

CALIFORNIA FISHERIES COALITION

April 17, 2006

Alliance of Communities for Sustainable Fisheries
American Albacore Fishing Association
California Abalone Growers
California Lobster & Trap Association
California Fisheries & Seafood Institute
California Sea Urchin Commission
California Wetfish Producers Association
Central Coast Fisheries Conservation Coalition
Commercial Fishermen of Santa Barbara Inc.
Federation of Independent Seafood Harvesters
Fishermen's Alliance of California
Fishermen's Association of Moss Landing
Golden Gate Fishermen's Association
I.S.P. Alginates Kelp Harvesters
Kingfisher Trading Inc.
Monterey Commercial Fishermen's Association
Morro Bay Commercial Fisherman's Organization
Port San Luis Commercial Fishermen's Association
Recreational Fishing Alliance
South Central Nearshore Trap Organization
Southern CA Trawlers Association
Sportfishing Association of California
Ventura County Commercial Fishermen's Association

Congressman Richard Pombo, Chair
House Committee on Resources
U.S. Congress
2411 Rayburn HOB
Washington DC 20515
(email: rpombo@mail.house.gov)
(fax: 202-226-0861)

RE: American Fisheries Management and Marine-Life Enhancement Act – HR 5018

Dear Mr. Pombo and members of the California Congressional delegation:

The California Fishing Coalition includes 24 recreational and commercial fishing associations, seafood processors, abalone growers, and kelp harvesters. Our collective membership and economic reach includes more than 14,000 commercial fishermen, 4,000 fishing vessels, several million recreational anglers, and approximately 172,000 persons employed directly by our partner businesses. Needless to say we are vitally interested in California's ocean and its coastal communities. We depend on a healthy marine environment for our livelihood and our recreation. Similarly our activities support the livelihood and recreation of hundreds of thousands of other California citizens and visitors, and the local fish and shellfish produced by our coalition members reach millions of seafood consumers both in California and overseas.

We are writing to voice our strong support for HR 5018, with particular reference to Subsection 10(d), clarifying that management of fisheries within marine sanctuary waters will be governed by the Magnuson-Stevens Act. We view this provision as a clarification, not an unnecessary change, as marine sanctuary designation documents now prohibit managing fisheries. Rather than weakening the National Marine Sanctuaries Act, as some interests claim, this provision will require that fisheries management be governed by peer-reviewed science, in a full public process with a goal of adaptive management. Neither the sanctuaries, nor the NMSA as currently written, provide for those essential elements.

We firmly believe that fishery management is best addressed through the ecosystem-based policies of the federal Magnuson-Stevens Act and the ecosystem-based policies of the State of California. CFC members concur that the Sanctuaries have neither the scientific expertise nor the public decision-making process to implement fishery management effectively; further, we oppose the recent proposals advanced by the Sanctuaries to amend designation documents to authorize Sanctuary regulation of fisheries in Sanctuary waters.

There is no need for an additional, duplicative layer of authority to regulate fishing activities beyond the strict regulations already implemented by NOAA Fisheries and

For further information, contact
Vern Goehring, CFC Manager

the State of California. In fact, considering the budget deficit currently engulfing the federal government, we believe Sanctuary efforts seeking to duplicate existing fishery management authorities, which would likely entail competition for funding for duplicative programs between the National Ocean Service and NOAA Fisheries, is a wasteful use of taxpayers' dollars.

When the marine sanctuaries were first implemented years ago, with the intent to prohibit oil development among other purposes, their designation documents expressly excluded management of fisheries in sanctuary waters. In order to win support from fishermen, sanctuary officials promised that they would not manage fisheries. However, in recent years three California marine sanctuaries – Monterey, Cordell Banks and Channel Islands – have requested changes to their designation documents for the express purpose of managing fisheries, alleging that the Magnuson Act does not protect ecosystems.

Since passage of the Magnuson Sustainable Fisheries Act a decade ago, fisheries management has adopted a strong ecosystem focus, particularly on the west coast. For example, the Pacific Fishery Management Council has made huge strides to protect essential fish habitat as well as the six groundfish stocks that were designated as over-fished. The Council also has worked cooperatively with the National Marine Sanctuaries in our region. As one example of this cooperation, the Council recently acted to implement a harvest prohibition on krill throughout the west coast EEZ, at the request of the sanctuaries. The current policy maintaining fisheries management authority under the Magnuson Act should be fostered, and that is precisely what Subsection 10(d) accomplishes.

Both the PEW and US Oceans Commissions recommended better coordination in managing U.S. fisheries and coastal resources. Right now, however, with the National Marine Sanctuary Program strongly asserting its interest in managing fisheries resources under what we believe are erroneous pretenses, there is public confusion as to who does what. This also leads to economic confusion, with fishing industry people reluctant to invest in sustainable fisheries, which provide wholesome seafood products to consumers in the U.S. and abroad, when they are uncertain as to the future of fishing in the Sanctuaries. Subsection 10(d) provides both guidance and coordination as well as protection of resources utilizing the best available science. Nothing in HR 5018 or Subsection 10(d) diminishes the existing cooperation with the Sanctuaries to achieve the mutual goals of protecting ecosystems and fishery resources. Moreover, utilizing the existing scientific expertise and public processes now imbedded in the Magnuson Act is the best use of taxpayer dollars.

We disagree with the claims of some members of the environmental community, whom we understand have launched a campaign to remove Subsection 10(d) from HR 5018. Retaining this provision is essential to assure that fisheries will continue to be managed under the strict provisions and policies of the Magnuson Act, which requires best available, peer reviewed science to guide management decisions, as well as a full public process and a goal of adaptive management, none of which are present under current sanctuary authorities.

Thank you for your attention and consideration of our concerns. Thank you also for including Subsection 10(d) in HR 5018. We urge you to retain and support this essential provision in your continuing deliberations, and to approve HR 5018 as written.

Sincerely,
Trustees for the California Fisheries Coalition

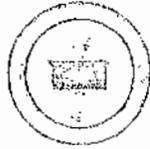
Bob Fletcher
Sportfishing Association of California

Jim Martin
Recreational Fishing Alliance

Steve Scheiblaue
Alliance of Communities for Sustainable Fisheries

Peter Halmay
California Sea Urchin Commission

Diane Pleschner-Steele
California Wetfish Producers Association



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Marine Sanctuary Program

West Coast Region
99 Pacific Street, Bldg 200, Suite K
Monterey, CA 93940

May 19, 2006

Fred Meurer, City Manager
City of Monterey
City Hall
Monterey, CA 93940

Dear Fred:

It was nice to see you Tuesday in front of the Farmer's Market. Let me know if there is more help the National Marine Sanctuary Program can offer on the storm water runoff issues.

On the matter I mentioned to you regarding the City of Monterey's implied endorsement of a position raised by the "California Fisheries Coalition", I have attached a letter from that new group that includes the City's harbor master, Steve Scheiblauber, as a signatory. I asked you whether the City of Monterey's position was consistent with the position reflected in the letter – new federal legislation is needed to keep the National Marine Sanctuary Program (NMSP) entirely out of regulatory issues related to fishing. This may be a case where a city employee has signed a letter that does not necessarily reflect the position of the City Council. However, given that Mr. Scheiblauber is authorized by the City to "staff" the Alliance of Communities for Sustainable Fisheries and given his extensive efforts to pursue a position that the Monterey Bay National Marine Sanctuary should not adopt new fishing regulations, it is reasonable that readers of this letter will assume he is reflecting policy of the City of Monterey.

The objective of the attached letter is to advocate for new federal legislation to remove the NMSP's authority, nationwide, to adopt regulations affecting fishing that might be necessary to protect ecosystems and natural resources in a national marine sanctuary. Rather, the signatories only want federal fishery managers to have the authority to enact regulations that affect fishing in a national marine sanctuary. I do not recall the Monterey City Council ever taking up this matter. The City Council has taken a position in the past that it does not believe the MBNMS should adopt regulations that affect fishing. But to my knowledge, the City Council has never tackled this much larger and frankly much more complex issue of amending federal laws to affect national marine sanctuaries nationwide.

Were the City Council to deliberate on this larger issue, it seems it would need to consider whether or not there might be a good reason for any of the other 12 national marine sanctuaries to have the authority to regulate fishing. I would suggest other matters the City Council would need to consider before taking a position on this matter are:

- Whether or not a circumstance would ever arise in the future where the City, or its harbor master, or local fishermen, would instead *want* the MBNMS to have the authority to adopt a fishing regulation – maybe circumstances would arise wherein the City would want to advocate locally for a new regulation.

- Should other “single issue” agencies be allowed sole authority to set regulations in a national marine sanctuary, for instance if the Minerals Management Service should solely set regulations for oil and gas development in national marine sanctuaries? (This proposed change related to fishing would create a unique precedent in natural resource protection by allowing a “single issue” agency sole authority over certain regulations in national marine sanctuaries.)
- Why is it appropriate for the National Parks Service or Fish and Wildlife Service to set fishing regulations in a park or refuge, or to make their own rules over hunting or logging, but a national marine sanctuary should not have the *potential* to regulate similar extractive activities?

The letter includes statements or implications that I believe the City Council will undoubtedly agree are inaccurate. For instance, the letter states that the NMSP does not engage in “a full public process”. Yet, the NMSP is regularly recognized as having the most inclusive, transparent public process operating in coastal governance. A multitude of stakeholders representing many ocean users, not just one user group, are involved in regular business and help tackle special resource management issues. The letter also creates the incorrect impression that the NMSP has formally proposed to amend designation documents to authorize regulation of fishing in national marine sanctuaries. That has not happened; the matter is still being evaluated. Although the NMSP has consulted with affected agencies about potential changes to designation documents, no decision has been made on these matters yet. The letter also incorrectly states that all national marine sanctuaries were created to stop oil and gas development and that all sanctuaries are excluded from regulating fishing. Most existing sanctuaries are in areas never threatened with oil development, and five of the 13 sanctuaries regulate fishing in some fashion.

I have also attached a copy of an editorial that ran in Wednesday’s Washington Post on this matter. Many other editorials that all have taken the same position. They underscore the magnitude of the issue the letter raised.

The national legislative issues will be considered over the next year, and if the City of Monterey does not support making a sweeping, nationwide statutory adjustment, it would be helpful for it to make such a clarification.

Sincerely,



William Douros, Regional Superintendent (acting)
West Coast Region
National Marine Sanctuary Program

Attachments:

April 17, 2006 letter from California Fisheries Coalition

May 17, 2006 Editorial, Washington Post

cc: Monterey City Council, w/attachments



**American
Tunaboat
Association**

2535 Kettner Blvd.
Suite 3c1
San Diego, CA 92101
Phone: 619-238-1838
Fax: (619) 238-1708
Email: krampepaul@aol.com

May 2, 2006

Honorable Ted Stevens, Chairman
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
SD-508 Senate Office Building
Washington, D.C. 20510

**Subject: Needed Revision to the Magnuson-Stevens Fishery Conservation
and Management Act (MSFCMA)**

Dear Chairman Stevens:

The American Tunaboat Association represents the U.S. tuna purse seine fleet. Our vessels currently operate in the Eastern Pacific Ocean (EPO) and the Western and Central Pacific Ocean (WCPO). Our fleet catches the great majority of light meat tuna (primarily skipjack, yellowfin, and bigeye tuna) caught by U.S. flag fishing vessels operating in these areas.

While there are a number of amendments being considered for the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), I would like to request your assistance in modifying the treatment of highly migratory species (HMS). As you know, the main thrust of the MSFCMA is to manage fisheries that are conducted in U.S. waters. This is an important law that is needed for this purpose. However, the behavior and distribution of HMS, prevents the U.S. from effectively managing these species unilaterally. Additionally, only a very small percentage of HMS in the oceans bordering on our country are caught in our territorial waters. Effective management of HMS can

only take place through the actions of international Regional Fishery Management Organizations (RFMOs). The Inter-American Tropical Tuna Commission (IATTC) and the Western and Central Pacific Fishery Commission (WCPFC) manage the tuna fisheries in the Pacific Ocean. The U.S. has had a meaningful impact on the effective management of HMS through its participation in these organizations. The U.S. must continue to be included in these important multilateral organizations. The U.S. activities in these organizations are conducted by representatives from the U.S. Department of Commerce National Marine Fisheries Service (NMFS) and the U.S. Department of State (DOS). While the NMFS has been given the lead position in working with these RFMOs, it is conducted with the close cooperation and support of the DOS.

One shortcoming of the current legislation as it is currently drafted is that it thrusts U.S. Fishery Management Councils into an extraordinarily important position on certain issues involving HMS which, in the big picture, they actually have a minor involvement. It is our belief that these HMS issues should be handled directly by the NMFS with the agency being provided advice and guidance by the various constituents (including the Councils) that have an interest in these issues. This input from all constituents can be provided through the use of Advisory Councils and U.S. Commissioners.

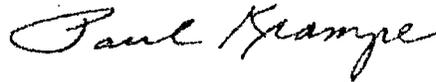
An example of what I am talking about can be found in the handling of a finding by the NMFS that overfishing of yellowfin is taking place in the western and central Pacific Ocean (WCPO). The attached Federal Register Notice (71 FR 14837) reports this finding and, in accordance with the MSFCMA, gives an official notice of the finding to the Western Pacific Fishery Management Council (WPFMC) and requests the WPFMC to address this situation. At the same time, the notice explains that the U.S. harvest of yellowfin in the WCPO is only about 4% of the total WCPO yellowfin catch and the majority of that catch is in waters of other Pacific Island nations. Less than 1% of the catch is made inside the U.S. EEZ. The Federal Register Notice further advises that the agency welcomes the WPFMC's participation as a member of the delegation to the WCPFC (as are other involved or interested constituents).

We suggest that the current procedure of requesting Councils to address fishery conditions for HMS issues is a complex process that is unnecessary and a waste of time and effort for virtually everyone involved in this process. The NMFS should have the responsibility to address problem HMS stock conditions and should not be required to ask Councils to address the situation. The NMFS advises in the Notice that they will work with the WPFMC to implement the necessary domestic management measures. This is an internationally oriented task that can be handled best directly by the NMFS and DOS.

Our request is not unusual, or extraordinary. It is our understanding that the treatment of HMS caught in the Atlantic Ocean is consistent with our request. An exception on the handling of HMS was made for the Pacific Ocean during the previous reauthorization of the MSFCMA. Time has shown that this exception should not be continued.

Thank you for your consideration.

Sincerely,



Paul Krampe
Executive Director

[Federal Register: March 24, 2006 (Volume 71, Number 57)]

[Notices]

[Page 14837]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032006D]

Fisheries Off West Coast States and in the Western Pacific;
Pelagic Fisheries; Overfishing Determination on Yellowfin Tuna; Western
and Central Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of overfishing determination.

SUMMARY: This action serves as notice that NMFS, on behalf of the
Secretary of Commerce, has determined that overfishing is occurring on
the yellowfin tuna (*Thunnus albacares*) stock in the western and central
Pacific Ocean (WCPO), and requests that the Western Pacific Fishery
Management Council (Council) address this overfishing condition
pursuant to the Magnuson-Stevens Fishery Conservation and Management
Act. The intent of this action is to notify interested persons that
yellowfin tuna is undergoing overfishing in the WCPO.

SUPPLEMENTARY INFORMATION: The following reprint of the March 16, 2006,
letter from NMFS to the Council notifies the Council of a determination
that overfishing is occurring on the yellowfin tuna stock in the WCPO,
provides background on how NMFS made the determination, provides the
legal basis for the Council to act in response to a determination that
overfishing is occurring, and requests the Council to take appropriate
action to address the overfishing condition.

Mr. Frank McCoy, Sr.,
Chairperson,

Western Pacific Fishery Management Council, 1164 Bishop Street,
Suite 1400, Honolulu, HI 96813.

Dear Chairman McCoy:

By this letter, NOAA's National Marine Fisheries Service (NMFS), on behalf of the Secretary of Commerce, notifies the Western Pacific Fishery Management Council (Council) that overfishing is occurring on the yellowfin tuna (*Thunnus albacares*) stock in the western and central Pacific Ocean (WCPO). NMFS requests the Council to take appropriate action pursuant to section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

According to Amendment 8 Supplement to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP), effective July 3, 2003 (68 FR 46112, August 5, 2003), the maximum fishing mortality threshold (MFMT) for stocks managed under the Pelagics FMP would be exceeded if the fishing mortality rate exceeded the rate associated with maximum sustainable yield (MSY). The most recent stock assessment (August 2005) on WCPO yellowfin tuna by the Scientific Committee of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, indicates that the then-current rate of fishing mortality ($F_{current}$) is likely to be in excess of the rate associated with MSY (F_{MSY}). For the base case analysis, the assessment results indicate an $F_{current}/F_{MSY}$ ratio of 1.22 with a range from 1.0 to 2.33 for the four analyses using alternative sets of assumptions\1\.

\1\ Hampton, J., P. Kleiber, A. Langley, Y. Takeuchi, and M. Ichinokawa. 2005. Stock assessment of yellowfin tuna in the western and central Pacific Ocean. WCPFC-SA WP-1, 1st Meeting of the Scientific and Committee of the Western and Central Pacific Fisheries Commission, WCPFC-SC1, Noumea, New Caledonia, 8-19 August 2005. July 2005. 79p.

The latest estimate of $F_{current}/F_{MSY}$ (1.22) for WCPO yellowfin tuna in 2005 was substantially higher than in the 2004 assessment (0.63) \2\. Scientists at the NMFS Pacific Islands Fisheries Science Center (PIFSC) consider the 2005 assessment model to be an improvement over the 2004 model, and the results to be more reliable. Based on these assessment results and relying on the expertise and advice of the PIFSC Director (October

28, 2005), NMFS has determined that overfishing of the WCPO yellowfin tuna stock is occurring.

\2 Hampton, J., P. Kleiber, A. Langley, and K. Hiramatsu. 2004. Stock assessment of yellowfin tuna in the western and central Pacific Ocean. WCPF SCTB17 Working Paper SA-1. 17th Meeting of the Standing Committee on Tuna and Billfish, Majuro, Marshall Islands, 9-18 August 2004. July 2004. 74 p.

The Pacific-wide distribution of yellowfin tuna and the scope of fisheries (international and domestic) exploiting this important species dictate that the U.S. government pursue a strategy to end overfishing through the relevant Regional Fisheries Management Organization, in this instance, the Western and Central Pacific Fisheries Commission (WCPFC). The entire U.S. harvest of yellowfin tuna in the WCPO is only about 4% of the total WCPO catch and the majority of the U.S. harvest is by purse seine vessels fishing within the EEZs of Pacific Island nations (under the authority of the South Pacific Tuna Treaty) or on the high seas. NMFS welcomes the Council's participation as a member of the U.S. Delegation to the WCPFC and looks forward to working with the Council to develop and implement domestic management measures necessary to implement WCPFC decisions. According to Section 304(e) of the MSA, the Council has one year from the date of this notification to prepare and submit an FMP, FMP amendment, or proposed regulations to address the overfishing condition of the yellowfin tuna stock.

Sincerely,

William L. Robinson,
Regional Administrator.

Dated: March 20, 2006.
Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine
Fisheries Service.
[FR Doc. E6-4322 Filed 3-23-06; 8:45 am]

BILLING CODE 3510-22-P