



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

JUN 05 2007

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Mr. Donald Hansen, Chairman  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

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PFMC

Dear Mr. Hansen:

NOAA's National Marine Fisheries Service (NMFS) is in receipt of the Pacific Fishery Management Council's (Council) November 30, 2006, letter communicating its recommendation to issue the exempted fishing permit (EFP) for the drift gillnet fishery (DGN) for the 2007 fishing season. The proposed EFP was originally submitted by the Federation of Independent Seafood Harvesters to the Council for the 2006 fishing season but the permit was never issued by NMFS. The EFP would allow DGN fishing under specified conditions in the Pacific Leatherback Conservation Area (PLCA) from August 15 to November 15, 2007, when this area is normally closed to the DGN fishery.

NMFS recognizes that the DGN fishery is the primary fishery for swordfish and thresher sharks landed in west coast ports. To that extent, the agency was initially supportive of using the DGN EFP for generating new information pertaining to the question of whether the original time/area closure may have been excessive. However, a recent peer-reviewed scientific article by NMFS and California State University scientists presents the results of a study spanning over a decade of research that documents the importance of nearshore waters off the U. S. West Coast for foraging leatherback turtles<sup>1</sup>. The study indicates that due to a combination of oceanographic processes supporting favorable habitat for leatherback turtle prey such as jellyfish, nearshore waters off California are a vital foraging area for some western Pacific leatherbacks from one of the two largest of the remaining breeding populations in the Pacific. The article also notes that similar processes that concentrate dense and larger jellyfish in nearshore retention areas have been reported off Oregon.

NMFS is concerned about threats to leatherback sea turtles within the migratory pathways to and from these apparently critical nearshore waters if the DGN EFP were to be issued. The PLCA includes waters utilized by leatherbacks traveling to and from these nearshore foraging areas. Currently, the migratory paths of leatherbacks are not sufficiently defined to allow for modification of the PLCA. Further, of the 23 observed

<sup>1</sup> Benson, S. R, K. A. Forney, J. T. Harvey, J. V. Carretta, and P. H. Dutton. In press. Abundance, distribution, and habitat of leatherback turtles (*Dermodochelys coriacea*) off California, 1990-2003. Fishery Bulletin.

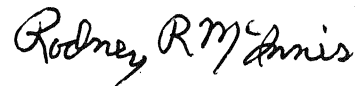


leatherback entanglements in the DGN fishery from 1990 through the present, 19 occurred within the PLCA. Sixty percent of the entanglements resulted in immediate mortality. Based on the condition reported by NMFS observers of those leatherbacks disentangled and released alive, NMFS estimates another 10 percent estimated mortality. Thus, NMFS approximates a total mortality rate for leatherbacks in the DGN fishery at 70 percent.

I am mindful of the innovative technical modifications the DGN industry has undertaken over the years to limit bycatch and reduce marine mammal bycatch including suspending nets 36 feet below the surface and adding pingers. While these efforts have effectively reduced marine mammal bycatch, there is no direct evidence suggesting that these measures have successfully reduced leatherback turtle bycatch.

In consideration of the potential for leatherback sea turtle mortalities that would result if the EFP were approved, NMFS does not intend to issue the proposed DGN EFP. At the same time, NMFS is aware of the strong demand for swordfish by U. S. consumers. Similarly, it also recognizes that efforts to inhibit U. S. fisheries targeting high market value species such as swordfish may only transfer ecosystem impacts to other, possibly less regulated fisheries and areas of the world. Consequently, NMFS encourages the Council to support those fisheries in its West Coast Highly Migratory Species (HMS) Fishery Management Plan that provide swordfish and other HMS managed species to U.S. consumers by utilizing areas where bycatch is minimized or using more conservative yet economically viable fishing methods. We will also continue to work with industry to find ways to assist them in adopting more conservative methods to meet U. S. demand for competitively priced fresh seafood while conserving protected species.

Sincerely,



Rodney R. McInnis  
Regional Administrator

Cc: William Fox – SWFSC  
Bob Lohn - NWR