

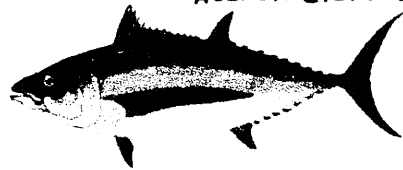
Comments by Mr. Jim Harp
under Agenda Item D.2.c.
10-29-02 1:56 pm

<Administrative Record>

Exhibit D.2.b
Tribal Comments
October 2002

Mr. Chairman,

I will be referencing pages 21 and 22 of the September 2002 Draft of the HMS FMP. The tribes support the preferred option, Alternative 2, regarding Treaty Indian fisheries listed under Chapter 8 of the proposed HMS FMP. Under Alternative 2, treaty fishing rights would be accommodated in the implementing regulations with the measures and procedures outlined in Alternative 3.



WESTERN FISHBOAT OWNERS ASSOCIATION®

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Don McIssac - Executive Director
Pacific Fisheries Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

October 28, 2002

Re: Comments on HMS FMP

Dear Mr. McIssac :

Western Fishboat Owners Association which represents about 500 albacore trollers and coastal businesses have been a long time participant in HMS management at all levels. In the last seven years we have put considerable effort into the international conservation of tunas through both MHLC and IATTC management processes. We very much support those conventions as vehicles to manage a fishery that has no boundaries. These are the main vehicles to manage fairly and keep a stable conservation situation that way for the future. Attached below is WFOA's official position on HMS management.

Western Fishboat Owners Association (WFOA) position on Highly Migratory Species (HMS) management as approved by the board of directors on April 9, 1999. Is as follows:

1. WFOA acknowledges as fact that the major fishing nations of the world, including the United States, Canada, New Zealand, and other nations where WFOA members reside, have already formally agreed to conserve and manage albacore tuna and other HMS, as evidenced by signing and ratification of the UN Straddling Fish Stocks and Highly Migratory Species Agreement under the 1982 Law of the Sea Convention by the aforementioned nations. WFOA's participation in the Multilateral High Level Conference process to draft a Western and Central Pacific Convention, and active participation in numerous and pertinent efforts to develop other regional and national albacore fishery management programs, is therefore recognized as essential for ensuring our members' continued access to the waters and fisheries of the Pacific Ocean.
2. WFOA recognizes that the Pacific albacore fisheries are very healthy and that the WFOA fleet fishes in a sustainable manner with near zero by-catch. WFOA will not settle for anything less than our traditional amounts harvested over history. We recognize this would only be an issue if Total Allowable Catch and/or fishing effort control programs, with associated allocation programs, were implemented.
3. Acknowledging the facts of item 1, WFOA supports the eventual and necessary involvement of the Federal Fisheries Management Councils in the HMS process according to their expressed interests, ability to contribute scientific and management information, expertise, and resources. WFOA encourages involvement and expertise of both the Western Pacific Fisheries Management Council and the Pacific Fisheries Management Council, and will strive to work with and expedite communication between both bodies as well as the fishing community.
4. WFOA recognizes that its international membership puts it in a unique position to be an advocate for the interests of the international jig fleet fishing for surface caught albacore. WFOA will monitor and coordinate, where and when possible, with other countries and entities, which have WFOA members, actions for the best

it is more appropriate for it to focus on the interests of its' U.S. members, when and if a conflict emerges between the interests of the U.S. fleet and the interests of fleets from another flag state. Presently no such conflict exists.

5. WFOA recognizes that albacore tuna is a healthy, protein rich, staple food enjoyed and needed by hundreds of millions of people all over the world, and will continue to stress this at every opportunity.

In 1995 WFOA recognizing a future management regime on albacore fishing at the international level, approached the Pacific Fisheries Management Council to become more involved and to reconcile differences over HMS management through a framework FMP that would be a joint effort between PFMC and WPFMC. Such cooperation would be necessary to avoid overlaps and unnecessary duplication and costs, and be a better way to fit into any international management directives. We helped form the HMS advisory sub panel and have been a member of that body since the beginning.

WFOA has worked diligently with the PFMC, and planning team in a very open process. The draft document produced is a great resource and well done for information on the fisheries and species. It has however, failed to address the main issues for which it was first intended. That is to reconcile council regulations, enforcement, and science on HMS, and to be a "framework" available for consistency in international management of tunas and tunalike species. The framework has turned into an FMP that is predominately managing species such as turtles and sharks, and in that respect it's a wonderful document.

WFOA is not overly keen about the FMP since it is inadequate for the management of albacore because the portion of the resource within U.S. waters is a very small fraction of the stock. Throughout the process we have expressed our concerns about unilateral management of domestic fishermen even if overfishing or conditions of overcapacity and effort occurred by foreign nations. Unilateral management will only be detrimental to U.S. fishermen and the U.S. consumer who has had to turn more and more to imported fish products as U.S. fisheries become managed while others fish unfettered. The costs of administering and implementing this FMP also have to be measured against the potential benefits of the Plan.

I have a difficult dilemma in opposing something I have personally spent so much time helping to develop. However, at the same time as included below, the boards of WFOA and American Fishermens' Research Foundation (AFRF) both either opposed outright or had deep reservations about this plan in its present form thus passing the following motions at recent board meetings. Also included is the resolution passed by commercial fishermen interests at the October 23, 2002 HMSAP meeting. Granted, passage was not unanimous within the panel, but was unanimous amongst commercial food producers. WFOA encourages the council to consider circumstances resulting in such a resolution by the very group that supported the FMP at its beginning. If the resolution promotes this debate and discussion, it will benefit all user groups and stakeholders. Council members need to ask themselves, "Does this plan actually conserve in a cost effective, fair, and efficient manner HMS species for the benefit of U.S. commercial and recreational fishing interests, as well as U.S. consumers?" As long as tuna are under other international management regimes anything more than a framework FMP which considers and acts with international management is a waste of time and money for the PFMC, NMFS, and the United States.

Sincerely,



Wayne Heikkila
Executive Director

cc: WFOA members

Passed By WFOA Board at April 2002 Board Meeting.

Passed By WFOA Board at April 2002 Board Meeting.

Moved for the WFOA Board send a Resolution to the Secretary of Commerce, NMFS, and PFMC opposing the current draft HMS FMP on two basis:

- 1. Tuna is already subject to international management; and*
 - 2. The current draft HMS FMP is not based on scientific information. The Board discussed the motion. The Board felt the process was not transparent. The Board discussed having examples included in a cover letter that validated the lack of scientific information used in the current FMP. Motion carried unanimously.*
-

Passed by American Fishermen's Research Foundation Board at April 2002 Meeting:

Moved for Dr. Vidar Wespestad to draft a letter to PFMC registering AFRF concerns about the draft HMS FMP. The Board discussed the motion. Motion passed unanimously.

=====

The attached resolution was passed by a majority of the HMS AS at their last formal meeting prior to the October 29th consideration by the Pacific Fisheries Management Council of the adoption of a draft Fisheries Management Plan for Highly Migratory Species.

Resolution passed October 23, 2002 at the HMSAP:

It is with regret that the majority of the HMS advisory sub-panel have come to believe that they cannot support and will actively oppose the adoption of the draft HMS fisheries management plan.

First we sincerely and without reservation thank the members of the FMP drafting team, and especially their consultant, for their herculean Efforts in bringing together existing and new information about the fisheries off the west coast of the United States. Their efforts are greatly appreciated today, and will be by generations of fishermen to come. We also want to thank the pacific fishery management council, and particularly their staff for the continuous and outstanding support they have provided in these efforts. Finally, we also wish to express our appreciation for the funding, legal, and regulatory help and advice that NOAA/NMFS has been able to offer.

This draft FMP cannot be supported for the following reasons:

- 1. When conceived this FMP was to provide a framework for implementing rules, regulations and resolutions of international regional management organizations of which the United States is a member. Highly migratory species in the eastern and central pacific are already under international regulation and conservation, where those multilateral entities have concluded it is necessary. The "piling on" of unnecessary federal regulations on top of these same fisheries is a tremendous waste of tax payers' money and government and private resources. These fisheries are already managed under the Pacific Tuna Conventions Act and the soon to be passed implementing legislation to the U.S. Canada Albacore treaty.*
- 2. Second, a secondary, but major goal of the FMP, was to harmonize the regulations of the three west coast states which are active members of the PFMC, and to harmonize management and scientific research efforts. Between the PFMC and the WPFMC. Neither goal has been approached. anomalies between state regulations which have been resolved, have been resolved by state legislation. Any effort to resolve conflicts between the two councils which share management of HMS in the Pacific, have been cursory, or proposed to be taken without regard to the due process rights of west coast fishermen and others.*

3. *Third, no genuine consideration of the American consumers' right to a free flow of American caught fresh fish, which is a substantial source of healthy protein, is reflected in the draft FMP. Rather measures are suggested which would without question subject American fishermen to competitive disadvantages. This is particularly egregious In the face of increasing demand for fresh seafood in the us, particularly tuna, and the increasing share of this demand which is being filled by foreign suppliers, which in many cases have displayed little regard for the sustainability of these resources.*

4. *Fourth, several actions suggested or recommended by this draft FMP Are clearly not based on the best scientific information available, and In some instances are obviously political, rather than scientific management decisions.*

While we are hesitant to make this statement in view of the efforts which have been expended thus far by all involved in the drafting of this FMP, we believe we have an obligation to the public at large, to the fishermen, their suppliers, and the commercial buyers and processors throughout the west coast, and perhaps most importantly to the policy makers in Washington D.C., whether they be in the executive or legislative branches of our government, that adoption or release for public comment of this FMP is unnecessary, duplicative, unhelpful to existing concerns, scientifically flawed in its conclusions, and not in The best interests of the united states.

To remain silent would be to shirk our responsibilities and obligations As members of the HMS advisory sub-panel.

<Administrative Record, Testimony by
Mr. Pete Dupuy, 10-29-02

FACTS

1. The Drift Gil Net fishery is declining due to regulations imposed to reduce protected species interactions. (Exhibit A)
2. The Drift Gil Net fishery asked to be totally regulated by federal law in the FMP in order to have more flexibility, (California prohibits longlining), for addressing protected resources and bycatch reduction measures.
3. Inclusion of the Drift Gil Net fishery in the FMP requires the fishery to reduce bycatch as a matter of law.
4. To satisfy legal mandate to reduce bycatch, an alternative fishery utilizing longline as a replacement for the Drift Gil Net fishery was proposed, and analyzed in Chapter 9. (Exhibit B, page 2)
5. The PFMC has chosen to not totally regulate the Drift Gil Net fishery, and prohibit longline within the EEZ. Then proposes an Experimental Fishing Permit demanding performance standards for bycatch reduction that go far beyond the current law. (Exhibit B, page 1)
6. The PFMC's actions insure that the Drift Gil Net fishery continues to decline without viable alternatives, despite the fact that the Chapter 9 scientific analysis supports a longline alternative. The PFMC's proposed action does not provide a rational basis for choosing this alternative instead of the Industry's proposal. (Exhibit B, page 2)
7. The PFMC's action to prohibit longline within the EEZ is driven by state politics, without scientific support, and is contrary to the national interest. (Exhibit C, page 1 & 2)
8. This is an example of how HMS fishery decision making in this FMP is driven by political needs, in spite of scientific evidence to the contrary.

DRAFT

2001	147		50						
Total	3947		597		10355		26490		41379
Average	359	9.1%	54	1.4%	1002	25.4%	2507	63.6%	3944

Source: California Department of Fish and Game

Table Number of Vessels in the California-Oregon Drift Gillnet Fishery, 1993-2001

Year	No. Vessels with Landings	No. Registered Vessels
1993	125	
1994	137	
1995	119	
1996	112	
1997	115	126
1998	99	119
1999	96	109
2000	81	
2001	65	

Source: California Department of Fish and Game

Analysis of Alternative 2

Table Mean Dressed Weight per Swordfish August 15 – October 15 Inside and Outside of 34:27N-4500N

Mean Lbs Per Fish (Standard Deviation)	Inside (Closed Area)	Outside (Open Area)	Difference
1990	246.44 (127.42)	232.83 (143.88)	13.61
1991	250.45 (120.46)	206.80 (96.80)	43.65
1992	285.61 (113.13)	211.48 (112.13)	74.14
1993	294.66 (124.99)	183.85 (123.82)	110.75
1994	289.83 (129.76)	195.35 (129.89)	94.48
1995	243.00 (128.58)	247.33 (114.53)	25.67
1996	246.81 (139.69)	155.36 (102.90)	91.45
1997	195.73 (102.46)	194.85 (80.55)	0.88
1998	247.69 (117.66)	173.04 (73.47)	74.65
1999	276.99 (125.67)	242.03 (110.45)	34.96
2000	272.12 (110.62)	239.26 (102.39)	32.86
2001	N/A	243.24 (101.02)	N/A

Source: NMFS Observer Program. Standard deviations in parentheses.

Note: Difference: Inside – Outside

EXHIBIT

B

Exhibit E.2.b
Supplemental NMFS Report
March 2001



**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

Mr. Jim Lone, Chairman
Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201

RECEIVED

MAR 9 2001

DEPT

Dear Jim,

At the March meeting, the Pacific Fishery Management Council (Council) will have its first opportunity to review the draft fishery management plan for highly migratory species fisheries (HMSFMP) and the initial analysis of the management issues in those fisheries. I believe it is important that the National Marine Fisheries Service (NMFS) provide updated information on recent domestic HMS fisheries management that will set the stage for the team presentation on the draft FMP and subsequent Council consideration of options for the FMP, including how to proceed with the FMP.

When the decision was made to develop the FMP, there was no clear and pressing need for consideration of management measures that would immediately go into effect. It was envisioned that the FMP could include some reporting requirements and perhaps some changes in permit requirements, and it would almost certainly establish framework procedures for implementing regulations in the future if new information or conditions warranted it. The FMP also could conceivably incorporate under Magnuson-Stevens Act authority a variety of HMS fishery management regulations currently in effect under other Federal law or State laws and regulations. However, the legal and programmatic environment for the FMP has changed substantially as a result of two (and maybe three) factors:

1. **Drift Gillnet Fishery Management** - This fishery is managed under a mix of State laws (time/area closures, limited entry, mesh size, logbooks) and Federal regulations (net depth, pingers, observers) under the Marine Mammal Protection Act. As a result of a new Section 7 consultation under the Endangered Species Act (ESA), NMFS is requiring that new restrictions be imposed on the fishery by August 2001. NMFS will promulgate these regulations by that time under the authority of the ESA. However, I would urge the Council to be sure that the draft FMP, when cleared for public review and comment, include an alternative under which the drift gillnet fishery would be managed through the FMP rather than under the anticipated mix of State laws and regulations and Federal regulations under the MMPA and ESA. Consolidating the management program under a single authority should greatly simplify the ability of fishers and managers to adjust to changing conditions in the future.

In addition, the changes being required under the ESA will likely make it very difficult for some fishers to maintain profitable operations. This adds to the feeling on the fleet's part that there should be some form of relief, and a proposal has been made to allow the vessels to fish with longline gear subject to a variety of restrictions, possibly including an experimental fishery process. This is a very contentious proposal, but the drift net fleet owners definitely want the Council to address it in the FMP process. I would strongly encourage that the plan include a full evaluation of the pros and cons of allowing longline fishing in the EEZ so that the final decision can be based on that evaluation.

2. Hawaii Longline Fishery Restrictions - As a result of court actions, a number of restrictive regulations have been promulgated for the Hawaii-based longline fishery. In addition, NMFS prepared and distributed for public comment and hearings a Draft Environmental Impact Statement (DEIS) that reviewed the history and performance of that fishery and analyzed several alternatives for management of the fishery. I believe the Council has received a copy of that DEIS. While final action has not yet been taken, the preferred alternative would further constrain the fishery, including prohibiting a fishing strategy that targets swordfish and setting time/area closures for the fishery. NMFS also is completing a Section 7 consultation to determine if the fishery jeopardizes the continued existence of any species of sea turtle and if conditions should be set for the fishery to ensure that there will be no jeopardy and to mitigate or reduce the potential for interactions. NMFS recognizes that longline fishing in the EEZ, or on the high seas seaward of the EEZ, off the West Coast might not have the exact same impacts on fish and protected species as longlining out of Hawaii. However, NMFS also believes it would be inappropriate to allow fishing by vessels out of the West Coast in times and areas that would be closed to vessels out of Hawaii or using strategies that would not be available to Hawaii-based vessels until further information is available to indicate that the impacts would be different. At the least, the draft FMP should include an alternative that would establish the same measures for West Coast-based longliners as for Hawaii-based longliners. This also would include provisions to minimize interactions with seabirds and to authorize the Regional Administrator to require that observer accommodations be made and to require the use of automated vessel monitoring system units at vessel expense.

3. U.S.-Canada Albacore Treaty - During the scoping process for the FMP, there was sufficient force of recommendations from the public that the Council established a control date for possible use in setting up a limited entry program in the future. Most of the interest came from the troll albacore fishery which is concerned that further restrictions in other fisheries (especially groundfish) might result in vessels shifting into the albacore fishery, possibly adversely affecting present participants and exacerbating marketing problems that have sometimes occurred when catches are too high and markets are flooded with landings. Also of concern was that additional effort could result in lower catch rates for historic participants. A more recent concern, however, is that there has been a dramatic increase in the participation of Canadian vessels in U.S. waters under the Treaty, so much so that the Western Fishboat Owners Association has promoted suspension of the Treaty unless the Canadians agree to some limit on their vessels' fishing in U.S. waters. We have now scheduled a negotiating session with Canadian authorities April 10-11, 2001, in Seattle, to discuss changes in Annex A to the Treaty under which there would be a process for annually determining fleet or fishing limits and to discuss potential limits in 2001.

In discussing the matter with NOAA General Counsel and industry, we have identified a broader issue. That is, there is no statute to implement the Albacore Treaty; thus, there is no statute authorizing NMFS (or anyone else) to issue regulations to carry out the Treaty. Before we can propose legislation, however, we need to consider and agree on how the FMP and Treaty interrelate. We need to consider what kinds of measures would best be handled by different agencies and through different procedures. We will be discussing with industry and General Counsel the manner in which different possible future fishery management measures might be carried out under the FMP or under the Albacore Treaty, or even under laws implementing other future international management agreements (e.g., LATTIC). For example, if there were a total allowable catch of north Pacific albacore with an allocation to the U.S., the internal allocation between sectors could be done through the Council as with Pacific halibut; or it could be done by the Secretary of Commerce in consultation with the Council and the member States. Please be assured that the Council will be involved in the discussions. With respect to the FMP, we have no immediate recommendations, but we will be working with the plan team and your staff to provide some alternatives for discussion in the draft.

One consequence of the changes in circumstances is that the Council will likely have to address with immediate HMS fishery management regulation issues in final action on the FMP later this year. It will probably not be sufficient to simply leave in place existing State or Federal regulations (under other authorities) or simply defer to State regulations. NMFS is aware that this means more time will be needed to compile information and analyze the options for management. Indeed, it is recognized that there is a lack of information to support some analyses, especially with respect to consideration of the impacts of allowing the West Coast based longline fishery to be active in the EEZ while at the same time restricting its activities on the high seas.

The Southwest Region also is aware that the increasing pressure to immediately establish management measures increases the need for Council resources to be directed to HMS fishery management and related issues. The need for complete NEPA analysis is clearly a critical issue. We will do everything we can to support the Council in this process, and we are looking to the possibility of a supplemental cooperative agreement under which the Council would administer the plan development process (e.g., team and advisors' travel, printing, and other logistics). This could be in addition to NMFS funds that might be provided to the Council to assist in meeting NEPA analytical requirements generally. I am optimistic this can be achieved fairly soon.

Finally, I want to acknowledge that the Council has participated in past discussions with NMFS and other Pacific area fishery management councils about the need for coordination of management. The issues noted with respect to the longline fishery testify to the need for that coordination. In that respect, I have had informal discussions with Western Pacific Fishery Management Council members and staff and I am optimistic that we can arrange to resume discussions in the near future. I believe the draft FMP will provide a catalyst to launch discussions. I will work with you and your Executive Director to see when discussions might resume.

In summary, I appreciate the Council's dedication to developing a solid and comprehensive HMS FMP and pledge the Agency's support in that process. The Southwest Region views this as one of the Council's most complex fisheries with serious management issues and we are committed to helping establish a sound management framework to conserve the species to the extent practicable and to maintain or enhance the fisheries on these species.

Sincerely,



Rebecca Lent, Ph.D.
Regional Administrator

cc:

F/SWC - Tillman
GCSW - Feder
F/NWR - Robinson
GCNW - Cooney
WPFMC-Simonds
NPFMC-Oliver

The California-based Longline Fishery for Swordfish, *Xiphias gladius*, beyond the U.S. Exclusive Economic Zone

MARIJA VOJKOVICH and KRISTINE BARSKY

Marine Resources Division¹
California Department of Fish and Game
530 E. Monterito Street, Suite 104
Santa Barbara, California 93103

ABSTRACT

Between 1991 and 1994, the number of California-based longliners fishing for swordfish beyond the U.S. Exclusive Economic Zone increased from 3 to 31. Recreational fishing groups raised concerns regarding the impact of the fishery on swordfish, shark, tuna, and marlin stocks. The California Department of Fish and Game established a sampling program to document species composition of longline landings and size composition of the swordfish catch, and collected anecdotal information about fishing methods and bycatch.

In 1991-94, swordfish accounted for 59%-79% by weight of all landings by the fishery. Tunas were 11%-24% of the catch, and the remainder was pelagic sharks, opah, dolphin, and escolar. Sampled swordfish were 6-277 kg dressed weight (13-611 lb). Fish <50 kg (<110 lb) accounted for nearly 48% by number, those >100 kg (>220 lb) only about 17%. Bycatch included striped marlin, turtles, birds, and marine mammals, although there are no estimates of take.

The State of California is the current management authority for this fishery; regulations comprise requirements for commercial fishing licenses, provisions governing prohibited species (striped marlin), and logbook reporting requirements similar to those for the Hawaii-based high-seas longline fishery. Discussions among the Fishery Management Councils for the Pacific, North Pacific, and Western Pacific Regions have not yet resulted in a fishery plan for Pacific swordfish.

Introduction

Swordfish, *Xiphias gladius*, provides a popular seafood which is recognized worldwide. Known for its white meat and mild taste, swordfish is the focus of many commercial fisheries. Approximately 22% of the world supply of swordfish is purchased by consumers in the United States (Sakagawa, 1990). Imports of swordfish into the U.S. have risen from nearly 500,000 lb in 1980 to over 15 million lb in 1989 (Bouchelle et al., 1991). To meet a portion of this market demand, fleets from Japan, Taiwan, and the United States target swordfish and tunas (Scombridae) year-round in the northeastern Pacific.

California-based fishermen have harvested swordfish in nearshore waters since the early part of this century. Hand-held harpoon was the predominant gear type until the late 1970's, when drift gill nets were found to be effective in catching large quantities of swordfish.

Until 1979, swordfish landings in California averaged about 200 metric tons (t) annually. Since 1983 California swordfish landings have averaged approximately 1,200 t annually; in 1985 they peaked at 2,400 t (Dewees, 1992).

Recently, a California-based high-seas longline fishery has developed. While these vessels do not fish in local waters, they unload their catch and reprovision in California ports. In 1993 the California Department of Fish and Game (CDFG) began dockside sampling and tracking of longline landings, and began to develop a logbook program. This paper provides a description of the California-based longline fishery, landings, species composition, size composition of landed swordfish, and anecdotal bycatch information. The defacto management scenario is also presented. We do not discuss the health of the Pacific swordfish stock(s) or the implica-

¹ Now the Marine Region of the CDFG.

Recreational fishing interests were again unsuccessful in 1995 in getting a bill through the California legislature to control the longline fleet. They are still committed to being fully involved in the management process for swordfish.

The logbook required by the state of California was developed along the lines of the one used by the NMFS in the Hawaiian fishery. Logbooks were distributed to participants of the California-based fishery beginning in August 1995. Data on fishing locations, fishing effort and catch, and bycatch will now be available through the logbook program. No observer program has been mandated.

The California-based longline swordfish fishery remains dynamic, and we anticipate more movement of vessels in and out of the area due to changing availability of this highly migratory species and the search for new fishing grounds, reasonable port costs, and lower transshipment costs.

Acknowledgments

We thank Bill Craighead and Ken Trinh of Hi-Seas Fish Company for their cooperativeness and generous details

of the fishery and markets, Bruce Mournier and Bill Irwin for their video documentation of the longlining process, and the vessel captains and crews who shared their fishing information. We also thank the many reviewers who took the time to give us constructive feedback.

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LAST PAGE OF REPORT

NATIONAL MARINE FISHERIES SERVICE REPORT ON
HIGHLY MIGRATORY SPECIES (HMS) MANAGEMENT

Situation: National Marine Fisheries Service (NMFS) will briefly report on recent international and domestic developments relevant to highly migratory species fisheries and issues of interest to the Council.

Council Task: Discussion.

Reference Materials:

1. None.

Agenda Order:

- a. Agendum Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion

Svein Fougner

PFMC
10/15/02

HMS Plan Development Team Report to Pacific Fishery Management Council

October 29, 2002

Purpose of Presentation

- HMS FMP is ready for Council action
- HMS PDT has responded to Council and NMFS direction and to public comments
- Revisions and new material added since March 2002 (see List of Revisions)
- Today, we review the most prominent alternatives within the FMP
- PDT is available to respond to comments and questions

Prominent Alternatives and Issues

- 1. FMP or no FMP?
- 2. Legal Gear
 - Small mesh gillnets
- 3. Bycatch
 - Magnuson requirements to document and reduce bycatch and bycatch mortality

Prominent Alternatives and Issues

- 4. Observer Program Authority
 - Magnuson requirement
 - On all commercial and CPFV's where practicable
- 5. Longlines Within EEZ
 - Prohibit or allow
 - Experimental Fishing Permit or research approach

Prominent Alternatives and Issues

- 6. Longlines Outside of EEZ
 - Follow all *or* selected Western Pacific Fishery Management Council regulations
 - Western Pacific Biological Opinion

Major Changes Since March Council Meeting Include:

- New material to address requirements of NEPA, RFA, PRA, protected species statutes, and Magnuson-Stevens Act.
- Revised EFH chapter per 2002 Rule
- Expanded bycatch and protected species information
- New MSY point estimates or proxies for all MUS
- New analyses of small mesh gill nets
- Northern purse seine closure change

Longline Outside of EEZ

Council Preferred Option

Alternative 2

- Adopt all measures of Hawaii Biological Opinion
- Subjects west coast longliners fishing east of 150°W longitude to Hawaiian rules

Longline Outside of EEZ, Cont'd.

Alternative 3 (PDT Preferred)

- Adopt selected measures of Hawaii Biological Opinion for west-coast based longliners to control sea turtle and sea bird interactions and to monitor fishery
- Excludes ban on swordfishing north of equator
- Area-specific analysis of protected species and bycatch risk
- Distribution of west-coast based vessels differs from HI fleet

Longline Outside of EEZ, Cont'd.

- PDT Emphasizes Importance of Alternative 3
 - Oceanographic conditions and distribution of protected species may substantially differ east of 150°W longitude
 - Need separate Biological Opinion for west-coast longliners and their fishing east of 150°W
 - Provides scientifically based conservation

RIR & RFA ANALYSES

Drift Gillnet and Offshore Pelagic
Longline Fisheries

Drift Gillnet

- Use observer and survey data
- Compare inside and outside of time/area closures:
 - Producer surplus and short-run financial profit
 - Bycatch by species – returned dead
 - Interactions with marine mammals and sea turtles

Drift Gillnet: Alternative 2

Annual Observer Coverage Cost	\$380,835.00
Annual Producer Surplus Loss	\$1,357,195.68
Annual Total Cost of Observer Coverage Plus Producer Surplus Loss	\$1,738,031
Annual Short-Run Financial Profit Loss	\$1,512,537.35
Annual Total Cost of Observer Coverage Plus Short-Run Financial Profit Loss	\$1,893,372

Drift Gillnet: Alternative 2

Producer surplus loss over 25 years @ 7%	\$15,816,192.71
Producer surplus loss and observer cost over 25 years @ 7%	\$15,816,192.71
Producer surplus loss and observer cost over 25 years @ 4%	\$27,151,654.18

Drift Gillnet: Alternative 2

Profit loss over 25 years @ 7%	\$17,626,479.83
Profit loss <u>and</u> observer cost over 25 years @ 7%	\$17,626,479.83
Profit loss <u>and</u> observer cost over 25 years @ 4%	\$29,578,414.23

Drift Gillnet: Alternative 2

Annual No. Fish Returned Dead			
Species	Inside (Closed Area)	Outside (Open Area)	Difference
Swordfish	3.29	24.70	-21.40
Common Thresher	0	0	0
Bigeye Thresher	0	3.29	-3.29
Shortfin Mako	1.64	39.51	-37.87
Blue Marlin	4.93	21.40	-16.46
Striped Marlin	4.93	37.87	-32.93
Blue Shark	3786.6	1,078.36	2,708.24
Albacore	1,667.75	54.33	1,613.42
Mola	9.88	246.95	-237.07
Opah	4.93	9.88	-4.93
Louvar	26.34	18.11	8.23
Pacific Pomfret	59.27	8.23	51.04
Bluefin Tuna	59.27	27.99	31.28

Drift Gillnet: Alternative 2

Sea Turtle Takes

Species	Condition Inside	Total Inside	Condition Outside	Total Outside	Difference
Leatherback	A	17		0	17
Leatherback	D	11		0	11
Leatherback	U	1		0	1
Loggerhead		0	A	6	-6
Loggerhead		0	D	1	-1
Loggerhead		0	I	1	-1

Drift Gillnet: Alternative 5

Annual Observer Coverage Cost	\$331,695.00
Annual Producer Surplus Loss	\$223,317.54
Annual Total Cost of Observer Coverage Plus Producer Surplus Loss	\$540,012.50
Annual Short-Run Financial Profit Loss	\$247,763.52
Annual Total Cost of Observer Coverage Plus Short-Run Financial Profit Loss	\$579,458.50

Drift Gillnet: Alternative 5

Producer surplus loss over 25 years @ 7%	\$2,590,795.91
Producer surplus loss <u>and</u> observer cost over 25 years @ 7%	\$6,456,230.7
Producer surplus loss <u>and</u> observer cost over 25 years @ 4%	\$8,654,828.14

Drift Gillnet: Alternative 5

Profit loss over 25 years @ 7%	\$2,887,332.79
Profit loss <u>and</u> observer cost over 25 years @ 7%	\$6,752,767.83
Profit loss <u>and</u> observer cost over 25 years @ 4%	\$9,052,347.32

Drift Gillnet: Alternative 5 Annual

No. Fish Returned Dead

Species	Inside (Closed Area)	Outside (Open Area)	Difference
Swordfish	2.80	14.01	-11.21
Common Thresher	0	0	0
Bigeye Thresher	0	2.80	-2.80
Shortfin Mako	0	35.04	-35.04
Blue Marlin	0	25.23	-25.23
Striped Marlin	4.20	37.84	-33.63
Blue Shark	3,465.84	856.30	2609.54
Albacore	1,400.07	210.22	1189.85
Mola	53.26	74.28	-21.02
Opah	5.61	8.41	-2.80
Louvar	0	2.80	-2.80
Pacific Pomfret	5.61	5.61	0
Bluefin Tuna	43.45	25.23	18.22

Drift Gillnet: Alternative 5

Sea Turtle Takes

Species	Condition Inside	Total Inside	Condition Outside	Total Outside	Difference
Leatherback	A	6		0	6
Leatherback	D	10		0	10
Leatherback	U	1		0	1
Loggerhead		0	A	6	-6
Loggerhead		0	D	1	-1
Loggerhead		0	I	1	-1

Drift Gillnet: Alternative 6

Annual Observer Coverage Cost	\$24,570
Annual Producer Surplus Gain	\$278.48
Annual Total Cost of Observer Coverage Plus Producer Surplus Gain (Producer Benefit)	\$24,291.52
Annual Short-Run Financial Profit Gain	\$310.36
Annual Total Cost of Observer Coverage Plus Short- Run Financial Profit Gain (Producer Benefit)	\$24,259.64

Drift Gillnet: Alternative 6

Producer surplus <u>gain</u> over 25 years @ 7%	\$3,245.39
Producer surplus <u>gain</u> and observer cost over 25 years @ 7%	-\$283,083.25
Producer surplus <u>gain</u> and observer cost over 25 years @ 4%	

Drift Gillnet: Alternative 6

Profit <u>gain</u> over 25 years @ 7%	\$3,616.81
Profit <u>gain</u> <u>and</u> observer cost over 25 years @ 7%	-\$282,711.23
Profit <u>gain</u> <u>and</u> observer cost over 25 years @ 4%	

Drift Gillnet RIR & RFA:

Conclusions

- Biological Opinion
- Benefits:
 - Minimal to negative for consumers from sea turtle takes
 - Foreigners catch turtles on high seas
 - Minimal to no loss of consumer surplus due to swordfish imports

Drift Gillnet RIR & RFA:

Conclusions

- Costs:
 - Lost producer surplus and profits
 - Varies by alternative
- Bycatch of Finfish (Returned Dead)
 - Increases and decreases of domestic bycatch varies by species
- Sea Turtle Takes
 - Reduced domestic leatherback
 - Increased domestic loggerhead
 - Increased foreign takes of leatherbacks and loggerheads

Drift Gillnet RIR & RFA:

Conclusions

- Overall Conclusions
- Losses to nation and fleet for little or no gains in benefits from reduced sea turtle takes
- Sea turtles gain little or may even lose
- Can't conclude about bycatch of finfish because some species gain and others lose
 - Comparing apples and oranges

Drift Gillnet RIR & RFA:

Conclusions

- Complexity of Biological Opinions
 - Substantial differences by time and area even for same fleet in same ecological-oceanographic area
 - Extreme difficulty in applying Western Pacific Biological Opinion to different ecological-oceanographic areas and times
 - No one size fits all

Pelagic Longline Fleet

Annual Producer Surplus <u>Loss</u>	\$8,465,802
Annual Profit <u>Loss</u>	\$6,440,990
Producer Surplus <u>Loss</u> Over 25 Years @7%	\$98,656,923
Profit <u>Loss</u> Over 25 Years 7%	\$75,060,618

CONCLUSIONS

- Need new Biological Opinion for West Coast based pelagic longline fleet
- Oceanographic and ecological conditions may well differ west and east of 150W longitude
- Base new B.O. on new observer data currently gathering

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL STATEMENT
ON ADOPTION OF FINAL HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN

The Highly Migratory Species Advisory Subpanel (HMSAS) met with the HMS Plan Development Team (HMSPDT) on October 22-23, 2002, in San Diego, California. The HMSAS reviewed the September 2002 draft fishery management plan (FMP) and the proposed changes to the September draft FMP prepared by the HMSPDT, the October 7, 2002 draft of the proposed regulations, the first draft of the Regulatory Impact Review/Regulatory Flexibility Analysis (RIR/RFA), and a status report on development of observer program sampling plans and logistics.

The HMSAS meeting was attended by 11 members (of a total of 13) on October 22, and by 9 members on October 23.

The HMSAS also wanted to meet again formally on October 28, but this was not possible, because of budget limitations. Some of the members will attend the HMSPDT meeting on October 28 at their own expense.

In addition to the following formal HMSAS recommendations on the FMP, individual members recommended a number of specific language changes directly to the HMSPDT to improve the accuracy of the FMP and also provided specific comments directly to the author of the draft regulations.

Opposition to the FMP

The HMSAS voted (6 yes, 2 no) to support the following statement in opposition to the FMP:

IT IS WITH REGRET THAT THE MAJORITY OF THE HMSAS HAVE COME TO BELIEVE THEY CANNOT SUPPORT AND WILL ACTIVELY OPPOSE THE ADOPTION OF THE DRAFT HMS FMP.

FIRST, WE SINCERELY AND WITHOUT RESERVATION THANK THE MEMBERS OF THE FMP DRAFTING TEAM, AND ESPECIALLY THEIR CONSULTANT, FOR THEIR HERCULEAN EFFORTS IN BRINGING TOGETHER EXISTING AND NEW INFORMATION ABOUT THE HMS FISHERIES OFF THE WEST COAST OF THE UNITED STATES. THEIR EFFORTS ARE GREATLY APPRECIATED TODAY, AND WILL BE BY GENERATIONS OF FISHERMEN TO COME. WE ALSO WANT TO THANK THE PACIFIC FISHERY MANAGEMENT COUNCIL, AND PARTICULARLY THEIR STAFF FOR THE CONTINUOUS AND OUTSTANDING SUPPORT THEY HAVE PROVIDED IN THESE EFFORTS. FINALLY, WE ALSO WISH TO EXPRESS OUR APPRECIATION FOR THE FUNDING, LEGAL, AND REGULATORY HELP AND ADVICE THAT NOAA/NMFS HAS BEEN ABLE TO OFFER.

THIS DRAFT FMP CANNOT BE SUPPORTED FOR THE FOLLOWING REASONS:

1. WHEN CONCEIVED, THIS FMP WAS TO PROVIDE A FRAMEWORK FOR IMPLEMENTING RULES, REGULATIONS AND RESOLUTIONS OF INTERNATIONAL REGIONAL MANAGEMENT ORGANIZATIONS OF WHICH THE UNITED STATES IS A MEMBER. HIGHLY MIGRATORY SPECIES IN THE EASTERN AND CENTRAL PACIFIC ARE ALREADY UNDER INTERNATIONAL REGULATION AND CONSERVATION, WHERE THOSE MULTILATERAL ENTITIES HAVE CONCLUDED IT IS NECESSARY. THE "PILING ON" OF UNNECESSARY FEDERAL REGULATIONS ON TOP OF THESE SAME FISHERIES IS A TREMENDOUS WASTE OF TAX PAYERS' MONEY AND GOVERNMENT AND PRIVATE RESOURCES. THESE FISHERIES ARE ALREADY MANAGED UNDER THE PACIFIC TUNA CONVENTIONS ACT AND THE SOON TO BE PASSED IMPLEMENTING LEGISLATION TO THE U.S. CANADA ALBACORE TREATY.

2. SECOND, A SECONDARY, BUT MAJOR GOAL OF THE FMP, WAS TO HARMONIZE THE REGULATIONS OF THE THREE WEST COAST STATES WHICH ARE ACTIVE MEMBERS OF THE COUNCIL, AND TO HARMONIZE MANAGEMENT AND SCIENTIFIC RESEARCH EFFORTS BETWEEN THE COUNCIL AND THE WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL (WPFMC). NEITHER GOAL HAS BEEN APPROACHED. ANOMALIES BETWEEN STATE REGULATIONS WHICH HAVE BEEN RESOLVED, HAVE BEEN RESOLVED BY STATE LEGISLATION. ANY EFFORT TO RESOLVE CONFLICTS BETWEEN THE TWO COUNCILS WHICH SHARE MANAGEMENT OF HMS IN THE PACIFIC, HAVE BEEN CURSORY, OR PROPOSED TO BE TAKEN WITHOUT REGARD TO THE DUE PROCESS RIGHTS OF WEST COAST FISHERMEN AND OTHERS.
3. THIRD, NO GENUINE CONSIDERATION OF THE AMERICAN CONSUMERS' RIGHT TO A FREE FLOW OF AMERICAN-CAUGHT FRESH FISH, WHICH IS A SUBSTANTIAL SOURCE OF HEALTHY PROTEIN, IS REFLECTED IN THE DRAFT FMP. RATHER, MEASURES ARE SUGGESTED WHICH WOULD WITHOUT QUESTION SUBJECT AMERICAN FISHERMEN TO COMPETITIVE DISADVANTAGES. THIS IS PARTICULARLY EGREGIOUS IN THE FACE OF INCREASING DEMAND FOR FRESH SEAFOOD IN THE U.S., PARTICULARLY TUNA, AND THE INCREASING SHARE OF THIS DEMAND WHICH IS BEING FILLED BY FOREIGN SUPPLIERS, WHICH IN MANY CASES HAVE DISPLAYED LITTLE REGARD FOR THE SUSTAINABILITY OF THESE RESOURCES.
4. FOURTH, SEVERAL ACTIONS SUGGESTED OR RECOMMENDED BY THIS DRAFT FMP ARE CLEARLY NOT BASED ON THE BEST SCIENTIFIC INFORMATION AVAILABLE, AND IN SOME INSTANCES ARE OBVIOUSLY POLITICAL, RATHER THAN SCIENTIFIC MANAGEMENT DECISIONS.

WHILE WE ARE HESITANT TO MAKE THIS STATEMENT IN VIEW OF THE EFFORTS WHICH HAVE BEEN EXPENDED THUS FAR BY ALL INVOLVED IN THE DRAFTING OF THIS FMP, WE BELIEVE WE HAVE AN OBLIGATION TO THE PUBLIC AT LARGE, TO THE FISHERMEN, THEIR SUPPLIERS, AND THE COMMERCIAL BUYERS AND PROCESSORS THROUGHOUT THE WEST COAST, AND PERHAPS MOST IMPORTANTLY TO THE POLICY MAKERS IN WASHINGTON, DC, WHETHER THEY BE IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF OUR GOVERNMENT, THAT ADOPTION OR RELEASE FOR PUBLIC COMMENT OF THIS FMP IS UNNECESSARY, DUPLICATIVE, UNHELPFUL TO EXISTING CONCERNS, SCIENTIFICALLY FLAWED IN ITS CONCLUSIONS, AND NOT IN THE BEST INTERESTS OF THE UNITED STATES.

TO REMAIN SILENT WOULD BE TO SHIRK OUR RESPONSIBILITIES AND OBLIGATIONS AS MEMBERS OF THE HMSAS.

This statement was supported by the six commercial fishing representatives present and opposed by the two sport fishing representatives present. This vote was taken on the second day of the meeting, when the conservation and charter boat members were not in attendance. Also, the southern and northern processors representatives were not in attendance during the entire meeting.

Minority Response:

The sportfishing members of the HMSAS submitted the following statement; the conservation representative also supported this response:

ACCORDING TO A LETTER DATED NOVEMBER 20, 2000 FROM D.O. MCISAAC, PH.D., EXECUTIVE DIRECTOR, PACIFIC COUNCIL IN RESPONSE TO OUR REQUEST FOR A BETTER BALANCE OF RECREATIONAL REPRESENTATION ON THE HMSAS, THE FOLLOWING WAS NOTED REGARDING COUNCIL'S CONSIDERATION OF OUR REQUEST: "THE COUNCIL NOTED THE HMSAS IS NOT INTENDED TO BE A "VOTING" ENTITY IN WHICH THE NUMBERS OF REPRESENTATIVES OF DIFFERENT SECTORS ARE CAREFULLY BALANCED."

AS SUCH, THE COUNCIL SHOULD CONSIDER THE MERITS OF THE "MAJORITY" STATEMENT RATHER THAN THE VOTE TALLY. WE WILL ADDRESS OUR COMMENTS ON A POINT-BY-POINT BASIS.

WE SUPPORT THE ADOPTION OF THE DRAFT HMS FMP WITH ITS SUITE OF PROPOSED ACTIONS. WE HAVE NOTED THAT INADEQUATE BUDGETS WERE AVAILABLE FOR ADEQUATELY COMPILING AND ANALYZING HISTORICAL RECREATIONAL DATA, HOWEVER, ITS IS OUR VIEW THAT THE PLAN'S "PROPOSED ACTIONS" DOES NOT UNFAIRLY ADVERSELY AFFECT RECREATIONAL FISHING. FURTHER, ADOPTION OF THE PLAN WILL PROVIDE OPPORTUNITIES TO CURE SHORTCOMINGS ON RECREATIONAL FISHERIES DATA IN ORDER TO PREPARE FOR THE FUTURE.

WE SPECIFICALLY ADDRESS THE RATIONALES EXPRESSED BY THE COMMERCIAL REPRESENTATIVES ITEM BY ITEM:

1. WE HAVE DIFFICULTY UNDERSTANDING WHAT THIS COMPLAINT IS. COMMERCIAL REPRESENTATIVES ORIGINALLY CHAMPIONED THE IDEA OF AN FMP TO IMPLEMENT FEDERAL REGULATIONS IN ACCORDANCE WITH MAGNUSON AND ARE NOW CLAIMING IT'S A WASTE OF MONEY AND RESOURCES WITHOUT PROVIDING ANY SUBSTANTIVE EXPLANATION AS TO WHY.
2. THIS FMP INDEED DOES SUBSTANTIALLY FURTHER BOTH CAUSES ORIGINALLY CHAMPIONED BY THE COMMERCIAL REPRESENTATIVES. THIS FMP GOES A LONG WAYS TO BRINGING HARMONY TO REGULATIONS OVER FISHERIES UNDER THE CONTROL OF THE PACIFIC COUNCIL AND WPFMC. WE SUBMIT THAT, IN FACT, THE COMMERCIAL REPRESENTATIVES ARE MERELY NOW OPPOSED TO SUCH HARMONY. IN THIS HMSAS REPORT THE COMMERCIAL REPRESENTATIVES HAVE VOTED TO DEHARMONIZE THESE REGULATIONS (SEE LONGLINE – OUTSIDE THE EEZ, BELOW IN THIS HMSAS STATEMENT). ADDITIONALLY, SIGNIFICANT NEW HARMONY IS BEING CREATED BETWEEN STATE REGULATIONS WITH UNIVERSAL LOGBOOKS, MONITORING, DATA COLLECTION, AND PERMITTING. THESE AND OTHER MEASURES WILL HELP PROVIDE A CONSISTENT METHOD OF DATA COLLECTION AND CAREFUL MANAGEMENT TO PROTECT HABITAT, REDUCE BYCATCH, AND IMPROVE EFI.
3. WE AGREE PROBLEMS EXIST WITH FOREIGN FISHING. HOWEVER, IT IS OUR BELIEF THIS FMP WILL PROVIDE AN OPPORTUNITY TO BEGIN TO CORRECT THE SHORTCOMINGS OF EXISTING INTERNATIONAL MANAGEMENT BY BRINGING A CONSISTENT UNITED STATES MESSAGE TO INTERNATIONAL NEGOTIATIONS. THIS FMP PROVIDES A CONSISTENT NATIONAL BASIS FOR ADDRESSING PROBLEMS TO PROTECT THE VALUE OF PUBLIC RESOURCES AND PROVIDE FOR LONGTERM BENEFICIAL USE OF OUR RESOURCES BOTH RECREATIONALLY AND COMMERCIALY WHILE RECOGNIZING LOCAL NEEDS.
4. WE DISAGREE THE MANAGEMENT REGIME PROPOSED BY THIS FMP IS NOT BASED ON THE BEST SCIENTIFIC INFORMATION AVAILABLE. BECAUSE OF BUDGET AND TIME CONSTRAINTS MORE DATA ON RECREATIONAL FISHING IS AVAILABLE THAN WAS COLLECTED AND UTILIZED, HOWEVER, IT IS ALSO OUR BELIEF THAT IF SUCH DATA WAS COLLECTED AND UTILIZED THROUGH ADDITIONAL EFFORTS THE SAME RECOMMENDED MANAGEMENT REGIME WOULD HAVE RESULTED. OUR POSITION REMAINS CONSISTENT THAT THESE DATA GAPS MUST BE CORRECTED BEFORE ANY INCREASE IN FISHING EFFORT IS ALLOWED. THIS FMP PROVIDES A BASIS FOR BEGINNING TO ADEQUATELY BASELINE RECREATIONAL FISHING.

=====

Observer Programs (FMP Section 8.4.5)

The proposed action in the FMP mandates observer programs initially for the longline, surface hook-and-line and small purse seine fisheries and indicates that observer sampling plans would be prepared for these 3 fisheries plus the commercial passenger fishing vessel (CPFV) and private recreational fisheries. There was considerable discussion at the HMSAS meeting about the need to observe all HMS fisheries, including CPFV and private recreational fisheries. There also was confusion about the Council action in June 2002 on this issue. Some individuals thought the Council-preferred alternative included the CPFV fishery. Commercial fishery representatives argued there is no justification provided for putting recreational fishery observer programs "on the back burner," especially given that the recreational fishery is the one where we have the least information. Recreational representatives and the conservation representative noted that an observer program for the private recreational fishery presents special difficulties, because of the large number of small vessels; an observer program may not be the best way to collect information on bycatch and bycatch mortality in this fishery. Furthermore, the FMP proposes a voluntary catch-and-release program for the recreational fishery, in which released fish would not be considered bycatch. The HMSAS voted (9 yes, 2 no) to recommend addition of a fourth alternative to the FMP, which would mandate observer programs for all HMS fisheries.

The HMSAS also received a status report from the contractor preparing observer sampling plans for HMS fisheries and provided a number of specific comments directly to the contractor.

Longline (8.5.2)

Outside EEZ: The commercial representatives are concerned that the proposed alternative for longlining outside the EEZ will effectively shut down the fishery. Since this fishery operates in a different area than the Hawaii-based fishery, they believe that imposing all of the onerous western Pacific regulations is inappropriate. The HMSAS voted (8 yes, 3 no) to recommend alternative 3 as the preferred alternative. This alternative would apply most of the western Pacific measures to the West Coast-based fishery, but would not include the ban on swordfish targeting.

Inside EEZ: Commercial fishery representatives argued that it is unnecessary and confusing to include alternatives 2 and 4, which propose a prohibition on longlines in the EEZ and include specific exempted fishing permit (EFP) procedures to be used to evaluate longlines. They feel the EFP process should be addressed after implementation of the FMP when EFP applications are submitted, and the decision at this time should simply be a choice among the 3 remaining alternatives: no action (alternative 1), a limited longline fishery (alternative 3), or a general prohibition (alternative 5). The sport fishery representatives disagreed and stated that the process needs to remain open and transparent with all of the alternatives considered. The HMSAS voted (6 yes, 2 no, 1 abstain) to recommend that the Council delay dealing with the 2 EFP proposals as part of the FMP process and deal with them after FMP implementation when an application is submitted. (This vote was taken on the second day of the meeting, when the conservation and charter boat members were not in attendance.)

Purse Seine (8.5.3)

The proposed action would close the EEZ north of 45° N latitude to purse seine fishing to address concerns about potential bycatch, protected species interactions and gear conflicts. Some members of the HMSAS have been concerned for some time about the lack of information to justify this closed area, and we were prepared to recommend another preferred alternative for Council consideration which would close the area inside 25 miles north of 45° N (vote 7 yes, 1 no). However, subsequent to this action, the HMSAS was informed by the Washington State member of the HMSPTD that the State of Washington would support alternative 4, which would open the entire EEZ to purse seine fishing. In response to this change, the HMSAS rescinded the former action and voted to support alternative 4 (8 yes, 1 abstain).

There is a potential problem that needs to be addressed that pertains to the State of California purse seine closure in Santa Monica Bay (District 19A). Sport fishing representatives are concerned that a portion of this

closed area extends into the EEZ and want to make sure that this closure continues to be in effect after implementation of the FMP. We were unable to verify the extent of this closed area at our meeting, and asked the State of California to look into this issue and be prepared to address it at the Council meeting if necessary.

Permits (8.5.5)

The proposed action requires that a federal permit be obtained for each U.S. fishing vessel used in commercial fishing for HMS, with a specific endorsement for each gear type, and requires a federal permit for all charter vessels (emphasis added). The HMSAS believes that permits need to be issued to persons, and voted unanimously to recommend that permits be assigned to a person for a vessel. That would mean that in alternative 2, Ch. 8, Page 2 under Commercial Permits, the word "each" would be replaced by "a person to a...".

It was brought up in discussion that under the new proposed U.S./Canadian albacore treaty, one nation may operate under a different set of management directives than the other. One example given was that U.S. fishermen may be required to carry observers while Canadians may not depending on regulations. Also Canadians may not be required to have the same permit or any that U.S. fishermen will be required to possess while fishing within the EEZ of the U.S.

Scientific Information in the FMP

There is concern that the FMP contains data that has not been peer reviewed and in some situations is presented in an unsubstantiated or biased manner. There also is concern that the most recent data available is not included in the FMP. The HMSAS voted (7 yes, 1 no) to request the addition of a statement to the FMP that the data in this document is the best available science, but may not be the most recent and may not be peer reviewed. The recreational representative who voted no, noted that indeed more recent data may have come available during the plan development, however, a great deal of available historic data on recreational fishing was left out of the plan because an experienced recreational economist was never assigned to the plan team nor adequate budget committed to effectively compile and analyze available recreational data by the plan team economists. The representative also noted that while more recent data may have come available during the development of the FMP, that situation will almost always be the case. Additionally, there is no generally-accepted definition of what a peer review entails and that in fact the Scientific and Statical Committee of the Council provides a form of peer review. The recreational representative strongly supports the plan going forward with the preferred options despite the plan's shortcomings; as implementing the plan will provide an opportunity for funds to come available to compile good recreational baselines for future decision making under the plan's framework.

8.5.7 Comparisons of initial Magnuson Alternatives by Fishery.

The Plan Development Team agreed to add language to the chart Ch.8, Pg 41, in the row of "stock health." In the box under alternative 2 - Preferred Action it was agreed to eliminate the "period" and add the words "and domestic fleet harvest reduction."

**JOHN H. HENSLEY
P.O. BOX 506
SAN PEDRO, CA 90733-0506
(310) 710-0523**

RECEIVED

SEP 30 2002

PFMC

September 26, 2002

Dr. Donald Mc Isaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 220
Portland, Oregon 97220

RE: Highly Migratory Species Final Adoption
Drift Gill Net vs Albacore

Dear Dr. Mc Isaac

It is my understanding the final adoption (vote) on the Highly Migratory Species Plan is calendared for November 2002. I request a copy of my letter, with enclosures herein, be given to each and every Council member prior to vote.

For purpose of remembering who I am, and my previous request to the Council to give consideration to those fishers who are already in the California Drift Gill Net Fishery being able to change over, should this fishery be legislated out of business, to the Albacore Fishery without being sanctioned by a control limited entry date of March 9, 2000; enclosed please find a copy of my letter to your office dated January 12, 2002.

Please also find copy of letter from the National Marine Fishery Service dated September 23, 2002 relative to the California Drift Gill Net Fishery being closed during El Nino years. To my understanding, this year and next year may well be an El Nino year.

That as a California Drift Gill Netter I may be out of business in the immediate future.

Further, on February 12, 2002 I spoke with biologist Daniel Waldeck of the Pacific Fishery Management concerning the highly migratory draft plan limited entry control date and was advised the individuals who proposed the control date was the Highly Migratory Species Sub-Panel that included commercial fishers. Ironically those commercial fishers are also members of the Western Fishermen Owners Associations. That the WFOA each year negotiates with the canneries the price of albacore.

Have you got the picture, its having the fox guard the hen house!!!

Dr. Donald Mc Isaac, Executive Director
Pacific Fishery Management Council
September 26, 2002
Page 2

RE: Highly Migratory Species Final Adoption
Drift Gill Net vs Albacore

It is obvious that any and all advisory sub-panel members who are also a WFOA member have a vested interest in procuring an albacore limited entry program and a clear conflict of interest in recommending an albacore limited entry control date of March 9, 2000.

While it is necessary to have commercial fishers in an advisory sub-panel capacity, it should also be required that any vote to exclude other commercial fishers from an albacore fishery those commercial fishers advisory sub-panel members should recuse themselves.

In that I have been fishing highly migratory species prior to the proposed date of March 9, 2000 via drift gill net; that this fishery is being legislated out of business; that I be allowed to remain in the highly migratory species fishery (albacore); that the Council allow an unilateral change-over from drift gill net to albacore trolling.

Please advise of the date and place of the November 2002 meeting.

Very truly yours,



JOHN H. HENSLEY

COPY

JOHN H. HENSLEY
P.O. BOX 506
SAN PEDRO, CA 90733-0506
(310) 710-0523

January 12, 2002

Dr. Donald McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 220
Portland, Oregon 97220

RE: Highly Migratory Species Draft Plan

Dear Dr. McIsaac

I acknowledge receipt of the Pacific Fishery Management Council's Draft Fishery Management Plan and Environmental Impact Statement for U.S. West Coast Fisheries for Highly Migratory Species hereinafter referred to as the "Plan" that, frankly speaking, seems to favor certain fishers and therefore can only be interpreted as prejudicial to fishers, such as the undersigned.

For your consideration, I am a California Drift Gill-Netter for shark and swordfish. That there is a potential due to this "heavily regulated fishery" (Plan @ ES-4) that I could be out of business should this highly charged political-environmental trend continue.

There is every indication this trend will continue as evidenced by California Proposition 132 in 1990 putting the inshore gill netter who traditionally fished just off the beach out 3 miles from Point Conception to the Mexican border and locally in the Los Angeles and Orange County area out 12 miles effectively placing their target species out of reach and out of business.

Further evidencing the "trend" the National Marine Fisheries Service relative to the California Drift Net Fishery implemented gear restrictions, e.g., six fathom suspenders, and the use of pingers with the Marine Mammals Protection Act; and prohibited taking and zero tolerance of endangered species and most recently (August 2001) limiting fishing grounds above Pt. Conception by implementing the Pacific Leatherback Conservation Area. It is my understanding the NMFS now proposes in El Nino years limiting the fishing grounds from Pt. Conception to the Mexican border relative to the sea turtle.

It is clear the California Drift Net fishery is politically and environmentally charged and those fishers, such as myself, are in danger of being legislated out of business.

COPY

Dr. Donald McIsaac, Executive Director
Pacific Fishery Management Council
January 12, 2002
Page 2

RE: Highly Migratory Species Draft Plan

Should this happen, and like most fishers, I have all my monies invested in my boat and gear, after all it's been my living for many years, as in any business. Consequently, my only alternative would be to continue in the highly migratory species by supporting my family in the albacore surface hook and line fishery.

Unfortunately, the Highly Migratory Species Draft Plan proposes a limited entry plan with a control date of March 9, 2000. (Plan @ ES-11)

I am very concerning with the Council's position relative to albacore and related species that it is accepting a "plan" that "Some individuals from this fishery expressed concern to the Council that a limited entry program may be necessary to control excess capacity." (Plan @ ES-11).

That "In response to this concern" those individuals and **not** based upon scientific studies which clearly indicate there is no over fishing of the albacore as evidenced by the participation of vessels "peaking at more than 2,000 in the mid 1970's. In 1999, 775 troll vessels landed albacore." (Plan @ ES-3). In fact the number of vessels has sharply declined.

That the Status of Fish Stocks as mandated by the Magnuson-Stevens Act, and implemented by the IASTTC assessments which states "Presently the albacore stock is healthy, and stock and catches are both increasing . . . no regional harvest guideline is recommended"; Eastern Pacific Yellowfin Tuna "no regional harvest guideline is recommended"; Bigeye Tuna "no regional harvest guideline is recommended"; Skipjack Tuna "no regional harvest guideline is recommended and Northern Bluefin Tuna "no regional harvest guideline is recommended". (Plan @ ES-6--ES-7)

It seems the Council is favoring a certain group of fishers who want to eliminate any and all other fishers in the obvious hope they can drive the price of albacore up being the "only" ones fishing albacore. That knowingly or unknowingly the Council's proposed draft plan is creating a commodity (albacore) that is being controlled by one group of fishers, effectively, creating a monopoly that in all likelihood would be thrown into the judicial system for resolution.

I propose the Council give consideration to those fishers who are already in the California Drift Gill Net fishery being able to change over to the Albacore Fishery without being sanctioned by a control date of March 9, 2000.

COPY

Dr. Donald McIsaac, Executive Director
Pacific Fishery Management Council
January 12, 2002
Page 3

RE: Highly Migratory Species Draft Plan

I will be attending the February 2, 2002 public hearing in San Pedro, California and request that I am placed on the list of speakers as well.

Further that my letter be circulated to all members of the Council for the March 2002 Council meeting and that I am placed on the list of speakers as well.

Thank you for your courtesy and cooperation.

Very truly yours,

JOHN H. HENSLEY

cc: Congresswoman Jane Harman

COPY



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

SEP 23 2002

To: California/Oregon Drift Gillnet Vessel Owners and Operators

Enclosed is the Federal Register notice published on September 20, 2002, proposing to implement the time and area closure identified in the October 2000 biological opinion (BO) on the authorization to take listed marine mammals incidental to commercial fishing operations. Comments on the proposed rule must be postmarked or transmitted by facsimile by 5:00 p.m., Pacific Daylight Time, on October 21, 2002.

Under the Endangered Species Act (ESA), taking sea turtles or listed marine mammals, even incidentally, is prohibited, with exceptions identified in Title 50, Section 223.206, of the Code of Federal Regulations. The incidental take of endangered species may only be legally authorized by an incidental take statement in a biological opinion issued pursuant to section 7 of the ESA or an incidental take permit issued pursuant to section 10 of the ESA. In order for an incidental take statement to be issued, the incidental take must be not likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat.

On October 23, 2000, the National Marine Fisheries Service (NOAA Fisheries) issued a BO in which it determined that the current operation of the California/Oregon (CA/OR) drift gillnet fishery is jeopardizing the continued existence of loggerhead sea turtles. To avoid the likelihood of the CA/OR drift gillnet fishery jeopardizing the continued existence of loggerheads, NOAA Fisheries developed a Reasonable and Prudent Alternative (RPA) in the BO that consists of time and area closures of the CA/OR drift gillnet fishery when El Niño conditions are present.

The time and area closure during El Niño events would prohibit fishing with drift gillnets by the CA/OR thresher shark/swordfish drift gillnet fishery in U.S. waters off southern California, south of Point Conception (34°27'N) and west to the 120°W Longitude, from August 15 through August 31, and January 1 through January 31, when the Assistant Administrator for Fisheries publishes a notice that El Niño conditions are present.

Thank you in advance for your input on the proposed rule.

Sincerely,

Rodney R. McInnis

Rodney R. McInnis
Acting Regional Administrator

Enclosure

COPY



From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Re anti longline campaign.
To: daniel.waldeck@noaa.gov

11:00 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Jeremy Brown" <fvoneandall@hotmail.com>
Subject: Re anti longline campaign.
To: <pfmc.comments@noaa.gov>

9:34 AM

Dr McIsaac,

I have recently received a 'form letter' from the Sea Turtle Restoration Project that appears to be trying to incite further anti longline sentiment in order to pressure the Council in its decisions.

Several points emerge as I review the available literature on the subject;

- there are several quite different longline techniques, broad brush campaigns such as this generally ignore such details for maximum effect.
- the negatives cited; 'entangling dolphins, sea turtles, sea birds, billfish, sharks and other marine animals' etc are a potential problem with many fisheries, there is little to suggest that longlining solely is the problem. Sound management strategies exist to deal with specific concerns.
- problems cited from the Atlantic concerning Bluefin and Swordfish result from poor regulation and overharvest, not particular gear selection.
- Pelagic longlining remains at present the most efficient, effective and manageable technique for harvesting particular target species.

One has to suspect that there is more behind this campaign; if preservationists want to protect particular species and better monitor fisheries, let them make that case. If recreational anglers are looking for allocation benefits, let that be judged on its own merits.

The present campaign gives conservation a bad name.

Sincerely,

Jeremy Brown, 2002 Food and Society Policy Fellow.
3217 Greenwood Av,
Bellingham, Wa 98225.
(360) 715 3717.

PFMC Comments <pfmc.comments@noaa.gov>

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: No LongLine Fishing Please!!!
To: daniel.waldeck@noaa.gov

8:25 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Wes Burk" <Wes@WesBurk.com>
Subject: No LongLine Fishing Please!!!
To: <pfmc.comments@noaa.gov>

Tue 4:05 PM

I understand that the Pacific Fishery Management Council will finalize the Highly Migratory Species Fishery Management Plan in late October. As a concerned Californian I implore you to pay attention to the history of destruction and wastes proliferated by longline gear across all the Earth's oceans and refuse to allow this gear to become established in our west coast waters.

Our fisheries resources need protection and conservation, not more overexploitation. Vote for a management plan which provides for safe and precautionary conservation, collects good data and uses the best science to monitor the condition of our billfishes, tunas, sharks, and dorado. Don't allow longline gear into our Pacific west coast.

Wes Burk
www.WesBurk.com
Real Estate Real Easy

PFMC Comments <pfmc.comments@noaa.gov>

AS OF OCTOBER 10, 2002, 39 COPIES OF THIS CORRESPONDENCE WERE RECEIVED. ORIGINALS AVAILABLE UPON REQUEST.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Anti-Longline to Save the Ocean's Longlin.
To: daniel.waldeck@noaa.gov

Tue 8:11 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "lrichardson03" <lrichardson03@snet.net>
Subject: Anti-Longline to Save the Ocean's Longlin.

Tue 6:26 AM

To: <Fred.Keeley@assembly.ca.gov>, <doolittle@mail.house.gov>,
<M.Thompson@mail.house.gov>, <samfarr@mail.house.gov>, <graydavis@governor.ca.gov>,
<thesec@doc.gov>, <senator@feinstein.senate.gov>, <senator@boxer.senate.gov>,
<rhight@dfg.ca.gov>, <graydavis@governor.ca.gov>, <William.Hogarth@noaa.gov>,
<marty.golden@noaa.gov>, <jimlone@msn.com>, <pfmc.comments@noaa.gov>

Longliners drift miles and miles of baited lines and hooks, which act as walls of death for any passing fish or sea bird.

Longline fishing has destroyed fisheries around the world.

Mexico and Hawaii have banned this type of fishing

What the longline fishermen call "by-catch" and discard at sea, the rest of society calls beautiful creatures of the sea.

Longliners target "highly migratory species" which impacts the oceans globally, not locally.

Many of these species killed and discarded at sea are protected and otherwise illegal to catch and kill.

The technique of longlining can not be conducted to avoid the catching and killing of these non-targeted species.

In 1992 California Fish and Game Commission voted unanimously to bar this type of commercial fishing because of the inevitable by-catch and death of millions of sea mammals, turtles, birds, non-targeted fish and sharks.

Please stop all longlining!!!

All Longlining is environmentally and ethically irresponsible because of its inherent indiscriminate and non-specific nature of killing fish by commercial fishermen.

I Strongly urge you to do everything in your power to prevent the indiscriminate carnage and environmental massacre of our sea animals that would result if longlining were to be allowed within the 200 mile California Exclusive Economic Zone.

I am appalled that the Pacific Fishery Management Council is considering two proposals for longline permits.

Please say absolutely "NO!" to the Pacific Fishery Management Council for

longlines in the 200-mile California Exclusive Economic Zone.

Longline fleets have frequently moved from area to area decimating fish populations in their wake until their daily catches don't cover the cost of their daily operations. They then steam away to rape and pillage some other part of the ocean.

The introduction of long line fishing gear in California's 200-mile Exclusive Economic Zone must be stopped.

This type of commercial fishing kills everything in its path.

Miles and miles of lines with baited hooks unmercifully catch and kill millions of turtles, sea birds, seals, sharks, marlin and other non-targeted fish, which are unceremoniously dumped back into the ocean as by-catch.

How can we explain to our children that this form of mass destruction is OK.

The current proposal to allow longlining and the indiscriminate mass killing of non-targeted "by-catch" is outrageous.

We have banned off shore oil drilling in protected areas. We prohibit dumping of illegal chemical wastes in the ocean or the rivers and drainages that flow to the seas. We prohibit killing pelicans, seals, otters, dolphins, whales, elephant seals and turtles, so how can we possibly consider granting additional permits to kill these same animals we're trying to protect?

Longlining is currently prohibited off state of California, thanks to prior wisdom and leadership

PFMC Comments <pfmc.comments@noaa.gov>

AS OF OCTOBER 10, 2002, 14 COPIES OF THIS CORRESPONDENCE WERE RECEIVED. ORIGINALS AVAILABLE UPON REQUEST.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Oppose longlining on U.S. west coast
To: daniel.waldeck@noaa.gov

8:26 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: <lemmonfound@earthlink.net>
Subject: Oppose longlining on U.S. west coast
To: pfmc.comments@noaa.gov
CC: bhight@dfg.ca.gov, read@seaturtles.org

Tue 4:25 PM

As a concerned citizen I urge you NOT to allow longline fishing onto the Pacific west coast. I have heard that the Pacific Fishery Management Council plans to finalize the Highly Migratory Species Fishery Management Plan in late October, and I urge you to protect our seas and sea life from this indiscriminate fishing technique.

This style of fishing hooks or entangles dolphins, sea turtles, sea birds, billfish, sharks and other marine animals that I care about deeply. It kills too many threatened and endangered animals for me to condone, and no technical fix exists that can protect all of these "non-target" species.

In addition, longline fishing in the Atlantic and elsewhere has proved to be disastrous for fishers, because its large-scale effects lead to overfishing and too-few target fish such as swordfish and bluefin tuna. Please vote for a management plan that uses the precautionary principle to emphasize conservation, requires observers and good data collection, and will enable us to achieve abundant populations of both target and non-target species.

Courtney Lemmon
The Lemmon Foundation
15510 Sunset Blvd.
Pacific Palisades, CA 90272
lemmonfound@earthlink.net

PFMC Comments <pfmc.comments@noaa.gov>

AS OF OCTOBER 10, 2002, 28 COPIES OF THIS CORRESPONDENCE WERE RECEIVED. ORIGINALS AVAILABLE UPON REQUEST.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: NO LONGLINES
To: daniel.waldeck@noaa.gov

8:08 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: <RC4ME7@aol.com>
Subject: NO LONGLINES
To: pfmc.comments@noaa.gov

Tue 6:32 PM

It has come to my attention that you will be voting on the highly migratory species act soon. I have a great interest in this issue because i am a young fisherman that is worried about the status of the resources for my kids. If allowed these longlines will deplete and exploit our marine life the same way that they have on the east coast. Please llok at the facts about this very destructive form of fishing and vote for a plan that does not allow longlines. The generations to come will thank you for it.

A very concerned 16 year old fisherman,
Mitch Dreyer

PFMC Comments <pfmc.comments@noaa.gov>

AS OF OCTOBER 10, 2002, 20 COPIES OF THIS CORRESPONDENCE WERE RECEIVED. ORIGINALS AVAILABLE UPON REQUEST.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: longline fishing
To: daniel.waldeck@noaa.gov

8:45 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: Two Rabbits <snugglebaby@pobox.com>
Subject: longline fishing
To: rhight@dfg.ca.gov, pfmc.comments@noaa.gov

Thu 6:19 PM

Dear Mr. Robert Hight,

We are writing to you out of concern for the suggested re-introduction of long-line fishing on the west coast. This practice is extremely hazardous to many animals whose lives are lost as "bycatch." It would be a terrible tragedy to re-introduce this type of fishing. Sea turtles, albatrosses, countless seals die from long-line fishing.

Please do not allow long-line fishing along the west coast.

Sincerely,

Stephen and Susan Lawrence

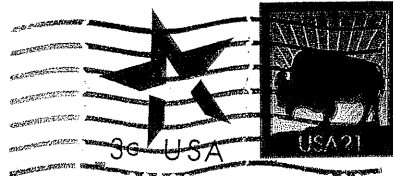
PFMC Comments <pfmc.comments@noaa.gov>

AS OF OCTOBER 10, 2002, 63 COPIES OF THIS CORRESPONDENCE WERE RECEIVED. ORIGINALS AVAILABLE UPON REQUEST.

United Anglers of Southern California

5948 Warner Ave.

Huntington Beach, CA 92649



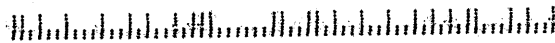
RECEIVED

SEP - 6 2002

PFMC

Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

97220-1384



Dear Dr. McIsaacs:

I am a California angler and I am opposed to the use of pelagic longlines in the 200-mile West Coast Exclusive Economic Zone (EEZ) and I still believe their prohibition should be the preferred option included in the pending Highly Migratory Species (HMS) fishery management plan (FMP).

West Coast HMS are fully utilized by existing gear types. Recreational success with HMS has already declined over the decades because of increased competition for these fish. California marine anglers spend over \$2.5 billion dollars per year in pursuing saltwater fish. Further increases in competition would without a doubt harm the State of California, reduce total business revenues, reduce total taxes collected, reduce funds for marine conservation, and reduce the value of being a Californian.

It is obvious - introducing longlines in EEZ waters would be extremely irresponsible to the environment and would be a huge step backwards for fisheries management and in fact violate federal law. In light of catastrophic problems with groundfish it is clearly the time to be proactive and prohibit longlining in the West Coast EEZ. Please ensure that longlines are permanently excluded from the EEZ in the final HMS FMP.

This plan primarily affects California and should recognize all existing State conservation and management programs regarding HMS and that the plan clearly requests to the NMFS that the council and public be fully involved in any future considerations for any potential experimental fishery (EFP) or change to State regulations. (Please Print Clearly)

Sincerely, Name:

BILL DAVIDOR

Address: 17421 CASPERS CIRCU

City: HUNTINGTON BEACH St: CA Zip: 92647

Signature:

Bill Davidor

AS OF OCTOBER 10, 2002, 850 COPIES OF THIS CORRESPONDENCE WERE RECEIVED. ORIGINALS AVAILABLE UPON REQUEST.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: longlines
To: daniel.waldeck@noaa.gov

8:29 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: Rich Holland <rich@wonews.com>
Subject: longlines
To: <pfmc.comments@noaa.gov>

Thu 2:42 PM

To whom it may concern:

In looking over the draft HMSFMP, it seemed to me the risk to the striped marlin fishery from longlines was extremely understated. Back in the early 90s I compiled the following (and attached) commentary/bibliography based on WPFMC publications when August Felando tried to open a longline fishery in California. That attempt was defeated, but efforts on the part of your organization subsequently opened California ports to the landing of longline fish. Since then we have suffered subpar striped marlin seasons, despite ideal conditions during this warm water phase. Even if you don't dig up the pubs, some of the information excerpted should be enough to open your eyes to the threat longlines pose to a traditional recreational fishery.

Sincerely,

Rich Holland
Western Outdoor News

The take of striped marlin in the Hawaii longline fishery.

Introduction

A number of documents regarding pelagic fisheries off the island chain of Hawaii were provided by Bob Harman, biologist for the Western Pacific Regional Fishery Management Council. Harman is an advocate of longlining as a gear type that is the least harmful in terms of interacting with non-targeted species (such as endangered marine mammals) and a highly efficient method of producing fish for both the local and global markets.

When Harman says the longline is the most benign of the gear types, he is comparing longlining to high seas drift nets and purse seine, two types of gear still in use in the 200 mile EEZ off California.

Harman says the council is working towards a balance between longlines and other traditional methods of fishing, both commercial and recreational. The council has initiated a moratorium on the entry of new vessels into the longline fishery. To limit interaction with traditional island fishermen, a closure to longline fishing was emplaced within 50 nautical mile of Maui and Hawaii counties and within 75 nautical miles of Kauai and Oahu counties.

Harman notes that Australia has also enacted a closure with 50 miles of the coast.

Harman said the closure has been hard on the small boat longliners, such as the sampans, but sees no way around the situation.

"It is certainly a good thing to keep the big gear well offshore, though a 25 mile closure probably would have been adequate," said Harman. "We (the council) actually put our restriction into effect before the state of Hawaii passed the closure in their three-mile zone."

In addition, a closure to longlining within 50 nautical miles of the banks and islands in the Northwestern Hawaiian Islands was put in force to protect endangered monk seals. Harman noted that most birds and marine mammals are excluded from interaction with the longline gear by the closure.

The three main reasons for the closures, in order of importance, were localized overfishing, interaction with protected species and the prevention of gear conflicts.

One point that came up repeatedly in discussions with Harman was the "different" situation in Hawaii as opposed to California when it comes to striped marlin. He noted that striped marlin were never caught by the traditional fleet, though he only has data for the commercial sector. There are no official records available for Hawaii recreational catches, Harman said. (Striped marlin are caught by the recreational fleet, though lowly regarded in waters that have so many blue marlin.) All data from the longline fleet indicates a huge striped marlin bycatch, though it is strictly not a bycatch since the striped marlin is marketable.

Since there is no stigma to commercial catches of striped marlin off of Hawaii, logbooks and observer programs are very telling as to the amount of striped marlin taken by the longline fleet. Documents detailing the results of these programs show large catches of striped marlin, no matter the bait or depth fished. Harman also admitted the need to study the take of sharks by longlines. Data shows large numbers of sharks hooked on monofilament longline gear.

A brief summary of the administrative documents follows.

Summary of Swordfish Longline Observations in Hawaii, July 1990-March 1991.
Robert A. Dollar, Southwest Fisheries Science Center, NMFS, Honolulu, HI.

The longline swordfishery in Hawaii was started in 1988 by the Magic Dragon. The vessel has since been seized and the master arrested for taking and possessing marine mammals (1990 Annual Report, August 1991, p. 13).

The fishery went from one vessel in 1988 to 50 longline vessels actively targeting swordfish in 1990, landing 3.5 million pounds of swordfish (valued at approx. \$6.2 million). (Other data shows the take climbed to 9.6 million pounds in 1991.)

As many as 20 east coast swordfish vessels have joined the Hawaii fleet due to regulatory changes in their home waters.

The current Pacific-wide catch of swordfish is 20 to 50 million pounds, with an estimated sustainable catch of 40 million pounds (Sakagawa 1989; Skillman 1989).

Observers were placed on 10 vessels for two reasons: (1) to investigate unconfirmed reports of interaction with sea turtles, seabirds and endangered marine mammals and (2) provide data on swordfish-directed longlining.

Cooperation was rated as excellent.

The probable death of a young humpback whale in the gear was observed, two sea turtles were cut free of the gear, and another turtle was found dead. A number of birds, mainly albatross, were killed or released from the gear.

Very important:

Page 3 contains a section heading titled Fishing Vessel Operations, the first paragraph of which reads "All vessels initially targeted swordfish. However, on three trips, catches of marketable-sized swordfish were low, so bigeye tuna were targeted instead. No modifications to the gear or fishing techniques were made during this switch in target species."

(The above quote is important because of the claims the proposed permittees have made about the "selectiveness" of the longline gear. The above are the two species the proposed permittees want to target. Still, large amounts of sharks and striped marlin are observed taken during these "targeted trips.")

This section goes on to detail the gear used and how it was deployed.

(Now, remember, these boats were targeting bigeye and swordfish, using the same methods for both and they end up catching all kinds of striped marlin and shark. The description is almost word for word how Felando says the proposed permittees will fish:

All vessels used monofilament gear.

There was an average of 22.5 to 36 hooks per mile.

Bait was large, whole squid (200-400 g), saury or mackerel.

*Felando claims the striped marlin will not eat squid from the longlines in Southern California waters, but the longliners also use two baits, saury and mackerel, that the same report Felando bases his claim on -- Activity Patterns of Striped Marlin in the Southern California Bight, Holts, Bedford -- says are major food sources for striped marlin. Since saury and mackerel are much more abundant locally than the giant squids, what will keep the longliners from using the cheap, local baits? Also the study cited admits to having done no stomach content analysis of the striped marlin, basing its generalization only on a couple of observed, daytime surface feeding activities.

Gear deployment usually started late in the day just before sunset and was completed by midnight.

Hauling commenced just after sunrise the following morning. Soak time lasted 8 to 16 hours.

*Again quoting Holts and Bedford, Activity of Striped Marlin, etc., Felando states that striped marlin are inactive in the night time. Yet the deepest dive recorded, 93 meters (305 feet), occurred after sunset. Likewise with the second deepest dive, which was to 295 feet. In fact, to quote Holts and Bedford, "four marlin spent their nighttime hours at a significantly greater depth than their daytime hours." The study also says that activity noted at night at depths showed signs of being feeding activity, but they were unable to confirm such. Not only are the striped marlin found at all depths from sunset to sunrise. The number of striped marlin taken as per the observers' tabulations bear this out.

The section title Catches has some important data, also

Data from another source (1991 Annual report, draft dated 24 June 1992) indicates that the average size of the swordfish taken by the Hawaii

longliners in 1991 dropped slightly. This in spite of what observers documented on page 4, last paragraph:

"Swordfish under 23 kg are commonly called 'rats' by the fishing industry, 23-45 kg swordfish are called 'pups,' and those over 45 kg are known as 'markers.' During five trips, the majority of the swordfish caught were rats. The rats were usually released regardless of whether they were dead or alive. Most of the rats were dead; however, two live rats were tagged with a dart tag and released. Swordfish destined for sale were headed, finned, gilled and gutted on board."

(Size is declining in spite of the fact small fish are thrown back. This shows that the overall size decrease is much greater than it seems.)

On page 5, the number one species hooked by longline is revealed to be sharks, mainly blue sharks. Paragraph 3 states:

"On most trips, sharks (by number) constituted the largest individual component of the catch, representing 33.2 % (range, 15-55%) of the total number of fish caught. Blue sharks (N = 754) were the major shark species. Most of the sharks (90%) were released rather than landed. Some dead sharks were finned, and the fins were dried to be sold commercially, mako, thresher, and pelagic white-tip sharks were usually landed and marketed with the rest of the catch. These species (N = 89) represented 2.5% of the total catch."

Page 9, Table 3, "Total number of fish caught, average daily catch and catch per unit effort (CPUE; number of fish per 100 hooks) during 10 trips by longliners in July 1990-March 1991." should be duplicated.

The table shows there were 115 striped marlin, 754 blue sharks, 22 mako sharks, 34 thresher sharks and another 300-plus miscellaneous shark species taken during the above time frame, as compared to 901 swordfish, 387 bigeye tuna and 171 yellowfin. It comes close to a 1 to 1 ratio of targeted and non-targeted species.

There were 1.10 blue sharks and 0.17 striped marlin taken for every 100 hooks the observers saw deployed. Combined, that again makes nearly a 1:1 ratio with the swordfish, of which there were 1.3 taken for every 100 hooks.

(I have not mentioned the take of blue marlin, since it is rare in our waters, but tables in the above and following documentation show a large number of blues taken in the gear.)

The Federally Mandated Longline Fishing Log Collection System in the Western Pacific. December 1991, Robert A. Dollar and Stacey S. Yoshimoto. Honolulu Laboratory, NMFS.

The WPRFMC voted in June of 1990 to impose a Federal logbook program on the longliners.

Table 2 and Table 3 on pp. 12 and 13 should be duplicated.

For 130 vessels on 559 trips using 3,460, 842 hooks between January and March 1991 logbooks reported 6,374 striped marlin and 13,969 sharks taken compared to 17,603 swordfish and 15,210 bigeye tuna.

The 128 vessels on 549 trips using 3,574,118 hooks (and 1,157, 971 light sticks -- studies are underway to develop a non-toxic alternative) from April through June 1991 logged in 26,700 swordfish and 5,959 bigeye tuna compared to 16,573 sharks and 6,287 striped marlin.

In the first quarter, there were 1.84 striped marlin taken for every 1,000

hooks deployed, while the figure was 1.76 in the second quarter. A total of 13,021 striped marlin were caught in just six months time.

(It should be noted that tagging studies have shown striped marlin at times migrate between the Hawaiian Islands and the Southern California Bight. Of course at this time there are no studies available on the affect this has had on our fishing.)

Page 16, pie graphs should be duplicated. The first quarter chart shows that sharks and other billfish total 32.6% of the catch compared to 24.1% for swordfish. In the second quarter it is 34.2 % sharks and other billfish versus 31.1% swordfish.

Page 20 has longline regulations in effect as of the time of the report.

Pelagic Fisheries of the Western Pacific Region, 1990 Annual Report, August 1991 WPRFMC

This report makes some interesting summations, and is the first time the Boggs study on hook timers is cited.

Item 9, p. 6 states that striped marlin ranked third among the PMUS (pelagic management unit species) in Hawaii, where the fish accounted for 16% of the commercial landings of PMUS. To quote "Striped marlin is regarded as a secondary target species, after bigeye tuna, in the winter longline fishery."

(Again, Felando's claim that the longliners can "target" fish and exclude striped marlin is shot down. The winter longline fishery in Hawaii, while primarily trying for bigeye, catches all kinds of stripers. So many, in fact, they have become a "secondary target species.")

The Boggs report "Depth, capture time and hooked longevity of longline-caught pelagic fish: timing bites of with chips" is cited on p. 16.

The report states that 32 % of striped marlin are caught on rising or falling hooks. But it also states that the majority are caught on settled hooks, usually less than 120 meters, while the bigeye tuna are caught at 200 meters or greater.

(The problem is, even with the advanced line shooters, a large number of the hooks are going to be in the top 120 meters. This is especially true when, as the permittees propose, the longliners fish at night. Both the bigeye and the swordfish come to the surface to feed at that time, so the lines are set shallow.)

The report mentions that many of the striped marlin and bigeye tuna were alive at capture, and there was a return from tagging of 2 bigeye and 1 striped marlin.

(Felando proposes to stop longlining when the first striped marlin is caught by a recreational angler. With longlines stretched all along the outside waters of the Bight, how will the striped marlin ever get within range? And how will catch and release be enforced, when there is a market for striped marlin?

Also, what about the migrations of other recreationally important species such as yellowtail and albacore? Yellowtail are protected from seining, but

the high takes of mahimahi in Hawaii seem to indicate that yellowtail will be vulnerable to the longlines as well.)

1991 Annual Report, draft date 24 June 1992

p. 6 item 8 longliners catch virtually all of the swordfish and striped marlin

p. 7 item 10 "the average size of swordfish dropped slightly in 1991"

p. 7 item 11 "in Hawaii, blue marlin landings declined again, from a high in 1989"


p. 7 item 14 "striped marlin...accounted for 10 % of the commercial landings of PMUS. The 1991 landings of 1.5 million pounds tied with the high recorded in 1989."

p. 10 Issues -- Blames increased take of small fish within EEZ on targeted efforts by troll and handline gear, saying longliners take bigger fish, but refuses to admit any causal relationship, instead concerned that such take of small fish will diminish recruitment of larger fish into the group harvested by the longliners.

Also shows a concern for purse seiners, though no data is available.

Appendix 4, D-2 "Longline fishermen may have taken more sharks than were reported (this may be true for other gear types, as well) and an undetermined amount of shark finning may have occurred."

Development of the Tuna Longline Fishery in the Pacific, Sean Martin,
Pacific Ocean Producers

 longline	Name: longline Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message
---	---

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

JEFF & CAROLE WOOD

2961 Birmini Place
Costa Mesa, CA 92626
(714) 444-1540

RECEIVED

OCT 04 2002

October 3, 2002

PFMC

Dr. Don McIssac, Executive Director
Pacific Fishery Management Council
770 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

Dear Dr. McIssac:

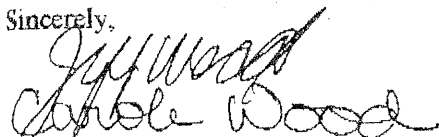
We understand that the Pacific Fishery Management Council will finalize the Highly Migratory Species Fishery Management Plan in late October. As concerned Californians, we urge you to pay attention to the history of destruction and waste proliferated by long line gear across all the Earth's oceans and pray that you refuse to allow this gear to become established in our west coast waters.

Our fisheries resources need protection and conservation, not more overexploitation. Vote for a management plan that provides for safe and precautionary conservation, collects good data and uses the best science to monitor the condition of our tunas, sharks, dorado and billfish. Please don't allow long line gear in our waters

Not only do Long Liners kill the targeted fish but a lot of BYCATCH (as they call it) is also killed. The bycatch and mortality of striped marlin, juvenile sharks and other species (swordfish, dolphin, sea turtles, seal and others) by use of this gear is already at unacceptably high levels

We want our children and their children to be able to experience the thrill of seeing these fish - not in a picture book that sits on our coffee table but through their own eyes when they see them "LIVE" in the ocean. This will not happen if these fishermen are allowed into our area to deplete these beautiful animals.

Sincerely,



Jeff and Carole Wood

RECEIVED

OCT 10 2002

PFMC

Fax 916/658-7387

October 10, 2002

Robert Hight, Director
California Dept. of Fish & Game
1416 Ninth Street
Sacramento, CA 95814

Dear Mr. Hight:

I am writing to respectfully request that you not permit longline fishing along the Pacific Coast. It seems so wasteful to injure or kill turtles, birds, and seals that get in the way of the longline. I know this fishing technique has been banned in U.S. waters. Please keep the ban in place. Thank you.

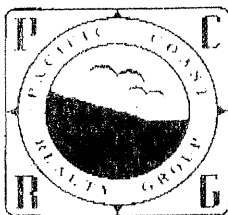
Sincerely,



Linda Baumann
12757 Johnson St.
Blaine, MN 55434

c: Dr. Don McIsaac, Pacific Fishery Management Council, fax 503/820-2299

PACIFIC COAST



REALTY GROUP

RECEIVED

Oct 8-02

Dear Dr. McIlwain

OCT 08 2002

PFMC

Concerning the long line fishing, and most important the marlin catch off the coast of Southern Calif.

The marlin are virtually gone. Core in point.

The Avalon Tuna Club has two tournaments in Sept, Oct. each year. The best anglers in So. Cal.

The first tournament caught two marlin the second caught two more.

Thirty five boats and 38 boats = 73
approx 4 anglers per boat = 292

4 fish divided into 292 = 73 fishing days per fish caught and released,

Compare with just 10 years ago
approx 3 days per fish.

NO LONG LINES PLEASE

Sincerely

Arthur Herbert

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: longlines
To: daniel.waldeck@noaa.gov

Tue 11:46 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Bruce Dodd" <bdodd@socal.rr.com>
Subject: longlines
To: <pfmc.comments@noaa.gov>

Tue 10:16 AM

I am a sportfisherman of 62 years, and don't want to see the West Coast decimated by longlines as the Atlantic and Gulf Coasts have been.

Thank You, Bruce Dodd

PFMC Comments <pfmc.comments@noaa.gov>



October 6, 2002

419 Old Newport Blvd., Newport Beach, CA 92663
(949) 642-6662 (949) 642-4510 Fax
www.anglerscenter.com

Dr. Don McIssac
Executive Director
Pacific Fishery Management Council
770 NE Ambassador Place, Ste. 200
Portland, OR 97220-1384

RECEIVED

OCT 07 2002

PFMC

Dear Director McIssac,

It is my understanding that the Pacific Fishery Management Council will finalize the Highly Migratory Species Management Plan later this month. As an avid angler and businessman in the sportfishing industry, I urge you to not allow the introduction of long line gear into the waters of the Eastern Pacific. The history of this gear type is that of waste and destruction across the world's oceans.

Please vote for a management plan that provides for precautionary conservation, and includes the use of the best available science to monitor the condition of our pelagic species.

Respectfully,

Dean Plant
President

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Long liners
To: daniel.waldeck@noaa.gov

11:02 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Jack Reimers" <jreimers@telair-oxnard.com>
Subject: Long liners
To: pfmc.comments@noaa.gov

10:37 AM

please read the following attachment.

Subject: No Long Lines!!!
Date: Tue, 01 Oct 2002 17:20:02 -0700
From: Jack Reimers <jreimers@telair-oxnard.com>
Organization: Telair International
To: rhight@dfg.ca.gov

Please do not allow long liners on our coast, the Pacific Fisheries Management Council should not justify doing this for economic reasons. The exploitation of our ocean resources by commercial interests has gone on long enough.

As a California coastal native having lived and fished the Santa Barbara and Ventura counties areas for over 45 years I have personally witnessed the destruction of our resources. The Bonito gone, Yellowtail, White Seabass and Halibut on a continual decline for 30 plus years, probably longer, few Calico Bass left, no more Cabezon or Cow Cod and the list goes on and on. Abalone gone, Lobsters few, decimation of Kelp forests because of unrestricted take of Sea Urchins.

The Government agencies that are now restricting Sport Fishermen with many questionable rules dare to even consider approving Long Liners that have proven just as the Gill Netters did that they are responsible for waste beyond are ability to even measure.

These agencies should act responsibly, instead of doing nothing for decades and then doing too much too late in the name of resource management.

I won't expect a reply to this e-mail, just please get off the dime AND DO SOMETHING!!!!!!!!!!!!!!

Jack Reimers
TAX PAYER

Jack Reimers <jreimers@telair-oxnard.com>

Jack Reimers
<jreimers@telair-oxnard.com>
Pager: 805-339-8369
Cellular: 805-794-3670
Fax: 805-278-4248
Work: 805-988-1902/163

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd:
To: daniel.waldeck@noaa.gov

8:35 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: Aamodt Frank <Frank.Aamodt@ths.siemens.gr>
Subject:
To: "bhight@dfg.ca.gov" <bhight@dfg.ca.gov>
CC: "pfmc.comments@noaa.gov" <pfmc.comments@noaa.gov>

Tue 10:01 PM

Gentlemen,

As a citizen of The European Community I urge you NOT to allow longline fishing onto the Pacific west coast. I believe that you are thinking of realizing the Highly Migratory Species Fishery Management Plan in late October, and I urge you to protect OUR sea wild life from this horrible fishing technique. This is far from a good and sophisticated fishing technique.

Those hooks entangle dolphins, sea turtles, sea billfish, sharks and other marine animals which we do NOT eat and generally threaten ENDANGERED animals. Please vote for a management plan that uses precautionary principle to emphasize conservation, with observers and good data collection, will enable you and us to achieve abundant populations of both target and non-target species

God bless you
Aamodt Frank, Siemens Tele Industry, Greece

PFMC Comments <pfmc.comments@noaa.gov>

RECEIVED

SEP 30 2002

9/21/02

PFMC

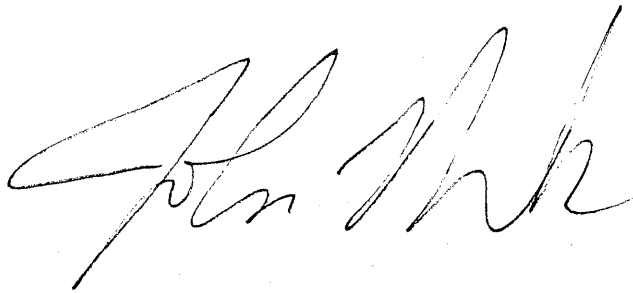
Dear Dr. Hans Radke,

I have had several opportunities to fish in the Pacific Ocean over the last ten years. I have fished in Guatemala, Panama, Mexico, California and Costa Rica several times each. I will be taking a job as a mate on a 60' sport-fishing boat in Costa Rica next spring. There is only one thing that keeps me coming back...Billfish! Please continue to protect billfish and other pelagics in the Pacific Ocean.

I would like to commend the Pacific Fishery Management Council for taking a precautionary and risk-averse approach in the conservation of tunas, billfish and sharks. I wholeheartedly support the council's decision to keep longliners out of the west coast 200-mile zone. Longliners have depleted fish stocks and kill many sea creatures indiscriminately. Not to mention the fact that there is far more money generated by sport-fisherman to local economies than by longliners. Furthermore, all vessels fishing beyond 200 miles from shore must be subjected to catch limits. None of this is going to work unless there is proper enforcement. Therefore, there must be mandatory vessel monitoring devices to ensure compliance with conservation measures.

Also, the council should require any new fishing gears or methods be rigorously tested to bycatch problems and potential solutions to these problems before allowed to enter the fishery. The council should craft strict guidelines for use by NMFS when granting Experimental Fishing Permits. In no circumstances should these permits be allowed so-called "Exploratory" fishing. Please continue to protect our pelagic fisheries from domestic and foreign exploitation!

Thank You, John Merrick



The Merrick Household
211 Randolph Square Ln
Richmond VA 23233-6154



Dr. Hans Radke, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place #200
Bethesda MD

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Long liners
To: daniel.waldeck@noaa.gov

Tue 9:53 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: <Palwal10dmm@aol.com>
Subject: Long liners
To: pfmc.comments@noaa.gov

Tue 8:04 AM

<PRE>How could we even think about letting long liners fish here, they have ruined the fishing where ever they have been. Let them and the gill netters fish in Japan where they belong. David Marinsik

PFMC Comments <pfmc.comments@noaa.gov>

RECEIVED

AUG 19 2002

PFMC

Fred Hall & Associates

American Sportfishing Association

P.O. Box 2925

Camarillo, CA 93011

(805)389-3339 • Fax (805)389-1219

www.fredhall.com

August 16, 2002

Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

Dear Dr. McIsaac:

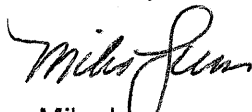
I am a California angler and I am opposed to the use of pelagic longlines in the 200-mile West Coast Exclusive Economic Zone (EEZ) and I still believe their prohibition should be the preferred option included in the pending Highly Migratory Species (HMS) fishery management plan (FMP).

West Coast HMS are fully utilized by existing gear types. Recreational success with HMS has already declined over the decades because of increased competition for these fish. California marine anglers spend over \$2.5 billion dollars per year in pursuing saltwater fish. Further increases in competition would without a doubt harm the State of California, reduce total business revenues, reduce total taxes collected, reduce funds for marine conservation, and reduce the value of being a Californian.

It is obvious – introducing longlines in EEZ waters would be extremely irresponsible to the environment and would be a huge step backwards for fisheries management and in fact violate federal law. In light of catastrophic problems with groundfish it is clearly the time to be proactive and prohibit longlining in the West Coast EEZ. Please ensure that longlines are permanently excluded from the EEZ in the final HMS FMP.

This plan primarily affects California and should recognize all existing State conservation and management programs regarding HMS and that the plan clearly requests to the NMFS that the council and public be fully involved in any future considerations for any potential experimental fishery (EFP) or change to State regulations.

Sincerely,



Mike Lum
Associate Producer
Fred Hall and Associates

SEP 16 2002

PFGC

Two page fax to Dr. Don McIsaac, Executive Director Pacific Fishery Management Council.

REFERENCE ...A plea on behalf of millions who fish our waters. We need your help and logic?

Bob,

I am fifty years of age I have been fishing since the age of four and deep sea since the age of twelve. I have had the privilege of fishing in a number of different countries and in every case where heavy commercialization has stepped in; including longlining, fish stocks have been threatened.

There is so much evidence against longliners as sustainable way to harvest fish for the long term, not to mention the massive waste often induced as a result of the by-catch. With the preponderance of scientific evidence against this practice, I am amazed this debate still rages.

I am never the less, **encouraged by moves afoot by the South African government to outlaw this greedy practice** in some of their waters and to rather allow for **harvest of species like the Broadbill Swordfish to be harvested as a tourist and sportsfish trophy using only rod and reel**. Thank God! Someone has finally realized these game fish are **worth so much more in tourist dollars, jobs etc.** It is a **researched fact** that Sportfishing yields so much more per dollar value, per lb or kg of fish than that of the exhausted commercial fishing industry. I am sure the department of fisheries in South Africa would be willing to share their data that helped them reach this decision. Come on USA! Why are we so intimidated by big money, litigation and people's feelings that we remain paralyzed from doing the right thing? **It is simple arithmetic**; you cannot keep taking eggs from the chicken coup faster than the hens can lay them.

The fact remains the same, **rod and reel as a method of harvest has been proven in every country that has done a comparison study, to show that it has the least negative impact on fish populations.** And yet it creates by far, more jobs by the decentralization of a resource rather the concentration of wealth to a few large commercial operators using longlines, gill nets etc. By returning areas and specifically most game species to exclusive capture by **rod and reel, it allows maximum capitalization on a resource** with least negative impact. By the return of this resource to the hands of the smaller fleet owners and private operators it will inevitably bring about a decentralization as well as a **redistribution of wealth to many, instead of just in the hands of few big commercial operators.**

Sure the price of fish will go up! Actually I see this as a good thing as it will mean less demand on this dwindling resource yet it will appreciate the per pound value of the existing resource. Surely this is **worth it to avoid the total collapse of stocks.**

You might consider calling world-renowned researcher Dr. Rudi Van Der Elst at the aquarium in Durban South Africa. He has useful data on the line fisheries (rod and Reel commercial fishing on the East coast of South Africa) Also, he might also have data on the Comores Islands and how for many generations they had sustainable fish stocks so long as everyone was fishing rod and reel or just handline.

What I do know is I have just as much right to these resources as the big commercial operators but I also insist that those destroying this resource change their practices. **If all else fails**, it might be up to us, those who are concerned, **to exercise our consumer right and put public pressure on retail outlets to stop retailing species that are harvested though longlining.** Also, to follow-up with some sort of public awareness campaign. Public embarrassment using the media nearly always seems to get our public officials to do the right thing.

After all, if we boast to the world we are a democracy surely we need to democratize the use of this resource by dispensation to the maximum number of people though **sustainable methods** and not to a few **commercial heavyweights who act as if this resource is their exclusive domain.** Their track records speak for themselves; they have been greedy and reckless with this resource that belongs to "We The People". **Their recklessness has endangered our resource therefore they should be disqualified from continuing to act with such impunity,** so far measures to curb their destructive practices have been cosmetic, we hope this time our elected officials will do something practical and give us some legislation with real teeth.

Thankyou for your time and consideration!

Yours Faithfully,
John Rose

— John Rose
— facewaves@earthlink.net

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Longlines
To: daniel.waldeck@noaa.gov

8:15 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: Rick Gaffney <captrick@aloha.net>
Subject: Longlines
To: <pfmc.comments@noaa.gov>

Sat 2:15 PM

Longline fishing in Hawaiian waters has had a dramatic (negative) impact on the sport fisheries of the Central Pacific. Where our tuna fisheries consistently delivered yellowfin tuna in excess of 250 pounds, we are now extremely lucky to encounter any fish of over 200 pounds. Where we could count on occasional fishing days with as many as a half-dozen tuna over 150 pounds we now consider ourselves very lucky to catch a single tuna over that weight in any fishing day. The recent restrictions on Hawaii based longliners have had a dramatic (positive) impact on the quality of our marlin fishery. There is no need for experimental longline fishing off the California coast. We have conducted that experiment off Hawaii. Longlines have proven to be detrimental to sport fisheries. Longlines are detrimental to fisheries in general. Keep longlines out of America's coastal waters. Aloha,

-- Rick Gaffney
73-1062 Ahikawa Street
Kailua-Kona, HI 96740
phone: 808 325-5000
fax: 808 325-7023

PFMC Comments <pfmc.comments@noaa.gov>

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: longliners
To: daniel.waldeck@noaa.gov

8:09 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Tim Wynne" <timwynne@attbi.com>
Subject: longliners
To: <pfmc.comments@noaa.gov>

Tue 10:32 PM

It has come to my attention the vote on longlineing here in california is to be voted on this October, Please be encouraged to vote this down as our coastal waters could not stand the rape and carnage these longliners would be on it. Thanks Tim

PFMC Comments <pfmc.comments@noaa.gov>

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Long Lines
To: daniel.waldeck@noaa.gov

8:07 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "ron moss" <ronmoss@hotmail.com>
Subject: Long Lines
To: bhight@dfg.ca.gov
CC: pfmc.comments@noaa.gov

9/9/2002 1:22 PM

Sirs,

I am writing this not only as a "pleasure boater" but one who comes from a commercial fishing family and have been a commercial fisherman myself. I fished on the Atlantic on every thing from bottom trawlers to longlines. I have taken part in and witnessed the destruction of bottom structure to different species of fish. My family is still trying to make a living at it with the constraints of government directives which are occasionally right but many times foolish.

It is my understanding that the Pacific Fishery Management Council will finalize the Highly Migratory Management Plan in October. I hope that you will consider the history of longlines in the Atlantic and refuse to allow that gear in the Pacific. Look even closer to what has happened in Hawaii. I visited Yap in the Pacific and since they started longlining there they are now going out further and staying out longer as the local fisheries have been hard hit.

There is no question that in todays world of technology we can catch fish faster than they can maintain a sustainable yield. It is foolish to reduce a specy and then track how long it will take them to buid back up and call it responsible management.

Hopefully you can vote for a plan that will call for a conservation approach in the face of the pressure you are getting from others to open the Pacific to longlines.
Thanks for your time.

Chat with friends online, try MSN Messenger: <http://messenger.msn.com>

PFMC Comments <pfmc.comments@noaa.gov>

RECEIVED

JUL 29 2002

PFMC

25 JULY 2002

DEAR SIR:

I WOULD LIKE TO TAKE THE OPPORTUNITY TO EXPRESS MY FEELINGS ABOUT THE PROPOSED "EXPERIMENTAL" LONGLINING BEING CONSIDERED FOR OFFSHORE CALIF. WATERS.

IN LIGHT OF WHAT HAS HAPPENED TO ATLANTIC BILLFISH STOCKS OFF OUR EASTERN COAST (AS A DIRECT RESULT OF LONGLINES), IT IS LUDICROUS THAT ANYONE WOULD EVEN CONSIDER ALLOWING LONG LINING OFF THE CALIF. COAST! YOU WELL KNOW THAT LONGLINES ARE INDISCRIMINATE BY THEIR NATURE, TAKING AND MOST ALWAYS KILLING SPECIES OTHER THAN THOSE BEING TARGETED. FOR EXAMPLE, U.S.

LONGLINERS KILL MORE THAN 20,000 ALBATROSS ANNUALLY. THE JAPANESE LONGLINERS KILL TWICE THAT MANY ANNUALLY.

IT SEEMS TO ME THAT

COMMERCIAL FISHING INTERESTS AND
APPLYING POLITICAL PRESSURE TO
ALLOW LONGLINES OFF CALIF.
THEY HAVE ALREADY WRECKED
HABITAT ON PACIFIC GROUNDFISH
SPECIES THROUGH ANOTHER
INDISCRIMINATE FISHING METHOD, THAT
OF GROUND TRAWLING. THEY HAVE
MADE THEIR BEDS: LET THEM
SLEEP IN THEM! DO NOT GIVE
THEM THE OPPORTUNITY TO DESTROY
MORE SPECIES - THIS TIME THAT
WOULD BE PELAGIC SPECIES, WHICH
ARE THE BACKBONE OF MANY
RECREATIONAL FISHING OPERATIONS IN
CALIF., WHO TAKE A MINISCULE
PERCENTAGE OF FISH WHEN
COMPARED TO COMMERCIAL OPERATIONS.

PLEASE, MR. McESSAG, DO THE
RIGHT THING. THAT IS TO WORK TO
PREVENT LONGLINES FROM BEING USED
IN OUR OFFSHORE WATERS. IF THEY
ARE ALLOWED, YOU KNOW WHAT
THE RESULTS WOULD BE.

RESPECTFULLY,

Doreen Jenkins

Ashwill Associates

Commercial Real Estate

17890 Castleton Street, Suite 128

Industry, CA 91748 (626) 854-3700 Fax (626) 854-3709

August 22, 2002

Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

RECEIVED

AUG 26 2002

PFMC

Dear Mr. McIsaac:

I am a California angler and I am opposed to the use of pelagic longlines in the 200-mile West Coast Exclusive Economic Zone (EEZ) and I still believe their prohibition should be the preferred option included in the pending Highly Migratory Species (HMS) fishery management plan (FMP).

West Coast HMS are fully utilized by existing gear types. Recreational success with HMS has already declined over the decades because of increased competition for these fish. California marine anglers spend over \$2.5 billion dollars per year in pursuing saltwater fish. Further increases in competition would without a doubt harm the State of California, reduce total business revenues, reduce total taxes collected, reduce funds for marine conservation, and reduce the value of being a Californian.

It is obvious – introducing longlines in EEZ waters would be extremely irresponsible to the environment and would be a huge step backwards for fisheries management and in fact violate federal law. In light of catastrophic problems with groundfish it is clearly the time to be proactive and prohibit longlining in the West Coast EEZ. Please ensure that longlines are permanently excluded from the EEZ in the final HMS FMP.

This plan primarily affects California and should recognize all existing State conservation and management programs regarding HMS and that the plan clearly requests to the NMFS that the council and public be fully involved in any future considerations for any potential experimental fishery (EFP) or change to State regulations.

Sincerely,



David E. Brackmann

Dear Sirs,

RECEIVED

SEP - 5 2002

PFMC

I am against a long line fishery in
California Waters.

Sincerely
David Thompson
Avalon, CA

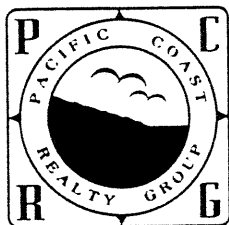
D. Thompson
Box 2937
Avalon, CA 90709



Don McIsaac
P.F.M.C.
NE Ambassador Place
Suite 200
Portland, OR 97220-1384



PACIFIC COAST



REALTY GROUP

Oct 8-02

RECEIVED

OCT 15 2002

Dear Sirs

Pacific Fisheries Management Council **PFMC**

Concerning the long line fishing, and most important the marlin catch off the coast of Southern Calif.

The marlin are virtually gone. Case in point.

The Avalon Tuna Club has two tournaments in Sept, Oct. each year, The best anglers in so. Cal.

The first tournament caught two marlin the second caught two more.

Thirty five boats and 38 boats = 73.
approx 4 anglers per boat = 292

4 fish divided into 292 = 73 fishing days per fish caught and released,

Compare with just 10 years ago
approx 3 days per fish.

NO LONG LINES PLEASE

Sincerely

Curtis Herbert



RECEIVED

OCT 15 2002

PFMC

October 11, 2002

Dr. Don McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Pl., Suite 200
Portland, OR 97220-1384

Dear Mr. Mc Isaac:

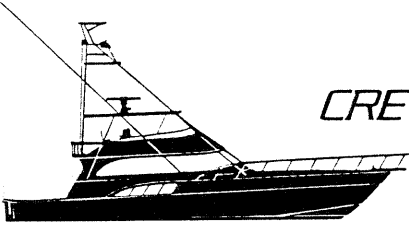
It has come to my attention that your organization is planning to reconsider the use of longline fishing techniques inside the Exclusive Economic Zone. As you are aware, the serious indiscriminate destruction that this technique causes to endangered wildlife including seals and birds has led to it's being banned in U.S. coastal waters.

As a tour operator, I have often traveled to the Pacific Coast and market it to many groups who travel with our company. What I have commented on consistently is the way in which in that area of the country seems to consciously preserve it's natural beauty and resources. Being a resident of the east coast of Florida where our beautiful coastlines have been inundated with high-rise condos in every direction, I can appreciate the conservation efforts of our Pacific coast, from Seattle to Oregon to the incomparable coastline of California.

I urge you, Mr. Hight, to continue the west coast tradition of conservation and preservation. We travel to your coast to see and appreciate the natural beauty of our great nation, and would hate to see those efforts destroyed through this very destructive fishing method. I thank you in advance for your cooperation and for being a voice for those who cannot speak for themselves.

Sincerely,

Michele Verdi, Vice President
Tours of Vision, International, Inc.



CREW WEST MARINE ELECTRONICS, INC.

760 West 16th Street, Unit H • Costa Mesa, CA 92627

(949) 646-4346 • FAX (949) 646-0928

crewwest@ix.netcom.com

10/9/02

RECEIVED

OCT 15 2002

Dear Sirs,

PFMC

I am an avid local sportfisherman as well as a business owner with ties to the marine industry. Besides all of the obvious issues regarding the fisheries destruction and waste proliferated by longline gear, I want you to be aware of the potential impact to business here on the West Coast of California.

I own a marine electronics business. I sell 2 million per year in electronics, sales, installation and service to primarily local recreational sportfisherman. Most of my customers already support conservation by a tag and release policy of all billfish and most will catch (and of course release) only a few billfish per year as true fair sportsmen. Should the sure destruction of our local fishing occur as a result of permitting longliners here, so will the destruction of our local marine related business follow. No decent fishing will precede elimination of recreational sportfishermen. Boat sales, electronics sales, etc. etc, will die out here.

If caring about the depleted fisheries is not enough, please consider your government's own potential loss of revenue in taxes earned in a healthy marine related economy. Please do not allow longline gear into our waters

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jahn", with a horizontal line extending to the right.

Bill Jahn

Pres. – Crew West Marine Electronics

RECEIVED

OCT 15 2002

PFMC

Dear Doctor Don McISAC,

I have fished the California pelagic belt for 30 of my 35 years of life. I have worked very closely with the Department of Fish & Game Long Beach Tagging Sharks extensively. I was the #1 shark tapper of Mako Sharks 3 years running & have tagged roughly 250 Mako Sharks. Over the years I have seen Mako & Blue shark stocks decline significantly. We used to see many blue sharks finning daily. today we are lucky to see a handful a year. I feel our stocks have been depleted by Mexican longliners and gillnetters extensively. I feel our own gillnet fleet is at fault also. I really feel that California is maxed out on the pressure our resource can stand. Our waters need protection and have been exploited to their fullest. Please do not allow longlines into our waters.

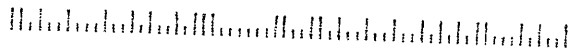
Sincerely Jason Blumer

United Anglers of Southern California
5948 Warner Ave.
Huntington Beach, CA 92649



RECEIVED
OCT 14 2002
PFMC

Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384



Dear Dr. McIsaac:

I am a California angler and I am opposed to the use of pelagic longlines in the 200-mile West Coast Exclusive Economic Zone (EEZ) and I still believe their prohibition should be the preferred option included in the pending Highly Migratory Species (HMS) fishery management plan (FMP).

West Coast HMS are fully utilized by existing gear types. Recreational success with HMS has already declined over the decades because of increased competition for these fish. California marine anglers spend over \$2.5 billion dollars per year in pursuing saltwater fish. Further increases in competition would without a doubt harm the State of California, reduce total business revenues, reduce total taxes collected, reduce funds for marine conservation, and reduce the value of being a Californian.

It is obvious - introducing longlines in EEZ waters would be extremely irresponsible to the environment and would be a huge step backwards for fisheries management and in fact violate federal law. In light of catastrophic problems with groundfish it is clearly the time to be proactive and prohibit longlining in the West Coast EEZ. Please ensure that longlines are permanently excluded from the EEZ in the final HMS FMP.

This plan primarily affects California and should recognize all existing State conservation and management programs regarding HMS and that the plan clearly requests to the NMFS that the council and public be fully involved in any future considerations for any potential experimental fishery (EFP) or change to State regulations. (Please Print Clearly)

Sincerely, Name: Anthony Popay
Address: 926 Battery St.
City: San Pedro St: CA Zip: 90731
Signature: Anthony Popay

Between October 10, 2002 and October 15, 2002, 58 copies of this post card were received.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: LONGLINE FISHING KILLS MORE THAN THE TARGET
To: daniel.waldeck@noaa.gov

3:09 PM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Christina Tarman" <cinmsugr@mybluelight.com>
Subject: LONGLINE FISHING KILLS MORE THAN THE TARGET
To: pfmc.comments@noaa.gov
CC: rhight@dfg.ca.gov

9:44 AM

Longline fishing is a dangerous and indiscriminate fishing technique killing far more than its target. Countless seals, endangered sea turtles, sharks, threatened birds such as albatrosses, and non-target fish are also caught and killed. Because of this it's been banned in U.S. coastal waters and should CONTINUE TO BE BANNED!

Sincerely yours,

Christina Tarman
1913 Forest Rd.
Edmond, OK 73003

Sign up for Internet Service under \$10 dollars a month, at <http://isp.BlueLight.com>

| |
|--|
| PFMC Comments <pfmc.comments@noaa.gov> |
|--|

Between October 10, 2002 and October 15, 2002, 22 copies of this correspondence were received.

OCTOBER 11TH, 2002

DR. DON MCISSAC
PACIFIC FISHERY MANAGEMENT COUNCIL
770 NE AMBASSADOR PLACE, SUITE 200
PORTLAND, OR 97220-1384
FAX: 503-820-2299

DEAR DR. MCISSAC,

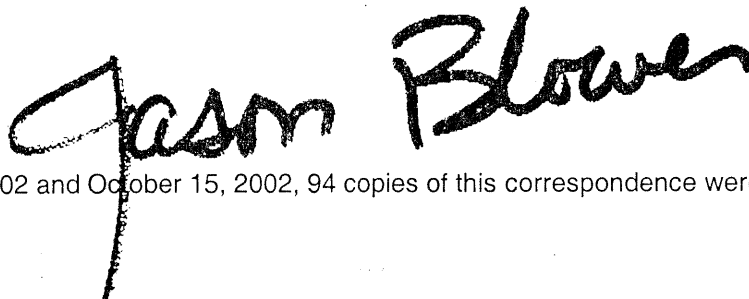
I UNDERSTAND THAT THE PACIFIC FISHERY MANAGEMENT COUNCIL WILL
FINALIZE THE HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN IN LATE
OCTOBER.

AS A CONCERNED CALIFORNIAN WHO APPRECIATES AND ENJOYS ALL OF OUR
NATURAL RESOURCES, I IMPORE YOU TO PAY ATTENTION TO THE HISTORY OF
DESTRUCTION AND WASTE PROLIFERATED AGAINST ALL FISH SPECIES BY
LONGLINE GEAR ACROSS ALL OF THE EARTH'S OCEANS AND REFUSE TO ALLOW
THIS SO CALLED " FISHING " TO BECOME ESTABLISHED IN OUR WEST COAST
WATERS

OUR FISHERIES RESOURCES NEED PROTECTION AND CONSERVATION, NOT MORE
OVEREXPLOTATION. OUR WATERS AND THE WATERS BORDERING WITH MEXICO
ARE CRITICAL BREEDING AND BROODING GROUNDS FOR MANY OF THE
IMPORTANT FISH SPECIES OF THE PACIFIC

WE FEEL IT IS CRITICAL THAT A VOTE FOR A MANAGEMENT PLAN THAT PROVIDES
FOR SAFE AND PRECAUTIONARY CONSERVATION, COLLECTION OF ACCURATE
DATA, AND THE BEST SCIENCE TO MONITOR THE POPULATIONS AND CONDITION
OF OUR TUNAS, SHARKS, DORADO AND BILLFISH AND THEIR HABITATS DON'T
ALLOW LONGLINE GEAR INTO OUR WATERS. HELP US CONSERVE THIS PRECIOUS
RESOURCE FOR FUTURE GENERATIONS

SINCERELY,

A handwritten signature in black ink that reads "Jason Blower". The signature is written in a cursive, slightly slanted style. The first name "Jason" is written in a larger, more prominent script, and "Blower" is written in a similar but slightly smaller script. The signature is positioned below the "SINCERELY," and above the date line.

Between October 10, 2002 and October 15, 2002, 94 copies of this correspondence were received.

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: Louis LaPierre <zygops@earthlink.net>

Sun 9:46 AM

Subject: NO to longlining!

To: <Fred.Keeley@assembly.ca.gov>, <doolittle@mail.house.gov>,
<M.Thompson@mail.house.gov>, <samfarr@mail.house.gov>, <thesecc@doc.gov>,
<senator@feinstein.senate.gov>, <senator@boxer.senate.gov>, <righth@dfg.ca.gov>,
<graydavis@governor.ca.gov>, <William.Hogarth@noaa.gov>, <marty.golden@noaa.gov>,
<jimlone@msn.com>, <pfmc.comments@noaa.gov>

Dear respected Leaders:

The introduction of long line fishing gear in California's 200-mile Exclusive Economic Zone must be stopped.

This type of commercial fishing kills everything in its path.

Longliners target 'highly migratory species' which impacts the oceans globally, not locally.

Miles and miles of lines with baited hooks unmercifully catch and kill millions of turtles, sea birds, seals, sharks, marlin and other non-targeted fish, which are unceremoniously dumped back into the ocean as by-catch.

Many of these species killed and discarded at sea are protected and otherwise illegal to catch and kill.

We have banned off shore oil drilling in protected areas. We prohibit dumping of illegal chemical wastes in the ocean or the rivers and drainages that flow to the seas. We prohibit killing pelicans, seals, otters, dolphins, whales, elephant seals and turtles, so how can we possibly consider granting additional permits to kill these same animals we're trying to protect?

Longlining is currently prohibited off state of California, thanks to prior wisdom and leadership.

In 1992 California Fish and Game Commission voted unanimously to bar this type of commercial fishing because of the inevitable by-catch and death of millions of sea mammals, turtles, birds, non-targeted fish and sharks.

How can we explain to our children that this form of mass destruction is OK.

Please say absolutely 'NO!' to the Pacific Fishery Management Council for longlines in the 200-mile California Exclusive Economic Zone.

Regards,

Louis M. LaPierre
San Bernardino, CA

Between October 10, 2002 and October 15, 2002, 7 copies of this email were received.

Elaine Adair
5200 West Beach Blvd
Gulfport, MS 39501

11 October 2002

California Department of Fish & Game
1416 Ninth Street
Sacramento, CA 95814

Attn: Mr. Robert Hight, Director

I am writing to you because I have just learned that the Pacific Fisheries Management Council will be making a decision on whether or not to allow vessels on the U.S. West Coast to start using longline fishing inside the Exclusive Economic Zone, a 200-mile-wide belt along the coast.

It is my understanding that the practice of "longline" fishing was banned in U.S. Coastal Waters because it is a dangerous and indiscriminate fishing technique, used in open sea waters, that kills far more than the animals it targets so please don't allow "longline" fishing off the Pacific Coast.

Lastly, I am thankful that our government had recognized that "longline" fishing has caused massive incident capture, injury and death to countless seals, endangered sea turtles, sharks albatrosses and non target fish and I hope that you will not lift the ban on "longline" fishing.

Sincerely,

Elaine Adair

Cc: Dr. Don McIssac, Executive Director
Pacific Fishery Management Council
7700 NE ambassador Pl, Suite 200
Portland, OR 97220-1384

Between October 10, 2002 and October 15, 2002, 43 copies of this correspondence were received.

Dr. Don McIsaac , Executive Director
Pacific Fishery Management Council
770 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

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OCT 15 2002

PFMC

As a concerned citizen I urge you NOT to allow longline fishing onto the Pacific west coast. I have heard that the Pacific Fishery Management Council plans to finalize the Highly Migratory Species Fishery Management Plan in late October, and I urge you to protect our seas and sea life from this indiscriminate fishing technique.

This style of fishing hooks or entangles dolphins, sea turtles, sea birds, billfish, sharks and other marine animals that I care about deeply. It kills too many threatened and endangered animals for me to condone, and no technical fix exists that can protect all of these "non-target" species.

In addition, longline fishing in the Atlantic and elsewhere has proved to be disastrous for fishers, because its large-scale effects lead to overfishing and too-few target fish such as swordfish and bluefin tuna. Please vote for a management plan that uses the precautionary principle to emphasize conservation, requires observers and good data collection, and will enable us to achieve abundant populations of both target and non-target species.

BACKGROUND

Longlines can be up to 60 miles long with more than 2,000 baited hooks on each line. These nearly invisible lines catch any animal that bites or is unfortunate enough to become hooked or entangled while swimming in its path.

Global sentiment against longlining is growing. This August over 370 scientists from 42 nations, including E.O. Wilson, Paul Ehrlich, Sylvia Earle, and the most prominent scientists of our times, signed an open letter calling for an end to pelagic longline fishing. Over 70 environmental groups, including the Sierra Club, Friends of the Earth, National Resource Defense Council, Friends of the Earth, and Defenders of Wildlife signed a similar letter. A federal judge has banned Hawaii-based boats from longlining for swordfish.

Don't let California make the same mistake.

Michele Reese
262 Clay St
Monterey, CA 93940





THE BILLFISH FOUNDATION

CONSERVATION THROUGH RESEARCH, EDUCATION AND ADVOCACY

2161 E. Commercial Blvd., 2nd Floor • Fort Lauderdale, Florida 33308
177 Riverside Ave., Suite F, #1034 • Newport Beach, California 92663
(954) 938-0150 • (800) 438-8247 • Fax (954) 938-5311

October 18, 2002

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President
Ellen M. Peel, J.D., LL.M.
Ft. Lauderdale, Florida

AGENDA Topic D

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OCT 22 2002

PFMC

Dr. Donald McIlsac
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

Dear Dr. McIlsac:

The Billfish Foundation (TBF) thanks you and the Council for this opportunity to comment on the proposed Draft Fishery Management Plan and Environmental Impact Statement for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). We have appreciated the opportunity to interact and work with the Council and the Plan Development Team (PDT) in the very positive and transparent process you established for preparing this Plan.

COUNCIL PREFERRED OPTIONS

We fully support the Council's preferred options that would:

- prohibit the commercial harvest or sale of striped marlin,
-
- establish a voluntary recreational catch-and-release program,
-
- prohibit the use of pelagic longline gear within the EEZ, and
-
- apply all conservation and management measures imposed upon western Pacific longline vessels (electronic vessel monitoring, observers, prohibition on fishing for swordfish north of the Equator, observation of time/area closure to tuna sets, etc.) to west coast-based longline vessels fishing on the high seas beyond the EEZ.

These measures are firmly based on the fundamental dictates of the Magnuson-Stevens Act to prevent overfishing and eliminate or reduce bycatch. Given the paucity of scientific information on stock

structure and status for most eastern Pacific HMS, the Council's adoption of a precautionary management approach is very wise. This approach is warranted by the history of previous national and international efforts at the management of HMS fisheries. The PFMF's decision is supported by the fact that existing pelagic longline gear used in all other U.S. jurisdictions has high levels of finfish, especially billfish, bycatch and discard rates and unacceptable takes of protected and endangered species. These documented problems have required extensive, subsequent regulatory actions, including gear modifications and long seasonal and large-scale area closures

No rationale exists to support increases in fishing mortality (F) beyond current levels on any of the HMS stocks. All proposals for a new EEZ longline fishery discussed during the development of this FMP would have increased F. Current levels of F are largely unknown or uncertain, and thus, the Plan wisely acknowledges the uncertain status of these stocks and the need to prevent rapid growth in fishing. Any action that would have removed a *de facto* longline-free zone of more than 255,000 square miles from the eastern Pacific would certainly have generated a reckless increase in F and a dramatic increase in bycatch and waste that would have proven to be inconsistent with the substance and intent of the Magnuson-Stevens Act.

We further urge the Council to go on record to request that any Exempted Fishing Permit issued by the NMFS for the use of longline gear be contingent on a scientifically based experimental design directed at modifying and improving existing gear and gear setting techniques and not be issued for a developmental or exploratory fishing effort.

The problems associated with longline gear are well documented in other regions. There is no logical reason for expecting this gear to behave differently in the west coast EEZ. Legitimate scientific research may find means of improving the gear or its deployment to substantially reduce bycatch. Such research needs to be encouraged. Given the extensive review of this controversial issue by the Council over the past two and one-half years we cannot anticipate that anything positive would come from reviving the debate over longlines in a different context and diminishing the conservation impacts of this present Council action.

OTHER OPTIONS

We caution the Council to make certain that the limitations on entry contained in California law relative to the drift gillnet gear be applicable to all vessels fishing in the EEZ once the Plan is in place.

Given the complexity of the issues involved, we understand the Council's decision to postpone active regulation of the drift gillnet fishery until the fishery

can be addressed through the amendment process. Attempting to develop a federal proxy for California's limited entry system for this fishery would have likely delayed adoption of the plan for a considerable period of time. However, given the documented bycatch problems in this fishery and the extensive state and federal regulatory actions taken in attempt to control this indiscriminant gear we urge you to avoid any loophole that might allow additional vessels into this fishery.

We would similarly urge the Council to maintain the 14" minimum mesh size for the drift gillnet fishery.

This large mesh size has been mandated by California regulations as a means of reducing bycatch in a fishery ostensibly targeting swordfish and tuna. Although information arose very late in the process concerning the use of smaller mesh (6"-9" mesh) nets to target albacore, this putative fishery has not been documented by observers and seems to have somehow avoided recognizing the conservation closures and gear modification requirements currently in place for larger meshed drift nets. Any allowance for this gear to be used in targeting HMS in excess of a minimal bycatch allowance would certainly have unforeseen, negative consequences on present efforts to reduce bycatch of finfish and to conserve marine mammals and sea turtles.

OVERFISHING DEFINITIONS AND CONTROL RULES

The precautionary approach reflected in the proposed overfishing definitions is a good approach and is consistent with the substance and intent of the Magnuson-Stevens Act.

The Billfish Foundation asks the Council to adopt the proposed Optimum Yield Control Rule as the appropriate overfishing definition for striped marlin.

This control rule specifies the minimum biomass to which a stock can fall before triggering the Magnuson-Stevens Act definition of being overfished and the requirement for developing a recovery plan. We believe striped marlin are in need of all the protection the Plan suggests for "vulnerable" species. In support of this request we offer the following rationale.

1. The appropriate management goal for a recreational fishery is not a stock that produces maximum sustainable yield (MSY), but rather a target stock biomass (B) or an optimal yield (OY) at a stock level above the Bmsy. Stocks that have not been depressed to abundance levels conducive to maximizing production (i.e. few older slow growing fish and more small, faster growing fish) offer anglers greater probabilities of encounter and increased probabilities of encountering large fish.

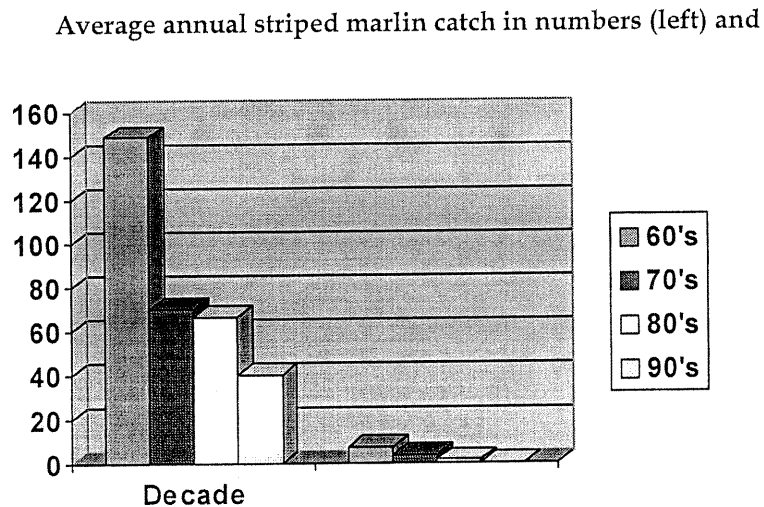
These attributes are valuable to recreational fishers and increase the economic value of the fisheries in which they participate. A threshold of $1.25(B_{msst}/B_{msy})$ more closely reflects this condition.

2. Recent stock assessment work by the staff of the Inter-American Tropical Tuna Commission (IATTC) has raised the possibility that striped marlin stocks may be at risk. Published genetic evidence indicates that there may be multiple stocks of striped marlin in the eastern Pacific¹. If there exists a single eastern Pacific stock, IATTC assessments show that the stock is fully exploited and at 100% of B_{msy} . However, if there exist two stocks (North and South) as is indicated by the genetic studies, the North stock – that stock which would consist of fish available off southern California - is at 50% of B_{msy} and as such would be considered overfished and in need of a rebuilding plan. Although more research is needed to adequately address issues of stock structure and status, the PFMC should proceed cautiously in the face of uncertainty over the current condition of striped marlin.
3. The use of natural mortality (M) in the FMP calculations of MSSTs assumes that stocks can safely be reduced to 25% of their virgin level while retaining resiliency to recover quickly to larger stock sizes. In the control rule presented, a precautionary supplement to this assumption is set by not allowing M values < 0.5 , the apparent default value applied to striped marlin. Although the best available estimate of longevity of striped marlin (9 years) is consistent with an $M > 0.5$, this estimate is based on a small sample of small to medium sized fish of which the largest was less than one-half the size of the current world record. It is likely an underestimate of M and thus results in a lower MSST for marlin than may be warranted by its life history traits.
4. The Plan maintains that striped marlin are likely being exploited at a level of F somewhat less than F_{msy} . Apparently B is thus assumed to be greater than B_{msy} . Nevertheless, the Plan document recognizes that striped marlin are potentially vulnerable to localized depletions and may respond as sub stocks to regional management (Section 3.3.3. p. 3-26). Data presented in the Plan indicate declining catch rates since the 1960s and declining average weight of striped marlin since the early years of the last century. The catch data presented from southern California marlin clubs may tend to obscure the declining trends for in recent years many anglers are members of more than one club and

¹ Graves, J.E. and J.R. McDowell. 1994. Genetic analysis of striped marlin population structure in the Pacific Ocean. *Can.J.Fish.Aquat.Sci.* (51):1762-1768.

have tended to register the same marlin catch (most often released) with multiple clubs.²

The data included in the following graph is derived only from the Tuna Club of Avalon. The Tuna Club catch data stands as a strong proxy for catch-per-unit-effort as total membership has been capped during the period covered. The graph shows average annual club marlin catches and the average annual number of marlin greater than 100 pounds caught by decade.



average annual number of fish caught over 100 pounds (right)
by decade, 1960s - 1990s. Tuna Club of Avalon.

The decline in catch and average weight seems apparent and real and argues for providing the highest level of protection to this species.

This data tends to underscore anecdotal information on stock declines presented in testimony by experienced anglers throughout the Plan development process. Recent experience has indicated that the 2002 marlin season may have been the worst in the last twenty years.³ We believe that striped marlin merit the extra protection afforded by the Optimum Yield Control Rule.

INTERNATIONAL MANAGEMENT ACTION

With the development of this FMP the Council has taken a strong step towards becoming the United States' lead policy maker for the management of eastern Pacific HMS.

² Brandon Hunt (2002), Newport Beach, CA member of the Tuna Club of Avalon and the Balboa Anglers Club, personal communication.

³ Bob Hoose, TBF California Advisory Council. Personal Communication.

We believe that the Council process manifested during the development of the FMP should provide the venue for the interaction of concerned organizations and parties, the public and agency fisheries managers during the development of U.S. policies and positions to be pursued at annual meetings of the IATTC.

The U.S. IATTC Advisory Committee is currently being rejuvenated and the PFMC should make certain that it is granted a permanent seat on that panel. The Council should likewise become involved with the new Central and Western Pacific Fisheries Commission arising from the recent MHLC treaty.

BYCATCH

By avoiding the creation of a new EEZ longline fishery, the Council has followed the Magnuson-Stevens Act bycatch reduction requirements. Application of all western Pacific longline regulations to the west coast based high seas longline fishery will directly reduce bycatch. Additionally, the adoption of a recreational catch-and-release program will eliminate the need to classify fish that are intentionally taken and released by that sector as bycatch. We urge the Council to make use of all available outreach resources to help educate the public on the best possible practices to employ when catching and releasing fish in order to maximize survival. TBF will be happy to assist in this effort. The FMP's mandated observer and logbook coverage should help develop the data set necessary for future bycatch reduction in all HMS fisheries.

The PFMC should seek to have the U.S. advocate for expanding the current IATTC observer program to include longline vessels fishing for HMS in the eastern Pacific.

The future accuracy of stock assessment work will hinge on an accurate accounting of all sources of removals from the HMS stocks covered by this plan. A thorough determination of bycatch and discard mortalities in the international longline fleets operating across the Pacific Ocean is necessary to achieve this goal.

We request that the Council address this question of bycatch reduction in the drift gillnet fishery promptly upon adoption of the HMS FMP.

In April of 2001 TBF asked both the NMFS and the PFMC to conduct analyses that would provide the basis for options to reduce striped marlin bycatch in the drift gillnet fishery. Such analyses were not conducted and this Plan has no specific bycatch reduction steps applicable to that fishery. We understand the resource constraints which accompanied the development of the Plan and do not disagree with the Council's decision to defer all new regulation of this gear to the framework or amendment process.

Specifically, we would ask for analysis of the existing observer data to look at relative catch of striped marlin (and other discarded finfish species) and targeted (retained) species by month at the closest possible level of area definition. We would also like to see a comparative analysis of observed trip versus unobserved trip landings by time and area strata.

FUTURE STOCK ASSESSMENTS AND RESEARCH

The adoption of this FMP will begin the process of developing SAFE Reports and stock assessments for the managed species and increased monitoring of these fisheries. At present international (IATTC) effort has been directed primarily at yellowfin and bigeye tuna assessment work. Both stocks appear to be fully exploited and possibly approaching an overfished condition. TBF believes that the NMFS must begin to conduct assessments on all the species in the Plan based on the requirements of the Magnuson-Stevens Act. Current assessment work conducted by the staff of the IATTC is not sufficient for these purposes. U.S. fisheries law mandates that stocks must not be fished below the level of *B_{msy}* as estimated by the best available information. The IATTC has no such policy and does in fact have some history of "experimental overfishing" as a scientific tool for evaluating stock resilience. U.S. law requires that overfished stocks be the subject of a formal rebuilding plan and that bycatch be eliminated or minimized as much as possible. Again, the IATTC has not adopted similar policies.

It will be essential that the Council remain aggressively responsive to its legal mandate and support the development of financial and personnel resources necessary to get the needed assessment work done.

As an organization, TBF intends to advocate for the NMFS resources necessary to conduct thorough observer programs and gather data needed to prepare useful stock assessments.

Again we appreciate the opportunity to work with the Council in the furtherance of the national mandate to conserve and manage these valuable marine fisheries resources. TBF looks forward to the adoption and approval of this FMP and coming years of strong conservation efforts.



Ellen Peel, LLM
President



Russell Nelson, Ph.D.
Fishery Scientist

PACIFIC FISHERY MANAGEMENT COUNCIL Mr. Donald O. McIsaac
7700 NE Ambassador Place, Suite 200
Portland, Or.
Particulars:

| | |
|-------------------------|-----------------------------|
| Name | Jim Fisher |
| Vessel | Lady Laura |
| Years Commercial Fished | 32 |
| Residence and Port | Hammond/Warrenton, Oregon |
| Fisheries | Drift, Troll Albacore, Crab |

RECEIVED

OCT 17 2002

PFMC

Statement:

Today I'm appearing before this council to strongly urge you to not consider the closure of anymore area to H.M.S. fishing, especially drifting with a net, N. of 45 degrees N. (approximately Lincoln City, Or.)

I would recommend that current state regulations and management plans remain in effect for the present and interim future.

Going back in time, and not too far at that, in the 2000 fishing season, allowing for time area closures in place at that time the H.M.S. grounds, including drift, extended from Canada to Mexico, outside three miles.

In 2001 an RPA was put into place due to concerns over the leather back turtle population. As a result of the RPA put into place by NMFS, the allowable area for drifting was diminished by more than 50% in California and 50% in the Oregon/Washington areas. These grounds, which are no longer fishable (for at least three years) at a time when the fish and weather are cooperative.

In the remaining area that is open from 45 degrees N to 48 degrees N there is still, at times, quite good fishing for H.M.S., with the net, primarily swordfish, thresher shark, and bluefin tuna. Additionally, there are some incidental catches of albacore, mako, louvar and opah.

Much has been made of the status of the thresher shark population especially in California where it appears that the stocks have pretty fully recovered. Much less is said about the status of the northern population because, in my estimation, of an almost complete lack of reasonably current information. Recently, ODFW, has received much more current data which I would hope, allow the regulatory agencies to view the drift fishery from a more favorable perspective, especially with the regard to sharks.

Looking at the H.M.S. fisheries north of San Francisco, California, the intense user/group conflicts are not as apparent, and in fact, in the NW don't appear to be a factor at all. South of San Francisco the competition is extremely intense between all user groups.

We need to examine, why, in the absence of any overriding problem with the H.M.S. stocks N of 45 degrees N there is any need to impose further area closures.

Presently there are only a few participants that expend any significant amount of time and effort fishing H.M.S. N. of 45 degrees N. Depriving these few fishing for H.M.S. in the area N. of 45 degrees N. of the opportunity to continue fishing is far less than equitable. Closing the area in question more than likely will not be key to the survival of the leatherback turtle, but it will make the economic survival of the remaining fishermen much more precarious.

Additionally, although I know this will not be a popular position to take, there is a need to not permit a wide open move to exploit what I feel is a viable fishery. Today the management of most fisheries begins from a cautionary approach and in any discussion of managing the H.M.S. including drift fishing it is important that the perceived mistakes of the middle 1980's not be repeated.

The following comments are in addition to the above letter which was submitted at the spring council meeting in Sacramento, Ca.

p. 2

PACIFIC FISHERY MANAGEMENT COUNCIL Mr. Donald O. McIsaac
7700 NE Ambassador Place, Suite 200
Portland, Or.

There are a couple of changes in process which are significant to the drift swordfish/shark fishery.

- (1) The process of re-categorizing the fishery from category one to category two is occurring now.
- (2) The three year closure from 45 N to approximate 36 N is about to be reviewed and the area potentially re-opened.
- (3) The fishery had extensive observed coverage this past season with zero takes of sensitive species recorded.

My current position is the same as the above letter submitted in Sacramento.

There is absolutely no reason to further restrict the present boundaries of the Northern swordfish/shark fishery.

Respectfully,

Jim Fisher
F/V Lady Laura

RECEIVED

OCT 22 2002

PFMC

BERNIE SULLIVAN
9514 RUBIO AVE.
SEPULVEDA, CA 91345

10/18/02
Pacific Fishery Mgmt Council

7704 E Ambassador Pl #200

Portland, OR 97220-1384

Gentlemen & Women:

I'm a Sport fisherman that
goes out on the local 1/2 day
boats and have done so for
the past 50 years. I have
seen the gradual reduction
fish population that I
believe was + is caused by
indiscriminate netting +
long line fishing. (Only the
targeted fish are kept and
the rest of good eating fish are
thrown back into the sea.)
Please try to stop those forms
of commercial fishing - Bernie Sullivan

Pacific Fishery Management Council:

In your proposed Highly Migratory
Species Fisheries Management Plan is
a ban on Longline Fisheries, it should
remain enforced.

Longlines are indiscriminate taking
threatened, endangered, and protected
species along with the targeted
marketable ones. They are almost
as damaging as drift nets.

Do not consider lifting the ban on
drift nets or long lines, they need
to be prohibited.

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OCT 17 2002

PFMC

Thank You.

Respectfully

Steven Petroff

1301 San Miguel Dr,
Beaumont Ca
92223-1529

Fred Hall & Associates

American Sportfishing Association

P.O. Box 2925

Camarillo, CA 93011

(805)389-3339 • Fax (805)389-1219

www.fredhall.com

Oct. 16, 2002

Dr. Don McIssac, Executive Director
Pacific Fishery Management Council
770 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

RECEIVED

OCT 16 2002

PFMC

Dear Dr. McIssac,

As you know, the Pacific Fishery Management Council will complete the Highly Migratory Species Fishery Management Plan in late October. I am certain that you are familiar with the disastrous record of longline fisheries.

California fisheries need sound management and active conservation. Allowing longline fisheries to establish themselves in California waters would accomplish neither of these goals.

California needs a management plan that would provide for active conservation, based on sound, complete, peer-reviewed science to monitor the condition of highly migratory fish. You have the power to deny the use of longlines in our territorial waters. Please use that power wisely and reject the use of longlines in California.

Sincerely,



Bart Hall, Managing Partner

Fred Hall & Assoc./American Sportfishing Assn., LLC



International Game Fish Association

Fishing Hall of Fame & Museum

300 Gulf Stream Way, Dania Beach, Florida 33004 U.S.A.

Phone: (954) 927-2628 • Fax: (954) 924-4299 • Museum Fax: (954) 924-4220

October 8, 2002

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Pacific Fishery Management Council
C/O Dr. Don McIssac, Executive Director
770 NE Ambassador Place, Suite 200
Portland, OR 97220 - 1384

I am writing this letter to plead for your support against the use of commercial long line operations off the coast of California. Too many non-targeted species become victims to this indiscriminant harvesting method. It would be recognized as a self-inflicted disaster. A sharp decline in shark populations and lack of scientific knowledge about the annual marlin migrations should be reasons enough to deny the permits. Such lethal commercial activity off the coast of California would further threaten our already diminished marine resources.

The Pacific Fishery Management Council also risks the perception of being indifferent to the thousands of volunteers who have given years and considerable funds to protect the resources and promote conservation. As a Trustee of the International Game Fish Association, I am in touch with anglers from around the world. They can attest to the disastrous results of long-line operations in Hawaii, Australia, New Zealand, Asia, Mexico, and even our own Atlantic Seaboard. As past President and 15 - year Historian of the Tuna Club of Santa Catalina Island, I have studied angling records back to 1898. The analysis shows a steady decline in both the size and quantities of most species sought by the recreational sport fisherman because of commercial fishing.

I thank you for your considerations in advance. Please let me know if I may ever be of service to you. I am always willing to share my historical information and eager to work toward the goal of understanding and protecting our fragile marine environment.

Sincerely,

Michael L. Farrior

Michael L. Farrior

RECEIVED

OCT 17 2002

PPMC

The Marlin Group
Jeffrey A. Miller
18528 Locksley Street San Diego, CA 92128
(858) 675 - 0406 voice blueh2o@san.rr.com

October 12, 2002

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OCT 17 2002

PFMC

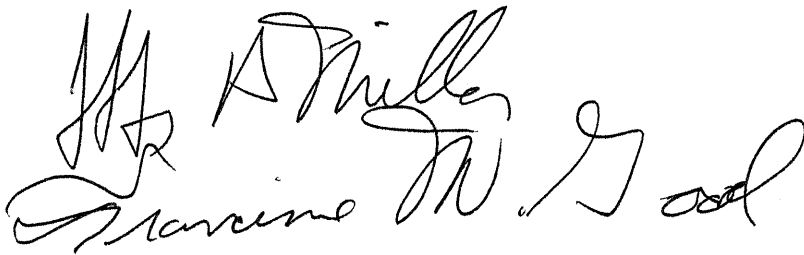
Dr. Don McIssac, Executive Director
Pacific Fishery Management Council
770 NE Ambassador Place, Suite 200
Portland, OR 97220

Dr. McIssac,

My wife and I are members of "The Billfish Foundation" for the purpose of helping not only the billfish population but the enormous economic activity collectively called, sportfishing. We are avid fishers and along with tens of thousands of other individuals provide a substantial, and often underrated, economic benefit to California, Oregon and coastal communities across the nation. Our activity, far from being destructive depends on a flourishing and sustainable environment. Regrettably the same cannot be said of a transient commercial fishing industry that uses seine nets and especially longline gear. While the commercial industry often is able to speak with a clear and well funded lobbying voice the sportfishing "industry" is diffuse and often muted.

As the Pacific Fishery Management Council works to finalize the "Highly Migratory Species Fishery Management Plan" I implore you to strike a responsible balance between the commercial fishing industry and the "industry" of sportfishing. The offshore and near shore sportfishing industry will be greatly diminished, indeed, potentially all but destroyed by longline fishing techniques. My wife and I urgently request that you deny the use of longline and similar types of fishing gear particularly in California waters but also coastal waters in general. Thanks for your consideration.

Jeffrey A Miller
Francine M Good

Handwritten signatures of Jeffrey A. Miller and Francine M. Good. The signature of Jeffrey A. Miller is written in a cursive style, with the first letters of the first and last names being capitalized. The signature of Francine M. Good is also written in a cursive style, with the first letters of the first and last names being capitalized.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Re: NO LONGLINES
To: daniel.waldeck@noaa.gov

8:09 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Keith & Deana Poe" <sharktgr@gte.net>
Subject: Re: NO LONGLINES
To: <pfmc.comments@noaa.gov>

1:05 AM

Please explain to me how you can consider letting longliners in a mako shark nursery?

You have all the data from DFG as well as Dave Holts longlineing data from the RV Mako and David Star Jordan Etc. I think their has been 1 breeder caught through the last 20 years from the catch per unite efforts leaving the other 99.9.9.9 % being all juvenile fish that have never had a chance to reproduce.

Please explain why your not setting size limits on makos?

You know dame well their going to slaughter the juvenile pups and market them.

just like the indescrement drift netters do and the longliners did when they had permits late eighties early nineties.

There are countless other species that have size limits centered around their reproduction to ensure a sustainable fishery but your plan doesn't address this important issue, WHY? I will do everything in my power to organize the sportfishing community

to insure NMFS correctly manages our fishery. I believe it's massive negligence to

sit on the mountain of data regarding our mako shark nursery while drafting a management plan with out addressing size limits to ensure the health especially considering their slow & low reproduction in the only known mako nursery in the worlds oceans. It's like 911 all over again every day with NMFS mismanagement.

Why the hell can't you people simply put basic facts together.

This is a vital mako shark puping grounds that is vital to ensure the health of the fishery that should be respected & protected.

Keith Poe TBF advisory panel.

----- Original Message -----

From: <pfmc.comments@noaa.gov>

To: <sharktgr@gte.net>

Sent: Sunday, October 20, 2002 6:14 PM

Subject: Re: NO LONGLINES

> The Pacific Fishery Management Council has received your comments. Thank you.

>

> Pacific Fishery Management Council
> 7700 NE Ambassador Place, Suite 200
> Portland, OR 97220
> Phone: (503) 820-2280
> Fax: (503) 820-2299

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OCT 21 2002

THE LONGLINES ARE ALREADY HERE!

PFMC

13 October, 2002

What, you say. Impossible. The decision by the Pacific Fishing Management Council to allow up to 142 high seas longliner boats to fish the waters of the EEZ off the West Coast of the United States will not be until October 28th. This proposed new fleet operation was not rejected at the last PMFC meeting, only postponed to the October meeting due to strong public concerns.

Although there has been a lot of effort by groups such as United Anglers, SAC, The Billfish Foundation, Recreational Fishing Alliance, Western Outdoor News, and even a number of "so called" conservation and environmental groups, there is a complacency in thinking the proven facts will carry the vote with this governmental council.

Several visits to the commercial basin at Terminal Island, California in recent weeks have suggested to me a far different prognosis on the decision. There, rafted together and tied to the docks near the now defunct tuna canneries are a growing fleet of at least 15 modern high seas longliners. These sleek steel boats are ready to go with miles of 900lb monofilament line on a series of drums, strobed and radiotransmitted buoys in their racks, and bins with thousands of leaders with clips and hooks.

Freshly painted, they hardly resemble the picture we have seen of decrepit, dirty, and rusted foreign longline boats. The majority have Hawaiian port-names on their transoms, suggesting that they are part of the fleet recently banned from those waters. One boat's hailing port is Biloxi, Mississippi. The crews aboard are not Hawaiians though, or even Cajun. Those seen living and working the boats are all Southeast Asians as far as I could see. Some boats had life-rings and other signs in names appearing to be Vietnamese. (Impossible for me to confirm due to language barrier)

Now, you tell me. If some people were not pretty well convinced that this fishery would be opened by PFMC, would they bring boats thousands of miles from mid-pacific and the U.S. Gulf Coast to already be in place and ready to fish?

Why then, with all our “grass roots” groups’ efforts, would this be possible?

1-We are preaching to the congregation. The public at large has not been informed, therefore not concerned.

2-Facts and studies by the NMFS and others showing a huge by-catch of species of fish and mammals designated non-commercial by the U.S. years ago are being ignored by bureaucrats and industry players, as well as by the Council itself.

3-These studies have been accepted in the Atlantic, the Gulf of Mexico, Hawaii, Mexico, Costa Rica, El Salvador, and Panama among others, resulting in growing bans on high-seas longliners.

4-The PPMC, among most other conscious groups have acknowledged the devastation of non-selective drift/gill nets, but feel these commercial fishermen need to be allowed a replacement system that is arguably somewhat less damaging, so that this net fishing can be eliminated.

5-Finally, the truth of politics in the State of California, in recent years at least, is not that letters and e-mails influence the governor (who appoint commissioners and others), but that huge financial contributions to his campaign gain his support for issues. Witness electric power, farm issues, gun legislation, labor unions, education, and appointees.

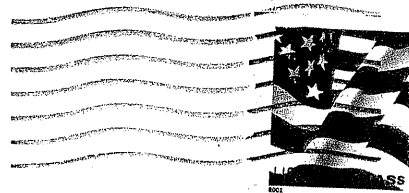
The attached photos taken at Terminal Island are current (10 October,2002)

This quote is taken from the “Final adoption of the Highly Migratory Species Fisheries Management Plan” on the council’s agenda of 28 October, 2002 in Foster City, California in regard to prohibiting Foreign pelagic fishermen and boats: “.....availability of the resource. In all instances, the harvesting capacity of the U.S. fleet along the West Coast exceeds the amount of the resources available in the EEZ.”

Don Anderson
5403 Seashore Dr.
Newport Beach, Ca. 92663
949-645-0476

cc: The Billfish Foundation
Recreational Fishing Alliance
pfmc.comments@noaa.gov
bhight@dfg.ca.gov Calif. Dept Fish & Game

United Anglers of Southern California
5948 Warner Ave.
Huntington Beach, CA 92649

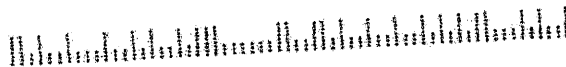


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OCT 17 2002

PFMC

Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384



Dear Director Hight:

I am a California angler and I am opposed to the use of pelagic longlines in the 200-mile West Coast Exclusive Economic Zone (EEZ) and I still believe their prohibition should be the preferred option included in the pending Highly Migratory Species (HMS) fishery management plan (FMP).

West Coast HMS are fully utilized by existing gear types. Recreational success with HMS has already declined over the decades because of increased competition for these fish. California marine anglers spend over \$2.5 billion dollars per year in pursuing saltwater fish. Further increases in competition would without a doubt harm the State of California, reduce total business revenues, reduce total taxes collected, reduce funds for marine conservation, and reduce the value of being a Californian.

It is obvious -- introducing longlines in EEZ waters would be extremely irresponsible to the environment and would be a huge step backwards for fisheries management and in fact violate federal law. In light of catastrophic problems with groundfish it is clearly the time to be proactive and prohibit longlining in the West Coast EEZ. Please ensure that longlines are permanently excluded from the EEZ in the final HMS FMP.

This plan primarily affects California and should recognize all existing State conservation and management programs regarding HMS and that the plan clearly requests to the NMFS that the council and public be fully involved in any future considerations for any potential experimental fishery (EFP) or change to State regulations.

(Please Print Clearly)

Sincerely, Name:

Guy W Grosenbach

Address:

11131 Lynrose st

City:

Arcadia

St:

Ca. Zip: 91006

Signature:

As of October 22, 2002, 9 copies of this post card were received.

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OCT 21 2002

PFMC

October 15, 2002

Mr. Don McIsaac, Director
Pacific Fishery Management Council
7700 NE Ambassador Pl. Suite 200
Portland, OR 97220-1384

Re: Longline fishing

Dear Mr. McIsaac:

Longline fishing is both dangerous and indiscriminate, killing far more animals than it targets. It is deadly to seals, endangered sea turtles, sharks and threatened birds such as the albatross. Additionally, it kills many non-target fish.

Because of the large numbers of incidental capture, injury and death, longline fishing has been banned in U.S. Coastal waters. This ban should remain in place.

Please do not allow any longline fishing off the Pacific Coast.

Sincerely,

Dawne Schulte
(Miss) Dawne Schulte
199 Florence Street
Ft. Bragg, CA 95437-4401

As of October 22, 2002, 53 copies of this correspondence were received.

As of October 22, 2002, 8 copies of this email were received.

From: "PFMC Comments" <pfmc.comments@noaa.gov>
Subject: Fwd: Anti-Longline to Save the Ocean's
To: daniel.waldeck@noaa.gov

8:17 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384
Phone: 503-820-2280
Fax: 503-820-2299
Toll-Free: 1-866-806-7204
On the web at: <http://www.pcouncil.org>

From: "Zack More" <dmore@cfl.rr.com>
Subject: Anti-Longline to Save the Ocean's

Wed 4:59 PM

To: <Fred.Keeley@assembly.ca.gov>, <doolittle@mail.house.gov>,
<M.Thompson@mail.house.gov>, <samfarr@mail.house.gov>, <graydavis@governor.ca.gov>,
<thesec@doc.gov>, <senator@feinstein.senate.gov>, <senator@boxer.senate.gov>,
<rhight@dfg.ca.gov>, <William.Hogarth@noaa.gov>, <marty.golden@noaa.gov>,
<jimlone@msn.com>, <pfmc.comments@noaa.gov>

Longliners drift miles and miles of baited lines and hooks, which act as walls of death for any passing fish or sea bird.

Longline fishing has destroyed fisheries around the world.

Mexico and Hawaii have banned this type of fishing

What the longline fishermen call "by-catch" and discard at sea, the rest of society calls beautiful creatures of the sea.

Longliners target "highly migratory species" which impacts the oceans globally, not locally.

Many of these species killed and discarded at sea are protected and otherwise illegal to catch and kill.

The technique of longlining can not be conducted to avoid the catching and killing of these non-targeted species.

In 1992 California Fish and Game Commission voted unanimously to bar this type of commercial fishing because of the inevitable by-catch and death of millions of sea mammals, turtles, birds, non-targeted fish and sharks.

Please stop all longlining!!!

All Longlining is environmentally and ethically irresponsible because of its inherent indiscriminate and non-specific nature of killing fish by commercial fishermen.

I strongly urge you to do everything in your power to prevent the indiscriminate carnage and environmental massacre of our sea animals that would result if longlining were to be allowed within the 200 mile California Exclusive Economic Zone.

I am appalled that the Pacific Fishery Management Council is considering two proposals for longline permits.

Please say absolutely "NO!" to the Pacific Fishery Management Council for longlines in the 200-mile California Exclusive Economic Zone.

Longline fleets have frequently moved from area to area decimating fish populations in their wake until their daily catches don't cover the cost of their daily operations. They then steam away to rape and pillage some other part of the ocean.

The introduction of long line fishing gear in California's 200-mile Exclusive Economic Zone must be stopped.

This type of commercial fishing kills everything in its path.

Miles and miles of lines with baited hooks unmercifully catch and kill millions of turtles, sea birds, seals, sharks, marlin and other non-targeted fish, which are unceremoniously dumped back into the ocean as by-catch.

How can we explain to our children that this form of mass destruction is OK.

The current proposal to allow longlining and the indiscriminate mass killing of non-targeted "by-catch" is outrageous.

We have banned off shore oil drilling in protected areas. We prohibit dumping of illegal chemical wastes in the ocean or the rivers and drainages that flow to the seas. We prohibit killing pelicans, seals, otters, dolphins, whales, elephant seals and turtles, so how can we possibly consider granting additional permits to kill these same animals we're trying to protect?

Longlining is currently prohibited off state of California, thanks to prior wisdom and leadership.

PFMC Comments <pfmc.comments@noaa.gov>

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OCT 21 2002

PFMC

OCTOBER 11TH, 2002

DR. DON MCISSAC
PACIFIC FISHERY MANAGEMENT COUNCIL
770 NE AMBASSADOR PLACE, SUITE 200
PORTLAND, OR 97220-1384
FAX: 503-820-2299

DEAR DR. MCISSAC,

I UNDERSTAND THAT THE PACIFIC FISHERY MANAGEMENT COUNCIL WILL FINALIZE THE HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN IN LATE OCTOBER.

AS A CONCERNED CALIFORNIAN WHO APPRECIATES AND ENJOYS ALL OF OUR NATURAL RESOURCES, I IMPORE YOU TO PAY ATTENTION TO THE HISTORY OF DESTRUCTION AND WASTE PROLIFERATED AGAINST ALL FISH SPECIES BY LONGLINE GEAR ACROSS ALL OF THE EARTH'S OCEANS AND REFUSE TO ALLOW THIS SO CALLED " FISHING " TO BECOME ESTABLISHED IN OUR WEST COAST WATERS.

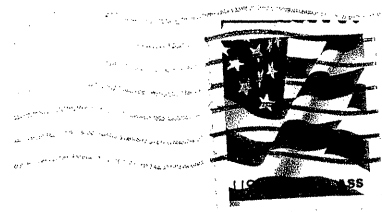
OUR FISHERIES RESOURCES NEED PROTECTION AND CONSERVATION, NOT MORE OVEREXPLOTATION. OUR WATERS AND THE WATERS BORDERING WITH MEXICO ARE CRITICAL BREEDING AND BROODING GROUNDS FOR MANY OF THE IMPORTANT FISH SPECIES OF THE PACIFIC.

WE FEEL IT IS CRITICAL THAT A VOTE FOR A MANAGEMENT PLAN THAT PROVIDES FOR SAFE AND PRECAUTIONARY CONSERVATION, COLLECTION OF ACCURATE DATA, AND THE BEST SCIENCE TO MONITOR THE POPULATIONS AND CONDITION OF OUR TUNAS, SHARKS, DORADO AND BILLFISH AND THEIR HABITATS. DON'T ALLOW LONGLINE GEAR INTO OUR WATERS, HELP US CONSERVE THIS PRECIOUS RESOURCE FOR FUTURE GENERATIONS.

SINCERELY, *Mr. Herbert Villalobos* 10/11/02

As of October 22, 2002, 591 copies of this postcard were received.

From:



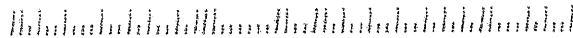
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OCT 17 2002

PFMC

Dr. Don McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

97220-1384



Dear Dr. McIsaac:

I'm a member of the Recreational Fishing Alliance (RFA) and I'm extremely concerned that the Pacific Fishery Management Council is considering a proposal to allow the development of a pelagic drift longline fishery in the West Coast EEZ.

The science surrounding this gear is clear – marine mammal interaction is inevitable, as is by-catch of juvenile and unmarketable species, including endangered sea turtles, pilot whales, marlin and sea birds. To introduce this fishing practice to the West Coast EEZ would be reckless

The U.S. Senate and the House of Representatives have both recognized longlines for the "dirty" gear they are – and are addressing the reduction of this gear through the legislative process. We urge you to adopt **Alternative 5** of the Pelagic Longline Fishery Management Measures in the HMS FMP and establish a general prohibition on the use of pelagic longline gear.

Sincerely,

Name KEN DAVIS (Please Print)
Address 28741 FOREST MDW. PL.
City GASTALC State GA Zip 91384

Signature

Ken Davis

I FISH ♦ I VOTE

LAW OFFICES OF ANTHONY V. NIZETICH

Public Advocacy • Legal Consultation • Port Tenant Issues

Exhibit D.2.e
Supplemental Public Comment 4
November 2002

October 29, 2002

VIA FAX (503) 820-2299

Mr. Hans Radke, Chairman
Pacific Management Council
7700 N.E. Ambassador Place, Suite 200
Portland, Oregon, 97220

Re: Highly Migratory Species Advisory Sub-panel Statement
Adoption of final Highly Migratory Species Fishery Management Plan

Dear Mr. Radke:

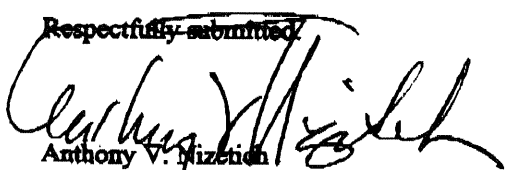
I believe that I notified your office that I would not attend the HMSAS meeting on October 22-23 due to a prior commitment in Wash. D.C. I returned on Oct. 28th and received a call from Pete Flournoy concerning HMSAS action taken on October 22nd in opposition to the Draft HMS Fisheries Management Plan.

I fully concur and with the Panels opposition to the FMP and so wish that my opposition vote be registered and made part of the record. For the record also, I have instructed and requested of Angie Felando to vote on my behalf and articulate my views that are adequately set forth in the HMSAS statement in opposition to the FMP. Please take particular note of the four reasons why the Panel cannot support the FMP.

Not being privy to the Pacific Council 's long and arduous meetings, discussions with fishermen, processors sportsmen and the scientific community, other related interested groups and sub panels work over the years, I must make the following observation and statement. I sincerely commend those individuals on the sub panel, and you are aware of who they are, that have, over the years continuously reminded the Federal Agencies over seeing fisheries, that Highly Migratory Species belong to the world. If there are to be controls, regulations, laws, etc., why should the U.S. government burden the American fishermen with more regulations, controls, limitations etc.? Our International Treaties and our participation in the various International Fisheries Commissions have this responsibility and should carry the burden.

Sorry I could not attend the meeting. I trust my sentiments will be properly noted.

Respectfully submitted,


Anthony V. Nizetich

AVN:tn

CC: Mr. Donald O. McIsaac via Fax at (650) 570-0540
Mr. Angie Felando via Fax at (650) 570-0540

150 W. SIXTH STREET, SUITE 205-A
SAN PEDRO, CA 90731 (310) 323-4730

Motion 9 <10/29/01 5:01 pm> Maria Vojkovich

MOVE THAT THE FOLLOWING ALTERNATIVES BE ADOPTED:

| ACTION
REFERENCE SECTION | ALTERNATIVE |
|---|---|
| Species in management unit
(Ch 3, Sec 3.1.1) | Alt. 2. Albacore, yellowfin, skipjack, bigeye, and north Pacific bluefin tunas; swordfish; striped marlin; common thresher, bigeye thresher, pelagic thresher, shortfin mako, and blue sharks; and dorado (dolphinfish) |
| Control rule
(Ch 3, Sec 3.2) | Alt. 2. Adopt default MSY (or MSY proxy) control rule, but use an OY target for vulnerable species. |
| Framework procedures
(Ch 8, Sec 8.3.4) | Alt. 2. Adopt framework procedures for changing conservation and management measures, with the point-of-concern mechanism. |
| Management cycle
(Ch 8, Sec 8.3.5) | Alt. 2. Establish biennial cycle with regulatory/statistical year of April 1 thru March 31, but may be adjusted under framework procedures. * |
| Legal gear
(Ch 8, Sec 8.4.1) | <p>Alt. 2. Legal commercial gears are harpoon, surface hook and line, drift gillnet, purse seine, and pelagic longline.</p> <p>* Sub-Alternative 2a: drift gillnets must be minimum stretched mesh size of 14 inches.</p> <p>Legal recreational gears are rod and reel, spear, and hook and line.</p> |
| Incidental catch allowance
(Ch 8, Sec 8.4.2) | <p>Alt. 2. <u>Small-mesh drift gillnet</u>: landings restricted to 10 fish of each HMS per trip.</p> <p><u>Bottom longline (set line)</u>: allow a maximum of 20% of total landings by weight per trip for all HMS shark species combined or 3 HMS sharks, whichever is greater.</p> <p><u>Trawl and pot gear</u>: allow a maximum of 1% of total landings by weight per trip for all HMS shark species combined or 2 HMS sharks, whichever is greater.</p> |
| Essential fish habitat
(Ch 4, Sec 4.3; Ch 8 Sec 8.4.3) | Alt. 2. Adopt species and stage-specific designations for individual management unit species as described in section 4.7. |
| Bycatch and catch-and-release programs
(Ch 5; Ch 8, Sec 8.4.4) | Alt. 2. Provide for a fishery-by-fishery review of measures to reduce bycatch and bycatch mortality, establish framework authorization for bycatch reduction; adopt measures to minimize bycatch in pelagic longline, drift gillnet, and purse seine fisheries (Sec 8.5); and adopt voluntary catch-and-release program for recreational fishery. |

| ACTION
REFERENCE SECTION | ALTERNATIVE |
|---|--|
| Protected species
(Ch 8, Sec 8.4.6) | Alt. 2. Adopt framework authorization for protected species conservation measures and implement initial measures for the drift gillnet, pelagic longline and purse seine fisheries as described in section 8.5. |
| Observer program
authority
(Ch 8, Sec 8.4.5) | Alt. 2. Mandate observer programs initially for longline, surface hook and line, small purse seine, and CPFV fisheries. Continue existing drift gillnet observer program. Observer sampling plan to be developed in conjunction with Council and fishing representatives within 6 months of FMP adoption. <i>approval</i> |
| Prohibited species
(Ch 8, Sec 8.4.7) | Alt. 2. Prohibit retention of great white, basking and megamouth sharks; Pacific halibut; and Pacific salmon. |
| Quotas or harvest
guidelines
(Ch 8, Sec 8.4.8) | Alt. 2. Establish harvest guidelines for selected shark species and authorize establishment or modification of quotas or harvest guidelines under framework provisions. The initial harvest guidelines are: common thresher shark, 340 mt and shortfin mako shark, 150 mt. |
| Allocation
(Ch 8, Sec 8.4.9) | Alt. 2. The FMP would not establish allocations initially, except to prohibit sale of striped marlin, but authorizes allocation using framework procedures. |
| Treaty Indian fishing
rights
(Ch 8, Sec 8.4.10) | Alt. 2. Authorize adoption of measures and procedures to accommodate treaty fishing rights in the initial implementing regulations for the FMP. |
| Exempted fishing
permits
(Ch 8, Sec 8.4.12) | <i>✗</i> Alt. New. The FMP would require a specific set of EFP guidelines be developed by the HMS management team for the Council to use in reviewing EFP proposals. |
| Drift gillnet
(Ch 8, Sec 8.5.1) | Alt. 2. Adopt all federal measures in place under the MMPA and ESA, as well as state regulations for swordfish/shark drift gillnets, with the exception of the CA limited entry program. |
| Longlining inside the
U.S. west coast EEZ
(Ch 8, Sec 8.5.2) | <i>✗</i> Alt. 5. Prohibit longlining within EEZ. (FMP amendment required to allow longlining in the EEZ.) <i>Do have EFP option, could use that to provide longlining inside EEZ.</i> |
| Longlining outside the
EEZ
(Ch 8, Sec 8.5.2) | Alt. 3. Apply to west coast-based longline vessels <u>selected</u> conservation and management measures applied to Hawaii-based longline vessels to control sea turtle and seabird interactions and monitor the fishery. Excludes ban on swordfish north of equator. Calls for area specific analysis of protected species as distribution of west-coast based effort differs from the Hawaiian fleet. |
| Purse seine
(Ch 8, Sec 8.5.3) | <u>Alt. 4. Open entire EEZ to purse seine fishing.</u> |

this should be bold.

| ACTION
REFERENCE SECTION | ALTERNATIVE |
|--|---|
| Prohibit sale
(Ch 8, Sec 8.5.4) | Alt. 2. Prohibit the sale of striped marlin by vessels under PFMC jurisdiction. |
| Commercial fishing
permits
(Ch 8, Sec 8.5.5) | Alt. 2. Require federal permit for HMS vessels with a specific endorsement for each gear. Permit to be issued to individual owner and for each specific vessel. |
| Recreational fishing
permits
(Ch 8, Sec 8.5.5) | Alt. 2. Require federal permit for CPFV's that fish for HMS, but existing state permit or license could meet this requirement (cooperative agreement) .
<i>for MOU from NMFS</i> |
| Reporting requirements
(Ch 8, Sec 8.5.6) | Alt. 2. Require all commercial vessels and CPFV's to maintain and submit logbooks to NMFS. State logbooks could meet this requirement as long as essential data elements are present, and data are available to NMFS subject to data exchange agreement. |

SUMMARY OF ALTERNATIVES IN THE HMS FMP

| | Alternative 1
No Action | Alternative 2
Preferred | Alternative 3 | Alternative 4 | Alternative 5 | Alternative 6 | Alternative 7 |
|--|---|--|--|--|---|---|---------------|
| FMP or no FMP
(Ch 8, Sec 8.0,
8.5.7; Ch 9, Sec
9.1) | FMP not adopted.
Regulation continues
under existing state and
federal authorities. | FMP adopted, with proposed
components as specified in
preferred alternatives below. | | | | | |
| Species in
management unit
(Ch 3, Sec 3.1.1) | Managed species are
not defined. | Albacore, yellowfin, skipjack,
bigeye, and north Pacific
bluefin tunas; swordfish;
striped marlin; common
thresher, bigeye thresher,
pelagic thresher, shortfin
mako, and blue sharks; and
dorado (dolphinfish) | Same as alternative
2, but dorado not
included. | Same as alternative
2, but dorado,
bigeye thresher and
pelagic thresher
sharks not included. | Same as alternative
2, but sixgill shark
included. | Same as
alternative 2, but
all sharks deleted. | |
| Control rule
(Ch 3, Sec 3.2) | A control rule is not
established. | Adopt default MSY (or MSY
proxy) control rule, but use an
OY target for vulnerable
species. | | | | | |
| Framework
procedures
(Ch 8, Sec 8.3.4) | No framework
procedures; all changes
would be made via FMP
amendment process. | Adopt framework procedures
for changing conservation and
management measures, with
the point-of-concern
mechanism. | Adopt framework
procedures as in 2,
but without the
point-of-concern
mechanism. | | | | |
| Management cycle
(Ch 8, Sec 8.3.5) | No cycle established.
Annual SAFE document
presented to Council,
but no fixed schedule
for addressing
management issues. | Establish biennial cycle with
regulatory/ statistical year of
April 1 thru March 31. | Establish biennial
cycle with
regulatory/
statistical year of
January 1 thru
December 31. | Establish biennial
cycle with
regulatory/ statistical
year of October 1
thru September 30. | Establish annual
cycle with regulatory
and statistical fishing
year April 1 through
March 31. | Establish multi-
year cycle. Similar
to biennial cycle,
except actions
would be
considered every
3-4 years. | |

| | Alternative 1
No Action | Alternative 2
Preferred | Alternative 3 | Alternative 4 | Alternative 5 | Alternative 6 | Alternative 7 |
|---|--|--|--|--|---------------|---------------|---------------|
| Legal gear
(Ch 8, Sec 8.4.1) | Legal gears are not specified. | Legal commercial gears are harpoon, surface hook and line, drift gillnet, purse seine, and pelagic longline.

Sub-Alternative 2a: drift gillnets must be minimum stretched mesh size of 14 inches.

Sub-Alternative 2b: no minimum stretched mesh size for drift gillnet gear.

Legal recreational gears are rod and reel, spear, and hook and line. | As in alternative 2, except pelagic longline gear would not be a legal gear for vessels landing in U.S. west coast ports. | | | | |
| Incidental catch allowance
(Ch 8, Sec 8.4.2) | Landings of HMS could be made using any gear authorized by individual states' regulatory requirements. | Small-mesh drift gillnet: landings restricted to 10 fish of each HMS (if this gear is not legal HMS gear).

Bottom longline: landings restricted to 3 fish in total or 20% of total landings by weight.

Trawl and pot gear: allow a maximum of 1% of total weight per landing for all HMS shark species combined or 2 HMS sharks, whichever is greater. | Do not allow landings of HMS by gears that are not legal gear under the FMP. All landings of HMS taken with non-HMS gears would be prohibited. | | | | |
| Essential fish habitat
(Ch 4, Sec 4.3; Ch 8 Sec 8.4.3) | EFH of HMS would not be designated and described in FMP. | Adopt species and stage-specific designations for individual management unit species as described in section 4.7. | Adopt broad designation to apply to all species: all surface waters of the ocean in the EEZ down to 1000m. | Adopt designations for individual species in the surface waters of the ocean in the EEZ down to 1000m, but restrict EFH areas to documented capture locations. | | | |

| | Alternative 1
No Action | Alternative 2
Preferred | Alternative 3 | Alternative 4 | Alternative 5 | Alternative 6 | Alternative 7 |
|--|--|---|--|--|---------------|---------------|---------------|
| Bycatch and catch-and-release programs (Ch 5; Ch 8, Sec 8.4.4) | No bycatch and/or catch-and-release programs would be implemented under the FMP. | Provide for a fishery-by-fishery review of measures to reduce bycatch and bycatch mortality, establish framework authorization for bycatch reduction; adopt measures to minimize bycatch in pelagic longline, drift gillnet, and purse seine fisheries (Sec 8.5); and adopt voluntary catch-and-release program for recreational fishery. | As in alternative 2 but does not authorize a catch-and-release program for recreational fisheries. All HMS caught and released by anglers would be considered bycatch. | Establish a catch-and-release program for striped marlin only. | | | |
| Protected species (Ch 8, Sec 8.4.5) | Adopt no measures to minimize interactions with protected species under the FMP. Protected species measures would continue to be promulgated by NMFS under separate processes (ESA, MMPA etc). | Adopt framework authorization for protected species conservation measures and implement initial measures for the drift gillnet, pelagic longline and purse seine fisheries as described in section 8.5. | | | | | |
| Observer program authority (Ch 8, Sec 8.4.6) | The FMP would not contain authority to establish observer programs for HMS fisheries. | Mandate observer programs initially for longline, surface hook and line, and small purse seine fisheries. Continue existing drift gillnet program. | Authorize NMFS to require that vessels carry observers when directed to do so by the NMFS Regional Administrator. | | | | |
| Prohibited species (Ch 8, Sec 8.4.7) | Prohibitions on retention of certain species would not be incorporated into the FMP | Prohibit retention of great white, basking and megamouth sharks; Pacific halibut; and Pacific salmon. | | | | | |
| Quotas or harvest guidelines (Ch 8, Sec 8.4.8) | Establish no harvest guidelines or quotas for any HMS. | Establish harvest guidelines for selected shark species and authorize establishment or modification of quotas or harvest guidelines under framework provisions. The initial harvest guidelines are: common thresher shark, 340 mt and shortfin mako shark, 150 mt. | Establish quotas or harvest guidelines for additional species. | | | | |

| | Alternative 1
No Action | Alternative 2
Preferred | Alternative 3 | Alternative 4 | Alternative 5 | Alternative 6 | Alternative 7 |
|--|---|--|--|---|---|--|--|
| Allocation
(Ch 8, Sec 8.4.9) | The FMP would not establish quota allocations of HMS to different fisheries or fishery sectors. | The FMP would not establish allocations initially, except to prohibit sale of striped marlin, but authorizes allocation using framework procedures. | The FMP would make specific initial allocations among fisheries or fishing sectors. | | | | |
| Treaty Indian fishing rights
(Ch 8, Sec 8.4.10) | Establish no specific measures or procedures, either in the FMP or in the initial implementing regulations, for accommodating treaty Indian fishing rights. | Authorize adoption of measures and procedures to accommodate treaty fishing rights in the initial implementing regulations for the FMP. | Include specific provisions in the FMP describing the measures and procedures for accommodating treaty fishing rights. | | | | |
| Exempted fishing permits
(Ch 8, Sec 8.4.12) | The FMP would not specify any general or specific EFP process for any HMS fishery. NMFS regulations at 50 CFR §600.745 would be available to issue EFPs. | The FMP would require a general EFP plan be submitted for Council review for all future applicants wishing to target HMS prior to formal application to NMFS. | | | | | |
| Drift gillnet
(Ch 8, Sec 8.5.1) | Regulatory authority would continue under existing state and federal authorities. | Adopt all federal measures in place under the MMPA and ESA, as well as state regulations for swordfish/shark drift gillnets, with the exception of the CA limited entry program. | Incorporate only existing federal drift gillnet regulations into FMP. | As in alternative 2, but also include the CA limited entry program. | As in alternative 2, but implement time/area closures of the Sea Turtle Biological Opinion. | Alternative 2 plus DGNs could not be used to take swordfish and sharks in any EEZ waters less than 1,000 fm off Oregon and Washington. | Alternative 2 plus DGNs could not be used to take swordfish and sharks in any EEZ waters north of 45°N latitude. |
| Longlining inside the U.S. west coast EEZ
(Ch 8, Sec 8.5.2) | Regulatory authority would continue under existing state and federal authorities. | Prohibit longlining within EEZ by indefinite moratorium with potential for re-evaluation by Council following completion of a bycatch reduction research program. Gear must have negligible impacts. | Authorize limited entry pelagic longline fishery for tunas and swordfish within the EEZ, with effort and area restrictions, to evaluate longline gear as an alternative to drift gillnet gear to reduce bycatch, or bycatch mortality. | Prohibit longlining within the EEZ with potential for re-evaluation by Council following completion of a tuna-swordfish-bycatch research experiment to determine if impacts are significantly less than for drift gillnets. | Establish general prohibition on use of pelagic longline gear (see Legal Gear alternative 3). | | |

| | Alternative 1
No Action | Alternative 2
Preferred | Alternative 3 | Alternative 4 | Alternative 5 | Alternative 6 | Alternative 7 |
|--|--|--|--|---|---------------|---------------|---------------|
| Longlining outside the EEZ (Ch 8, Sec 8.5.2) | Regulatory authority would continue under existing state and federal authorities. | Apply to west coast-based longline vessels measures applied to Hawaii-based longline vessels to control sea turtle and seabird interactions and monitor the fishery. | Adopt selected measures applied to Hawaii-based longline vessels. Excludes ban on swordfish fishing north of the equator. | | | | |
| Purse seine (Ch 8, Sec 8.5.3) | Regulatory authority would continue under existing state and federal authorities. | Close area within EEZ north of 45°N latitude. | Close EEZ off Washington. | Open entire EEZ to purse seine fishing. | | | |
| Prohibit sale (Ch 8, Sec 8.5.4) | Sale of striped marlin would not be prohibited by FMP, but continue to be prohibited by the State of California. | Prohibit the sale of striped marlin by vessels under PFMC jurisdiction. | | | | | |
| Commercial fishing permits (Ch 8, Sec 8.5.5) | Require no new federal permits. Existing state and federal permit requirements apply. | Require federal permit for HMS vessels with a specific endorsement for each gear. | Require inclusive federal permit for HMS vessels covering all HMS fisheries. | Require federal vessel permit for selected fisheries. | | | |
| Recreational fishing permits (Ch 8, Sec 8.5.5) | Require no new federal permits for recreational vessels, private or CPFV. | Require federal permit for CPFVs that fish for HMS, but existing state permit or license could meet this requirement. | Require federal permit for all CPFVs that fish for HMS; a state permit could not be used to meet this requirement. | Require federal permit for all recreational fishing vessels (private and CPFV) that fish for HMS. | | | |
| Reporting requirements (Ch 8, Sec 8.5.6) | No new federal requirements for reporting. | Require all commercial and CPFV vessels to maintain and submit logbooks to NMFS. | Limit new federal reporting requirements to commercial vessels not already required to report under existing federal laws. | | | | |

Draft

SUMMARY OF REVISIONS
TO THE HMS EIS/FMP¹

Executive Summary

- Revised to reflect changes to FMP.
- Added matrix of alternatives.

Chapter 1, Introduction

- Included a cross-reference between the HMS FMP and the suggested format for an EIS (1.1).
- Directly quoted (instead of paraphrased) the March 2001 letter to the Council from NMFS (1.4).
- Updated the section describing IATTC activities (1.6.1).
- Updated the section on the U.S.-Canada Albacore Treaty (1.6.2).
- Updated the Western Pacific longline fishery restrictions (1.6.6).
- Revised the section on treaty Indian fishing rights (1.6.8).
- Completed the description of the public review process (1.9).

Chapter 2, Description of Fisheries

- Added information on the small-mesh drift gillnet fishery off California (2.2.6).
- Added information on bluefin tuna net pen operations in Mexico (2.5.3.2).

Chapter 3, Status of Fish Stocks

- No-action alternative added for management unit species (3.1.1), as per Ch. 8 and 9.
- MSYs or proxy estimates given for all management unit species; previous ranges converted to point estimates based on average catch levels (Table 3-5).
- Rationale for proxy OY formula clarified (3.2.3), and OYs given for each species (Table 3-5): OY=MSY for albacore, bigeye, yellowfin, skipjack, swordfish, and dorado; OY=0.75MSY for bluefin, striped marlin, and the 5 sharks.
- Added language explaining the limitations of MSY proxies based on recent catch levels (3.3.6).
- Revised harvest guidelines for common thresher and mako sharks, to 340 mt and 150 mt, respectively, which equal OY.
- Revised language regarding legal requirements for rebuilding of overfished stocks (3.2.4).

Chapter 4, Essential Fish Habitat

- Chapter completely revamped to mirror NMFS suggested EFH EIS format.
- Information added on EFH Final Rule effective 19 Feb 2002.
- EFH Boundaries changed to 'fixed' vs. dynamic (temperature -driven); text revised and definitions provided.
- Some repetitive and non-essential material deleted.
- HAPC sections revised, strengthened (4.2.1.4 and 4.4).
- Alternative analyses sections expanded, strengthened (4.3).

¹ Summary of significant changes made since March 2002.

- New material added to section on Biological Environment (4.5.2).
- New sections added on ESA Listed Species and Marine Mammals and their Critical Habitats (4.5.2.2).
- New section added on EFH for Other Fisheries (4.5.2.3).
- New Section on Administrative Content 4.5.4.
- Revisions made to section 4.5.5 Existing Management Measures That Minimize Adverse Effects on EFH.
- Sections on Effects of Fishing Activities on EFH (4.5.6) and Non-Fishing activities (4.5.7) strengthened and 'Findings' sections added. Section on mercury contamination added, and inclusion of coastal surf grass beds (which provide habitat for certain HMS prey species) as potential EFH affected by beach replenishment projects.
- Essential Fish Habitat designations (Section 4.6): Boundaries of EFH for swordfish, common thresher shark, mako shark and bluefin tuna extended to incorporate new distributional data; boundaries changed to static (not defined by water temperature). Temperature preference info for bluefin tuna revised.
- New chapter summary section added (4.7).

Chapter 5, Bycatch of Fish in HMS Fisheries

- Updated information on bycatch in HMS fisheries (5.3).
- Added a fishery-by-fishery review of measures to reduce bycatch or bycatch mortality to determine practicability (5.6).
- Added proposed measures in the FMP which reduce or limit bycatch or bycatch mortality (5.6).
- Added a more specific description of the proposed voluntary catch-and-release program (5.7.2, Alternative 2).

Chapter 6, Interactions with Protected Species

- Added a list of marine mammal species of interest (6.1.1.1).
- Added a discussion of other marine mammal management concerns (6.1.1.4).
- Added a section on measures to avoid or mitigate takes of marine mammals (6.1.1.5).
- Expanded the list of species listed under the ESA (6.1.2.1).
- Expanded the description of the ESA consultation process (6.1.2.2).
- Added summary of consultations for HMS fisheries other than drift gillnet (6.1.2.4).
- Added a section on incidental takes of seabirds in West Coast HMS fisheries (6.1.3.2).
- Added a list of proposed actions in the FMP that reduce or limit interactions with protected species (6.3).

Chapter 7, Current Management

- Revised the sentence describing current tribal management (7.4).

Chapter 8, Proposed Action and Alternatives

- Alternatives in each chapter section are listed together for easier comparison.
- Some alternatives are modified in their sections:
 - 8.3.5 Management Cycle: added 2 biennial cycle alternatives scheduled around the fishing year.
 - 8.4.3 Essential Fish Habitat: added 4th alternative restricting habitat areas to documented capture locations.
 - 8.4.5 Fishery Observer Authority: added a proposed-action alternative mandating observer authority for surface hook and line, longline, and small purse seine fisheries, with NMFS to develop plans for the recreational fisheries.
 - 8.4.7 Prohibited Species: 4 alternatives condensed to 2.
 - 8.4.8 Quotas and Harvest Guidelines: proposed action revised for the new harvest guidelines for common thresher and mako shark, 340 and 150 mt, respectively.

- 8.4.12 Exempted Fishing: new proposed action to authorize issuing EFPs, with a provision for Council review.
- 8.5.1 Drift Gillnet Fishery: alternatives clarified and expanded from 4 to 7.
- 8.5.2 Pelagic Longline Fishery: Inside EEZ - proposed action is changed to the Ocean Wildlife Campaign's alternative.
- 8.5.3 Purse Seine Fishery: proposed action's prohibition is changed from 44 to 45 degrees north.
- 8.5.5 Permits: alternatives separated according to commercial or recreational fishery.
- 8.5.6 Reporting: alternative 3 re Far Offshore Fishery Declaration is deleted.
- Revised language regarding legal requirements for Unilateral Management, Harvest Guidelines and Quotas, and Overfishing (8.2); Fixed Elements of FMP (8.3); Framework Procedures (8.3.4); Treaty Indian Fishing (8.4.10); Exempted Fishing (8.4.12); Safety of Life at Sea (8.4.14); and Reporting Requirements (8.5.6).
- Revised, clarified language for Control Rule (8.3.2); Incidental Catch Allowance (8.4.2); Bycatch (8.4.4); Initial Conservation and Management Measures (8.5); and Joint Ventures and Foreign Fishing (8.7).
- Added new sections: Comparison of Alternative Actions (8.5.7) and Alternatives Eliminated (8.8).

Chapter 9, Environmental Consequences of Proposed Action and Alternatives

- Reformatted so all proposed and alternative actions and analyses together under a given subject; all tables and figures placed together at end of chapter.
- Sidebars added and alternatives and analyses identified by subject titles for ease in detecting major divisions in document.
- 'Baseline' condition Section 9.1: justifications strengthened for statements concerning expected changes in albacore, Pacific swordfish, blue shark stocks.
- Section 9.2.2.2 Control Rules: revised per changes in Chapter 3, including specification of OY for vulnerable species as 0.75MSY.
- Framework Procedures 9.2.2.3: analysis expanded.
- Management Cycle section 9.2.2.4: expanded and revised to incorporate additional alternative suggested by Council at March 2002 meeting; analyses expanded.
- Legal gear section 9.2.4.1: revised to incorporate new analyses on DGN mesh size restriction options. New cost data in alternatives 2a and 2b analyses.
- Incidental catch allowance: revised and expanded to include non-HMS gear HMS catch allocations and analyses of impacts on those fisheries. Set net fishery analysis pending.
- EFH Section 9.2.4.3: EFH alternative 4 added re restricting areas to documented capture locations, refers to new and revised analysis of this and other alternatives in revised Ch 4.
- Bycatch section 9.2.4.4: revised to provide more specific information on how FMP addresses Magnuson-Stevens Act requirements; cross-referenced to other bycatch-related proposed actions in Ch 9 and Ch 5 re fishery-specific and observer program measures. Adds additional analysis of sport voluntary catch-and-release program.
- Fishery Observer Authority 9.2.4.5: revised to address observer program and standardized reporting issues; includes more specific language and new analyses on observer program measures.
- Prohibited Species 9.2.4.7: language added re impacts of prohibitions.
- Quotas or Harvest Guidelines 9.2.4.8: harvest guidelines changed for common thresher shark from 390-510 mt rw to 340 mt (rw); for mako shark from 200 mt to 150 mt, per re-calculation of MSY/OY as point not range. New cost impact information added.
- Allocation 9.2.4.9: revised to indicate "No-Sale Marlin" action represents a form of allocation; analysis slightly expanded.
- Treaty Indian Fishing Rights 9.2.4.10: revised and updated.
- Exempted Fishing Permits 9.2.4.11: revised and expanded, with a new proposed alternative and analyses.
- Drift Gillnet Fishery 9.2.5.1: new socio-economic and small entities analyses added for alternatives 2 and 6; new OR/WA DGN alternatives revised and expanded.
- Pelagic Longline section in general: unlike March 2002 draft, current draft treats EEZ and high seas

- longline fishing separately, as follows:
 - EEZ Pelagic Longline section 9.2.5.2.1: new proposed action (OWC Proposal, Alt 2), also now allows exploratory fishing in EFP experiments per OWC change incorporated 9/02; "General prohibition" alternative added (left out in previous version); new EEZ longline alternatives comparison table added; alternative 4 now specifies significance level of detectability for bycatch reduction compared to DGN; example longline EFP experiment moved here from old Appendix D; additional community impact and economic analyses provided for alternatives 4 and 5; additional protected species, bycatch, and EFH information added to analyses.
 - High Seas Longline section 9.2.5.2.2: additional protected species, economic impact and EFH information added; list of detailed conservation and management measures moved to Ch 8 and cross-referenced to eliminate repetition; "selected" management measures (Alt 3) summarized for clarification; VMS needs clarified and justified; federal rule info updated.
 - Purse Seine section 9.2.5.3: proposed action changed to closure north of 45°N latitude (previously proposed closure north of 44 °N).
 - No-sale Marlin Provision 9.2.5.4: revised and expanded analysis.
 - Permits 9.2.5.5: revised and expanded. Commercial and recreational permit options presented and clarified, each with separate analyses.
 - Reporting Requirements 9.2.5.6: far offshore fishery declaration language changed; analysis of proposed action updated and revised, with new cost analysis.
 - Costs of FMP 9.3.2: revised and expanded, including cross-reference to new Appendix F.
 - Cumulative Effects 9.4: revised and expanded to address reviewers' comments re NEPA requirements, including new section discussing context with 'other' (non-HMS) fishery effects; also cross-referenced to new Cumulative Impacts matrix table in Chapter 8 section 8.5.7.
 - New section added, 9.7 Summary of Impacts on Listed Species and Critical Habitat.

Chapter 10, Relationship to Other Laws and Directives

- Expanded discussion of Paperwork Reduction Act requirements (10.4).
- Revised section on Coastal Zone Management Act, which assumes state concurrence with FMP (10.7).
- Revised section on Executive Order 12898 (Environmental Justice) (10.14).

Appendix A, Life History Accounts and EFH Descriptions

- Oregon drift gillnet logbook data 1991-2001 incorporated, new effort data added to Figs. 1 and 2.
- EFH boundaries defined as static (not temperature driven), with temperature information included as supplemental only.
- Common thresher shark EFH boundary north of Mendocino Ridge extended further west and new data added per new DGN logbook data.
- Shortfin mako shark EFH boundary extended further north per new Oregon logbook data.
- Bluefin tuna EFH boundary extended northward to US-Canada boundary per new Oregon driftnet data, public review comment, and additional historical data.
- Adult swordfish EFH boundary extended northward and data points added per new Oregon driftnet logbook data.
- Temperature preference data for bluefin tuna revised.
- Minor revisions made to individual life history accounts.

Appendix D, Current State and Federal Logbook Forms

- New appendix.

Appendix E, Threatened and Endangered Species in the Area of HMS Fisheries

- New appendix.

Appendix F, Costs Involved in Managing HMS Fisheries

- New appendix.

Appendix G, Comments on the DEIS and Responses

- New appendix.

ADOPTION OF FINAL HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN

Situation: The Council is scheduled to take final action on the fishery management plan (FMP) for West Coast highly migratory species (HMS) fisheries. This action was delayed from March 2002 when it was decided that additional information and analyses should be developed prior to final Council action. In June 2002, the HMS Plan Development Team provided a progress report to the Council. In August 2002, in internal review draft was distributed for Council and advisory body review. The current draft (September 2002) contains revised and additional information. These revisions are summarized in Attachment 1. Draft implementing regulations and regulatory impact review are provided as supplemental attachments.

Prior to the March 2002 Council meeting, the FMP, with the Draft Environmental Impact Statement (DEIS), was distributed for public review beginning January 5, 2002. From January 28-February 4, seven public hearings were held to provide interested individuals opportunity to comment on the FMP and DEIS; summaries from these hearings are included as attachments. These hearing summaries were presented in March and are part of the March 2002 Administrative Record.

At this meeting, the Highly Migratory Species Plan Development Team (HMSPDT) will review the proposed management actions and alternatives. The HMS Advisory Subpanel (HMSAS) will provide their comments.

In the draft plan, the Council has specified preferred options in some cases, and not specified preferences in others. At this meeting, the Council is scheduled to select options for final recommendation to the National Marine Fisheries Service.

Public comments on the draft FMP are enclosed. Prior to October 15, 2002, approximately 1,400 letters, faxes, and email were received. Most all of this correspondence expresses opposition to the use of pelagic longline gear. Previously (September 2000-June 2002), the Council received approximately 7,000 letters specifically in opposition to the use of pelagic longline gear.

Council Action:

1. Adopt Final HMS FMP.

Reference Materials:

1. Draft Highly Migratory Species Fishery Management Plan, Including Draft Environmental Impact Statement and Regulatory Impact Review (**please bring your copy with you**).
2. Exhibit D.2, Attachment 1 – Summary of revisions.
3. Exhibit D.2, Supplemental Attachment 2 – Draft regulations.
4. Exhibit D.2, Supplemental Attachment 3 – Regulatory Impact Review.
5. Exhibit D.2.b, Supplemental HMSPDT Report.
6. Exhibit D.2.d, Supplemental HMSAS Report.
7. Exhibit D.2.e, Public Comment.

Agenda Order:

- a. Agendum Overview
- b. HMSPDT Report
- c. Agency and Tribal Comments
- d. Reports and Comments of Advisory Bodies
- e. Public Comment
- f. **Council Action:** Adopt Final HMS FMP

Dan Waldeck
Steve Crooke/Dale Squires

PFMC
10/16/02

DRAFT: October 7, 2002 - This document provides reviewers with a reasonable draft of proposed rules, understanding that the Council has not made final decisions on the FMP. Consequently, management measures included here are subject to change.

Billing Code: 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
50 CFR Part 660

[Docket No. ; I.D.]

RIN: 0648-

Fisheries Off West Coast States and in the Western Pacific;
Highly Migratory Species Fisheries.

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes regulations to implement the Fishery
Management Plan for U.S. West Coast Fisheries for Highly
Migratory Species (FMP), which was submitted by the Pacific
Fishery Management Council (Pacific Council) for review and
approval by the Secretary of Commerce.

DATES: Comments must be received by [insert date 45 days
following publication in the FEDERAL REGISTER].

ADDRESSES: Comments should be sent to Rodney R. McInnis, Acting
Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard,
Suite 4200, Long Beach, CA 90802.

Copies of the FMP, which includes an environmental impact
statement/regulatory impact review, and an initial regulatory
flexibility analysis may be obtained from Donald O. McIssac,
Executive Director, Pacific Fishery Management Council, 7700 NE
Ambassador Place, Suite 200, Portland, Oregon, 97220-1384.

FOR FURTHER INFORMATION CONTACT: Svein Fougner or James Morgan,
Sustainable Fisheries Division, NMFS, at 562-980-4040 and 562-
980-4036 respectively.

SUPPLEMENTARY INFORMATION:

On January 18, 2002, a notice of availability of a Draft
Environmental Impact Statement (DEIS) for the FMP was published
in the Federal Register (67 FR 2651). The Council held 7 public
hearings on the FMP from January 28, 2002, to February 4, 2002,
in the States of Washington, Oregon, and California. At its
March 2002 meeting in Sacramento, California, the Council
reviewed public comments received at the hearings, considered
written and oral comments, and adopted preliminary preferred
options for some issues. At its October-November 2002 meeting in
Foster City, California, the Council adopted all of its preferred

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options and voted to submit the FMP for Secretarial review. The Council submitted the FMP for Secretarial review by a letter dated [insert date]. On [insert date], a notice of availability of the FEIS on the FMP was published in the Federal Register [insert cite].

The FMP and this proposed rule is a response to increasing concern about the effect of fishing on highly migratory species (HMS) and on ocean resources caught incidentally to fishing HMS. Numerous species of tuna, billfish, oceanic sharks and other species range throughout the Pacific Ocean. A significant amount of information exists on some of the commercially important tunas, a moderate amount on other commercially important tunas, lesser amounts of information on swordfish and other billfishes, and scant information on sharks and other highly migratory fishes. Comprehensive stock assessments are needed for many of these species, which are harvested by numerous coastal and distant-water fishing nations throughout the Pacific. United States

fishermen fish HMS in the Exclusive Economic Zone (EEZ) of the U.S., in the zones of other nations, and on the high seas.

Marine mammals, sea turtles, and birds caught incidentally to fishing are also affected by some of the gear used to target HMS. The effect of fishing gear on protected resources is a problem throughout the Pacific Ocean, and actions have been taken in the U.S. to minimize the impact of longline and drift gillnet gear on these resources.

The FMP, if approved, would implement management measures necessary for basic management of the fisheries. This would provide a foundation for future management actions that might be necessary as the international and U.S. fisheries change.

Management Organizations

There is no single, pan-Pacific institution that manages all HMS throughout their ranges. The Inter-American Tropical Tuna Commission (IATTC) adopts conservation measures for yellowfin and bigeye tunas in the eastern Pacific Ocean, which member nations, including the U.S., are obligated to implement for their national fisheries. On September 5, 2000, the Convention on Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean was adopted. The Convention, which is subject to ratification by the U.S. Congress, would establish a commission that adopts management measures for HMS throughout their ranges in the central and western Pacific. Both of these commissions affect west coast-based fisheries. In 1981, the United States and Canada signed the Treaty on Pacific Coast

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Albacore Tuna Vessels and Port Privileges, which permits fishing vessels of each nation to fish for albacore tuna in waters of the other nation beyond 12 miles. Recently, U.S. albacore fishermen have become concerned about the increased effort by Canadian vessels in U.S. waters and the lack of information on the amount of albacore taken by these vessels. The U.S. has been engaged in consultations with Canada on these issues, which were resolved at an international meeting in July 2002.

Within the U.S., three regional fishery management councils have management responsibility of highly migratory species: the Western Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Pacific Council. Many of the same stocks of HMS are harvested in separate jurisdictions. In some cases vessels are fishing in the same areas but landing in different jurisdictions, where there often are different management objectives and management measures. The Western Pacific Council manages highly migratory species in the western Pacific under the authority of the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region.

Effective management of HMS in the Pacific will require the Pacific Council to be fully informed of management actions being considered in the international organizations affecting HMS and will require the Pacific Council to coordinate its activities with the Western Pacific and North Pacific councils. Although management objectives may differ in their respective areas, consistency is expected to be achieved to meet the requirements of the Magnuson-Stevens Act while giving full attention to local needs.

Management Unit Species (MUS)

The FMP is intended to ensure conservation and promote the achievement of optimum yield of MUS throughout their ranges, both within and beyond the EEZ to the extent practicable. The FMP and its implementing regulations are designed to control fishing for MUS by vessels based in California, Oregon, and Washington within the west coast EEZ and in some cases on the high seas. The preferred option of the species to be managed by the FMP are: striped marlin, swordfish, common thresher shark, pelagic thresher shark, bigeye thresher shark, shortfin mako or bonito shark, blue shark, north Pacific albacore, yellowfin tuna, bigeye tuna, skipjack tuna, northern bluefin tuna, and dorado or dolphinfish, commonly referred to as mahi mahi in Hawaii. Other groupings of species are included in the FMP as alternatives to the preferred option, and public comment is sought on what species should be in the management unit.

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Tuna

Some tuna species are highly productive and are harvested by fishing fleets of many countries. Harvest limits for yellowfin and bigeye tuna in the eastern Pacific are set by the IATTC and not by the proposed FMP. However, the decisions made by the IATTC regarding harvest limits and the basis for those decisions would be available to the Pacific Council for its review. Opinions of the Pacific Council would be forwarded to the U.S. State Department through NMFS. If allocations among U.S. fishermen became necessary as a result of decisions by the IATTC, the Pacific Council would be the body with the responsibility to make recommendations to NMFS regarding implementation. A similar arrangement would be utilized for any fishery in which an international organization is involved. No harvest limits for bluefin tuna, skipjack tuna, or north Pacific albacore are proposed by the FMP at this time, although a maximum sustainable yield for each species of tuna is contained in the FMP.

Sharks

Most sharks are less productive than other MUS and are vulnerable to overfishing. Although shark species included in the management unit range throughout the Pacific Ocean, the FMP proposes to adopt harvest limits off the Pacific coast for common thresher at 390-510 metric tons(mt) and shortfin mako at 200 mt in an attempt to prevent local depletion. The thresher shark harvest guideline is lower than the recommended harvest limit set in the tri-state fishery management plan for this species. The justification for this is the result of an analysis of historical harvests explained in Chapter 3 of the FMP, which contains an estimate of a local maximum sustainable yield. No harvest limit is proposed for pelagic thresher shark, bigeye thresher shark or blue shark. Public comment is sought on this approach and whether harvest limits should be placed on other species.

Other species

No harvest limits are proposed for striped marlin, dorado, or swordfish, although the sale of striped marlin would be prohibited. Like many MUS, striped marlin off the Pacific coast is at the northern limit of its range. This species has been a target of recreational fisheries for decades. The proposed limit on the sale of marlin continues a prohibition that has been in California law since the 1930s.

Fishing Gear Employed

Off the west coast, MUS are harvested by five commercial gear groups and various recreational fisheries. Commercial gear

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in the FMP includes surface hook-and-line, drift gillnet, longline, purse seine, and harpoon. Recreational anglers pursue MUS from commercial passenger fishing vessels and from private boats with hook-and-line gear.

The definition of fishing gear is important because gear not defined in Federal regulations would not be legal gear. For example, mousetrap gear, which is a free floating hook-and-line is not defined in this proposed rule and would not be legal. Likewise, if a drift gillnet is defined as having at least a stretched mesh of 14 inches, any net with a smaller mesh size would not be legal and could not be fished from Pacific coast ports. This issue is discussed in section 9.2.4.1 of the FMP.

Permits

The preferred option in the FMP is to require a permit for all commercial vessels with an endorsement for a specific gear. A permit would also be required for all recreational charter vessels. There are other options for review. The purpose of a permit is to identify the vessels in the MUS fisheries so that effective surveys can be made when management information is required and to notify all participants of potential management actions affecting the fisheries. No limited entry program is being proposed at this time. Limited entry would require substantial analysis and an amendment to the FMP.

Permits are currently required for vessels fishing on the high seas under the authority of the High Seas Vessel Compliance Act, for vessels fishing tuna under the authority of the Tuna Conventions Act of 1950, and for longline vessels fishing under the authority of the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. Many participants in the MUS fisheries have these permits; therefore, the regulations propose issuing MUS permits to all individuals on lists of vessels maintained by NMFS. Vessel owners who have not received a permit to harvest MUS by 60 days following the effective date of the final regulations would have to apply for an MUS permit. All vessels would need an MUS permit by January 1, 2004. There would be no cost to fishermen for this permit.

Recording and Recordkeeping

The preferred option in the FMP is to have all commercial fishing vessels and recreational charter vessels maintain a logbook to be submitted to the Regional Administrator following the end of a fishing trip. Logbooks are now required for: vessels fishing on the high seas under the authority of the High Seas fishery Compliance Act, vessels fishing tuna under the authority of the Tuna Conventions Act of 1950, and vessels

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fishing under the authority of the regulations implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. These logbooks, tailored to specific gear, would be acceptable under these regulations. Duplicate logbooks would not be required.

Major Issues

The preferred option with regard to longline fishing is to prohibit fishing in the EEZ off the Pacific coast and to adopt the same restrictions for longline vessels fishing from ports on the Pacific coast as those that apply to longline vessels fishing with a limited entry permit under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. This option would, among other things, prohibit swordfish gear north of the equator and require strict gear requirements to prevent the capture of sea turtles and birds. This would ensure that species determined to be in need of protection would be fully protected by all U.S. fishermen regardless of management jurisdiction. Owners of longline vessels fishing out of Hawaii who removed their limited entry permits from their vessels to fish from Pacific coast ports beyond the jurisdiction of the western Pacific fishery management plan would face the same gear restrictions under this proposed rule. There is insufficient longline data available in the eastern Pacific at this time to justify different restrictions in the eastern Pacific from those now in effect in the western Pacific.

Drift gillnet fishing is regulated by the states and by regulations implementing the Marine Mammal Protection Act and the Endangered Species Act. The preferred option in the FMP is to adopt gear and area closures currently in Federal and state regulations as a part of the regulations implementing the FMP. Therefore, state area closures that extend into the EEZ are included in this proposed rule. Many gear restrictions in State regulations are included as well. Pingers, an acoustical device attached to the net, which are required by regulations published under the authority of the Marine Mammal Protection Act to deter marine mammal encounters, and area closures issued under the authority of the Endangered Species Act, would be implemented by this proposed rule. The California limited entry program for drift gillnet gear is not included in this proposed rule; however, the California limited entry program would remain in effect under State of California regulations.

Protected Species and the Framework Process

Drift gillnet and longline vessels encounter endangered and threatened sea turtles and marine mammals during fishing

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operations, and longline vessels encounter birds. Minimizing the impacts on these species has required regulatory action under the authority of the Marine Mammal Protection Act and the Endangered Species Act. A possibility exists that other gears used to harvest highly migratory species may also have an impact when more data is obtained. The FMP recognizes that the Council is the body best suited to weigh and consider all potential impacts on fishing for highly migratory species. Section 118 (f)(9) of the Marine Mammal Protection Act authorizes the Assistant Administrator for Fisheries to impose regulations governing commercial fishing operations to implement a take reduction plan to protect or restore a marine mammal stock or species. Likewise, vessels fishing for highly migratory species may have an impact on threatened or endangered species, which would require action by the Assistant Administrator under the authority of the Endangered Species Act. Although the Take Reduction Team reports to NMFS and biologic opinions will provide guidance to NMFS on actions needed to protect threatened and endangered species, the Assistant Administrator will look to the Council for recommendations on how best to implement any necessary measures. The Council will utilize the framework processes in the FMP to address any important issues. Regulations will appear at 50 CFR subpart K.

Bycatch

A number of provisions are included in the FMP to measure and reduce bycatch; however, the FMP recognizes that better information is needed to assess the amount and type of bycatch in HMS fisheries. The preferred option is to initially mandate observer programs for the longline, surface hook-and-line, and small purse seine fisheries. In consultation with the Council, its advisory bodies, and the fishery participants, NMFS will develop initial observer coverage plans for these fisheries that will be submitted when the FMP is implemented. The observer coverage plans for these fisheries may be adjusted as the initial data is assessed and more is learned about the levels of coverage necessary to obtain reliable data on bycatch in these fisheries. In the longer term, NMFS will develop observer sampling plans for the private recreational and charter fisheries to assess potential ways of improving information on the species and the quantity of bycatch in these fisheries.

Classification

At this time, NMFS has not determined that the FMP this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making

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that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared a final environmental impact statement for this FMP; a notice of availability was published on **[insert date]**. The FMP contains a framework management process that makes changes and modifications of management measures by the Council possible in a timely manner without amending the FMP. This will allow the Council to act quickly to address resource conservation and ecological issues. Maximum sustainable yield is established for all managed species to ensure compliance with the Magnuson-Stevens Act, although some species are also managed by international organizations and come within the jurisdiction of other fishery management councils. Consistency of management to ensure effective conservation and management is a goal of the FMP. Harvest limits are established for common thresher and mako shark to prevent local depletion. Although highly migratory, evidence indicates that local depletion can occur and would have an impact on these species and the fisheries involved. To protect endangered turtles and protected seabirds, the FMP makes regulations governing longline fishing from west coast ports consistent with the rules established for longline vessels fishing out of Hawaii; therefore, all U.S. fishermen must adhere to a single conservation goal regardless of jurisdiction. Rules governing drift gillnet fishing issued under the authority of the Marine Mammal Protection Act and the Endangered Species Act are incorporated in the FMP. Incorporating rules in the FMP issued under other authorities will ensure wider public review of management issues and broader analysis. Permit and reporting requirements of the FMP build on existing programs to obtain sufficient information needed for management while minimizing duplication.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The assistant General Counsel for Legislation and Regulation of the Department of Commerce made the following certification to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, as follows:

[insert justification]

This FMP contains collection-of-information requirements for 6 separate fisheries subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements will be submitted to OMB for approval. The public

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reporting burden for these requirements is estimated to be 15 minutes for a permit application, 6 minutes for filling out a log each day, and 45 minutes to affix the official number of a vessel to its bow and weather deck. In addition, for longline vessels, 4 hours for installation of a vessel monitoring system, 2 hours for maintenance of the system, and 24 seconds for electronic reporting via the satellite based vessel monitoring system. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment will be sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility, the accuracy of the burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and ways to minimize the burden of the collection of information, including through the use of automated information technology. The proposed rule will request that comments on these or any other aspects of the collection of information should be sent to NMFS, Southwest Region and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

An informal consultation with NMFS under the Endangered Species Act was concluded for the FMP on **[insert date]**. As a result of the informal consultation, the Regional Administrator determined that fishing activities under this rule are not likely to affect adversely endangered or threatened species or their critical habitat.

An informal consultation with the Fish and Wildlife Service under the Endangered Species Act was concluded for the FMP on **[insert date]**. As a result of the informal consultation, the Regional Administrator determined that fishing activities under this rule are not likely to affect adversely endangered or threatened species or their critical habitat.

The Regional Administrator determined that fishing activities conducted under this rule would have no adverse impacts on marine mammals.

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List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, marine mammals, Reporting and recordkeeping requirements.

50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated:

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, 50 CFR part 223, 50 CFR part 224, 50 CFR 229, and 50 CFR part 660, are proposed to be amended as follows:

PART 902--NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 et seq.

§ 902 [Amended]

50 CFR Chapter VI

PART 223--THREATENED MARINE AND ANADROMOUS SPECIES

2. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531-1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 et seq.

3. In § 223.206, paragraph (d)(6) is removed.
§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(6) [Removed]

PART 224--ENDANGERED MARINE AND ANADROMOUS SPECIES

4. The authority citation for part 224 continues to read as

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follows:

Authority: 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 et seq.

5. In § 224.104, paragraph (c) is revised to read as follows:

* * * * *

(c) Special prohibitions realting to leatherback sea turtles are provided at § 223.206 (d)(2)(iv) and § 660.713
PART 229-AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

6. In § 229.31, paragraphs (a) through (d) are removed and a paragraph is added to read as follows:
§ 229.31 Pacific Offshore Cetacean Take Reduction Plan.

Gear restrictions implementing the Pacific Offshore Take Reduction Plan are at § 660.713.
PART 660--FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

7. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

8. Add Subpart K to read as follows:
Subpart K-Highly Migratory Fisheries
Sec.

660.701 Purpose and scope.
660.702 Definitions.
660.703 Management area.
660.704 Vessel identification.
660.705 Prohibitions.
660.706 Treaty Indian rights.
660.707 Permits.
660.708 Reporting.
660.709 Annual specifications.
660.710 Closure of directed fishery.
660.711 General catch restrictions.
660.712 Longline.
660.713 Drift net.
660.714 Purse seine.
660.715 Harpoon.
660.716 Surface hook-and-line.
660.717 Framework for revising regulations.
660.718 Exempted fishing.
660.719 Scientific observers.
Subpart K--Highly Migratory Fisheries
§ 660.701 Purpose and scope.

This subpart implements the Fishery Management Plan for U.S.

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West Coast Fisheries for Highly Migratory Species (FMP). These regulations govern commercial and recreational fishing for MUS in the EEZ off the coasts of Washington, Oregon, and California.
§ 660.702 Definitions.

Advisory Subpanel (AP) means the Highly Migratory Species Advisory Subpanel that comprises members of the fishing industry and public appointed by the Council to review proposed actions for managing highly migratory species fisheries.

Basket-style longline gear means a type of longline gear that is divided into units called baskets, each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

Closure, when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited.

Commercial fishing gear includes the following types of gear and equipment used in the highly migratory species fisheries:

(1) Harpoon. Gear consisting of a pointed dart or iron attached to the end of a pole or stick that is propelled only by hand and not by mechanical means.

(2) Surface hook-and-line. Fishing gear, other than longline gear, with one or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat). Surface hook and line is always attached to the vessel.

(3) Drift gillnet. A panel of netting [**mesh size?**] suspended vertically in the water by floats along the top and weights along the bottom. A drift gillnet is not stationary or anchored to the bottom.

(4) Purse seine. An encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets.

(5) Pelagic longline. A main line that is suspended horizontally in the water column and not stationary or anchored, and from which dropper lines with hooks (gangions) are attached. Legal longline gear also includes basket-style longline gear.

Commercial fishing means (1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or

(2) Fishing that results in or can be reasonably expected to

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result in sale, barter, trade or other disposition of fish for other than personal consumption.

Council means the Pacific Fishery Management Council, including its Highly Migratory Species Management Team (HMSMT), Scientific and Statistical Committee (SSC), Highly Migratory Species Advisory Subpanel (HMSS), and any other committee established by the Council.

Extender means a line that attaches a buoy (float) to a drift gillnet's floatline. The floatline is attached to the top of the drift gillnet.

Fishing trip is a period of time between landings when fishing is conducted.

Fishing year is the year beginning at 0801 GMT (0001 local time) on October 1 and ending at 0800 GMT on October 1 (2400 local time on September 30).

Fishery management area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, and bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico.

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

Highly Migratory Species Fishery Management Plan (FMP) means the Fishery Management Plan for the U.S. West Coast Fisheries for Highly Migratory Species developed by the Pacific Fishery Management Council and approved by the Secretary, and as it may be subsequently amended.

Incidental catch or incidental species means MUS caught while fishing for the primary purpose of catching other species with gear not authorized by the FMP.

Land or landing means offloading fish from a fishing vessel or arriving in port to begin offloading fish or causing fish to be offloaded from a fishing vessel.

Management Team (MT) means the individuals appointed by the Council to review, analyze, and develop management measures for highly migratory species fisheries.

Management unit species (MUS) means species managed by the FMP, specifically:

Billfish/Swordfish:

 striped marlin (Tetrapturus audax)

 swordfish (Xiphias gladius)

Sharks:

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common thresher shark (Alopias vulpinus)
pelagic thresher shark (Alopias pelagicus)
bigeye thresher shark (Alopias superciliosus)
shortfin mako or bonito shark (Isurus oxyrinchus)
blue shark (Prionace glauca)

Tunas:

north Pacific albacore (Thunnus alalunga)
yellowfin tuna (Thunnus albacares)
bigeye tuna (Thunnus obesus)
skipjack tuna (Katsuwonus pelamis)
northern bluefin tuna (Thunnus orientalis)

Other:

dorado or dolphinfish (Coryphaena hippurus)

Mesh size means The opening between opposing knots in a net. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

Offloading means removing management unit species from a vessel.

Permit holder means a permit owner.

Permit owner means a person who owns a MUS permit for a specific vessel fishing with specific authorized fishing gear.

Person, as it applies to fishing conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Pinger means an acoustic deterrent device, which, when immersed in water, broadcasts a 10 kHz (<plus-minus> 2 kHz) sound at 132 dB (<plus-minus> 4 dB) re 1 micropascal at 1 m, lasting 300 milliseconds (+ 15 milliseconds), and repeating every 4 seconds (+ .2 seconds); and remains operational to a water depth of at least 100 fathoms (600 ft or 182.88 m).

Processing or to process means the preparation or packaging of MUS to render it suitable for human consumption, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an

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authorized observer or to return tagged fish as specified by the tagging agency).

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only and not for sale or barter.

Recreational charter vessel means a vessel that carries fee-paying passengers for the purpose of recreational fishing.

Regional Administrator means the Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, or a designee.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or a designee.

Tranship means offloading or otherwise transferring MUS or products thereof to a receiving vessel.

Vessel monitoring system unit (VMS unit) means the hardware and software equipment owned by NMFS, installed on vessels by NMFS, and required by subpart K of this part to track and transmit the positions from fishing vessels.

§ 660.703 Management area.

The fishery management area for the regulation of fishing for MUS has the following designations and boundaries:

(1) Southern boundary--the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35'22" N. lat. 117°27'49" W. long.
32°37'37" N. lat. 117°49'31" W. long.
31°07'58" N. lat. 118°36'18" W. long.
30°32'31" N. lat. 121°51'58" W. long.

(2) Northern boundary--the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29'37.19" N. lat. 124°43'33.19" W. long.
48°30'11" N. lat. 124°47'13" W. long.
48°30'22" N. lat. 124°50'21" W. long.
48°30'14" N. lat. 124°54'52" W. long.
48°29'57" N. lat. 124°59'14" W. long.
48°29'44" N. lat. 125°00'06" W. long.

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| | |
|-------------------|---------------------|
| 48°28'09" N. lat. | 125°05'47" W. long. |
| 48°27'10" N. lat. | 125°08'25" W. long. |
| 48°26'47" N. lat. | 125°09'12" W. long. |
| 48°20'16" N. lat. | 125°22'48" W. long. |
| 48°18'22" N. lat. | 125°29'58" W. long. |
| 48°11'05" N. lat. | 125°53'48" W. long. |
| 47°49'15" N. lat. | 126°40'57" W. long. |
| 47°36'47" N. lat. | 127°11'58" W. long. |
| 47°22'00" N. lat. | 127°41'23" W. long. |
| 46°42'05" N. lat. | 128°51'56" W. long. |
| 46°31'47" N. lat. | 129°07'39" W. long. |

§ 660.704 Vessel Identification.

(a) Official number. Each fishing vessel subject to this subpart must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) Numerals. The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

§ 660.705 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish for MUS in the EEZ off the Pacific coast without a permit issued under § 660.707 for the use of authorized fishing gear.

(b) Fish with gear in any closed area specified in this part that prohibits the use of such gear.

(c) Land MUS at Pacific coast ports without a permit issued under § 600.707 for the use of authorized fishing gear. (d) Sell MUS without an applicable commercial state fishery license.

(e) When fishing for MUS; fail to return a prohibited species to the sea immediately with a minimum of injury.

(f) Falsify or fail to affix and maintain vessel markings as required by § 660.704.

(g) Fish for MUS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.

(h) When a directed fishery has been closed for a specific species, take and retain, possess, or land that species after the closure date.

(i) Refuse to submit fishing gear or fish subject to such

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person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(j) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving MUS, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.708(b).

(k) Fail to carry aboard a vessel that vessel's permit issued under § 660.707 or exempted fishing permit issued under § 660.718.

(l) Fail to carry a VMS unit as required under Sec. 660.712 (d).

(m) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC.

(n) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.

(o) Fish for, catch, or harvest MUS with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS.

(p) Possess on board a vessel without a VMS unit MUS harvested with longline gear after NMFS has installed the VMS unit on the vessel.

(q) Direct fishing effort toward the harvest of swordfish (Xiphias gladius) using longline gear deployed north of the equator (0° lat.) on a vessel registered for use of longline gear in violation of § 660.712(a)(1).

(r) Possess a light stick on board a longline vessel when fishing north of the equator (0° lat.) in violation of § 660.712(a)(6)

(s) Possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing north of the equator (0° lat.) in violation of § 660.712(a)(9).

(t) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.

(u) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.

(v) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.

(w) Fish for MUS with a vessel registered for use of longline gear within closed areas or by use of unapproved gear

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configurations in violation of § 660.712(a)(2), (a)(3), (a)(7), or (a)(8).

(x) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use of longline gear and equipped with monofilament main longline, when making deep sets north of 23° N. lat. in violation of Sec. 660.712 (c)(1)(i) and (c)(1)(ii).

(y) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use of longline gear north of 23° N. lat. in violation of Sec. 660.712 (c)(1)(iii).

(z) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat., in violation of Sec. 660.712 (c)(2), (c)(3), and (c)(4).

(aa) Fail to retain, handle, and discharge fish, fish parts, and spent bait strategically when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat. in violation of Sec. 660.712 (c)(5) through (c)(7).

(bb) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of Sec. 660.712 (c)(8).

(cc) Fail to handle seabirds other than short-tailed albatross that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival in violation of § 660.35 (c).

(dd) Own a longline vessel registered for use of longline gear that is engaged in longline fishing for MUS without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of Sec. 660.712(e)(3).

(ee) Fish for MUS on a vessel registered for use of longline gear without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e).

(ff) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use as a longline vessel in violation of § 660.712(b).

(gg) Fail to comply with sea turtle handling, resuscitation, and release requirements specified in § 660.712(b)(5) through (8) when operating a vessel.

(hh) Fail to comply with seabird take mitigation or handling techniques required under § 660.712(c)

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(ii) Fish for MUS with a vessel registered for use as a longline vessel without being certified by NMFS for completion of an annual protected species workshop as required under § 660.712(e).

§ 660.706 Pacific Coast Treaty Indian Rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest MUS in their usual and accustomed (u&a) fishing areas in U.S. waters.

(b) Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) The NMFS recognizes the areas set forth below as marine u&a fishing grounds of the four Washington coastal tribes. The Makah u&a grounds were adjudicated in U.S. v. Washington, 626 F.Supp. 1405, 1466 (W.D. Wash. 1985), affirmed 730 F.2d 1314 (9th Cir. 1984). The u&a grounds of the Quileute, Hoh, and Quinault tribes have been recognized administratively by NMFS. See, e.g., 64 Fed. Reg. 24087-24088 (May 5, 1999) (u&a grounds for groundfish); 50 C.F.R. 300.64(i) (u&a grounds for halibut). The u&a grounds recognized by NMFS may be revised as ordered by a federal court.

(d) Procedures. The rights referred to in paragraph (a) will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Northwest Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) Identification. A valid treaty Indian identification card issued pursuant to 25 CFR Part 249, Subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) Fishing (on a tribal allocation or under a federal regulation applicable to tribal fisheries) by a member of a

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Pacific Coast treaty Indian tribe within that tribe's usual and accustomed fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.

(g) Any member of a Pacific Coast treaty Indian tribe must comply with any applicable federal and tribal laws and regulations, when participating in a tribal HMS fishery implemented under paragraph (d) above.

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that tribe's usual and accustomed fishing area, or for a species of HMS not covered by a treaty allocation or applicable federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

§ 660.707 Permits.

(a) General. This section applies to fishing for or landing MUS in the States of California, Oregon, and Washington.

(1) By January 1, 2004, a commercial fishing vessel of the United States must be registered for use under a MUS permit that authorizes the use of specific gear, and a recreational charter vessel must be registered for use under a MUS permit if that vessel is used:

(i) To fish for MUS in the EEZ off the States of California, Oregon, and Washington; or

(ii) To land or transship MUS shoreward of the outer boundary of the EEZ off the States of California, Oregon, and Washington.

(2) The permit must be on board the vessel and available for inspection by an authorized officer, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(3) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(4) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) an MUS permit.

(b) Application. (1) Following publication of the final rule implementing the FMP, NMFS will issue permits to the owners of those vessels on a list of vessels obtained from owners previously applying for a permit under the authority of the High Seas Fishery Compliance Act, the Tuna Conventions Act of 1950, and the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region.

(2) All permits issued by NMFS in accordance with paragraph (b)(1) of this section will be issued by insert date 60 days

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following effective date of final rule] and for commercial fishing vessels will authorize the use of specific fishing gear.

(3) Beginning on [insert date 60 days following effective date of final rule], vessel owners who have not received an MUS permit must apply to the SFD for the required permit in accordance with the following:

(i) A Southwest Region Federal Fisheries application form may be obtained from the SFD to apply for a permit to fish for MUS off the coasts of California, Oregon, and Washington. A completed application is one that contains all the necessary information and signatures required. A copy of the application may be attained at <http://swr.nmfs.noaa.gov/permits.htm>.

(ii) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(4) Permits issued under this subpart will remain valid for five years unless revoked or suspended. The first renewal date will be January 1, 2009.

(5) Replacement permits may be issued without charge to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(6) Any permit that has been altered, erased, or mutilated is invalid.

(c) Display. Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing MUS shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(d) Sanctions. Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.
§ 660.708 Reporting and recordkeeping.

(a) Logbooks. The operator of any commercial fishing vessel and any recreational charter vessel fishing for MUS in the management area must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator or a State agency. All information specified on the forms must be recorded on the forms within 24 hours after the completion of each fishing day. The original logbook form for each day of the fishing trip must be submitted to either the Regional Administrator or the appropriate

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State management agency within 30 days of each landing or transshipment of MUS. Each form must be signed and dated by the fishing vessel operator.

(1) Logbooks acceptable to meeting the reporting requirement may be found at <http://swr.nmfs.noaa.gov/logbooks.htm>, and include:

(i) The logbook required under § 300.21 implementing the Tuna Conventions Act of 1950;

(ii) The logbook required under § 660.14 implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region;

(iii) The logbook required by § 300.17 implementing the High Seas Fishery Compliance Act of 1995.

(iv) Any logbook required by the fishery management agency of the States of California, Oregon, or Washington.

(2) Any holder of a permit that does not provide logbooks under any of the above authorities must, by written request, apply to the SFD for the appropriate logbook. The applicant must provide his or her name and address, the name of the vessel, and the type of fishing gear used.

(3) The Regional Administrator may, after consultation with the Council, initiate rulemaking to modify the information to be provided on the fishing record forms.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of MUS containing all data, and in the exact manner, required by the applicable state law.

§ 660.709 Annual specifications.

(a) Procedure. (1) In September of each year, the Management Team will deliver a SAFE report to the Council for all MUS. The SAFE report will contain any necessary recommendations for establishing harvest guidelines or quotas for MUS.

(2) In November each year, the Council will adopt any necessary harvest guidelines or quotas for public review.

(3) In March of each year, the Council will take final action on any proposed harvest guidelines or quotas and submit its recommendations to NMFS.

(4) The Regional Administrator will determine the harvest guidelines or quotas for all MUS based on the SAFE report, recommendations from the Council, and the requirements contained in the FMP.

(b) Fishing seasons for all species will begin on October 1 of each year at 0001 hours local time and terminate on September 30 of each year at 2400 hours local time.

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(c) Harvest guidelines and quotas announced for a particular year will be in effect the following year unless changed through the public review process described in paragraph (a) of this section.

§ 660.710 Closure of directed fishery.

When a harvest guideline or quota has been taken, the Regional Administrator will announce in the Federal Register the date of closure of the fishery for the species of concern.

§ 660.711 General catch restrictions.

(a) Prohibited species. MUS under the FMP for which quotas have been achieved and the fishery closed are prohibited species. In addition, the following are prohibited species:

- (1) Any species of salmon
- (2) great white shark
- (3) Basking shark
- (4) Megamouth shark
- (5) Pacific halibut

(b) Marlin prohibition. The sale of striped marlin is prohibited.

§ 660.712 Longline Fishery.

(a) Gear and fishing restrictions. (1) Owners and operators of vessels registered for use of longline gear may not use longline gear to fish for or target swordfish (Xiphias gladius) north of the equator (0° N. lat.).

(2) A person aboard a vessel registered for use of longline gear fishing for MUS north of the equator (0° lat.) may not possess or deploy any float line that is shorter than or equal to 20 m (65.6 ft or 10.9 fm). As used in this paragraph, float line means a line used to suspend the main longline beneath a float.

(3) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not use longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(4) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not receive from another vessel MUS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(5) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not land or transship MUS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

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(6) No light stick may be possessed on board a vessel registered for use of longline gear during fishing trips that include any fishing north of the equator (0° lat.). A light stick as used in this paragraph is any type of light emitting device, including any fluorescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.

(7) When a conventional monofilament longline is deployed in waters north of 0° lat. by a vessel registered for use of longline gear, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters north of the equator.

(8) Longline gear deployed north of 0° lat. by a vessel registered for use of longline gear must be deployed such that the deepest point of the main longline between any two floats, i.e., the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(9) Owners and operators of longline vessels registered for use of longline gear may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing north of the equator (0° lat.).

(b) Sea turtle take mitigation measures. (1) Owners and operators of vessels registered for use of longline gear must carry aboard their vessels line clippers meeting the minimum design standards specified in (b)(2) of this section, dip nets meeting minimum standards specified in (b)(3) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in (b)(4) through (b)(6) of this section.

(2) Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (see figure 1 of this section). The minimum design standards are as follows:

(i) The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users

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of the cutting blade.

(ii) The blade must be capable of cutting 2.0-2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(iii) The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(iv) The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(3) Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section are:

(i) The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.

(ii) The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches x 3 inches (7.62 cm x 7.62 cm).

(4) All incidentally taken sea turtles brought aboard for dehooking and/or disentanglement must be handled in a manner to minimize injury and promote post-hooking survival.

(i) When practicable, comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in paragraphs (b)(5) and (b)(6) of this section.

(ii) If a sea turtle is too large or hooked in such a manner as to preclude safe boarding without causing further damage/injury to the turtle, line clippers described in paragraph (b)(2) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.

(iii) If a sea turtle is observed to be hooked or entangled by longline gear during hauling operations, the vessel operator must immediately cease hauling operations until the turtle has been removed from the longline gear or brought on board the vessel.

(iv) Hooks must be removed from sea turtles as quickly and carefully as possible. If a hook cannot be removed from a turtle, the line must be cut as close to the hook as possible.

(5) If the sea turtle brought aboard appears dead or comatose, the sea turtle must be placed on its belly (on the

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bottom shell or plastron) so that the turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. A reflex test, performed by gently touching the eye and pinching the tail of a sea turtle, must be administered by a vessel operator, at least every 3 hours, to determine if the sea turtle is responsive. Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance may be placed into a container holding water. A water-soaked towel placed over the eyes, carapace, and flippers is the most effective method to keep a turtle moist. Those that revive and become active must be returned to the sea in the manner described in paragraph (b)(6) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (b)(6)(i) of this section.

(6) Live turtles must be returned to the sea after handling in accordance with the requirements of paragraphs (b)(4) and (b)(5) of this section:

(i) By putting the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and releasing the turtle away from deployed gear; and

(ii) Observing that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(8) In addition to the requirements in paragraphs (b) and (c) of this section, a vessel operator shall perform sea turtle handling and resuscitation techniques consistent with Sec. 223.206 (d)(1) of this title, as appropriate.

(c) Longline Seabird mitigation measures. (1) Seabird mitigation techniques. Owners and operators of vessels registered for use of longline gear must ensure that the following actions are taken when fishing north of 23° N. lat.:

(i) Employ a line setting machine or line shooter to set the main longline when making deep sets using monofilament main longline;

(ii) Attach a weight of at least 45 g to each branch line within 1 m of the hook when making deep sets using monofilament main longline;

(iii) When using basket-style longline gear, ensure that the main longline is deployed slack to maximize its sink rate;

(2) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;

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(3) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel;

(4) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled;

(5) Retain sufficient quantities of fish, fish parts, or spent bait, between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a)(6) of this section;

(6) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (vi) of this section; and

(7) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically, and periodically discharge the butchered heads and livers in accordance with paragraph (a)(6) of this section.

(8) If a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;

(ii) Cover the bird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the bird;

(iv) Determine if the bird is alive or dead.

(A) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.

(B) If alive, handle the bird in accordance with paragraphs (c)(9) through (c)(14) of this section.

(9) Place the bird in a safe enclosed place;

(10) Immediately contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;

(11) Follow the veterinary guidance regarding the handling

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and release of the bird.

(12) Complete the short-tailed albatross recovery data form issued by NMFS.

(13) If the bird is externally hooked and no veterinary guidance is received within 24-48 hours, handle the bird in accordance with paragraphs (c)(17)(iv) and (v) of this section, and release the bird only if it meets the following criteria:

(i) Able to hold its head erect and respond to noise and motion stimuli;

(ii) Able to breathe without noise;

(iii) Capable of flapping and retracting both wings to normal folded position on its back;

(iv) Able to stand on both feet with toes pointed forward; and

(v) Feathers are dry.

(14) If released under paragraph (c)(13) of this section or under the guidance of a veterinarian, all released birds must be placed on the sea surface.

(15) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water.

(16) Complete the short-tailed albatross recovery data form issued by NMFS.

(17) If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;

(ii) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the seabird;

(iv) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;

(v) Cut the fishing line as close as possible to ingested or inaccessible hooks;

(vi) Leave the bird in a safe enclosed space to recover until its feathers are dry; and

(vii) After recovered, release seabirds by placing them on the sea surface.

(d) Vessel monitoring system.

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(1) Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.

(2) After the holder of a permit to use longline gear has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry the VMS unit after the date scheduled for installation.

(3) During the experimental VMS program, a longline permit holder shall not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related directly to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.

(4) The holder of a longline permit and the master of the vessel operating under the permit must:

(i) Provide opportunity for the SAC to install and make operational a VMS unit after notification.

(ii) Carry the VMS unit on board whenever the vessel is at sea.

(iii) Not remove or relocate the VMS unit without prior approval from the SAC.

(5) The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

(e) Protected species workshop. (1) Each year both the owner and the operator of a vessel registered for use of longline gear must attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species.

(2) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(3) An owner of a vessel registered for use of longline gear must have on file a valid protected species workshop certificate or copy issued by NMFS in order to maintain or renew their vessel registration.

(4) An operator of a vessel registered for use of longline gear must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.

§ 660.713 Drift Gillnet Fishery

(a) Take Reduction Plan Gear Restrictions. This section implements gear restrictions resulting from the Pacific Offshore Cetacean Take Reduction Plan established under the authority of the Marine Mammal Protection Act of 1972.

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(1) All extenders (buoy lines) must be at least 6 fathoms (36 ft; 10.9 m) in length during all sets, and all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.

(2) While at sea, operators of drift gillnet vessels with gillnets onboard must carry enough pingers on the vessel to meet the requirements set forth under paragraphs (a)(3) through (a)(6) of this section.

(3) Pingers shall be attached within 30 ft (9.14 m) of the floatline and spaced no more than 300 ft (91.44 m) apart (see figure 2 of this section).

(4) Pingers shall be attached within 36 ft (10.97 m) of the leadline and spaced no more than 300 ft (91.44 m) apart.

(5) Pingers must be attached within 30 ft (9.14 m) of the floatline and within 36 ft (10.97 m) of the leadline shall be staggered such that the horizontal distance between them is no more than 150 ft (45.5 m).

(6) Any materials used to weight pingers must not change specifications for pingers defined at § 660.702 or configurations set forth in paragraph (c)(3) of this section.

(7) The pingers must be operational and functioning at all times during deployment.

(8) NMFS may authorize the use of pingers with specifications or pinger configurations differing from those set forth in paragraphs (a)(2) and (a)(2)(ii) of this section for limited, experimental purposes within a single fishing season.

(9) After notification from NMFS, vessel operators must attend a skipper education workshop before commencing fishing each fishing season. NMFS may waive the requirement to attend these workshops by notice to all vessel operators.

(c) Other gear restrictions. (1) The maximum length of a drift gillnet on board a vessel shall not exceed 6,000 feet.

(2) Up to 1,500 feet of drift gillnet in separate panels of 600 feet may be on board the vessel in a storage area.

(d) Protected Resource Area Closures. (1) No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean from August 15 through November 15 in the area bounded by straight lines connecting the following coordinates in the order listed (see figure 3 of this section):

(i) Pt. Sur at 36° 18.5' N. lat., to

(ii) 34° 27' N. lat. 123° 35' W. long.;

(iii) 34° 27' N. lat. 129° W. long.;

(v) 45° N. lat. 129° W. long., thence

(vii) to the point where 45° N. lat. intersects the Oregon

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coast.

(2) No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean during a forecasted or occurring El Niño event announced by NMFS in the Federal Register from August 15 through August 31, and from January 1 through January 31 within the area bounded on the north by Point Conception at 34° 27' N. lat., the Mexico border on the east, and 120° W. long. on the west.

(e) Mainland area closures. The following areas off the Pacific coast are closed to driftnet gear:

(1) Within the EEZ from the United States-Mexico International Boundary to the California-Oregon border from February 1 through April 30.

(2) In the portion of the EEZ within 75 nautical miles from the mainland shore from the United States-Mexico International Boundary to the California-Oregon border from May 1 through August 14.

(3) In the portion of the EEZ within 25 miles of the coastline from December 15 through January 31 of the following year from the United States-Mexico International Boundary to the California-Oregon border.

(4) In the portion of the EEZ from August 15 through September 30 within the area bounded by line extending from Dana Point to Church Rock on Santa Catalina Island, to Point La Jolla.

(5) In the portion of the EEZ within 12 nautical miles from the mainland shore north of a line extending west of Point Arguello to the California-Oregon border.

(6) In the portion of the EEZ within the area bounded by a line from the lighthouse at Point Reyes to Noonday Rock to Southeast Farallon Island to Pillar Point.

(7) In the portion of the EEZ north of 45° N. latitude **or** in any waters less than 1,000 fathoms off Oregon and Washington.

(f) Channel Islands area closures. The following areas off the Channel Islands are closed to driftnet gear:

(1) San Miguel Island closures. (i) Within the portion of the EEZ north of San Miguel Island between a line extending 6 nautical miles west of Point Bennett and a line extending 6 nautical miles east of Cardwell Point.

(ii) Within the portion of the EEZ south of San Miguel Island between a line extending 10 nautical miles west of Point Bennett and a line extending 10 nautical miles east of Cardwell Point.

(2) Santa Rosa Island Closure. Within the portion of the EEZ north of San Miguel Island between a line extending 6 nautical

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miles west from Sandy Point and a line extending 6 nautical miles east of Skunk Point from May 1 through July 31.

(3) San Nicolas Island closure. In the portion of the EEZ within a radius of 10 nautical miles of 33° 16' 41" N. lat., 119° 34' 39" W. long. (west end) from May 1 through July 31.

(4) San Clemente Island closure. In the portion of the EEZ within 6 nautical miles of the coastline on the easterly side of San Clemente Island within a line extending 6 nautical miles west from 33° 02' 16" N. lat., 118° 35' 27" W. long. and a line extending 6 nautical miles east from the light at Pyramid Head from August 15 through September 30.

§ 660.714 Purse Seine.

(a) Area closure. The use of purse seine gear to harvest MUS in the management area north of 45° N lat. is prohibited.

§ 660.715 Harpoon. [Reserved]

§ 660.716 Surface hook-and-line. [Reserved]

§ 660.717 Framework for revising regulations.

(a) General. NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in the FMP.

(b) Annual actions. Annual specifications are developed and implemented according to Sec. 660.709.

(c) Routine management measures. Consistent with section 3.4 of the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the Federal Register.

(d) Changes to the regulations. Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 8.3.4 of the FMP and will be published in the Federal Register.

§ 660.718 Exempted Fishing.

(a) In the interest of developing an efficient and productive fishery for MUS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of MUS that otherwise would be prohibited.

(b) No exempted fishing for CPS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in §600.745 of this chapter.

§ 660.719 Scientific observers.

(a) All fishing vessels operating in MUS fisheries, including catcher/processors, at-sea processors, and vessels that harvest in Washington, Oregon, or California and land catch in another area, may be required to accommodate NMFS certified

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observers on board to collect scientific data. Any observer program will be implemented in accordance with the procedures at § 660.717.

(b) All vessels with observers on board must comply with the safety regulations at 50 CFR 600.746.

(c) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip.

(d) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart or as a condition of an EFP issued under Sec. 660.718, the vessel may not engage in the fishery without taking the observer.

(e) A permit holder must accommodate a NMFS observer assigned under these regulations. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or sea bird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel.

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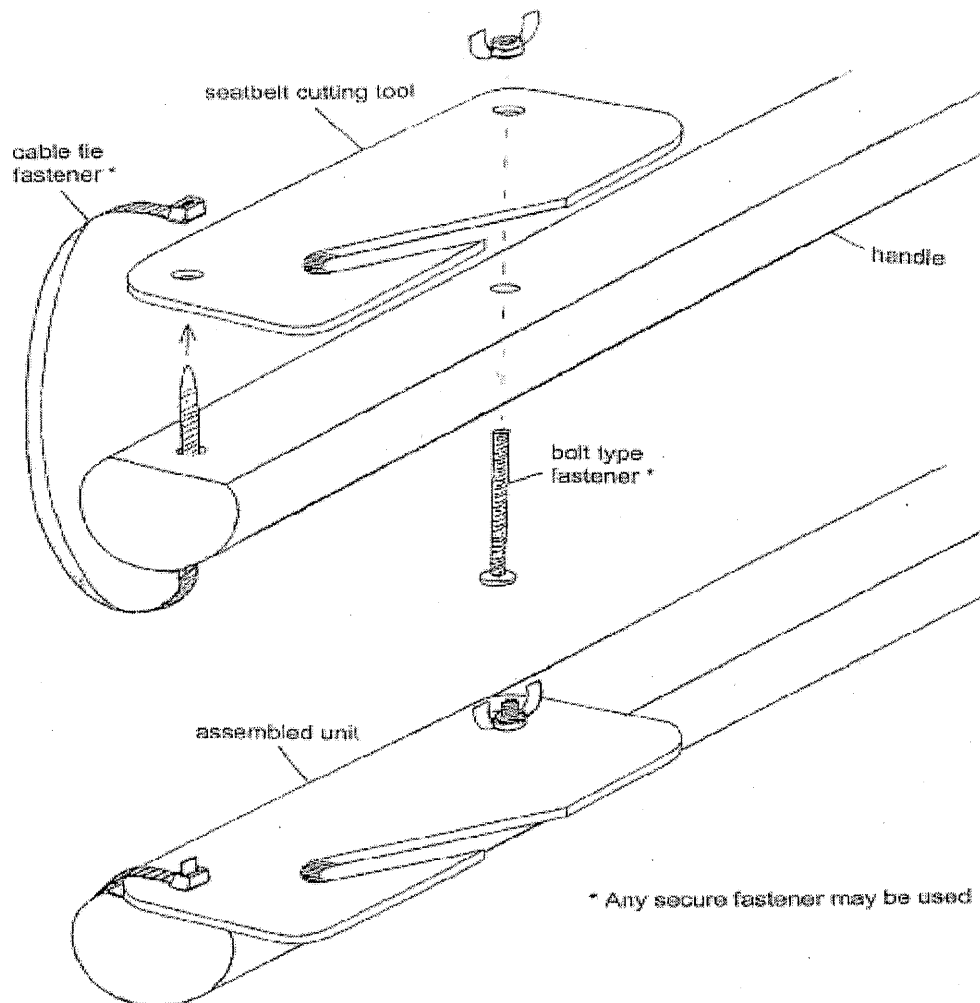
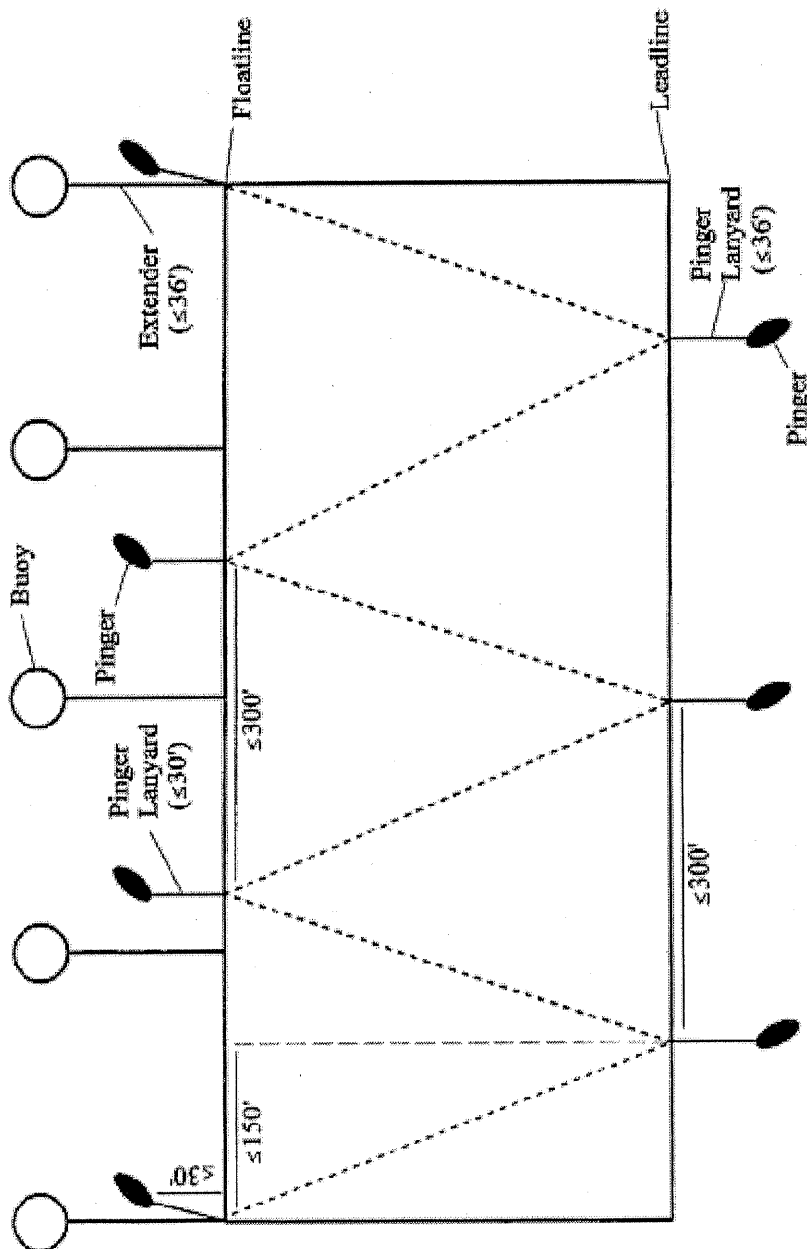


Figure 1 – Sample Fabricated Arceneaux Line Clipper

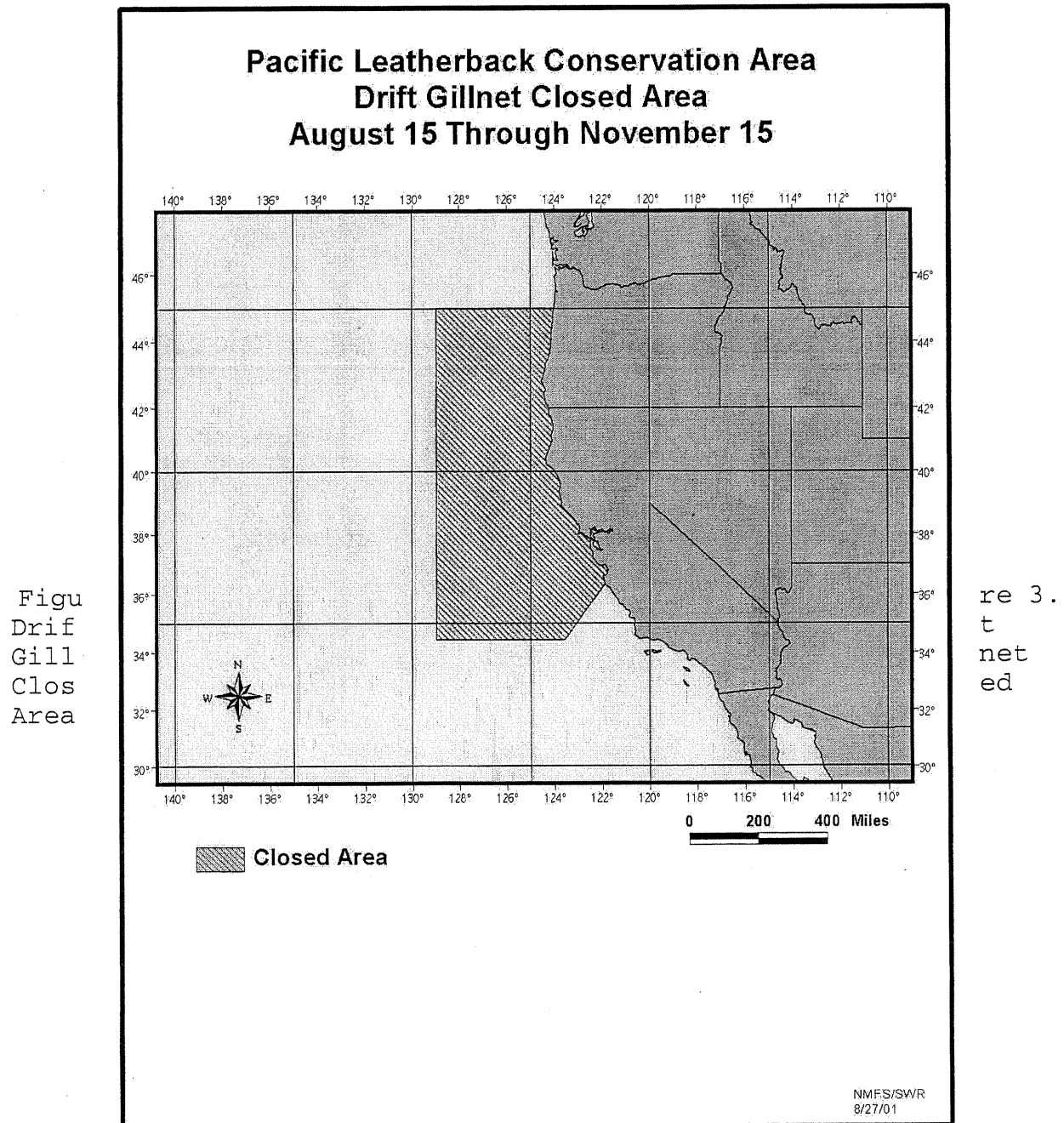
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PROPOSED CHANGES TO THE SEPTEMBER 2002 DRAFT HMS FMP
Prepared by the HMSPDT
October 10, 2002

Introduction

After completion of the September 19, 2002 draft of the Highly Migratory Species Environmental Impact Statement/Fishery Management Plan to meet the printing deadline, Plan Development Team members identified a number of sections in chapters 8 and 9 which need to be revised. These include inadvertent errors in language, and language that was intended to be included but was not completed in time for printing. The Team has prepared the following proposed changes for consideration by the HMSAS, public and Council prior to adoption of the FMP.

Language proposed to be deleted is crossed out, and new proposed language is highlighted.

Chapter 8, Proposed Action and Alternatives

1. Page 3 under section 8.2 Unilateral Management, Harvest Guidelines and Quotas, and Overfishing, 1st paragraph under *Unilateral Management*: language added to clarify that recovery time > 10 years is not the only criterion for "vulnerable" species, as explained in Ch. 3, sec. 3.2.3:

For most management unit species in this FMP, U.S. harvest by west coast-based vessels represents only a small fraction of total fishing mortality out of the overall range of the species. Therefore, any unilateral action, such as a reduction in the U.S. west coast harvest or effort, would not likely have a significant biological effect on the stock. However, under some circumstances, unilateral management of U.S. vessels may be appropriate, in addition to or in the absence of international actions. This is particularly true for vulnerable stocks, defined, in part, as stocks that will require more than ten years to recover from depletion (see Ch. 3, sec. 3.2.3). Circumstances where unilateral management may be appropriate include, but are not limited to, the following situations: ...

2. Page 14 section 8.4.1 Legal Gear Sub-alternative 2b omitted word corrected:

Sub-alternative 2b: Specifies *no minimum stretched mesh size* for authorized HMS drift gillnet gear; small mesh drift gillnet gear can target HMS.

3. Page 17 section 8.4.4 Bycatch Alternative 2 restated for consistency with Ch. 9:

Alternative 2 (Proposed Action): In addition to the fishery-specific bycatch reduction measures discussed in Chapter 5, the FMP ~~will also establish~~ **establishes** a framework ~~procedure~~ for implementing further bycatch reduction measures in the future. It also adopts a formal voluntary "catch-and-release" program for HMS recreational fisheries.

Background for Proposed Action:

The framework procedure is to allow efficient implementation of bycatch reporting and reduction measures as needed and as is practical. Potential measures/methods include but are not limited to:

- logbooks
- observers
- time/area closures
- gear restrictions or modifications, or use of alternative gear
- educational programs
- performance standards

- real-time data collection programs (e.g., VMS, electronic logbooks)

The voluntary "catch-and-release" program is to promote reduction of bycatch mortality and waste by encouraging the live release of unwanted fish. Its rationale and origination for recreational fisheries is explained in Chapter 5, section 5.7. Although establishment of the catch-and-release program technically removes bycatch in the recreational fisheries from the definition of "bycatch" in the Magnuson-Stevens Act at 16 U.S.C. § 1802(2), the catch-and-release program is also designed to promote the handling and release of fish in a manner that minimizes the risk of incidental mortality, encourages the live release of small fish, and discourages waste.

4. Page 18 sec. 8.4.5 Fishing Observer Authority Alt. 2 restated for consistency with Ch. 9:

Alternative 2 (Proposed Action): Mandates new observer programs initially for the longline, surface hook-and-line, and small purse seine fisheries, with NMFS to develop initial, in the longer term, pilot observer sampling plans for the private recreational and CPFV fleets.

In consultation with the Council, its advisory bodies, and the fishery participants, NMFS will develop initial observer plans for these fisheries that will be submitted when the FMP is implemented. The observer coverage plans for these fisheries may be adjusted as the initial data is assessed and more is learned about the levels of coverage necessary to obtain reliable data on bycatch in these fisheries. Large- and small-mesh DGN fisheries already have mandated observer programs, and observer coverage recently has become mandatory for the longline fishery.

This alternative provides for documentation and review of the bycatch, bycatch mortality, and protected species interactions in all HMS fisheries.

5. Page 19 sec. 8.4.6 Protected Species Alternative 2 restated for consistency with Ch. 9 and additional language added elaborating on the mechanism for implementing that alternative:

Alternative 2 (Proposed Action): Adopts a framework authorization for protected species conservation measures and implements initial conservation and management measures for drift gillnet, pelagic longline, and purse seine fisheries, as described in section 8.5, Ch. 6 sec. 6.3, and Ch. 9 sec. 9.2.5.1-3. and These measures are intended to reduce the potential for takes of protected species and to minimize the risk of adverse impacts from these takes.

The framework provisions of the FMP would be used to address new protected species concerns as they are identified. Both through the SAFE Report and through special reports from interested parties (which could include the USFWS or environmental organizations), the Council would be advised of the new concerns; would direct the plan team or others to investigate and recommend action; would determine if action is needed and, if it is viewed as a matter of substantial concern, would direct the completion of necessary documents to analyze the issues and evaluate alternatives; and would submit recommendations for corrective action to NMFS for consideration. If such an action were recommended by the Council and approved by NMFS, the action would be implemented by NMFS.

In fisheries where protected species takes are already being addressed, as by the Pacific Offshore Cetacean Take Reduction Team (POCTRT) for the drift gillnet fishery, any recommendations and supporting analyses, as by POCTRT, would be provided by NMFS to the Council for consideration. The Council would make recommendations as it deems appropriate to NMFS, which will make final decisions on whether to proceed with rulemaking under the MMPA or Magnuson-Stevens Act, as appropriate.

6. Page 31 sec. 8.5.3 Purse Seine Fishery Management Alternative 2 plus comment rewritten for consistency with Ch. 9.

Alternative 2 (Proposed Action): Closes the area within the EEZ north of 45°N. latitude to purse seine fishing to address bycatch and protected species concerns, and possible adverse impacts on other fisheries.

Purse seines are presently not authorized by Washington, mainly out of concern for salmon; thus this alternative extends that protection south of the OR-WA border to 45°N, with compliance to be required of all west coast fishers. Some species of salmon are listed as threatened or endangered. Since purse seine fishing for HMS has not only rarely been practiced in these waters in the past, this precautionary action would effectively maintain the status quo.

7. Page 44 sec. 8.6 Research and Data Needs paragraphs 4, 5, and 6 rewritten for clarity:

There is very little specific information on the migratory corridors and habitat dependencies of these large mobile fishes, how they are distributed by season and age throughout the Pacific and within the west coast EEZ, and how oceanographic changes in habitat affect production, recruitment and migration. Research is needed to better define EFH and HAPCs, and to identify specific habitat areas of particular concern (HAPC), such as pupping grounds, key migratory routes, feeding areas, and areas of concentration of large adult female sharks where adults aggregate for reproduction. These areas may not only concentrate pups, but also the highly valuable pregnant females at certain times of the year. Of special relevance are A special need is to determine the pupping areas of thresher and mako sharks, pupping areas, the locations of which are currently unknown but must occur which are presumed to be somewhere within the southern portion of the U.S. west coast EEZ, judging from the presence occurrence of post-partum and young pups in the area (e.g., NMFS Driftnet Observer data).

To determine which size/age groups of For sharks, the size/age groups contribute the contributing most to population growth and maintenance (and thus need the most protection), further demographic analyses (including elasticity analyses) are needed for each shark species. This is need to be determined by demographic studies to better determine the effectiveness of various how best to apply management measures, such as season and area closures, and 'slot' size limits for sharks. Additionally, the U.S. Congress identified the following data needs for sharks in the Shark Finning Prohibition Act (PL 106-557) (see also the U.S. National Plan of Action for Sharks):

8. Page 47 sec. 8.6.2 Information Needed by Fishery items under Pelagic Longline are expanded:

Pelagic Longline

- a. Extent and composition of bycatch and of protected species interactions.
- b. The size composition of the primary catch.
- c. Evaluate effectiveness of the conservation measures adopted from the Hawaii-based longline fishery in the area fished by the west coast longline fishery; develop and test new measures for reducing seabird take.
- d. Economic factors (for RIR and RFA analysis).

Chapter 9, Environmental Consequences of Proposed Action and Alternatives

1. Page 14, 1st paragraph in Analysis section of Control Rule section 9.2.2.2 needs to be replaced with the text:

The proposed No action or alternative is not really an alternative because the National Standard Guidelines for implementing National Standard 1 (Optimum Yield) of the Magnuson-Stevens Act specifically calls for use of control rules in managing the species of an FMP.

And the following paragraph needs a topic sentence and should begin with....:

The proposed action establishes such a rule, by adopting the default MSY control rule, and using an OY target for vulnerable species.

2. Page 18, middle of page. Legal Gear Sub-Alternative 2b should read :

Legal Gear Sub-Alternative 2b: Specifies no minimum stretched mesh size for authorized HMS drift gillnet gear; includes small-mesh drift gillnet gear which can target HMS.

3. Page 19, Analysis of Legal Gear SubAlternative 2a. Portion of analysis still pending on analysis of the impact on the set net fishery of limiting HMS landings to incidental catches.

4. Page 22, Analysis of Incidental Catch Allowance Alternative 2 (Proposed Action). Analysis still pending on the impact on the set net fishery of limiting HMS (e.g., thresher shark) landings to incidental catch allowance.

5. Page 25, under Bycatch Alternative 2 description. The following changes.

Bycatch Alternative 2: (Proposed Action): In addition to the fishery-specific bycatch reduction measures discussed in Chapter 5 (and in this chapter), the FMP ~~will also~~ establishes a framework ~~procedure~~ for implementing further bycatch reduction measures in the future. It also adopts a formal, voluntary "catch-and-release" program for HMS recreational fisheries. Although establishment of the catch-and-release program technically removes bycatch in the recreational fisheries from the definition of "bycatch" in the Magnuson-Stevens Act at 16 U.S.C. § 1802(2), the catch-and-release program is also designed to promote the handling and release of fish in a manner that minimizes the risk of incidental mortality, encourages the live release of small fish, and discourages waste.

6. Page 25, bottom of page, Fishery Observer Authority Alternative 2 should read:

Alternative 2: (Proposed Action): Mandates new observer programs initially for the longline, surface hook-and-line, and small purse seine fisheries. In consultation with the Council, its advisory bodies, and the fishery participants, NMFS will develop initial observer coverage plans for these fisheries that will be ~~implemented~~ submitted when the FMP is implemented. The observer coverage plans for these fisheries may be adjusted as the initial data is assessed and more is learned about the levels of coverage necessary to obtain reliable data on bycatch in these fisheries. In addition, in the longer term, NMFS will also develop observer sampling plans for the private recreational and CPFV fisheries in order to assess potential ways of improving information on the species and quantity of bycatch/live releases in these fisheries.

7. Page 27, 9.2.4.6 Protected Species. Replace the first and second paragraphs under Alternative 2 with:

Alternative 2: (Proposed Action): Adopts a framework authorization for protected species conservation measures (see Chapter 8 section 8.4.6) and implements initial conservation and management measures for the drift gillnet, pelagic longline and purse seine fisheries as described in this Chapter, in Chapter 8 section 8.5, and in Chapter 6, section 6.3. These measures are intended to reduce the potential for takes of protected species and to minimize the risk of adverse impacts from these takes.

The analyses associated with Protected Species alternatives are provided in this Chapter, under the drift gillnet 9.2.5.1, longline 9.2.5.2 and purse seine 9.2.5.3 alternatives sections. ~~Chapter 8, Section 8.5:~~

8. Page 31, Section 9.2.4.11 Exempted Fishing Permit section. To be consistent with Ch 8, Alternative 2 descriptive text 2nd par should be replaced with:

Alternative 2: Proposed Action: Authorizes issuance of EFPs pursuant to 50 CFR 600.745(b). In addition, requires that a general EFP plan be submitted for Council review for all future applicants wishing to target HMS prior to formal application to NMFS (an example of a fishery-specific proposal for an EFP is provided in Ch 9 Section 9.2.5.2.1). This EFP plan will be provided to the Council for review and recommendations. The Council may require changes in the initial proposed plan or request additional information. The final plan and Council recommendations will then be provided by the applicant to NMFS for action under 50 CFR 600.745.

9. Page 84, Analysis of Purse Seine Alternative 2. Replace this section with the following:

Analysis of Purse Seine Alternative 2: (Proposed): This closure has been proposed by the State of Washington because of the state's concerns over possible salmon and shark bycatch and incidental catch by purse seiners, potential interactions with protected species and marine mammals, and adverse impacts on other fisheries, such as possible competition with the albacore troll fleet if a purse seine fishery develops for albacore. No data are available on the potential extent of such interactions, however, the state wishes to be precautionary by proposing this closure. Such a closure would eliminate the opportunity that currently exists for non-Washingtonian fishers to use purse seines in the EEZ off Washington and would shift the management burden, and associated costs, from the state to the federal government. Purse seine fishers would still have the alternative to apply for an exempted fishing permit

There has not been any recent purse seine fishing for HMS in the proposed closed waters and, even though purse seine gear is legal gear in Oregon, no one in the Northwest has expressed interest in using this gear to target HMS. In order to use purse seine gear, a vessel needs calm sea conditions which typically do not occur offshore in northern Pacific waters. If purse seiners targeted HMS in these waters, the most likely target species would be albacore or bluefin tuna. The latter species, while ranging north to Vancouver, is not thought to be common in this area, with only minor catches recorded historically and recently in Washington state waters. If purse seine fishers were to target albacore tuna, there could be potential gear conflicts with the albacore troll fleet, as they would be fishing in the same area, targeting the same species. The potential bycatch of purse seine gear targeting albacore tuna in offshore waters cannot be ascertained at this time. There is a current purse seine fishery for sardine in the area, but these data are not comparable because this fishery occurs inshore and uses a different type of seine gear.

The proposed action will likely have little impact compared to the status quo. It would federalize regulations under the Magnuson-Stevens Act restrictions that already apply to Washington vessels under that state's laws but would add to those restrictions by closing some waters off Oregon as well. To the extent otherwise allowed under current states' regulations, purse seine fishing for HMS can continue. As noted in 9.1, it is expected that the coast-wide purse seine fishery will remain at or decline below recent levels, but this is dependent on a number of factors that are beyond the control of the Council. It is presumed that the proposed closure would have little impact because there has been virtually no purse seine fishing for HMS in the waters proposed to be closed except for a small amount of exploratory tuna purse seining in the 1960s. Absent data that demonstrates what the extent of bycatch and/or protected species interactions might be in waters offshore Washington, the State of Washington recommends that the Council take a precautionary approach regarding allowing any new, emerging HMS fisheries targeting HMS.

10. Page 86, section 9.2.5.5 Permits. Delete last two paragraphs on page 86 and first on page 87. This section, entitled "Analysis of commercial permit alternatives 1,3, and 4," is repetitive and should have been deleted.

