



*Conserving Ocean Fish and Their Environment  
For Over 25 Years*

March 22, 2002

Dr. Hans Radtke, Chairman  
Pacific Fishery Management Council  
2200 NE Ambassador Place, Suite 200  
Portland, OR 97220

Dear Dr. Radtke:

The National Coalition for Marine Conservation is gravely concerned about the direction the Council appears to be moving with regard to a pelagic longline fishery within the west coast EEZ. Last week, during the Highly Migratory Species meeting, which I attended, the Council nearly adopted a preferred alternative for the draft HMS FMP that would have allowed an exploratory longline fishery. While this measure failed by one vote, the Council did vote to change it's preferred alternative.

The Council switched its preferred alternative from an outright ban on longline gear to another option that the Council evidently intends as an entrée for a future longline fishery. We and others in the Ocean Wildlife Campaign helped draft the very language of the option that is now the preferred alternative. Stemming from our concerns about the bycatch problems of longlines, this option was developed to make those proposing to use longlines prove that the gear could be fished selectively before a fishery would be allowed. Unfortunately, this is not the premise under which the Council adopted this option. The majority of people who voted for this new preferred alternative also voted to allow a 10-vessel exploratory longline fishery. The Council now seems much more in favor of a longline fishery within the EEZ than the unanimous November vote to make the preferred alternative an outright ban indicated.

It appears the Council adopted this new option not out of a genuine concern about the future problems a longline fishery would create, but for a desire to facilitate the introduction of a longline fishery within the EEZ. My organization staunchly opposes the introduction of longline gear into the west coast EEZ, as the problems created by this gear are well documented and would only have a negative impact on many marine species, from striped marlin to juvenile sharks, turtles, sea birds and others. The Council seems to be backsliding on this issue. We are highly concerned that if the trend of Council action continues, the preferred alternative may be weakened in the future to accommodate a longline fishery.

My organization has been working on highly migratory species issues for nearly 30 years. Throughout this time, we have witnessed the devastating effect of longlines and seen no effective means of minimizing longline bycatch other than to get the gear out of the water. I am baffled that the Council would ignore decades of hard-learned lessons about the bycatch of longlines, not to mention literally thousands of letters from the public opposing longlines, then seek to weaken its preferred alternative to potentially permit them.

Many people, myself included, have lauded the open, transparent process used thus far in the development of this plan. The public has been provided extensive opportunities to comment. However, we're not sure what the value is of public participation if the Council blatantly ignores it. It is my understanding that of the thousands of comments the Council has received on this plan, all but a small handful expressly opposed a longline fishery. After presumably taking into account the overwhelming public support for a ban on longline gear, nearly half of the Council members voted for an exploratory longline fishery, with virtually no justification given.

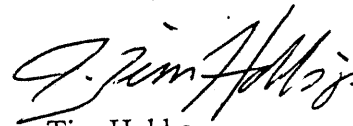
The Council is wavering—from proposing an outright ban toward allowing an exploratory fishery—and the public deserves a clearer indication of the Council's intent with respect to this important decision.

If the Council permits the introduction of this gear within the EEZ, it will spend the next twenty years trying to get it out. Do not be fooled by misguided arguments from the drift gillnet industry that falsely claim longlines are a solution to gillnet bycatch problems. Introducing longlines will only increase bycatch problems.

Taking an extremely modest management action now—prohibiting a gear where no one is currently using it—will avoid problems down the road. I urge the Council to remain committed to a ban on longline gear and not weaken the preferred alternative.

Thank you for considering our views.

Sincerely,



Tim Hobbs  
Fisheries Project Director

cc: Governor Gray Davis  
Robert Hight, CA Dept of Fish and Game  
Don McIsaac, PFMC Executive Director  
PFMC members



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March 22, 2002

Dr. Bill Hogarth  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910

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PFMC

Dear Bill:

I just returned from a disappointing meeting of the Pacific Fishery Management Council. The Council was scheduled to take final action on the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species. Instead, finalization of the plan was derailed by the failure of NMFS to provide adequate legal guidance as this plan was being developed. Detailed comments submitted by your agency—mere days before the Council was to finalize the plan—ultimately forced the Council to postpone final action for 8 more months, until next November. The Council and the Plan Development Team felt several months would be required to incorporate all the changes necessary for the plan to comply with the Magnuson-Stevens Act and other applicable law as suggested by NMFS.

Throughout the last year and a half, NCMC and other members of the conservation community have expressed concern that 1) certain portions of the draft plan may be inconsistent with the Magnuson Act, and 2) more guidance from NMFS and NOAA General Counsel should be provided to ensure the plan was being written consistent with applicable law. Our concerns were ignored, but we were content to allow the Council to finalize the plan nonetheless, believing that if serious problems indeed existed, NMFS would surely have spoken up. Then, days before the Council was to finalize the plan—which has now been under development for over two years—the agency informs the Council that certain portions of the plan are inconsistent with the law.

Why did NMFS wait until the last minute to review this plan in depth? Why wasn't the agency making these suggestions over the last two and a half years as the plan was being developed? Why did NMFS allow the Council to take this plan out for public comment before ensuring it complied with the law? Isn't the purpose of having NMFS representatives serve on the Council, and attend Plan Development Team meetings, to provide legal and other necessary guidance?

Incidentally, this delay will also allow a fleet of longline vessels to evade Pacific sea turtle conservation measures and to fish on the high seas with impunity. By landing fish in California instead of Hawaii, these vessels are not subject to the suite of sea turtle conservation measures imposed in the Pacific as a result of the March 2001 Biological Opinion. We urge NMFS to implement emergency rulemaking to rectify this situation.

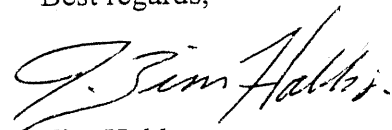
Similar situations, where the failure of NMFS to provide adequate guidance results in excessive delays of management measures, have occurred in other parts of the country as well, notably in the jurisdiction of the South Atlantic Council with regard to Sargassum and dolphin.

We know you are aware of these problems, and we strongly support your recent statements in regard to improving coordination with the Councils and streamlining the NMFS decision-making process. But this latest situation underscores the urgency with which this problem must be resolved.

These delays are avoidable. In fact, NMFS might even reduce the heavy burden of litigation it is under if adequate legal guidance is provided as these plans are being drafted, not to mention expediting our ability to manage fisheries and to respond in a timely fashion to pressing issues. I urge you to work to correct this glaring flaw in our management system, as these delays are wholly unacceptable. Specifically, I sincerely hope NMFS will commit sufficient resources to assist the Pacific HMS FMP Plan Development Team to complete all the required alterations and additions in a timely fashion to prevent any further delays.

Thank you for your attention to this matter.

Best regards,



Tim Hobbs  
Fisheries Project Director

cc: Scott Gudes, NOAA  
Jack Dunnigan, NMFS Office of Sustainable Fisheries  
Rebecca Lent, NMFS Deputy Assistant Administrator  
Rod McInnis, NMFS Southwest region  
Svein Fougner, NMFS Southwest region  
Hans Radtke, Chair, Pacific Fishery Management Council  
Don McIsaac, Executive Director, Pacific Fishery Management Council