected increase in U.S. catch is a small portion of the total catch from the stock in question, and b) it is the responsibility of international agencies, such as the Inter-American Tropical Tuna Commission (IATTC) and WCPFC, to set limits on these highly migratory species, not the U.S.

Amendment 2 affirms that a high seas longline fishery will increase mortality of North Pacific albacore, bigeye tuna, striped marlin, bluefin tuna, yellowfin tuna and shortfin mako shark. Projections of the actual increase in catch of these species are highly uncertain, given that they are bycatch species taken incidentally and that the controls on the fishery contained in Amendment 2 are not designed to affect the catch of non-target fish. The history of managing longline fisheries, however, is one of indiscriminate and substantial bycatch of a long list of pelagic fish. Among those species of concern identified in the plan, and their conservation status as cited in the document (pp. 43-46), are:

- **Albacore**: “...fishing mortality (for albacore) is higher relative to most commonly used reference points, leading to a concern that overfishing could occur. Both the IATTC and WCPFC have passed resolutions calling on nations not to increase fishing effort on this stock.”

- **Bigeye Tuna** – “NMFS declared the stock subject to overfishing in 2004... (The Council’s) strategy principally relies on making recommendations, through the U.S. delegations to the IATTC and WCPFC, on measures that would end overfishing... the IATTC has so far been unable to adopt such conservation and management measures.”

- **Striped Marlin** – “...the stock is depleted. In 2007 and 2008 the ISC plenary recommended that ‘the fishing mortality rate of striped marlin should be reduced from the current level...the fishing mortality rate should not be increased.”

- **Shortfin Mako Shark** – “The IUCN lists this species as “Near Threatened.”

- **Bluefin Tuna** – “Fishing mortality likely exceeds the rate predicted to produce maximum yield per recruit (ISC 2008). In 2008 the WCPFC considered a conservation and management measure calling on nations to not increase fishing effort on this stock but did not adopt it.”

- **Yellowfin Tuna** – “Based in part on previous stock assessment results from the IATTC, NMFS declared that overfishing is occurring on this stock. In accordance with the MSA, in March 2007 the Council provided recommendations to NMFS and Congress on measures to end overfishing on this stock. Such measures would have to be implemented through the IATTC. To date the IATTC has been unsuccessful in adopting conservation measures to end overfishing on this stock.”
These facts – clear concerns about the status of the species, the need for conservation measures, and the inability in most cases of international bodies to adopt them - make the Council’s indifferent attitude troubling, to say the least, and presents an approach to conserving shared, highly migratory species that inevitably resigns these resources to mutually assured destruction.

First of all, to say that the expected increase in U.S. catch of any one species is a small part of the total catch is irrelevant for species that are overfished or for which overfishing is occurring. An increase in catch will increase overfishing. Secondly, to declare that the U.S. strategy for ending overfishing is to seek international measures through the IATTC and WCPFC, but that in the absence of such catch restrictions the U.S. will unilaterally increase its catch, is irresponsible. What it boils down to is this: because the U.S. alone cannot prevent overfishing, it is okay for us to take action that not only contributes to it, but actually promotes it.

Just as conserving a highly migratory species is a shared responsibility, overfishing is a cumulative effect. If a species is overfished or near that condition, as are a number of those species that will be taken in a high seas longline fishery, every nation fishing that stock has the responsibility not to increase fishing mortality at least until international measures are in place that would specifically permit it. If all nations fishing these stocks take the attitude reflected in Amendment 2 – that is, unilaterally increase fishing pressure while awaiting multi-lateral action - overall fishing mortality will substantially increase and international conservation of highly migratory species in the Pacific will be too little, too late.

Make no mistake. The day will come when the U.S. and other fishing nations are asked to limit their catch of a range of Pacific HMS, because overfishing is likely to continue on these species for the foreseeable future. When that day comes, you will find, as others have before you, that implementing conservation measures on non-target species in a longline fishery is costly, time-consuming and, ultimately, next to impossible. The Council will be confronted with controlling the bycatch, not just counting it. The only measure that has worked for a wide range of species has been area closures - taking the gear out of the water where and when it is doing the most damage. But you’ve already done that. You made the right decision the first time.

Thank you for considering our views.

Sincerely,

Ken Himman
President
March 30, 2009

Mr. Donald K. Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

RE: D.2. Fishery Management Plan Amendment 2 – High Seas Shallow-Set Longline Fishery

Dear Mr. Hansen and Council members:

These comments are submitted on behalf of the Center for Biological Diversity, Defenders of Wildlife, the Monterey Bay Aquarium, Ocean Conservancy, Oceana, Turtle Island Restoration Network and our combined 1.5 million members nationwide regarding the National Marine Fisheries Service (NMFS) proposal to develop a high seas shallow-set (pelagic) longline fishery off the West Coast of the United States. As the Pacific Fishery Management Council moves forward to adopt a final preferred alternative from the Preliminary Draft Supplemental Environmental Impact Statement (SEIS), it should adopt Alternative 1, “No Action” as the preferred alternative. Creation of a high seas longline fishery is inappropriate given its potential adverse ecological consequences and the numerous legal, policy, and scientific concerns it raises. The Council should maintain the current prohibition on shallow-set longline gear east of 150°W longitude and to further strengthen this measure by prohibiting Hawaii longline permit holders from fishing in this area and landing their catch on the West Coast.

We submitted detailed comments describing our concerns to the National Marine Fisheries Service during scoping for the High Seas Shallow-Set Longline SEIS and those are incorporated here by reference.¹

¹ Ocean Conservancy, Center for Biological Diversity, Defenders of Wildlife, Turtle Island Restoration Network, Oceana, Monterey Bay Aquarium. Letter to M. Helvey (NMFS). September 2, 2008. 18 p. RIN 0648-X167
The establishment of a high seas shallow-set longline fishery threatens numerous species.

A. Increased longline pressure threatens endangered sea turtle populations.

Sea turtles throughout the Pacific are hovering on the brink of extinction due in large part to incidental mortality associated with fishing operations. Pacific leatherbacks are classified as “endangered” throughout their range under the Endangered Species Act (ESA) and “critically endangered” by the World Conservation Union (IUCN). Numbering over 100,000 nesting females as recently as the 1980s, the species is in rapid decline with a current estimate of only 2,000-5000 nesting females. In 2000, an article published in the scientific journal *Nature* predicted extinction of leatherbacks in the Pacific within decades. The primary cause of the leatherback decline, and the greatest threat to its continued existence, is entanglement and drowning in longline fishing gear.

According to the latest surveys, there are fewer nesting loggerheads in the Pacific than nesting leatherbacks. The two major loggerhead populations in the Pacific are found in Japan and Australia, with less than 1,000 and 300 turtles, respectively, nesting annually. The IUCN’s Red List of Threatened Species identifies loggerheads as “endangered” while the ESA classifies loggerheads as “threatened” throughout their range. North Pacific loggerheads have declined by upwards of 80% in recent decades, and are likely approaching the perilous state of the Pacific leatherback. On July 12, 2007, the Center for Biological Diversity and Turtle Island Restoration Network petitioned NMFS to change the status of North Pacific loggerheads from threatened to endangered. NMFS determined that the status change may be warranted, 72 Fed. Reg. 64585 (Nov. 16, 2007), and the agency is now past its legal deadline to issue a final decision regarding the North Pacific loggerhead’s status.

Scientists have concluded that the “critical issue for an individual turtle is the likelihood of capture across an ocean region, not capture by a particular nation. With multiple fleets deployed the cumulative effects of pelagic longlines across fleets in large ocean regions must be taken into account.” We have repeatedly called for a comprehensive evaluation of the impacts of all U.S. longlining in the Pacific on imperiled sea turtle populations, yet that essential step still has not occurred. The need for this evaluation is reinforced by the fact that, at the same time NMFS is considering developing a West Coast-based high seas longline fishery, the agency is also reviewing a proposal by the Western Pacific Fishery Management Council to remove effort limits and raise loggerhead sea turtle take caps in the Hawaii-based pelagic longline fishery and is considering an Experimental Fishing Permit (EFP) for pelagic longline gear inside the West Coast Exclusive Economic Zone (EEZ).

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4 *Id.*
Amendment 2 to the Highly Migratory Species Fishery Management Plan would further increase impacts to the same threatened and endangered loggerhead and leatherback sea turtle populations taken in the Hawaii-based fishery and by the proposed longline EFP. The proposed high seas pelagic longline fishery would take 3 - 9 leatherbacks and 4 - 27 loggerheads, depending on the number of permits issued. The executive summary of the Preliminary Draft SEIS notes that options under Alternative 2 that would issue up to 20 permits risk “substantial detrimental population level impacts for loggerhead and leatherback sea turtles.”

B. The proposed high seas longline fishery would cause harm to marine mammal and seabird populations.

Many species of protected marine mammals and seabirds occur in the area NMFS now proposes to open to shallow-set longline fishing. These species are known to become entangled, seriously injured or killed by pelagic longline gear. The Preliminary Draft SEIS identifies many marine mammals that may be taken and killed if this fishery is authorized including bottlenose dolphins, Bryde’s whales, short-beaked common dolphins, false killer whales, endangered humpback whales, short-finned pilot whales and Risso’s dolphins. In addition, west of 150°W longitude shallow-set longline fisheries have also taken sperm whales, spinner dolphins and striped dolphins. The Preliminary Draft SEIS identifies black-footed albatross and Laysan albatross as two species of seabirds likely to be affected and the analysis finds that the action alternatives all increase the risk of taking endangered short-tailed albatross. The IUCN has listed black-footed albatross as endangered and the U.S. Fish and Wildlife Service is currently considering a petition to list this seabird as endangered under the ESA. Allowing further take of these marine mammals and seabird species is neither scientifically supportable nor legally defensible.

C. Increased longline fishing effort and capacity threatens vulnerable fish populations and will increase bycatch.

In addition to potential negative interactions between shallow-set longline gear and endangered sea turtle populations, we are concerned about the impact of increased fishing effort and capacity on non-target fish species. While the proposed high seas shallow-set longline fishery specifies swordfish as the target catch, other more vulnerable highly migratory species may be targeted or caught incidentally. The Preliminary Draft SEIS estimates that all action alternatives will increase the bycatch of non-target fish including thousands of sharks, tunas and billfish. Characterized by their slow growth, late maturity and low fecundity, shark species are particularly vulnerable to the impacts of longline fisheries.

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7 HMS FMP Amendment 2 Preliminary Draft SEIS, 107-109.
8 Id, at v.
9 Id, at 113-114.
10 Id, at 63.
11 Id, at 117-120.
12 Id, 99.
The Preliminary Draft SEIS for the high seas longline fishery acknowledges that thousands of tuna are likely to be caught incidentally during shallow-set longline activities. Of greatest concern is the potential impact to yellowfin, bigeye and albacore tuna species. Both the Inter-American Tropical Tuna Commission (IATTC) and U.S. stock assessment scientists have identified eastern Pacific bigeye and yellowfin tuna populations as subject to overfishing. In 2006, the IATTC adopted a resolution which declared that “bigeye stocks are below the level that would produce the average maximum sustainable yield (AMSY)” and directed member nations to implement a seasonal closure for commercial purse seine and longline vessels targeting bigeye (and yellowfin) tuna. The 2006 resolution has since expired and though bigeye and yellowfin are still experiencing overfishing, IATTC member nations have failed multiple times to reach an agreement on management measures.

The IATTC and the Western and Central Pacific Fisheries Commission (WCPFC) also adopted resolutions in 2005 identifying North Pacific albacore populations as experiencing overfishing and requiring member nations to cap fishing effort at current levels. The first Stock Assessment and Fishery Evaluation (SAFE) Report for the U.S. West Coast HMS FMP echoed this conclusion and warned that “[t]he current fishing mortality rate is high…and may be cause for concern regarding the current stock status of North Pacific albacore.” Likewise, the most recent 2007 SAFE report referenced the ISC recommendation that all nations practice precautionary-based fishing “[c]onsidering the high fishing mortality rates, and the fact that total catch has been in decline since 2002…” The U.S. has yet to characterize fishing effort, let alone take affirmative action to cap effort at current levels. As such, a proposal to establish a high seas longline fishery off the West Coast and increase domestic albacore catch by 20-77 mt/year contravenes international resolutions to cap fishing effort on North Pacific albacore.

By violating its obligations under international agreements, the U.S. and its vessels are at risk of being classified as engaged in illegal, unreported or unregulated (IUU) fishing. As Dr. Rebecca Lent, Director of the Office of International Affairs for NMFS, testified at a hearing before the House Committee on Natural Resources, “[m]ost RFMOs have adopted procedures to identify and list vessels that have engaged in IUU fishing in areas and for stocks under their jurisdiction. The procedures require parties to the RFMO to apply a range of sanctions to listed vessels. Sanctions range from restricting access to port services to outright denial of port entry.” Should the U.S. and/or its vessels be identified as engaged in IUU fishing, U.S. fishermen may be subject to a range of sanctions. Moreover, other lawful and more sustainable fisheries, such as the West Coast pole and troll fishery for albacore, may be unfairly disadvantaged by whatever restrictions or sanctions are levied by RFMO member states.

13 Id.
14 2007 HMS Stock Assessment and Fishery Evaluation Report, Table 5-2, p. 122.
15 Resolution C-06-02, IATTC, June 2006
16 PROP IATTC-73-C1, June 2005
17 2005 HMS Stock Assessment and Fishery Evaluation Report, Section 5.3.1, page 106.
18 2007 HMS Stock Assessment and Fishery Evaluation Report, Section 5.3.1.1, p. 117-118.
19 HMS FMP Amendment 2 DSEIS, March 2009, Table 4-9, p.99.
In light of the vulnerable status of these tuna populations, expanding capacity, increasing fishing effort and establishing a high seas shallow-set longline fishery off the U.S. West Coast is not consistent with international resolutions, domestic regulations, the best available science or the principles of precautionary management.

Expanding shallow-set longlining in the Pacific would be inconsistent with key environmental laws.

The potential biological impacts of establishing a new high seas shallow-set longline fishery are so severe that the fishery would likely violate numerous federal laws, including the Endangered Species Act, Marine Mammal Protection Act, and Migratory Bird Treaty Act. Each of these violations is outlined in our September 2, 2008 letter to NMFS, which is incorporated here by reference. In addition, authorizing a new fishery would increase bycatch of sea turtles, marine mammals, seabirds, sharks, tunas and other fishes and could, therefore, violate the Magnuson-Stevens Act requirement to minimize and avoid bycatch. Given the significant legal deficiencies with the proposed Alternatives 2, 3 and 4, Alternative 1, “No Action” remains the only viable alternative at this time.

NMFS should adopt import restrictions and demand-side strategies to reduce reliance on imported swordfish.

Proponents of the high seas longline proposal also claim that a West Coast-based fishery is warranted and necessary to meet the domestic demand for swordfish and reduce our reliance on imported swordfish from countries that may have weaker standards for sustainability and conservation. While the impact of U.S. swordfish imports is a legitimate concern, the implied assumption is that demand is static and therefore we must increase supply in order to meet demand. Previous efforts to inform and educate consumers about the ecological impacts of fishery operations have influenced demand and paved the way for more effective management strategies.

The U.S. has the authority and the legal responsibility to monitor and control imports from countries whose vessels are fishing in a manner that undermines the conservation of protected species. The recent reauthorization of the Magnuson-Stevens Act (MSA) clarified the intent of Congress to reduce IUU fishing in order to raise the bar for sustainability. Specifically, the Act requires that NMFS identify fishing vessels engaged in “fishing activities or practices…that result in bycatch of protected living marine resources...” Moreover, the MSA specifically endorses the use of market-related measures such as import prohibitions and landing restrictions to combat IUU fishing. Likewise, under the Marine Mammal Protection Act (MMPA), the U.S. can restrict imports of swordfish from countries that do not meet strong conservation standards to minimize the impact of fisheries on marine mammals. Though still pending, the

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22 16 USC 1826d et seq., Section 610(a)(1)(A)
23 16 USC 1826d et seq., Section 608(2)
Center for Biological Diversity and Turtle Island Restoration Network submitted a petition in 2008 to ban imports of swordfish from countries failing to submit proof of the effects of fishing technology on marine mammals pursuant to Section 101 of the MMPA. If NMFS is sincerely concerned about the impacts that foreign fleets are having on protected resources, limiting or restricting the import of swordfish caught in an unsustainable manner would be a powerful tool.

**Conclusion**

It would be irresponsible to re-establish a high seas longline fishery that we know risks killing threatened and endangered sea turtles, marine mammals, and seabirds and will increase the bycatch of non-target fish. The best available science indicates that Pacific leatherbacks, loggerheads, and other species simply cannot sustain another pelagic longline fishery. The United States has the responsibility and authority to take additional actions to protect endangered sea turtle populations such as identifying IUU fishing and restricting imports. A high seas longline fishery off the U.S West Coast is not justified at this time and, the Council should select Alternative 1, the “No Action” Alternative. However should the Amendment 2 process move forward, we recommend that an additional action alternative be included for analysis that would, in addition to maintaining the current closure, close the loophole whereby Hawaii-based fishermen with a pelagics permit are authorized to fish east of 150° West longitude and land their catch on the West Coast.

Sincerely,

Meghan Jeans
Pacific Fish Conservation Manager
Ocean Conservancy

Jim Curland
Marine Program Associate
Defenders of Wildlife

Andrea A. Treece
Senior Attorney, Oceans Program
Center for Biological Diversity

Aimee David
Ocean Conservation Policy Manager
Center for the Future of the Oceans
Monterey Bay Aquarium

Ben Enticknap
Pacific Project Manager
Oceana

Michael Milne
Leatherback Campaign Coordinator
Turtle Island Restoration Network
Attachments:

December 9, 2008

James W. Balsiger, PhD.,
Acting Assistant Administrator
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
1315 East West Highway, SSMC3
Silver Spring, MD 20910

Dear Dr. Balsiger:

As members of Congress who are deeply invested in the long-term sustainability of California’s ocean health, we are writing to express our strong concerns about proposals to establish commercial longline fisheries for swordfish off the California Coast.

We have become aware that the National Marine Fisheries Service (NMFS) and its regional advisory body, the Pacific Fisheries Management Council (PFMC) are moving forward with plans to create two pelagic swordfish longline fisheries off the California coastline: an “exempted fishing permit” (EFP) for a swordfish fishery within California’s Exclusive Economic Zone (EEZ) and a commercial swordfish fishery on the high seas off the US West Coast. California is a coastal state committed to the protection of its ocean resources, fisheries, and marine wildlife. The proposed longline fisheries threaten the health of California’s ocean resources and marine wildlife.

As you know, the State of California has never permitted commercial pelagic longline swordfish fishing within its EEZ. California’s state representatives continue to oppose the development of swordfish longline fisheries, recently passing the bi-partisan Assembly Joint Resolution 62. Yet, despite opposition from the California State Legislature, California state agencies such as the California Department of Fish and Game and the California Coastal Commission, and overwhelming opposition from the public, scientific, recreational fishing, and environmental community, the Pacific Fisheries Management Council and National Marine Fisheries Service continue to move forward with plans to rollback these important conservation measures prohibiting swordfish longlining.

Pelagic longline fishing is an indiscriminate fishing method, which can have devastating effects on marine wildlife. Observer data shows that pelagic swordfish longline fishing can yield bycatch rates of up to 40-60% by weight. Commercial longline fishing is a significant contributor to the rapid decline of the leatherback and loggerhead sea turtle populations in the Pacific. Many species found along California’s coast—including endangered and protected whales, dolphins, sea lions, sea birds, sea turtles, sharks, and commercially valuable fish stocks—are also vulnerable to the impacts of pelagic longline fisheries.
We are particularly concerned by these proposals because they pose a serious risk to two endangered sea turtle species, the Pacific leatherback and the loggerhead, whose populations are already suffering from the impacts of fishing pressure elsewhere in their range. Recent scientific research and satellite tracking studies confirm that the waters off the California coast are a critical foraging area for the critically endangered Pacific leatherback sea turtle and an important migratory route for the threatened Pacific loggerhead sea turtle. Additional fishing pressure in this area would likely result in high rates of by-catch, injury, and death of these imperiled turtles.

Currently, two pending Endangered Species Act petitions will help ensure that fishery managers, scientists, and the public have the best available scientific information and that critical habitat, if appropriate, is designated for these species. The ESA requires that NMFS give the highest priority to the protection of threatened and endangered species. Moving forward with expanding pelagic longlining effort in the face of evidence that it will harm already declining sea turtle populations and key habitat flies in the face of NMFS’s most vital responsibilities.

Sound science – not short-term economic gain – should drive fisheries management on the West coast. The health and sustainability of California’s coastal economy depends on a diverse, abundant and resilient marine environment.

As such, we urge the National Marine Fisheries Service to withdraw support for the swordfish longline EFP and discontinue development of the proposed High Seas longline fishery. It is critical that NMFS honor existing fishing prohibitions and conservation measures to avoid jeopardizing threatened and endangered sea turtles and compromising the health and integrity of the diverse ocean environment that distinguishes and sustains California.

Thank you for your attention to this important matter. We look forward to your decision.

Sincerely,

Sam Farr
Member of Congress

Lynn Woolsey
Member of Congress

Cc: Rod McInnis, Regional Administrator, Southwest Region National Marine Fisheries Service
Assembly Joint Resolution No. 62

Introduced by Assembly Member Leno
(Coauthors: Assembly Members Berg, Evans, Hancock, Jones, and Nava)
(Coauthor: Senator Wiggins)

May 21, 2008

Assembly Joint Resolution No. 62—Relative to West Coast sea turtle protection.

LEGISLATIVE COUNSEL’S DIGEST

AJR 62, as introduced, Leno. West Coast sea turtle protection.
This measure would request the National Marine Fisheries Service to delay consideration of, or deny, the swordfish longline exempted fishing permit for a specified period of time. The measure would request the National Marine Fisheries Service to defer consideration of efforts to introduce shallow-set longline fishing off the California coast for that specified period of time.
Fiscal committee: no.

1 WHEREAS, California is a coastal state that is dedicated to protection of our ocean resources, fisheries, and marine wildlife; and
2 WHEREAS, Sea turtles, fish, and marine mammals are a central component of California’s natural heritage and marine biodiversity; and
3 WHEREAS, According to the National Marine Fisheries, the waters off the central California coast are a critical foraging area for Pacific leatherback sea turtles; and

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WHEREAS, According to the National Marine Fisheries Service, the waters off the California coast are a significant migratory corridor and foraging area for North Pacific loggerhead sea turtles; and

WHEREAS, Scientists have determined that the populations of Pacific leatherback and North Pacific loggerhead sea turtles have declined by approximately 95 percent and 80 percent to 86 percent, respectively, in the last 25 years; and

WHEREAS, Scientists predict that the death of more than 1 percent of the adult female Pacific leatherback sea turtle population each year could lead to the extinction of the species, making the catch of small numbers of Pacific leatherback sea turtles a serious threat to their future survival; and

WHEREAS, Scientists estimate that the Pacific leatherback sea turtle could become extinct within 10 to 30 years if existing by-catch rates are not reduced; and

WHEREAS, Scientists predict that current population trends indicate a high probability that North Pacific loggerhead sea turtles will be effectively extinct within approximately 50 years; and

WHEREAS, Injury and mortality from interactions with longline fishing gear is a direct contributor to the rapid decline, and potential extinction, of Pacific leatherback and North Pacific loggerhead sea turtles; and

WHEREAS, Data collected from fishing vessels have revealed that shallow-set longlines are targeting swordfish snare turtles at a rate 10 times greater than deep-set longlines; and

WHEREAS, The National Marine Fisheries Service is considering approval of an exempted fishing permit (EFP) to authorize shallow-set longlining to target swordfish within the Exclusive Economic Zone (EEZ) of the California coast where the State of California has prohibited this activity since 1977; and

WHEREAS, The proposed EFP would allow longline fishing inside the Pacific leatherback sea turtle conservation area, an area that has been seasonally closed to fishing to protect Pacific leatherback sea turtles; and

WHEREAS, In 1992, the Department of Fish and Game banned all pelagic longline fishing in the Exclusive Economic Zone off the California coast; and
WHEREAS, The California Coastal Commission completed a consistency certification of a similar exempted fishing permit in 2007 and unanimously voted to deny certification; and
WHEREAS, The National Marine Fisheries Service is also considering authorizing the placement of a shallow-set longline fishery to target swordfish on the high seas (High Seas Swordfish Fishery) off the West Coast of the United States in an area known to be used by Pacific leatherback and North Pacific loggerhead sea turtles; and
WHEREAS, Longlining for swordfish has been prohibited on the high seas off the West Coast of the United States since 2004 when the federal government determined that by-catch of North Pacific loggerheads by the High Seas Swordfish Fishery would violate the federal Endangered Species Act’s jeopardy prohibition; and
WHEREAS, A high seas swordfish fishery off the West Coast of the United States will also result in the intentional and incidental capture of Yellowfin, Bigeye, and Albacore tuna, which populations are already considered overfished or are experiencing overfishing by the Inter-American Tropical Tuna Commission (IATTC) or US Stock Assessments or both; and
WHEREAS, On December 27, 2007, the National Marine Fisheries Service accepted a petition to analyze whether California’s waters should be designated as a critical habitat area for the endangered Pacific leatherback turtle; and
WHEREAS, On November 16, 2007, the federal government announced it was considering a petition to list the North Pacific loggerhead sea turtles found off the West Coast of the United States as endangered under the federal Endangered Species Act; and
WHEREAS, The federal Endangered Species Act requires the National Marine Fisheries Service to give highest priority to the protection of threatened and endangered species; now, therefore, be it
Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California acknowledges the severe decline of Pacific leatherbacks and North Pacific loggerhead sea turtle populations and supports efforts to recover and preserve these populations; and be it further
Resolved, That the Legislature of the State of California requests the National Marine Fisheries Service to delay consideration of,
or deny, the swordfish longline exempted fishing permit in the West Coast Exclusive Economic Zone, until Pacific leatherback sea turtle critical habitat is established, the federal status of the North Pacific loggerhead sea turtle is clarified, and critical habitat is designated for the North Pacific loggerhead sea turtle should it be uplisted to “endangered”; and be it further

Resolved, That the Legislature of the State of California requests that the National Marine Fisheries Service defer consideration of any efforts to introduce shallow-set longline fishing off the California coast, both inside and outside the EEZ, until Pacific leatherback sea turtle critical habitat is established, the federal status of the North Pacific loggerhead sea turtle is clarified, and critical habitat is designated for the North Pacific loggerhead sea turtle, if it is designated as “endangered”; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.