February 12, 2009

The Honorable Patty Murray
United States Senate
Washington, DC 20510

The Honorable Maria Cantwell
United States Senate
Washington, DC 20510

Dear Senators Murray and Cantwell:

I write on behalf of the Pacific Whiting Conservation Cooperative (PWCC) to express our support for amending a provision of the implementing legislation for the U.S./Canada Pacific Hake Agreement, which is contained in Title VI of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. A technical change is required to the original implementing legislation in order to enact provisions relating to creation of several committees charged with carrying out obligations under the treaty. We ask for your support for passage of a technical amendment as soon as possible that will allow for full implementation of this important fisheries conservation agreement.

The PWCC is comprised of the Seattle-based companies that operate in the catcher/processor sector of the Pacific whiting fishery. The PWCC was formed to promote rational harvest, optimal utilization, and minimal waste in the whiting fishery. We strenuously supported negotiation and development of the Hake Agreement. We respectfully request your support for this non-controversial, technical change that will enable final implementation of the Agreement.

The Hake Agreement was carefully negotiated to end disagreements between the U.S. and Canada over conservation and management of Pacific whiting. It specifies joint committees and management protocols to ensure the long-term health of the whiting stock and sustainability of these critically important U.S. fisheries. However, the implementing legislation contained language that effectively nullifies the advisory committees established by the legislation. While section 606 of the Act establishes an Advisory Panel composed in part of fishing industry representatives, conflict of interest language under section 609 prohibits such representatives from serving on the Panel. The language in section 609 is provided below.

"Administrative Matters. (a) Employment Status—Individuals appointed under section 603, 604, 605, or 606 of this title who are serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of— (1) injury compensation under chapter 81 of title 5, United States Code; (2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and (3) any other criminal or civil statute or regulation governing the conduct of Federal employees" (emphasis added).

The section in bold is problematic because it bars any stakeholder with an interest in the fishery from serving on any of the four joint committees.
We understand that Senate Commerce Committee staff is working with NOAA General Counsel on an amendment to address this problem. The PWCC respectfully urges your support for this effort. Your past leadership in support of Washington state commercial fishing interests is greatly appreciated. We look forward to your continued support and thank you for your attention to this matter.

Thank you.

Sincerely,

Daniel A. Waldeck
Executive Director

Cc: Amanda Hallberg, Senate Commerce Committee
Frank Lockhart, NMFS-Northwest Region
Elizabeth Clarke, NMFS-Northwest Fisheries Science Center
Donald McIsaac, Pacific Fishery Management Council
March 5, 2009

The Honorable Maria Cantwell
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Cantwell:

I am writing to highlight the need, and express the Washington Department of Fish and Wildlife’s support, for technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Whiting Act of 2006. The corrections are identical in substance and necessary to achieve congressional intent as to stakeholder participation in the respective international fishery management agreements implemented by these two acts.

North Pacific albacore and Pacific whiting are of considerable importance to the state of Washington and both are affected by incomplete implementation of the agreements. Your support and efforts to win timely passage of these non-controversial changes would help ensure that the views of Washington’s stakeholders are properly considered in the two international forums.

I understand that you co-sponsored a bill in the previous Congress that would have made the needed changes. The particular bill was S. 2097, the “International Fisheries Stewardship and Enforcement Act,” with the relevant provisions being sections 304(3)-(5) and 305(b) of the bill as reported in the Senate.

A more detailed explanation of the need for the technical corrections is provided in the enclosure to this letter. Thank you for your attention to this matter. I would be happy to answer questions or discuss any concerns that you or your staff may have on the corrections or management of the North Pacific albacore and Pacific whiting stocks.

Sincerely,

Philip Anderson
Interim Director

Enclosure

cc: Frank Lockhart, National Marine Fisheries Service, Northwest Region
Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council
Explanatory of Need for Technical Corrections to the Pacific Whiting Act and Western and Central Pacific Fisheries Convention Implementation Act

The Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Whiting Act of 2006 were passed as part of the Magnuson Stevens Fishery Conservation and Management Reauthorization Act of 2006.¹

The Western and Central Pacific Fisheries Convention Implementation Act was enacted to implement the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.² The Act provides for the appointment of five U.S. representatives to the Commission established by the Convention and creates a permanent advisory committee to advise them. The Act requires the Secretary of Commerce to select “not less than 15 or more than 20 individuals . . . from the various groups concerned with the fisheries covered by the WCPFC Convention” for the advisory committee.³

The Pacific Whiting Act was enacted to implement an agreement between the U.S. and Canada on management of the transboundary Pacific whiting stock (Merluccius productus).⁴ The agreement creates a joint management framework consisting of two scientific and technical bodies, plus a Joint Management Committee (JMC) and an Advisory Panel. The Act provides for four U.S. representatives on the JMC, including one “appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.”⁵ For the Advisory Panel, the Act requires the Secretary of Commerce to appoint “at least 6 but not more than 12 individuals . . . who are knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource.”⁶

In direct conflict with these appointment criteria, both Acts also included a provision in their respective “Administrative matters” sections that treats appointees as federal employees for purposes of “requirements concerning ethics, conflicts-of-interest, and corruption.”⁷ The requirements imposed by this language are much more stringent than those that apply to the regional fishery management councils and their advisory bodies. In effect, they have prevented participation by anyone concerned with the fishing industry and have held up proper implementation of both agreements. Independent and academic scientists and technical experts who have worked for industry could also be barred from participation, as could several non-government members of the regional fishery management councils.

² Adopted at Honolulu on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (U.S. Senate Treaty Doc. 109-1).
⁷ See 16 U.S.C. §§ 6902(c)(1)(B), 6902(2)(B)(ii)(II), and 7008(a)(2).
March 5, 2009

The Honorable Patty Murray
United States Senate
173 Russell Senate Office Building
Washington, DC 20510

Dear Senator Murray:

I am writing to highlight the need, and express the Washington Department of Fish and Wildlife’s support, for technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Whiting Act of 2006. The corrections are identical in substance and necessary to achieve congressional intent as to stakeholder participation in the respective international fishery management agreements implemented by these two acts.

North Pacific albacore and Pacific whiting are of considerable importance to the state of Washington and both are affected by incomplete implementation of the agreements. Your support and efforts to win timely passage of these non-controversial changes would help ensure that the views of Washington’s stakeholders are properly considered in the two international forums.

I understand that there was a bill before the Senate in the previous Congress that would have made the needed changes. The particular bill was S. 2097, the “International Fisheries Stewardship and Enforcement Act,” with the relevant provisions being sections 304(3)-(5) and 305(b) of the bill as reported in the Senate.

A more detailed explanation of the need for the technical corrections is provided in the enclosure to this letter. Thank you for your attention to this matter. I would be happy to answer questions or discuss any concerns that you or your staff may have on the corrections or management of the North Pacific albacore and Pacific whiting stocks.

Sincerely,

[Signature]

Philip Anderson
Interim Director

Enclosure

cc: Frank Lockhart, National Marine Fisheries Service, Northwest Region
    Dr. Donald McI Isaac, Executive Director, Pacific Fishery Management Council
March 5, 2009

The Honorable Doc Hastings
United States House of Representatives
1203 Longworth House Office Building
Washington, DC 20515

Dear Congressman Hastings:

I am writing to highlight the need, and express the Washington Department of Fish and Wildlife’s support, for technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Whiting Act of 2006. The corrections are identical in substance and necessary to achieve congressional intent as to stakeholder participation in the respective international fishery management agreements implemented by these two acts.

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I understand there is already a bill before you and the other members of the House Natural Resource Committee that would make the needed changes. The particular bill is H.R. 1080, the “Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009,” with the relevant provisions being sections 7(2)-(3) and 12(b) of the bill as introduced.

A more detailed explanation of the need for the technical corrections is provided in the enclosure to this letter. Thank you for your attention to this matter. I would be happy to answer questions or discuss any concerns that you or your staff may have on the corrections or management of the North Pacific albacore and Pacific whiting stocks.

Sincerely,

Philip Anderson
Interim Director

Enclosure

cc: Frank Lockhart, National Marine Fisheries Service, Northwest Region
    Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council
March 5, 2009

The Honorable Cathy McMorris Rodgers
United States House of Representatives
1708 Longworth House Office Building
Washington, DC 20515

Dear Congresswoman McMorris Rodgers:

I am writing to highlight the need, and express the Washington Department of Fish and Wildlife’s support, for technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Whiting Act of 2006. The corrections are identical in substance and necessary to achieve congressional intent as to stakeholder participation in the respective international fishery management agreements implemented by these two acts.

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Sincerely,

Philip Anderson
Interim Director

Enclosure

cc: Frank Lockhart, National Marine Fisheries Service, Northwest Region
Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council
March 5, 2009

The Honorable Jay Inslee  
United States House of Representatives  
403 Cannon House Office Building  
Washington, DC 20515

Dear Congressman Inslee:

I am writing to highlight the need, and express the Washington Department of Fish and Wildlife’s support, for technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Whiting Act of 2006. The corrections are identical in substance and necessary to achieve congressional intent as to stakeholder participation in the respective international fishery management agreements implemented by these two acts.

North Pacific albacore and Pacific whiting are of considerable importance to the state of Washington and both are affected by incomplete implementation of the agreements. Your support and efforts to win timely passage of these non-controversial changes would help ensure that the views of Washington’s stakeholders are properly considered in the two international forums.

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Sincerely,

[Signature]

Philip Anderson  
Interim Director

Enclosure

cc:  Frank Lockhart, National Marine Fisheries Service, Northwest Region  
     Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council