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FAX:

Exhibit C.4  
Attachment 1  
September 2002

GRAY DAVIS, Governor



State of California - The Resources Agency

**DEPARTMENT OF FISH AND GAME**

<http://www.dfg.ca.gov>

1416 Ninth Street

Sacramento, CA 95814  
(916) 653-7667



August 16, 2002

The Honorable Virginia Strom-Martin, Chairman  
Joint Committee on Fisheries and Aquaculture  
State Capitol, Room 3146  
Sacramento, California 95814

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AUG 16 2002

PFMC

Dear Assembly Member Strom-Martin:

**Decision To Retain Current Regulations Affecting Non-groundfish Trawl Fisheries**

Your committee was recently notified of a proposed action to close trawl fisheries for non-groundfish species during times and in areas when take and possession of federal groundfish is prohibited. The non-groundfish species include California halibut, prawns, shrimp, and sea cucumber. The regulation was proposed pursuant to Section 7652 of the Fish and Game Code (FGC) with the intent of eliminating discard and waste of federal groundfish, which are currently prohibited in trawl fisheries south of Cape Mendocino, Humboldt County, and to conform State law to the federal regulations. This is an important matter because Department of Fish and Game (Department) records show that non-groundfish trawl vessels take substantial amounts of federal groundfish in association with landings of non-groundfish species.

The Department held a hearing on the proposed regulation on August 2, 2002 and took testimony as required under Section 7652.1 of the FGC. Based on that testimony and subsequent discussion with federal representatives, we have determined that current State law is consistent with the federal regulation, thus we do not have the authority to implement the proposed regulation pursuant to Section 7652, FGC.

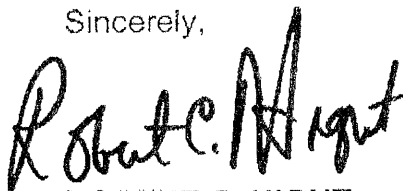
We have learned that the *Federal Register* notice upon which we were basing our action does not prohibit take of federal groundfish in the course of non-groundfish trawl fisheries. This is because the federal groundfish plan, upon which the federal regulation is based, only prohibits the take and retention of federal groundfish in non-groundfish (exempted) trawl fisheries. It does not prohibit simply the take of federal groundfish when pursuing these other species and, therefore, does not constitute a conflict between existing State and federal regulations.

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The take and waste of federal groundfish during closed fishing periods and in closed fishing areas is a matter that needs to be taken up through the Pacific Fishery Management Council and the State's regulatory processes. For your information, commercial fishing for California halibut is under legislative purview while fisheries for prawns, shrimp and sea cucumber are regulated by the Fish and Game Commission (Commission). The Commission is currently addressing bycatch concerns associated with the trawl spot prawn fishery.

Mr. LB Boydston, Intergovernmental Affairs Office Representative is available at the letterhead address, telephone (916) 653-6281, to answer questions about this letter.

Sincerely,



ROBERT C. HIGHT  
Director

cc: Same as original letter plus speakers at public hearing.

same letter sent to :

The Honorable Joe Canciamilla, Chairman  
Assembly Water, Parks and Wildlife Committee  
State Capitol, Room 6011  
Sacramento, California 95814

The Honorable Sheila Kuehl, Chairman  
Senate Committee on Natural Resources and Wildlife  
State Capitol, Room 4032  
Sacramento, California 95814