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September 4, 2015

Dorothy Lowman, Chair  
Pacific Fishery Management Council  
1100 NE Ambassador Place, Suite 101  
Portland, OR 97220

**RE: Agenda Item D.2 – Unmanaged Forage Fish Regulations**

Dear Madam Chair and Council Members,

We write in regards to the proposed regulations for implementing the Pacific Fishery Management Council's (Council) Comprehensive Ecosystem-Based Amendment 1 (CEBA-1) to protect unmanaged and unfished forage fish species. Specifically, we request that the Council deem the regulatory language proposed by the National Ocean and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) as consistent with the Council's intent. The proposed language fulfills the Council's purpose and need for CEBA-1, and adheres to the guidance given to NOAA Fisheries by the Council at its March 2015 meeting. With Council and NOAA Fisheries approval of these proposed regulations, a multitude of forage species that are ecologically critical to our managed fisheries, as well as the broader ocean ecosystem, will receive the precautionary protections that Council, fishery stakeholders, and the public at large agree are appropriate and needed.

**Purpose and Need**

The Council's purpose and need statement for CEBA-1 is clear and concise:

*The purpose of this action is to prohibit new directed commercial fishing in Federal waters on unmanaged, unfished forage fish species until the Council has had an adequate opportunity to both assess the scientific information relating to any proposed directed fishery and consider potential impacts to existing fisheries, fishing communities, and the greater marine ecosystem. This action is needed to proactively protect unmanaged, unfished forage fish of the U.S. West Coast Exclusive Economic Zone (EEZ) in recognition of the importance of these forage fish to the species managed under the Council's FMPs and to the larger CCE. This action is not intended to supersede tribal or state fishery management for these species, and coordination would still occur through the existing Council process.<sup>1</sup>*

The regulatory language proposed by NOAA Fisheries fulfills this purpose and need by setting reasonable, enforceable thresholds as to what will constitute "directed commercial fishing." We understand and appreciate the complexity of this exercise, and the data review necessary to

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<sup>1</sup> PFMC. 2015. [National Marine Fisheries Service Report on federal regulations to implement comprehensive ecosystem-based amendment 1: Protecting unfished forage fish species](#). Agenda Item D.2.a, Supplemental NMFS Report. September 2015. p.1

appropriately set thresholds that allow for existing levels of incidental catch as well as existing directed, artisanal commercial fishing. Additionally, we recognize and support that the regulatory language clarifies that the prohibition on directed fishing does not apply to tribal fisheries or to fisheries prosecuted entirely in state waters. Last, through adoption of Council Operating Procedure 24 under this same action, appropriate criteria are established to ensure that any proposed new directed fishery for any shared Ecosystem Component (EC) species is thoroughly reviewed for potential impacts to existing fisheries, fishing communities and the greater marine ecosystem as called for in the purpose and need statement.

### **Council Guidance on CEBA-1 Regulatory Language**

In addition to the purpose and need statement discussed above, the Council provided further guidance at its March 2015 meeting. This guidance requested that the regulatory language:

- Does not constrain existing directed fisheries.
- Provides reasonable certainty of discouraging new fishery targeting of shared EC species.
- Discourages development of at-sea processing of shared EC species.
- Provides reasonable certainty of being enforceable by:
  - Defining “directed fishery” on shared EC species that constrains catch ratio, and is informed by and responsive to historical landings.
  - Holds individual vessels accountable at the trip level, but allows for unique events.
  - Simple, clear language that is applicable across species and fisheries.<sup>2</sup>

The regulatory language proposed by NOAA Fisheries adheres to this guidance. First, thresholds account for the various gear types and fisheries that incidentally catch shared EC species by specifying both per trip and annual landing limits, and doing so by weight rather than by percentage of total landings. Additionally, limits are set at levels that – according to the catch data reviewed the Ecosystem Working Group and NOAA Fisheries – will not constrain any of the existing fisheries that interact with shared EC species. The proposed language also appropriately and effectively addresses the issue of at-sea processing of shared EC species by specifying separate limits for finfish and squid shared EC species. Last, the proposed language provides a reasonable certainty of being enforceable through simple, straightforward and clear language that can be applied across fisheries without exceptions or loopholes.

### **Conclusion**

We greatly appreciate the Council’s thoughtful, deliberate, and effective work over the past several years to develop and implement CEBA-1, as well as the Council’s overall attention to advancing ecosystem-based fishery management. In particular, we’d like to thank the Ecosystem Working Group for its careful deliberation and work to draft the proposed regulations for implementing CEBA-1.

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<sup>2</sup> PFM. 2015. [National Marine Fisheries Service Report on federal regulations to implement comprehensive ecosystem-based amendment 1: Protecting unfished forage fish species](#). Agenda Item D.2.a, Supplemental NMFS Report. September 2015. p.2

In our experience, few issues have garnered the kind of broad, diverse, and virtually unanimous support that this Unmanaged Forage Fish Initiative has received. As you know, thousands of citizens and fishery stakeholders have weighed in since 2011 with their support for proactive, precautionary measures to safeguard the Pacific Ocean's food web; the Council's action in September to endorse this draft regulatory language will mark a tremendous step forward for the entire West Coast and all who depend on and cherish our marine resources.

Thank you for your commitment to this important initiative, and for your work to ensure sustainable fishing and healthy ocean ecosystems.

Sincerely,



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