

## DRIFT GILLNET FISHERY TRANSITION ISSUES

At its March 2014 meeting, the Council considered a proposal to modify the southern boundary of the Pacific Leatherback Conservation Area (PLCA) to increase fishing opportunity for the California drift gillnet (DGN) fishery for swordfish and thresher sharks. The PLCA was implemented in 2001 to reduce the take of endangered leatherback sea turtles by the fishery. While the Council rejected the proposal, it prompted a wide-ranging discussion on the status and future prospects for the fishery, informed by NMFS reports, advisory body statements and public testimony.

This discussion occurred in the context of several initiatives affecting the fishery. First, California State Representative Paul Fong introduced AB 2019, which would have prohibited a person from using a drift gill net to take shark and swordfish for commercial purposes in State waters. Second, NMFS had implemented emergency measures in response to the take of two sperm whales in the DGN fishery observed from a single set during the 2010-2011 fishing season. These takes prevented National Marine Fisheries Service (NMFS) from issuing a new Marine Mammal Protection Act (MMPA) 101(a)(5)(E) permit for the fishery unless measures were implemented to reduce the likelihood of future takes. NMFS extended the temporary rule to August 5, 2014 via 79 FR 29377 (see Agenda Item E.2, Attachment 1), and has indicated an intent to follow-up this temporary rule with a permanent regulation (see Agenda Item E.1.b, NMFS Report). Finally, several ideas were brought forward that introduce new concepts for managing the DGN fishery. As part of the NMFS SWFSC under Agenda Item K.1.c, SWFSC Report, Drs. Lewison (San Diego State University) and Maxwell (Stanford University) presented research results on *Developing dynamic ocean decision-making applications for Pacific fisheries* ([Agenda Item K.1.c, Supplemental SWFSC PowerPoint 2](#)), which has applications to time-area management for DGN fisheries. In public testimony under Agenda Item K.5.c, March 2014; Captain Gary Burke made a presentation on the importance of currents and sea surface temperature on determining when swordfish occur in the area north of Cape Mendocino ([Agenda Item K.5.c, Supplemental Public Comment PowerPoint](#)), which is currently part of the Pacific Leatherback Conservation Area time/area closure; there were multiple testifiers recommending closing the DGN fishery as soon as possible ([for example, see Agenda Item K.5.c, Supplemental Public Comment PowerPoint 2](#)); Melissa Stevens of The Nature Conservancy described the possibility of a private contract buyout of DGN permits and vessels to reduce fleet capacity; and Mr. Steve Marx representing Pew Charitable Trusts advocated consideration of new hard caps and a requirement for a higher level of observer coverage.

Two developments since the March Council meeting have changed the picture somewhat. First, AB 2019 was voted down in committee on April 29, 2014. Second, a new assessment of the affected sperm whale stock and revised estimates of historical takes are currently under review. Although not likely to inform management decisions until later this year, this new information could change the determination under the MMPA.

At its April 2014 meeting under the Agenda Item J.3, Future Council Meeting Agenda and Workload Planning, the Council expressed the need for further policy clarity on fishery transition issues before pursuing a particular pathway forward under the EFP or Biennial Specifications

agenda items. Discussion of the concept of “transitioning” the DGN fishery was discussed in several different contexts, which are not necessarily mutually exclusive. One idea is to create a Federal limited entry permit under Magnuson Stevens Act (MSA) authority for DGN vessels, which would phase out or supercede the current California state permit program, thereby giving the Council and NMFS more control over the number of participants, permit transfer provisions, and other management particulars in the fishery. Another idea is to transition current fishery participants to other gear types or a different DGN management approach that can maintain west coast swordfish landings at historical levels while reducing protected species take and finfish bycatch mortality (fish that are discarded and die from being caught). Another transition idea, as mentioned above, is to identify an eventual date for prohibition of DGN gear, and plan a phase-out process regardless of the ability of different gear types to replace historical landings from the DGN fishery. Lastly, no transition from the contemporary state remains an option.

To help the Council clarify their policy goals with respect to any fishery transition, this agenda item is organized around (1) a full discussion of the complexity of current DGN management; (2) issues associated with transitioning the fishery to fuller implementation under the MSA; and (3) issues associated with transitioning the fishery to a different DGN approach and/or alternative gear, an unconditional DGN fishery phase out, or no transitional change. While a limited discussion of exempted fishing permits (EFPs) may be appropriate under item (3) above, a full discussion of EFPs for HMS fisheries is scheduled for Agenda Item E.3.

#### 1. Current DGN Fishery Management

It is necessary to fully understand the complexity of the current management approach before discussing possible fishery transitioning actions. NMFS has been asked to submit a supplemental report describing the current permitting process. NMFS Protected Resources Division (see Item E.2.b, NMFS PRD Report) submitted a report describing current process of setting protected species protections, such as Potential Biological Removal levels or regulatory caps. NMFS West Coast Region submitted a report on implementation of the current observer program for the fishery (see Item E.2.b, NMFS WCR Report). The California State representative is prepared to speak to current State permit processes and regulations.

#### 2. Transitioning the DGN to MSA Authority

The Council should discuss the pros and cons of transitioning the current fishery to one under full MSA authority targeting swordfish and other healthy HMS populations using various gear types. Status quo management is the default option, with DGN management arising largely from NMFS decisions under ESA and MMPA, rather than a Council process under MSA authority. The NMFS representative is prepared to speak to the process and requirements to transition to a Federal limited entry permit, as well as permit and regulation implementation transitioning options. The California State representative is prepared to speak to implications and issues related to State permitting and regulatory programs.

#### 3. Transitioning the DGN Fishery to a Different Approach and/or Gear Types, or Closure

To clarify any Council intent to transition the DGN fishery through management regulation changes—such as seasons and area closures, hard caps on particular species, or allowable gear—to something different than the contemporary fishery managed under current regulations, the

Council should discuss the pros and cons of the available alternatives. Once a policy intent is clarified, action can be taken toward meeting any objectives identified. Such action could be taken in Agenda Items E.3, E.4, or scheduled for future Council meetings.

The Highly Migratory Species Management Team met May 7-9 in Carlsbad, California and developed the contents of an initial report the Council on transition options for the DGN fishery (Agenda Item E.2.b, HMSMT Report); a supplemental report will be prepared in conjunction with the June Council meeting. The HMS Advisory Subpanel will provide a supplemental report expressing the views of stakeholders on transition options for the DGN fishery.

As of the advanced briefing book public comment deadline the Council received 116 emails asking the Council to ban drift gillnets. These emails are available electronically on the Council website (<http://www.pcouncil.org/council-operations/briefing-books/>). In addition, printed public comment letters are attached.

As discussed above, at this meeting the Council should clarify its objectives for any transitioning of the DGN fishery and develop a general list and timeline of actions to achieve these objectives.

### **Council Action:**

- 1. Provide Guidance on Transitioning of the DGN Fishery to full MSA Authority.**
- 2. Provide Guidance on Transitioning the DGN to a Different Management Approach, Alternative Gear Types, or Closure.**

### **Reference Materials:**

1. Agenda Item E.2.a, *Federal Register* Notice 79 FR 29377.
2. Agenda Item E.2.b, NMFS WCR Report.
3. Agenda Item E.2.b, NMFS PRD Report.
4. Agenda Item E.2.b, HMSMT Report.
5. Agenda Item E.2.c, Public Comment.

### **Agenda Order:**

- a. Agenda Item Overview
  - b. Reports and Comments of Advisory Bodies and Management Entities
  - c. Public Comment
  - d. **Council Action:** Consider Policy, Planning, and Logistical Issues Appropriate to Transitioning the Drift Gillnet Fishery to Full Magnuson-Stevens Act Authority and/or Alternative Swordfish Fishery Methods
- Kit Dahl

PFMC  
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