



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

APR 4 2003

Dr. Hans Radtke, Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

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PFMC

Dear Dr. Radtke,

Last year, NOAA Fisheries informed the Council that we expected the Council to complete Amendment 16, including at least four rebuilding plans, in time to adopt the amendment and associated NEPA analyses (now a draft Environmental Impact Statement) for public review at its April 2003 meeting, with final Council approval scheduled to occur at the June 2003 meeting. This schedule would have resulted in NOAA Fisheries' approval of Amendment 16 in the fall of 2003. In October, 2002, this schedule was also provided to the court in the cases of Natural Resource Defense Council, Inc. v. Evans, Case No. C-01-0421 JL (N.D. Calif.), and Pacific Marine Conservation Council v. Evans, Case No. C-01-2506 JL (N.D. Calif.).

Over the winter, the Council's schedule for the DEIS slipped to the June 2003 meeting. Recently, NOAA Fisheries received another revised schedule from the Council indicating that the DEIS will not be completed until September 2003. As a result, NMFS's approval of Amendment 16 would be pushed back until sometime in 2004. Under the revised schedule, the Council still intends to send Amendment 16 out for public review at the upcoming April 2003 meeting, and to adopt its final recommendation to NOAA Fisheries in June 2003.

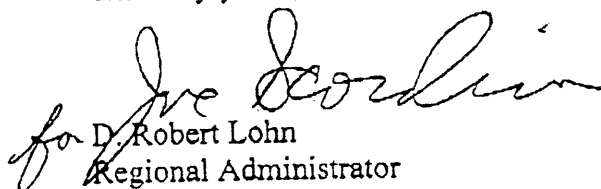
The Council's revised schedule presents three distinct problems. First, it is inconsistent with the schedule that we presented to the court. Second, the Council will be adopting both a draft and final amendment without the benefit of a complete DEIS. Third, it also appears to be inconsistent with the Memorandum of November, 2001 from Bill Hogarth, Assistant Administrator for Fisheries, NOAA Fisheries, requiring that all the fishery management councils have completed NEPA analyses before them before they take final actions. Also, it is inconsistent with a concept that NOAA Fisheries is implementing through its Regulatory Streamlining Program, which is to align the regulatory process with the NEPA process.

In order to substantially comply with the schedule that we provided to the court, I strongly urge the Council to instruct the staff to place the very highest priority between the April and June Council meetings on completing the DEIS on Amendment 16 by the June 2003 Council meeting. If the Council intends to take final action in June, it should have the completed DEIS in front of it before taking a final vote. If this cannot be done, the final action should be delayed until the September meeting when the DEIS has been completed. If this occurs, we will be obliged to submit supplemental declarations to the court describing the situation, and be prepared to accept whatever consequences may ensue.

As another matter, I have been advised that the Council may not intend to prepare an additional FMP amendment for the remaining overfished species over the summer and fall of 2003 for adoption in late 2003 or early 2004, as we have also advised the court. I hope that this is not the case, and that the remaining rebuilding plans can proceed according to schedule.

In addition to my concerns with the timing of the rebuilding plans, I am also concerned that the proposed FMP amendment language does not fully reflect Bill Robinson's motion of last November to revise FMP language so that the FMP explicitly requires an observer program for the West Coast groundfish fleet. As you know, vessels are already required to carry observers under Federal regulations. However, NMFS is under Court order to ensure that an observer program is mandatory under the FMP. Therefore, NOAA Fisheries will make a motion under agenda E.5. to amend Section 6.5.1.2 of the FMP, which deals directly with observers as a monitoring tool, so that an observer program is clearly required by the FMP.

Sincerely yours,


D. Robert Lohn
Regional Administrator

cc:

Eileen Cooney, GCNW
Rod McInnis, F/SWR