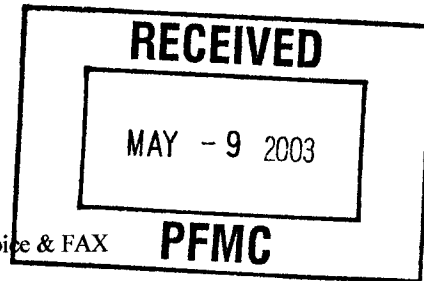


# *Federation of Independent Seafood Harvesters*

PO Box 352  
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**MANAGER:**

Chuck Janisse  
(802) 672-1163 voice & FAX

---

May 4, 2003

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

Re: recommendation for addition to HMS FMP management measure 8.5.1 Alternative 2:

**Without changing the scope or intent of the management measure proposed for the CA/OR drift-gillnet fishery, for purposes of conducting the Section 7 Consultation, base the scope of review for the Biological Opinion on the implementation of the Pacific Offshore Cetacean Take Reduction Plan regulations for the CA/OR drift-gillnet fishery under current conditions, but without the leatherback and loggerhead closures.**

Dear Hans,

I will be unable to attend June's PFMC meeting. In anticipation that the Council may adopt the HMS FMP at that meeting, and submit it to NMFS for approval, I request that the Council append the above (boldface text) to 8.5.1 Alternative 2. The reason for this request is to ensure that the current drift-gillnet fishery is assessed on the same basis as the 2000 BiOp for that fishery.

Regulations require NMFS sustainable fisheries division to consult with NMFS protected resources division when a federal fisheries action interacts with ESA listed marine species. Implementation of the HMS FMP is such an action. In this case, the Council's proposed management measures contained in the HMS FMP form the basis for NMFS sustainable fisheries division to consult with NMFS protected resources division. NMFS protected resources will then produce a Biological Opinion (BiOp) assessing the impact on ESA listed species of each proposed management measure. The BiOp will determine whether or not each proposed measure "is likely to jeopardize the continued existence" of a listed species. If jeopardy is determined for any particular measure, NMFS will propose "reasonable and prudent alternatives" for that measure to mitigate jeopardy.

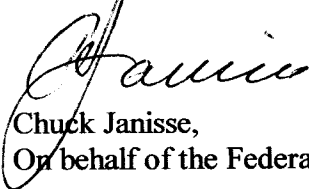
In the CA/OR drift-gillnet fishery, the Council proposes Alternative 2 that includes adoption in the FMP of all federal conservation and management measures in place under the ESA. There are two federally implemented time/area closures now in place to protect leatherback and loggerhead sea turtles. If the scope of the BiOp's review for this fishery is limited to impacts on these sea turtles under the existing regulations as stated in Alternative 2, a review of the original basis for implementing these regulations will not occur. By recommending the addition of the above requested language to 8.5.1 Alternative 2, the scope of the BiOp's review is consistent with the scope of review that provided the baseline for the 2000 BiOp upon which the current regulations are based.

Basing a BiOp's scope of review on conditions as they existed prior to the 2000 BiOp rather than on the specific proposed management measure is acceptable to NMFS when such a request is made to the consulting agency (NMFS protected resources) by the action agency (Council/NMFS sustainable fisheries). This situation recently occurred with the Western Pacific Fishery Management Council. The scope of review for the 2001 BiOp for the pelagic longline fishery was based on the longline fishery prior to restriction when the proposed management measure for the fishery contained in the draft Environmental Impact Statement (DEIS) called for the implementation of fishery restrictions. NMFS based the scope of review on the fishery prior to restrictions rather than on the fishery under the restrictions being proposed.

Since the drift-gillnet fishery was reviewed in the 2000 BiOp, annual fishing effort has been about half of the level used in the BiOp to assess the level of sea turtle impacts. Also, latent effort is more constrained due to reduced number of permits (a drift-gillnet permit that is not renewed annually drops from the fishery and cannot be reissued).

Unless the scope of review of the drift-gillnet fishery for the HMS FMP BiOp is consistent with that of the 2000 BiOp, a review of the original basis for current restrictions taking current levels of fishing effort into account will not occur. Additionally, even if such a review results in a jeopardy determination, NMFS may establish less restrictive reasonable and prudent alternatives than those currently in place.

Sincerely,



Chuck Janisse,

On behalf of the Federation of Independent Seafood Harvesters

cc.

Rod McInnis

Eldon Greenberg

# ANIMAL ALLIANCE

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**Marcelino Reyes, M.V.Z.**  
*Quauacau Sea Turtle Project Coordinator*

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May 28, 2003

MAY 28 2003

Dear Dr. Hans Radke,

PFMC

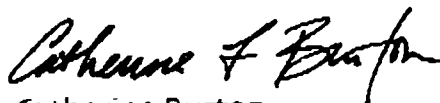
I very much appreciate the PFMC for taking a precautionary and risk-averse approach in the conservation of tunas, billfish and sharks by maintaining a ban on longline fishing within 200 miles of the California coast.

I am, however, very concerned that California fleets are being allowed to use longlines in fisheries where Hawaiian boats were banned.

On behalf on Animal Alliance, an organization working to preserve and protect sea turtles since 1989, I respectfully urge that you immediately pass regulations requiring US vessels fishing outside the US exclusive economic zone (beyond 200 miles from shore) be subject to all catch limits and by-catch reduction measures in place for vessels fishing the same waters out of Hawaii.

I also urge a requirement minimum of 25% observer coverage and use of mandatory vessel monitoring in order to accurately count the catch and by-catch on the high seas and to ensure compliance with conservation measures.

Sincerely,



Catherine Burton  
Biologist/Operations Director  
Animal Alliance

1300 LUISA STREET, SUITE 24 SANTA FE, NEW MEXICO 87505 USA

Tel 505-986-6007 Fax 505-982-9481 allanimals@igc.org

Animal Alliance is a 501(c)(3) nonprofit organization. Contributions are tax deductible. Printed on 100% recycled Kraft paper.

Enough is enough! We are severely depleting an un-renewable resource!!

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We must control this madness right now!

MAY 28 2003

UNREGULATED LONGLINE INDUSTRIAL FISHING FLEET IN CALIFORNIA

PFMC

In August of 2000 STRP successfully won a lawsuit which closed down the swordfish longline fishery in Hawaii and restricted the time and areas where tuna longlining is allowed. Longlining is a reckless fishing technology that kills a wide range of non-target species including marine mammals, birds, fish and other marine life. The suit was made on behalf of the large number of sea turtles being injured and/or killed (including the critically endangered Pacific leatherback).

As a result of the lawsuit, a number of Hawaiian vessels dropped their Hawaii permit and moved their operation to California to avoid the regulations. They are now fishing in the same areas from which they were banned and 'legally' landing their fish in California, instead of Hawaii!

We are currently in Federal Appeals Court trying to close this legal travesty of a loophole. Another way to close this loophole is to convince the Pacific Fishery Management Council to pass rules requiring the California longline fleet to follow the same regulations that are required on the HI longline fleet.

Dr. Hans Radke, Chair

Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 200

Portland, OR 97220-1384

FAX 503-820-2299

Regards,

Tom Rucci  
R&D Project Manager, Speakers  
Tel: 949.226.5178  
Fax: 949.369.8528  
www.Sonance.com

**THOMAS D. RUCCI**  
3505 Redwood St.  
Oceanside, CA 92054

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5/28/2003

Page 01

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MAY 29 2003

PFMC

Dr. Hans Radke, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, OR 97220-1384  
FAX 503-820-2299

Dear Dr. Hans Radke,

I understand that the PFMC is keeping a ban on longline fishing within 200 miles of the California coast. This will help to protect tunas, billfish and sharks from being wiped out. However, I am not at all happy that California fleets are being allowed to use longlines in fisheries where Hawaiian boats were banned. What good is that? How will fish stocks recover?

I believe that all fishing vessels should have observers or monitors of catch and bycatch on the high seas.

Due to the seriousness of the soon-to-be empty ocean problem, I no longer purchase or eat fish and I try to persuade my friends and the restaurants where I eat to pay attention to the depletion of fish stocks. Instead of allowing fishing vessels to end the fishing business for everyone by extirpating the fish, why cannot we have the kind of quotas that worked so well for the Australian lobster industry?

I'm sure you don't want to preside over the extinction of fish or turtles or any other species. Please do what you can to protect the natural world.

Sincerely,



Katherine Gould-Martin

Ms. Katherine Gould-martin  
Bard College  
Annandale On Hu, NY 12504

29 May 2003

**Subject:** Fwd: Close the loophole favoring California longliners  
**From:** "PFMC Comments" <pfmc.comments@noaa.gov>  
**Date:** Thu, 24 Apr 2003 07:05:41 -0700

Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384  
Phone: 503-820-2280  
Fax: 503-820-2299  
On the web at: <http://www.pcouncil.org>

---

**Subject:** Close the loophole favoring California longliners  
**From:** <c.mastro@verizon.net>  
**Date:** Wed, 23 Apr 2003 21:13:07 -0800

Dear Mr. McIsaac and Mr. Hight,

Pacific leatherback sea turtle populations are crashing, from 80,000 in 1980 to fewer than 5,000 today. Recent scientific studies and legal findings indicate that U.S. and foreign longline fishers jeopardize the survival of these turtles.

Of particular concern are longline vessels operating from the U.S. west coast. Longline fishers based in Hawaii since 2000 have been subject to gear and/or area restrictions to protect leatherback sea turtles. Longline fishers that land their catch in California fish in many of the same areas, but illogically have not been faced with any of these regulations. This has caused some Hawaii-based vessels to relocate and de-register in Hawaii, swelling the number of California-based vessels to 30-40.

The Pacific Fisheries Management Council at its October 28-November 1 meetings passed a plan for highly migratory species that leaves this loophole open, thus unfairly favoring California-based fishers and leaving the turtles open to fishing practices that they cannot withstand. This loophole should be closed at the earliest opportunity, and no later than the March 10-14 Pacific Fishery Management Council meetings in Sacramento.

Please do all that you can to ensure that West Coast-based longline fishers are subject to the same regulations as those in Hawaii, and please reply and let me know what actions you will take.

Chris Mastro  
PO Box 2114  
Wrightwood, CA 92397  
[c.mastro@verizon.net](mailto:c.mastro@verizon.net)

[PFMC Comments <pfmc.comments@noaa.gov>](mailto:pfmc.comments@noaa.gov)  
Pacific Fishery Management Council

**Subject:** Fwd: longlining

**From:** "PFMC Comments" <pfmc.comments@noaa.gov>

**Date:** Fri, 18 Apr 2003 12:54:42 -0700

Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384  
Phone: 503-820-2280  
Fax: 503-820-2299  
On the web at: <http://www.pcouncil.org>

---

**From:** "Jim Kane" <jkane@bradenonline.com>

**Date:** Fri, 18 Apr 2003 08:42:06 -0400

Dear Mr. McIsaac:

Please do not allow longline fishing all\ong the Pacific coast. It is a very detrimental practice and is indiscriminant in its killing and injury to fish and other marine life.

-Jim Kane

PFMC Comments <pfmc.comments@noaa.gov>  
Pacific Fishery Management Council

**Subject:** Fwd: Anti-Longline to Save the Ocean's  
**From:** PFMC Comments <pfmc.comments@noaa.gov>  
**Date:** Mon, 05 May 2003 08:16:01 -0700

Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384  
Phone: 503-820-2280  
Fax: 503-820-2299  
On the web at: <http://www.pcouncil.org>

---

**Subject:** Anti-Longline to Save the Ocean's  
**From:** "bd" <bdatirb.net@verizon.net>  
**Date:** Sun, 4 May 2003 12:36:15 -0400

Dear Sirs,

I am a concientious avid sea, nature, and environmental lover. I am a sport and recreational diver, fisherman in gulfs, bays, seas, and oceans around the world. I live on the west coast of Florida, Tamp Bay area. Please eliminate the use of longline fishing w/ in the jursidiction of the US, The depletes our natural resources, and once the older deep water stock is eliminated, ut will never come back. Please do the right thing, and conserve our oceans and its natural resources for our future generations. This is Huge Problem..Please do the right thing. This also includes the banning of all Oil rigs off the West coast of Florida. there are fewer and fewere beaches that you can walk on that don't show tar and oil spill product. Please, I beg you do the right thing, not what is in the short term economic best interests of you or Big Money. Thank you!

Bruce Dutton

PFMC Comments <pfmc.comments@noaa.gov>  
Pacific Fishery Management Council



**Subject:** Fwd: Re: Anti-Longline to Save the Ocean's  
**From:** PFMC Comments <pfmc.comments@noaa.gov>  
**Date:** Mon, 05 May 2003 08:16:27 -0700

Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384  
Phone: 503-820-2280  
Fax: 503-820-2299  
On the web at: <http://www.pcouncil.org>

**Subject:** Re: Anti-Longline to Save the Ocean's  
**From:** "bd" <bdatirb.net@verizon.net>  
**Date:** Sun, 4 May 2003 12:45:52 -0400

Dear Sirs & Madames,

I am a concientious and avid sea, nature, and environmental lover. I am a sport and recreational diver, fisherman in gulfs, bays, seas, and oceans around the world. I live on the west coast of Florida, Tampa Bay area. Please eliminate the use of longline fishing w/ in the jursidiction of the US, This has huge consequences, one of which depletes our natural resources. The older shallow water as well as deep water fishery species are being depleted and on the verge of being eliminated, they will never come back. Please , let us learn from our past. Please do the right thing, and conserve our oceans and its natural resources for our future generations. This is Huge Problem..Please do the right thing. This also includes the banning of all Oil rigs off the West coast of Florida. there are fewer and fewer beaches that can walked w/ out contacting this toxic oil spill product, from the occasional oil industry mishap. Please, I beg you do the right thing, what is in your heart. The may not be in the short term economic best interests to you or Big Money, but it will be the Right Thing! . Thank you!

Bruce Dutton

[PFMC Comments <pfmc.comments@noaa.gov>](mailto:pfmc.comments@noaa.gov)  
Pacific Fishery Management Council

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Please reply to ELDON V.C. GREENBERG  
egreenberg@gsblaw.com TEL EXT 1789

May 28, 2003

**VIA FEDERAL EXPRESS**

Mr. Hans Radke  
Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place  
Suite 200  
Portland, OR 97220-1384

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MAY 29 2003

PFMC

**HMS FMP**

Dear Mr. Radke:

I am writing on behalf of the Federation of Independent Seafood Harvesters (the "Federation") concerning the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (the "HMS FMP"). The Federation understands that the Pacific Fishery Management Council (the "Council") may adopt the HMS FMP, including management measures for the CA/OR drift gillnet fishery for swordfish and sharks (the "fishery"), at its June meeting. The Federation strongly believes that, when the National Marine Fisheries ("NMFS") conducts its evaluation of the Council's proposed action under the Endangered Species Act, 16 U.S.C. § 1531, *et seq.* (the "ESA"), NMFS should consider the impact of the fishery under the same terms and conditions evaluated in NMFS' October 2000 Biological Opinion.

As you may recollect, the Federation wrote you on May 4, 2003, urging that the Council recommend that NMFS conduct its ESA evaluation "under current conditions, but without the leatherback and loggerhead closures." The Federation took this position because the Federation believes that it is important for NMFS to compare the effects of the fishery today with the effects of the fishery as they were evaluated in October 2000 Biological Opinion, prior to the implementation of the current closures. It continues to believe that this is a sound approach for implementation of NMFS' ESA responsibilities. It further believes, for the reasons stated in its May 4 letter, that this recommendation can be made without necessarily modifying the management measures proposed by the Council, *i.e.*, without eliminating the closures from the proposed action.

Notwithstanding the Federation's recommendation, it may be that NMFS will hesitate to conduct its ESA review of anything other than the Council's "proposed action." In such circumstances, as an alternative, the Federation would suggest that it would be appropriate for



Mr. Hans Radke  
Chair  
May 28, 2003  
Page 2

the Council to consider adopting as its proposed action the management measures as they existed in the fishery *prior* to the implementation of the leatherback and loggerhead sea turtle closures. If the Council proceeded in this fashion, this would ensure that NMFS' new biological opinion examined the fishery under the same regulatory conditions that were evaluated in 2000.

The Federation believes that there is substantial justification for adopting this approach. In extensive comments submitted to NMFS on November 21, 2001, October 18, 2002 and February 7, 2003, all of which are enclosed, the Federation explained that the current closures are not necessary to avoid "jeopardy" or otherwise protect leatherback and loggerhead sea turtles. Thus, the Council, in the Federation's judgment, need not incorporate these closures in its management measures in order to ensure that those measures are consistent with the ESA. Indeed, the Federation firmly believes that a new biological opinion will reach a "no jeopardy" conclusion. Furthermore, as explained in the Federation's May 4 letter, even should NMFS find "jeopardy," there are "reasonable and prudent alternatives" that are less restrictive than the current closures and that could then be put in place. Consequently, eliminating the leatherback and loggerhead closures from the Council's proposed action would be both prudent and sensible.

Thank you for your consideration of the Federation's views.

Sincerely,

Eldon V.C. Greenberg  
Counsel to the Federation  
of Independent Seafood Harvesters

Enclosures

cc: Chuck Janisse  
Rodney McInnis