

Advocates for Wild, Healthy Oceans

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Formerly the Center for
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May 30, 2003

Sent via facsimile and U.S. mail
Dr. Donald McIssac
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

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PFMC The Ocean
Conservancy 

Dear Dr. McIssac:

The Ocean Conservancy is writing to provide the following scoping comments on the Pacific Fishery Management Council's (PFMC) preparation of an Environmental Impact Statement (EIS) for Amendment 16 to the Groundfish Fishery Management Plan (Amendment 16) governing the rebuilding of overfished groundfish species. According to the Notice of Intent (NOI) to prepare an EIS¹, this EIS will evaluate the environmental impacts stemming from adoption of rebuilding plans, in particular, the management targets that will be used to determine catch levels. The first EIS will most likely cover only four of the nine overfished species with subsequent EISs or EAs prepared for the remaining species.²

While we agree that analysis of a range of management target alternatives and choice of rebuilding strategies are crucial elements in rebuilding overfished species, management measures necessary to achieve these rebuilding targets must be part of Amendment 16 and its accompanying EIS. Rebuilding plans consisting of a target and rebuilding strategy only fall far short of an actual plan to return a species back to an applicable management level. We therefore recommend inclusion of a range of alternatives covering a variety of management measures necessary to achieve the proposed rebuilding targets and time periods. Furthermore, by including as many overfished groundfish species as possible in this EIS will allow the PFMC to take a holistic approach in designing management measures that will meet rebuilding targets and timelines.

Applicable Law

Pursuant to the Magnuson Stevens Fishery Conservation and Management Act (FCMA) the National Marine Fisheries Service (NMFS) and PFMC must prepare a fishery management plan, plan amendment or proposed regulations to rebuild any population of fish within one year of being identified as overfished by the NMFS.³ Rebuilding measures must meet a number of criteria including specifying a time period for ending overfishing and rebuilding the fishery in as short a time as possible, not to exceed ten

¹ 68 FR 12889 (March 18, 2003)

² *Id.*

³ 16 U.S.C. §1854(e)

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years, except in certain prescribed instances and allocate restrictions and recovery benefits fairly and equitably among sectors of the fishery.⁴

In addition, any fishery management plan amendments must establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery and include measures that minimize bycatch and unavoidable bycatch mortality to the extent practicable.⁵ Furthermore, fishery management plan amendments must contain provisions to minimize, to the extent practicable, adverse impacts of fishing on essential fish habitat.⁶

According to the NOI, the PFMC has determined that Amendment 16 requires development of an EIS pursuant to the National Environmental Policy Act (NEPA). NEPA establishes a national policy that will encourage productive and enjoyable harmony between man and his environment, promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man and to enrich the understanding of the ecological systems and natural resources important to the nation.⁷

For major federal actions significantly affecting the quality of the human environment, a detailed statement (EIS) must be prepared that includes the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.⁸ The EIS provides a full and fair discussion of significant environmental impacts and informs decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.⁹

The Council on Environmental Quality has developed a number of guidance documents for implementing NEPA, including two that are particularly applicable to the development of rebuilding plans for overfished groundfish species. These include *Incorporating Biodiversity Considerations Into Environmental Impact Analysis Under the National Environmental Policy Act*¹⁰ and *Considering Cumulative Effects*¹¹. We urge the PFMC to consult these guidance documents in preparation of this EIS.

⁴ *Id.*

⁵ 16 U.S.C. §1853(a)(11) and 16 U.S.C. §1851(a)(9).

⁶ *Id.* at §1853(7).

⁷ 42 U.S.C. §4321

⁸ 42 U.S.C. §4332

⁹ 40 CFR §1502.1

¹⁰ Council on Environmental Quality, January 1993.

¹¹ Council on Environmental Quality, January 1997.

Issues for Consideration in the Amendment 16 EIS

The EIS Must Explore a Full Range of Rebuilding Time Options with High Probabilities for Success

The EIS must explore a full range of rebuilding time periods with special emphasis on the FCMA which requires that rebuilding times be as short as possible considering a number of factors.¹² A range of rebuilding time periods and rebuilding strategies with accompanying analysis of direct, indirect and cumulative environmental impacts must be presented. Analysis of the rebuilding times and strategies must include both short and long term economic and ecological implications.

The EIS Must Explore a Full Range of Management Measures Necessary to Ensure a High Probability of Successfully Rebuilding Depleted Species Within the Rebuilding Target Time

Essential to the success of any rebuilding plan is ensuring that annual mortality levels of a depleted species are consistent with rebuilding goals, that abundant levels of prey species exist and that habitats used by depleted species and their prey are protected. Thus, the issues we recommend for analysis include management measures that will rebuild depleted populations by limiting total mortality (via direct catches and bycatch) to levels consistent with proposed rebuilding targets, measures that will minimize the incidental catch of a depleted species' prey species, and measures that will reduce impacts of fishing gears on the marine environment including an analysis of the past, present and reasonably foreseeable adverse impacts of fishing and non-fishing operations on habitats utilized by the depleted species.

In completing the EIS we recommend the analysis of the following management tools in meeting proposed rebuilding goals:

- (1) Management measures that ensure rebuilding targets are met

These measures include, but are not limited to, limiting fishing effort via capacity reduction, time and area closures, a network of no take marine protected areas, trip or bag limits, and caps on total mortality ("hard" total allowable mortality levels);

- (2) Management measures that reduce bycatch

These measures must reduce the incidental catch of both depleted species which are the subject of this amendment and prey species and other marine life through measures including, but not limited to, capacity reduction, time and area closures,

¹² 16 U.S.C. §1854(e)

a network of no take marine protected areas, trip or bag limits, caps on total mortality (bycatch caps on a fleet wide, sector wide and vessel level), and gear modifications;

- (3) Management measures that reduce the adverse impacts of current fishing practices on habitats important to both depleted species and prey species

These measures may include, but are not limited to, reducing effort via capacity reduction or trip or bag limit reduction, time and area closures, a network of no take marine protected areas, gear modifications and prohibitions on fishing practices that adversely impact important habitats or prey species; and

- (4) Measures that aid in enforcement of management measures

These measures include, but are not limited to, enforcement devices such as vessel monitoring systems.

The current management regime should serve as the "no-action" or "status quo" alternative for management measures designed to rebuild overfished species. Other alternatives should include a suite of management tools applicable to proposed rebuilding targets and timelines. Analysis of these alternatives must include cumulative effects and past present and reasonably foreseeable activities on the environment.

The EIS should also analyze current information sources necessary to both track rebuilding progress and ensure annual mortality goals are achieved. If information sources are lacking, the EIS should identify essential data collection elements and methods for collecting those elements such as methods for more accurately assessing effort, monitoring bycatch, identifying fishing locations and identifying important habitat areas.¹³ These methods should include current efforts in addition to increased observer coverage, use of federal permits or licenses to better estimate total effort, use of vessel monitoring systems or other technologies to assess areas fished, and other appropriate methods.

Conclusion

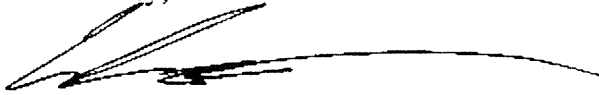
The preparation of an EIS for Amendment 16 offers the PFMC an excellent opportunity to take a holistic look at the current groundfish management strategy and other potential scenarios to ensure that the nine overfished species of groundfish are returned to healthy levels by constraining fishing effort to an appropriate level, minimizing the incidental catch of both overfished groundfish and their prey species, and protecting habitats important to marine life from both fishing and non fishing operations. Considering the unfortunate state of the groundfish resource, this EIS presents a chance to reassess the efficacy of past management measures and focus on alternative scenarios that will ensure the successful restoration of overfished populations. We urge the PFMC to take full advantage of this exercise by not only including analysis of rebuilding target and time

¹³ 16 U.S.C. §1853

period alternatives but also a full range of management measures that will ensure these targets and timelines are met.

We thank you for considering our comments and look forward to future work in protecting the marine life of the Pacific Ocean.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Dorsett', with a long horizontal flourish extending to the right.

Chris Dorsett
Pacific Fish Conservation Manager

