

INTERNATIONAL LAW OFFICES

OF SAN DIEGO

Agenda Item K.1.e
Supplemental Public Comment
March 2014

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740 NORTH HARBOR DRIVE

SAN DIEGO, CA 92101-5806

established 1989

FACSIMILE

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PETER H. FLOURNOY

March 2, 2014

Pacific Fisheries Management Council
7700 NE Ambassador Place, Ste. 101
Portland, OR 97220-1384

Re: Agenda Item K.1.b NMFS Report March 2014
Proposed Rule to Implement Resol. C-04-06 VMS 2004

Dear Council Members:

There are several issues that the Council should note with regard to this proposed rule that do not appear in the NMFS Report.

1. This resolution was passed in 2004, prior to the IATTC having any management measures in place for North Pacific albacore.
2. This measure speaks of vessels over 24 meters which is a measurement used to differentiate vessels of the same gear type in one area only – longline vessels to distinguish small longline vessels from larger “freezer” longline vessels.
3. I attended the meeting of the IATTC in 2004 representing the albacore harvesters and know for a fact that this measure was never intended to apply to albacore troll vessels.
4. It is not known whether any countries in the IATTC have implemented this resolution, which has been on the IATTC “books” for 10 years.
5. In 2013 this Council determined to discuss and then proceed with a regulation of this type under a two meeting process. Because HMS was not on the November Council meeting agenda, the action did not occur. It is not clear why NMFS has decided to go ahead with this resolution despite the Council’s earlier action.
6. NMFS professes to proceed with this resolution under the Tuna Conventions Act. This Act requires the Secretary of State and the Secretary of Commerce to consult on the formulation of regulations to put into effect resolutions passed in the IATTC. I do not believe there have been any such consultations, which is a violation of the Tuna Conventions Act. After requesting such information from Amb. Balton, the top fisheries official at the State Department,

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with no success, I filed a Freedom of Information Act request in October of 2013 which has not been responded to yet. If NMFS proceeds with its proposed rule over the objections of the albacore harvesters they are prepared to seek redress in other fora.

7. There is no rational basis to place VMS on albacore troll vessels of whatever size since it is an open access fishery with no marine reptile, mammal, or bird bycatch, with no limited seasons and no closed areas.

It is the hope of the albacore troll harvesters that these issues are discussed and seriously considered by the Council. Thank you for the opportunity to comment on this matter and for your time and attention,

Sincerely,

s/Peter H. Flournoy

Peter H. Flournoy