

Dave Rudie

## D.4. Management Framework Considerations for the U. S. West Coast-Based Bigeye Tuna Fishery

**I. Background: Deep-set longline fishing gear (DSLL) is one method for harvesting tunas in the Eastern Pacific Ocean. The primary target is bigeye tuna and other marketable, highly migratory species (HMS) including yellowfin tuna, opah, mahi mahi, escolar, swordfish and wahoo are also harvested. For years, the fishery extensively operated mostly out of Hawaii and was managed by the NMFS Pacific Islands Regional Office's (PIRO) office under the Hawaii Longline Limited Access Permit (HLLP) Program as recommended by the Western Pacific Fishery Management Council (WPFMC) in its Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagic FEP). The HLLP program controls a maximum of 164 permits although currently about 141 are actively fished and that also applies to the shallow-set longline swordfish fishery. Permits are registered to the vessel in the name of the vessel owner. Because it is a limited entry fishery, no new permits can be issued, but permits are renewable and freely transferable. The fishery operates under regulations at 50 CFR Part 665.**

**In 2005, a single DSLL vessel began actively fishing for BET on the high seas out of California. NMFS' West Coast Region (WCR) manages this fishery under regulations recommended by the Pacific Fishery Management Council (PMFC) in its Highly Migratory Species Fishery Management Plan (FMP). The fishery is open access and operates independently of the Hawaii-based fishery under regulations at 50 CFR 660. Participation in this fishery as for all west-coast HMS fisheries requires an HMS Permit.**

**In 2014, vessels in the HLLP Program began relocating from Hawaii to California and now land their catch in Southern California. These vessels also operate under an HMS Permit. The number of vessels is around 11 and more are expected to join the Southern California fleet. The vessels continue to operate under the HLLP Program including the placement of observers managed by the NMFS PIRO office.**

The Hawaii-based DSLL vessels fish for BET in the Western Central Pacific Ocean (WCPO) that is regulated by quotas set by the Western Central Pacific Ocean Fisheries Management Commission (WCPFC) and in the Eastern Pacific Ocean (EPO) by catch limits set for large DSLL vessels set by the Inter-American Tropical Tuna Commission (IATTC). Because it is not logistically feasible, California-based, DSLL vessels only fish in the EPO and generally fish east of 140° W and north of 12° N. About 4 of these vessels exceed the 24 m threshold as do about 32 Hawaii-based vessels. Quotas and catch limits are reset at the beginning of the year in each commission, respectively.

NMFS PIRO authorizes the Hawaii DSLL fishery for endangered species interactions based on its determinations in a September 19, 2014, Biological Opinion (2014 Deep-set BiOp). The action area covered in the BiOp is the footprint of each longline set in the EEZ and on the high seas during fishing and the area within 100 meters around each vessel while in transit. This operating area generally includes the EEZ around Hawaii and the high seas areas between 135° W and 180° W longitude and from 5° S to 40° N latitude. This fishery is observed at approximately a 20% level. The BiOp's Incidental Take Statement covers humpback whales, sperm whales, MHI insular false killer whale DPS, pelagic stock false killer whales inside the EEZ around the MHI, the stock of false killer whales around Palmyra Is., North Pacific loggerhead DPS, leatherback sea turtles, olive ridley sea turtles, green sea turtles, and the Indo-west Pacific scalloped hammerhead DPS.

NMFS WCR authorizes the DSLL fishery for endangered species interactions under the HMS FMP based on its determinations in an April 8, 2011, Biological Opinion (2011 West Coast DSL BiOp). The BiOp action area is the north Pacific, with the primary area of activity being outside the U.S. West Coast EEZ west to 140° W. longitude and from the equator to 35° N. Because of the three year term of the authorization, re-initiation of consultation on the BiOp is currently underway. This fishery is observed at 100% level although it is unknown whether the new BiOp will require this same or lesser level of coverage. The 2011 BiOp's Incidental Take Statement covers green, leatherback, loggerhead and olive ridley sea turtles.

II. Issues: Because of the recent trends and changing fleet characteristics of the BET fishery between Hawaii and California, new issues have arisen for both fleets regarding the IATTC catch limit that management will need to address to ensure consistency with the 10 National Standards of the Magnuson-Stevens

**Act, including achieving equitable fishing opportunities, maintaining profitability, improving catch reporting, and preventing catch limits (or quotas) from being exceeded. Five issues are identified in this section.**

**1. Access: As mentioned, the California-based DSLL fleet is operating under both limited access under WPFMC's Pelagic FEP and open access under the PFMC's HMS FMP. Assuming that this fishery continues to grow on the west coast whether by an increase of more vessels transitioning from Hawaii or new open-access entrants, NMFS and the Pacific Council will need to establish an acceptable number of vessels for limiting total longline fishing capacity in the EPO under the HMS FMP as well as allocating quotas or catch limits. The PFMC did adopt an HMS control date for all commercial and charter fisheries for HMS of March 9, 2000, in case a limited entry program was needed in the future. This control date will most likely need to be updated as the fisheries and participants have changed considerably in the last 16 years.**

**2. Allocation: While Hawaii-based vessels have the option to fish for BET in both the WCPO and EPO, California-based vessels are logistically limited to fishing in the EPO. This can become problematic when Hawaii-based vessels reach their quota in the WCPO and shift fishing efforts to the EPO. For 2016, NMFS predicts that of the 3,554 mt quota, the WCPO fishery is forecasted to reach its limit on August 12 and there is an expectation that a good number of the Hawaii-based vessels will move into the EPO where the current catch limit is 500 mt for large LL vessels. This may become a reoccurring event as the WCPFC continues efforts to curtail fishing mortality on BET in the WCPO.**

**In terms of vessels greater than 24 meter, there is a disproportionate advantage to the Hawaii fleet relative to the California fleet. This imbalance has the potential to create a "race to the fish" situation at times when access to the WCPO is unavailable to Hawaii-based vessels. Alternatively, California based vessels could grab a larger portion of the catch limit at the beginning of the year while Hawaii-based vessels are still operating in the WCPO. Under either scenario, the fishing activity of one side can create a disadvantage to the other side but certainly with 32 large vessels, Hawaii-based vessels has a greater opportunity to catch a greater share of the 500 mt. This race or competition for the same resource could also lead to increasing the risk of exceeding IATTC set catch limits. Without a doubt, this scenario of large LL vessels becomes moot and even more contentious between the two fleets should the 24 m rule be eliminated by the IATTC.**

**3. Management:** While two NMFS offices and two fishery management councils are involved with the EPO BET fishery and working under the same regional fishery management organization, the management entities are essentially involved in the same fishery. This raises the question regarding whether NMFS management processes such as staff resources, observer placement, and data reporting are excessively redundant and inefficient. The issue of whether this fishery could be managed more efficiently under single management is legitimate.

**4. Monitoring:** For years 2013-2015, the U.S. has closed the BET fishery in the EPO to large DSLV vessels due to the catch limit being reached. However, after the data were finalized for those years, it was shown that the U.S. exceeded its 500 mt catch limit by: 97 mt in 2013, 8 mt in 2014, and 50 mt in 2015. While it can be argued that there is great difficulty in being able to close the fishery just below or at such a small limit and that the overages are small compared to the total of BET landed by both purse seiners and small longliners, the exceedance still triggers a compliance issue for the U.S. and has the potential to influence U.S. negotiation strategies at annual IATTC meetings. The issue then becomes whether monitoring could be conducted on a more real-time basis so that vessels on the water know when the limit is within reach and the agency can close the fishery to large longline vessels prior to reaching the limit.

**5. ESA Coverage:** The two different BiOps authorizing the BET fishery provide different ITS coverage with the PIRO ITS providing broader coverage but spanning the same four species of sea turtles addressed in the WCR BiOp. This raises the question of whether two BiOps are an appropriate way to track and manage listed species interactions especially in cases where the two fleets may interact with the same listed species (e.g., leatherback sea turtles). Also, should a California-based vessel not in the HLLP program have a rare-event interaction of a listed species not covered in the WCR's BiOp's ITS, does the interaction place the vessels in a competitive disadvantage to its HLLP counterpart? Further, the question arises as to whether the non-discretionary terms and conditions (T&Cs) in both BiOps are consistent with one another or whether one fleet may be placed at a disadvantage over the other due to management under a different set of T & Cs?

**III. Potential Management Tools:** The following range of alternative management measures are intended to serve as a potential starting points for developing an appropriate and equitable management strategy for the EPO BET fishery. Alternatives under each topic should not be considered mutually exclusive.

**1. Access:**

**Limited Entry Permit System**

- Use the HLLP program and augment to account for new West Coast entrants
- Create a new limited entry program under the HMS FMP (will require establishing a control date)

**Number of New West Coast Entrants**

- Cap the number of LL harvesters in the EPO to 164 and shared between Hawaii and the West Coast; address inactive/latent permits
- Develop tiered approach starting with a specific limit (e.g., 20 boats) and then allow another limited number of boats at a later date once the stock statue of BET in the NEPO is determined
- Develop permit program that also include a shallow-set longline component to account for all potential west coast based longliners

**Control date**

- Establish new control date for the west coast-based LL fish

**Qualifying Vessels**

- current DSLL vessels currently fishing HMS out of both HI and the WC
- DSLL vessels only fishing out of the WC
- DSLL vessels only fishing out of the WC and active drift gillnet vessels that decide to switch

**1. Allocation:**

**Quota shares**

- Establish an individual BET quota (IBQ) system that provides a quota share or percentage (based upon a designed quota share formula and relevant vessel history) and annual quota allocation or amount (mt) to each permitted vessel. May require single permit system.
- Establish area or regional quotas to each Council that are available to vessels declaring which region they intend to fish that year. The region

would be divided by some chosen meridian (e.g., 150° W) and quota assigned to each region based on a regional formula that considers recent catch levels of in their declared region for each year. Vessels would continue fishing until the total quota for that region was reached.

#### **Reserve Quota**

- Establish a set aside quantity of tonnage based on a percent of the total IATTC quota to be used to cover overages by large DSLV vessels.
- Establish a set aside quantity of tonnage assigned to each region based on a percentage of the total IATTC quota to cover overages in the respective region.

#### **3. Management**

- Manage the EPO under two separate areas or regions based on an accepted dividing meridian with each Council responsible for its region
- Manage the EPO under a single FMC jurisdiction and NMFS regional office
- Manage the EPO under a Secretary of Commerce FMP

#### **4. Monitoring**

##### **Mechanism**

- Continue current reporting system
- **Immediate transition to e-logbook monitoring**

##### **Management**

- Continue management under both respective NMFS offices
- Consolidate management under one NMFS office

##### **Observers**

- Continue observer programs under both respective NMFS offices
- Consolidate observer programs into single one operated by one office

#### **5. ESA Coverage**

- Continue ESA authorization under both separate BiOps
- Consolidate ESA authorization under single BiOp