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March 19, 2014

Ms. Dorothy Lowman, Chair
and Council Members
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220

RE: April 2014 Briefing Book Public Comment -- March 2014 Decision Document - Highly Migratory Species - Drift Gillnet Monitoring, Management and Alternative Gear Report

Dear Chair Lowman and Council Members,

Please accept these public comments from Turtle Island Restoration Network (TIRN) on the decisions made at the March 2014 Pacific Fishery Management Council meeting related to Driftnet Gillnet Monitoring, Management and Alternative Gear Report. We hope that you will consider these views as you move forward on the "actions toward a goal of developing a comprehensive plan to transition the current drift gillnet fishery to a fishery utilizing a suite of more environmentally and economically sustainable gear types" that are identified in the meeting's Decision Document.

First, TIRN thanks the Council for making the decision to take action to transition the driftnet gillnet fishery to more sustainable gear types. The Council based its decision on high quality, comprehensive data presented by the HMS Team, fishery researchers and the conservation community. TIRN applauds the Council's leadership on moving the swordfish fishery to more sustainable gear and the well-informed deliberations that led to the decision.

The Council also made a strong decision not to expand the driftnet fishery into the Pacific Leatherback Conservation Area. TIRN thanks the Council for ending further action on such proposals after two years of fact finding and scrutiny.

TIRN strongly supports the transition of the driftnet gear on behalf of our more than 65,000 members and supporters. TIRN is also confident that we can continue to generate wide public support for Council action to remove driftnets from the California coast.

As the Council moves forward, TIRN hopes that you will consider these additional views on the action items spelled out in the Decision Document, in order, as follows:

1. Sending a letter to NMFS requesting reinstatement of the emergency rule that lapsed on January 31 and implementation of the Pacific Offshore Cetacean Take Reduction Team recommendations so there is no gap in application while NMFS implements permanent regulations on this matter.

TIRN wholeheartedly supports this strong conservation action to protect endangered sperm whales. We also urge the Council to comment on the permanent regulations when they are published to urge that they are at least as protective as the emergency regulations.

2. Requesting NMFS provide a report at the June Council meeting on issues and possible solutions to more comprehensively placing a transitioning swordfish fishery under MSA authority, including Federal permit options that would replace the current California State permit regime.

The Council can move forward with actions to transition the driftnet gear without removing the state's authority over fishery permits. There is no clear need for this action from a conservation or fishery management perspective.

TIRN is seriously concerned with the proposal to replace the current California state permit regime with an exclusively federal system because it would limit or remove the state's authority to set conditions on the permits as needed to protect the state's natural resources. The fishery has been managed as a joint state-federal fishery since 2004. Other states including Washington and Oregon continue to manage driftnet and other gear types and fisheries successfully. Why remove California's authority?

The state of California and the Legislature have been an asset to management of the fishery over the decades with requirements for time and area closures, gear changes and limiting effort through permit conditions. The state has also acted as a "backstop" to various federal fishery initiatives that have conflicted with longstanding state policies and statutes, such as those that limit the use of driftnets and other high bycatch gear including pelagic longlining.

The Council can better move forward to transition the driftnet fishery in collaboration with the state of California than by removing its authority over permits. TIRN urges the Council not to move forward on federalization the fishery permits for the following reasons:

1. The Council can move forward with actions to transition the driftnet fishery without removing the state's authority over fishery permits. There is no need to take this action.
2. Currently the state regulates the driftnet fishery as a limited access fishery, dating back several decades. The federal permitting scheme is open access without any limits on the permits, and could open the door to increased driftnet effort and other unintended consequences.
3. The state of California has imposed numerous conditions on the fishery over the decades through legislation and voter initiatives to protect the state's fisheries and natural resources from the wasteful nature of the driftnet gear. While these regulations were incorporated into the federal FMP, the federalization of the fishery could open the door to revising or weakening these regulations without the direct input or oversight of the people of California, including its elected officials.
4. The history of the driftnet fishery shows that National Marine Fisheries Service has acted in conflict

with the policies and interests of the state of California in the past. For example, NMFS has proposed EFPs to expand the driftnet fishery and to introduce pelagic longlining along the coast in direct conflict with longstanding California state policies. Even at the end of the Council deliberations on the driftnet fishery in March, the NMFS delegate suggested removing the shallow-set longline ban in the U.S. West Coast EEZ that was excluded from the 2004 FMP due to take of endangered sea turtles. These efforts are counterproductive to sustainable fisheries and the interests of the state of California.

The state Legislature and state agencies including the California Coastal Commission and the Ocean Protection Council have acted to oppose federal driftnet and longline fishery initiatives, which were ultimately defeated. Removing the state's permitting authority could needlessly weaken or remove the authority of these important conservation entities. Instead, the Council can benefit from the expertise and support of the state of California in pursuing its actions without removing the state's permitting authority.

3. Tasking Council staff with noticing the public that the Council would consider preliminary experimental fishing permit (EFP) approval on fishery transition proposals at the June 2014 Council meeting, and encouraging EFP submission. Further, the Council directed the Highly Migratory Species Management Team (HMSMT) to prepare research protocols to guide the evaluation of EFPs to test alternative gear types.

TIRN supports consideration for EFPs for alternative gears such as buoy gear and harpooning. TIRN also supports the development of research protocols to guide evaluation of EFPs.

However, TIRN and our allies will vigorously oppose EFPs for pelagic longlining along the U.S. West Coast EEZ as it is prohibited due to take of endangered sea turtle species. No changes in the status or populations of endangered species nor in the type or nature of the longlining warrant any further testing or research.

The recent deep-set daytime longline research conducted by NMFS in the PLCA over the past three years only reinforces the high bycatch nature of the gear. It is not a sustainable alternative to driftnets.

The Hawaii longline fisheries, both deep set and shallow set, continue to take endangered species including false killer whales, endangered sea turtles and endangered bird species at levels that have triggered closures. NMFS has increased the allowable takes of sea turtles in the Hawaii shallow-set longline fishery despite the species' continued decline, prompting ongoing litigation from conservationists. New protective measures were required this year in the Hawaii deepset longline tuna fishery due to take of endangered false killer whales. A new Biological Opinion is coming out that may require additional protections. These are problematic, high maintenance, unsustainable fisheries - not models for California.

4. Tasking Council staff, the HMSAS, and the HMSMT with initial development of a fishery transition plan and possible regulations under a typical MSA process, with the transition period being of sufficient duration to maintain a reasonable commercial flow of swordfish to domestic markets during the transition. The initial compilation of ideas was scheduled for the June 2014 Council meeting, with typical MSA process management tools to use such things as, seasons, areas, allowable gear alternatives, and integration of EFP results.

TIRN supports development of a fishery transition plan to end to the use of driftnet gear. TIRN supports programs to help the fishermen transition to other gears or enterprises.

The Council needs to define "maintain a reasonable commercial flow of swordfish to domestic

markets." What does this mean? When considering the economics of the swordfish fishery, the Council should seek clarification on this question. The Council should also ask for analysis of the economic and conservation benefits of a lower production, high value swordfish fishery caught with sustainable gears.

As part of the swordfish transition, the Council should consider partnering with the California Sustainable Seafood Initiative to promote sustainable swordfish and encourage Californians to avoid swordfish imports at least until they are required to meet U.S. standards.

Thanks again for your actions and consideration.

Sincerely yours,

A handwritten signature in black ink that reads "Teri Shore". The signature is written in a cursive, flowing style.

Teri Shore
Program Director
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