



## Pacific Fishery Management Council

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Dorothy M. Lowman, Chair | Donald O. McIsaac, Executive Director

March 23, 2015

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

The Pacific Fishery Management Council (Pacific Council) is asking for your help on approval obstacles currently blocking implementation of the REFI (Revitalizing the Economy of Fisheries in the Pacific) Act. This important law passed Congress with bipartisan support and was signed into law by you in December of 2014, but has not yet been implemented. The Pacific Council manages commercial, recreational, and tribal fisheries in Federal waters off Washington, Oregon, and California in its unique role under the Magnuson-Stevens Act (MSA) and has been highly supportive of expeditious implementation of the REFI Act due to the resulting improvement in the performance of West Coast Groundfish fisheries.

The REFI Act refinances the current West Coast trawl buyback loan. At present, the implementation of the REFI Act is apparently stalled by ambiguous new Office of Management and Budget (OMB) requirements. This refinance is vitally important to the West Coast trawl groundfish fleet, and the delay in implementing the refinance is causing significant economic hardship to those involved in or dependent on the fishery. It is likely that some groundfish fishery participants will go out of business without the refinancing of this loan. Given all the time and effort by the Pacific Council and the Federal government exerting additional control mechanisms on this fishery that have substantially improved its conservation performance, it would be a travesty to see forward-thinking fishermen and women driven out of business by failure or further delay of the key benefits of the REFI Act.<sup>1</sup>

The costs of participating in the groundfish trawl fishery now include loan payments from the existing federally-granted loan, cost recovery fee payments to National Marine Fisheries Service (NMFS) for recently-approved catch share program provisions, and the cost of mandatory observers that have been required to guarantee conservation performance.

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<sup>1</sup> We understand a forthcoming letter from fishery participants will provide real-life examples of family fishing businesses that might be lost if the REFI Act is not implemented in a timely manner.

Currently, 5 percent of ex-vessel value is automatically deducted from groundfish trawl gross revenues for loan payments. In addition, a cost recovery fee of 3 percent is also deducted from gross sales when the fish are landed. In addition, the groundfish trawl fleet is required to cover the cost of mandatory observers on board every vessel—costs ranging from \$10,000 to more than \$50,000 annually per vessel. When an amount approaching 10 percent of gross revenues is taken off the top of any business, it is easy to see where business failures can occur. The relief afforded by the refinancing a loan to about half its old rate will save the fleet over \$1.5 million the first year of implementation—this is something the fleet needs now, without further delay that could take years depending on various interpretations of possible bureaucratic entanglements.

The Pacific Council is alarmed and extremely concerned to hear that the loan refinancing is being held up and not proceeding as expected. Further, the Council is disappointed that it is not possible to obtain a written articulation of exactly why implementation cannot proceed as envisioned.

- When the REFI Act was passed through Congress as part of the National Defense Authorization Act (NDAA) and signed into law on December 26, 2014, the Congressional Budget Office scored the legislation as needing a \$7 million offset. This offset was described as the amount of revenue that the U.S. government would lose by refinancing the loan. The REFI Act was fully offset by \$7 million, which was included in the passage of the NDAA. No other implementation costs were put forward as due at the time of this bill passage, or they would have been addressed at that time.
- On January 29, 2015, when the industry was eagerly awaiting notice from NMFS that they could implement the refinance, the industry was notified by NMFS that the OMB had determined that an *additional* appropriation of \$10.3 million would be necessary before the outstanding loan balance could be refinanced. We have seen no justification from OMB on how the \$10.3 million appropriation need was calculated, nor any justification of the apparent disregard of the \$7 million offset contained in the NDAA, despite requests. With no appropriation vehicle available for FY2015, NMFS reported to the industry that they would have to look to FY2016 to seek the appropriation. This represents at least a full year delay.
- To add yet another unanticipated implementation obstacle, NMFS seems to indicate that in order to refinance the loan they would require a referendum of affected trawl permit holders, even though Congress wrote the legislation so that a referendum would not be necessary. We believe this is a discretionary decision under the MSA and that it is unnecessary to query the fishery participants on whether or not they would like to refinance the loan under better terms.
- The offsets, fees, and other ambiguous costs are not understandable. During public testimony on this matter at our recent meeting in Vancouver, Washington, fishery representatives even used the term “predatory lending” in describing a scenario whereby the Federal government might require \$17 million in fees and foregone interest to refinance a \$35 million loan that will be repaid in full over the course of the amortization period at the current interest rate. What is understandable is that

implementing the loan refinance will benefit the fishery, the impacted coastal communities, and the Nation as a whole.

The Pacific Council urgently requests your help in resolving this very important issue. It appears these apparently new OMB requirements are interpretive in nature, and we feel a referendum requirement to proceed is a prime example of the kind of inefficiencies your Executive Order 13610 was designed to eliminate. Meanwhile, treasury rates are increasing and the fiduciary window for reasonable refinancing is closing. In other circumstances, you have stepped forward to "cut the bureaucratic red tape" in time of need. We ask that you direct OMB and the Department of Commerce to waive any additional obstacles to implementation and proceed as expeditiously as possible executing the intent of the REFI Act.

Thank you for your consideration. We stand at your service should there be any questions about our request.

Sincerely,

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

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

JDG:kma

CC: Mr. Shaun Donovan, Office of Management and Budget  
Dr. Kathy Sullivan, NOAA  
Ms. Eileen Sobeck, NMFS  
Senator Maria Cantwell  
Senator Patty Murray  
Senator Ron Wyden  
Senator Jeff Merkley  
Representative Jaime Herrera-Beutler  
Representative Peter DeFazio  
Representative Suzanne Bonamici  
Representative Jared Huffman  
Representative Derek Kilmer  
Representative Rick Larsen  
Representative Sam Farr  
Representative Jackie Speier  
Pacific Council Members  
Groundfish Advisory Subpanel Members