

<Administrative Record, Testimony by  
Mr. Pete Dupuy, 10-29-02

FACTS

1. The Drift Gil Net fishery is declining due to regulations imposed to reduce protected species interactions. (Exhibit A)
2. The Drift Gil Net fishery asked to be totally regulated by federal law in the FMP in order to have more flexibility, (California prohibits longlining), for addressing protected resources and bycatch reduction measures.
3. Inclusion of the Drift Gil Net fishery in the FMP requires the fishery to reduce bycatch as a matter of law.
4. To satisfy legal mandate to reduce bycatch, an alternative fishery utilizing longline as a replacement for the Drift Gil Net fishery was proposed, and analyzed in Chapter 9. (Exhibit B, page 2)
5. The PFMC has chosen to not totally regulate the Drift Gil Net fishery, and prohibit longline within the EEZ. Then proposes an Experimental Fishing Permit demanding performance standards for bycatch reduction that go far beyond the current law. (Exhibit B, page 1)
6. The PFMC's actions insure that the Drift Gil Net fishery continues to decline without viable alternatives, despite the fact that the Chapter 9 scientific analysis supports a longline alternative. The PFMC's proposed action does not provide a rational basis for choosing this alternative instead of the Industry's proposal. (Exhibit B, page 2)
7. The PFMC's action to prohibit longline within the EEZ is driven by state politics, without scientific support, and is contrary to the national interest. (Exhibit C, page 1 & 2)
8. This is an example of how HMS fishery decision making in this FMP is driven by political needs, in spite of scientific evidence to the contrary.

**DRAFT**

|         |      |      |     |      |       |       |       |       |       |
|---------|------|------|-----|------|-------|-------|-------|-------|-------|
| 2001    | 147  |      | 50  |      |       |       |       |       |       |
| Total   | 3947 |      | 597 |      | 10355 |       | 26490 |       | 41379 |
| Average | 359  | 9.1% | 54  | 1.4% | 1002  | 25.4% | 2507  | 63.6% | 3944  |

Source: California Department of Fish and Game

Table Number of Vessels in the California-Oregon Drift Gillnet Fishery, 1993-2001

| Year | No. Vessels with Landings | No. Registered Vessels |
|------|---------------------------|------------------------|
| 1993 | 125                       |                        |
| 1994 | 137                       |                        |
| 1995 | 119                       |                        |
| 1996 | 112                       |                        |
| 1997 | 115                       | 126                    |
| 1998 | 99                        | 119                    |
| 1999 | 96                        | 109                    |
| 2000 | 81                        |                        |
| 2001 | 65                        |                        |

Source: California Department of Fish and Game

**Analysis of Alternative 2**

Table Mean Dressed Weight per Swordfish August 15 – October 15 Inside and Outside of 34:27N-4500N

| Mean Lbs Per Fish (Standard Deviation) | Inside (Closed Area) | Outside (Open Area) | Difference |
|--|----------------------|---------------------|------------|
| 1990                                   | 246.44 (127.42)      | 232.83 (143.88)     | 13.61      |
| 1991                                   | 250.45 (120.46)      | 206.80 (96.80)      | 43.65      |
| 1992                                   | 285.61 (113.13)      | 211.48 (112.13)     | 74.14      |
| 1993                                   | 294.00 (124.99)      | 183.85 (123.82)     | 110.75     |
| 1994                                   | 289.83 (129.76)      | 195.35 (129.89)     | 94.48      |
| 1995                                   | 243.00 (128.58)      | 247.33 (114.53)     | 25.67      |
| 1996                                   | 246.81 (139.69)      | 155.36 (102.90)     | 91.45      |
| 1997                                   | 195.73 (102.46)      | 194.85 (80.55)      | 0.88       |
| 1998                                   | 247.69 (117.66)      | 173.04 (73.47)      | 74.65      |
| 1999                                   | 276.99 (125.67)      | 242.03 (110.45)     | 34.96      |
| 2000                                   | 272.12 (110.62)      | 239.26 (102.39)     | 32.86      |
| 2001                                   | N/A                  | 243.24 (101.02)     | N/A        |

Source: NMFS Observer Program. Standard deviations in parentheses.

Note: Difference: Inside – Outside

EXHIBIT  
B

Exhibit E.2.b  
Supplemental NMFS Report  
March 2001



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
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Mr. Jim Lono, Chairman  
Pacific Fishery Management Council  
2130 SW Fifth Avenue, Suite 224  
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MAR 9 2001

DEPT

Dear Jim,

At the March meeting, the Pacific Fishery Management Council (Council) will have its first opportunity to review the draft fishery management plan for highly migratory species fisheries (HMSFMP) and the initial analysis of the management issues in those fisheries. I believe it is important that the National Marine Fisheries Service (NMFS) provide updated information on recent domestic HMS fisheries management that will set the stage for the team presentation on the draft FMP and subsequent Council consideration of options for the FMP, including how to proceed with the FMP.

When the decision was made to develop the FMP, there was no clear and pressing need for consideration of management measures that would immediately go into effect. It was envisioned that the FMP could include some reporting requirements and perhaps some changes in permit requirements, and it would almost certainly establish framework procedures for implementing regulations in the future if new information or conditions warranted it. The FMP also could conceivably incorporate under Magnuson-Stevens Act authority a variety of HMS fishery management regulations currently in effect under other Federal law or State laws and regulations. However, the legal and programmatic environment for the FMP has changed substantially as a result of two (and maybe three) factors:

1. **Drift Gillnet Fishery Management** - This fishery is managed under a mix of State laws (time/area closures, limited entry, mesh size, logbooks) and Federal regulations (net depth, pingers, observers) under the Marine Mammal Protection Act. As a result of a new Section 7 consultation under the Endangered Species Act (ESA), NMFS is requiring that new restrictions be imposed on the fishery by August 2001. NMFS will promulgate these regulations by that time under the authority of the ESA. However, I would urge the Council to be sure that the draft FMP, when cleared for public review and comment, include an alternative under which the drift gillnet fishery would be managed through the FMP rather than under the anticipated mix of State laws and regulations and Federal regulations under the MMPA and ESA. Consolidating the management program under a single authority should greatly simplify the ability of fishers and managers to adjust to changing conditions in the future.

In addition, the changes being required under the ESA will likely make it very difficult for some fishers to maintain profitable operations. This adds to the feeling on the fleet's part that there should be some form of relief, and a proposal has been made to allow the vessels to fish with longline gear subject to a variety of restrictions, possibly including an experimental fishery process. This is a very contentious proposal, but the drift net fleet owners definitely want the Council to address it in the FMP process. I would strongly encourage that the plan include a full evaluation of the pros and cons of allowing longline fishing in the EEZ so that the final decision can be based on that evaluation.

2. Hawaii Longline Fishery Restrictions - As a result of court actions, a number of restrictive regulations have been promulgated for the Hawaii-based longline fishery. In addition, NMFS prepared and distributed for public comment and hearings a Draft Environmental Impact Statement (DEIS) that reviewed the history and performance of that fishery and analyzed several alternatives for management of the fishery. I believe the Council has received a copy of that DEIS. While final action has not yet been taken, the preferred alternative would further constrain the fishery, including prohibiting a fishing strategy that targets swordfish and setting time/area closures for the fishery. NMFS also is completing a Section 7 consultation to determine if the fishery jeopardizes the continued existence of any species of sea turtle and if conditions should be set for the fishery to ensure that there will be no jeopardy and to mitigate or reduce the potential for interactions. NMFS recognizes that longline fishing in the EEZ, or on the high seas seaward of the EEZ, off the West Coast might not have the exact same impacts on fish and protected species as longlining out of Hawaii. However, NMFS also believes it would be inappropriate to allow fishing by vessels out of the West Coast in times and areas that would be closed to vessels out of Hawaii or using strategies that would not be available to Hawaii-based vessels until further information is available to indicate that the impacts would be different. At the least, the draft FMP should include an alternative that would establish the same measures for West Coast-based longliners as for Hawaii-based longliners. This also would include provisions to minimize interactions with seabirds and to authorize the Regional Administrator to require that observer accommodations be made and to require the use of automated vessel monitoring system units at vessel expense.

3. U.S.-Canada Albacore Treaty - During the scoping process for the FMP, there was sufficient force of recommendations from the public that the Council established a control date for possible use in setting up a limited entry program in the future. Most of the interest came from the troll albacore fishery which is concerned that further restrictions in other fisheries (especially groundfish) might result in vessels shifting into the albacore fishery, possibly adversely affecting present participants and exacerbating marketing problems that have sometimes occurred when catches are too high and markets are flooded with landings. Also of concern was that additional effort could result in lower catch rates for historic participants. A more recent concern, however, is that there has been a dramatic increase in the participation of Canadian vessels in U.S. waters under the Treaty, so much so that the Western Fishboat Owners Association has promoted suspension of the Treaty unless the Canadians agree to some limit on their vessels' fishing in U.S. waters. We have now scheduled a negotiating session with Canadian authorities April 10-11, 2001, in Seattle, to discuss changes in Annex A to the Treaty under which there would be a process for annually determining fleet or fishing limits and to discuss potential limits in 2001.

In discussing the matter with NOAA General Counsel and industry, we have identified a broader issue. That is, there is no statute to implement the Albacore Treaty; thus, there is no statute authorizing NMFS (or anyone else) to issue regulations to carry out the Treaty. Before we can propose legislation, however, we need to consider and agree on how the FMP and Treaty interrelate. We need to consider what kinds of measures would best be handled by different agencies and through different procedures. We will be discussing with industry and General Counsel the manner in which different possible future fishery management measures might be carried out under the FMP or under the Albacore Treaty, or even under laws implementing other future international management agreements (e.g., LATTIC). For example, if there were a total allowable catch of north Pacific albacore with an allocation to the U.S., the internal allocation between sectors could be done through the Council as with Pacific halibut; or it could be done by the Secretary of Commerce in consultation with the Council and the member States. Please be assured that the Council will be involved in the discussions. With respect to the FMP, we have no immediate recommendations, but we will be working with the plan team and your staff to provide some alternatives for discussion in the draft.

One consequence of the changes in circumstances is that the Council will likely have to address with immediate HMS fishery management regulation issues in final action on the FMP later this year. It will probably not be sufficient to simply leave in place existing State or Federal regulations (under other authorities) or simply defer to State regulations. NMFS is aware that this means more time will be needed to compile information and analyze the options for management. Indeed, it is recognized that there is a lack of information to support some analyses, especially with respect to consideration of the impacts of allowing the West Coast based longline fishery to be active in the EEZ while at the same time restricting its activities on the high seas.

The Southwest Region also is aware that the increasing pressure to immediately establish management measures increases the need for Council resources to be directed to HMS fishery management and related issues. The need for complete NEPA analysis is clearly a critical issue. We will do everything we can to support the Council in this process, and we are looking to the possibility of a supplemental cooperative agreement under which the Council would administer the plan development process (e.g., team and advisors' travel, printing, and other logistics). This could be in addition to NMFS funds that might be provided to the Council to assist in meeting NEPA analytical requirements generally. I am optimistic this can be achieved fairly soon.

Finally, I want to acknowledge that the Council has participated in past discussions with NMFS and other Pacific area fishery management councils about the need for coordination of management. The issues noted with respect to the longline fishery testify to the need for that coordination. In that respect, I have had informal discussions with Western Pacific Fishery Management Council members and staff and I am optimistic that we can arrange to resume discussions in the near future. I believe the draft FMP will provide a catalyst to launch discussions. I will work with you and your Executive Director to see when discussions might resume.

In summary, I appreciate the Council's dedication to developing a solid and comprehensive HMS FMP and pledge the Agency's support in that process. The Southwest Region views this as one of the Council's most complex fisheries with serious management issues and we are committed to helping establish a sound management framework to conserve the species to the extent practicable and to maintain or enhance the fisheries on these species.

Sincerely,



Rebecca Lent, Ph.D.  
Regional Administrator

cc:

F/SWC - Tillman  
GCSW - Feder  
F/NWR - Robinson  
GCNW - Cooney  
WPFMC-Simonds  
NPFMC-Oliver

# The California-based Longline Fishery for Swordfish, *Xiphias gladius*, beyond the U.S. Exclusive Economic Zone

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## ABSTRACT

Between 1991 and 1994, the number of California-based longliners fishing for swordfish beyond the U.S. Exclusive Economic Zone increased from 3 to 31. Recreational fishing groups raised concerns regarding the impact of the fishery on swordfish, shark, tuna, and marlin stocks. The California Department of Fish and Game established a sampling program to document species composition of longline landings and size composition of the swordfish catch, and collected anecdotal information about fishing methods and bycatch.

In 1991-94, swordfish accounted for 59%-79% by weight of all landings by the fishery. Tunas were 11%-24% of the catch, and the remainder was pelagic sharks, opah, dolphin, and escolar. Sampled swordfish were 6-277 kg dressed weight (13-611 lb). Fish <50 kg (<110 lb) accounted for nearly 48% by number, those >100 kg (>220 lb) only about 17%. Bycatch included striped marlin, turtles, birds, and marine mammals, although there are no estimates of take.

The State of California is the current management authority for this fishery; regulations comprise requirements for commercial fishing licenses, provisions governing prohibited species (striped marlin), and logbook reporting requirements similar to those for the Hawaii-based high-seas longline fishery. Discussions among the Fishery Management Councils for the Pacific, North Pacific, and Western Pacific Regions have not yet resulted in a fishery plan for Pacific swordfish.

## Introduction

Swordfish, *Xiphias gladius*, provides a popular seafood which is recognized worldwide. Known for its white meat and mild taste, swordfish is the focus of many commercial fisheries. Approximately 22% of the world supply of swordfish is purchased by consumers in the United States (Sakagawa, 1990). Imports of swordfish into the U.S. have risen from nearly 500,000 lb in 1980 to over 15 million lb in 1989 (Bouchelle et al., 1991). To meet a portion of this market demand, fleets from Japan, Taiwan, and the United States target swordfish and tunas (Scombridae) year-round in the northeastern Pacific.

California-based fishermen have harvested swordfish in nearshore waters since the early part of this century. Hand-held harpoon was the predominant gear type until the late 1970's, when drift gill nets were found to be effective in catching large quantities of swordfish.

Until 1979, swordfish landings in California averaged about 200 metric tons (t) annually. Since 1983 California swordfish landings have averaged approximately 1,200 t annually; in 1985 they peaked at 2,400 t (Deweese, 1992).

Recently, a California-based high-seas longline fishery has developed. While these vessels do not fish in local waters, they unload their catch and re-provision in California ports. In 1993 the California Department of Fish and Game (CDFG) began dockside sampling and tracking of longline landings, and began to develop a logbook program. This paper provides a description of the California-based longline fishery, landings, species composition, size composition of landed swordfish, and anecdotal bycatch information. The defacto management scenario is also presented. We do not discuss the health of the Pacific swordfish stock(s) or the implica-

<sup>1</sup> Now the Marine Region of the CDFG.

Recreational fishing interests were again unsuccessful in 1995 in getting a bill through the California legislature to control the longline fleet. They are still committed to being fully involved in the management process for swordfish.

The logbook required by the state of California was developed along the lines of the one used by the NMFS in the Hawaiian fishery. Logbooks were distributed to participants of the California-based fishery beginning in August 1995. Data on fishing locations, fishing effort and catch, and bycatch will now be available through the logbook program. No observer program has been mandated.

The California-based longline swordfish fishery remains dynamic, and we anticipate more movement of vessels in and out of the area due to changing availability of this highly migratory species and the search for new fishing grounds, reasonable port costs, and lower transshipment costs.

### Acknowledgments

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of the fishery and markets, Bruce Mournier and Bill Irwin for their video documentation of the longlining process, and the vessel captains and crews who shared their fishing information. We also thank the many reviewers who took the time to give us constructive feedback.

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