



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Silver Spring, Maryland 20910

SEP 22 2006

MR. HANSEN -

Dear ~~Regional Fishery Management Council Chairs and Executive Directors:~~

On behalf of the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior (DOI), I am pleased to provide the attached copy of the proposed *Draft Framework for Developing the National System of Marine Protected Areas* for your review and comment. This effort has been coordinated by the National Marine Protected Areas Center, a division of NOAA's Office of Ocean and Coastal Resource Management.

As you may know from my briefing of the Councils during your annual meetings since 2001, the draft Framework is a culmination of a multi-year effort to better understand the nation's existing place-based marine conservation efforts and gather an extensive set of recommendations from government partners and stakeholders around the country.

Based on these recommendations, the draft Framework proposes guidance for cooperative efforts among federal, tribal, state, territorial and local governments and stakeholders to: develop an effective National System of MPAs through partnerships with existing sites; enhance related coordination and stewardship efforts; and identify gaps in the protection of important natural and cultural resources for future consideration. Sustainable production is a key element in the design, creation, and management of many MPAs. As I noted at the January 2006 Council Chairs and Executive Directors meeting, your views on how the draft Framework addresses this objective would be very valuable.

The draft Framework is available for public comment for a period of 145 days from its September 22, 2006, date of publication in the *Federal Register*. We are providing this extended comment period to accommodate the meeting schedules of some organizations, such as the regional fishery management councils, to ensure there is sufficient time for a formal response. You can find electronic copies of the draft Framework and associated documents at <http://www.mpa.gov>.

Thank you for the many ideas you have provided over the years and your continued support of these collaborative efforts to enhance the conservation and sustainable use of our nation's valuable marine resources. Please contact me ([joseph.uravitch@noaa.gov](mailto:joseph.uravitch@noaa.gov)) or Jonathan Kelsey ([jonathan.kelsey@noaa.gov](mailto:jonathan.kelsey@noaa.gov)) with any questions.

Sincerely,

Joseph Uravitch  
Director  
National Marine Protected Areas Center

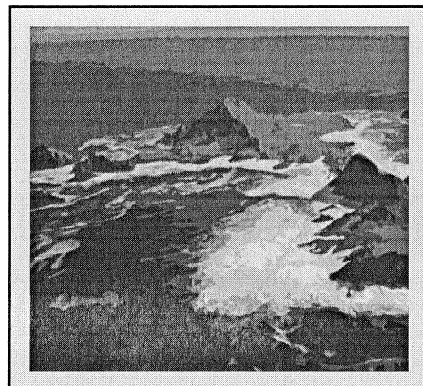


July 2006

For more information please contact:

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National Marine Protected Areas Center  
NOAA's Office of Ocean and Coastal Resource Management  
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## I. Summary

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Protected Areas Center (MPA Center), in cooperation with the Department of the Interior (DOI), has developed this Draft Framework for Developing the National System of MPAs (Draft Framework) to meet requirements under Executive Order 13158 on Marine Protected Areas (Order). This Draft Framework provides overarching guidance for collaborative efforts among federal, **state**,\* tribal, and **local governments** and **MPA stakeholders** to develop an effective **National System of Marine Protected Areas** (National System) from existing sites, enhance **marine protected area** (MPA) coordination and stewardship, and identify ecosystem-based gaps in the protection of important marine **natural** and **cultural resources** for possible future action by governmental MPA programs. The document further provides the guiding principles, key definitions, goals, and objectives for the National System. The contents and overall approach of the Draft Framework are based on the breadth of input received from government partners and stakeholders around the nation over the past several years.

The purpose of this Draft Framework is to solicit additional input and comments from governments and stakeholders in order to ensure that the final document represents the diversity of the nation's interests in the **marine environment** and MPAs. NOAA and DOI further recognize the principal role that state and tribal governments, along with federal agencies, must have in developing and implementing the National System. Moreover, roughly 85% of the nation's existing **place-based** conservation areas are under the jurisdiction of non-federal governments. The significance of these government-to-government relationships and the marine resources managed by states and **tribes** necessitates this national, rather than federal, approach to building the National System. In developing this Draft Framework, NOAA and the DOI have made and will continue to expand efforts to understand and incorporate, as appropriate, the recommendations of government partners concerning a structure and function for the National System that builds partnerships with and supports the efforts and voluntary participation of state, tribal, and local governments. MPA stakeholders and federal and non-federal government partners alike are encouraged to review and provide comments on the Draft Framework so that it supports the variety of MPA efforts and interests around the country.

Increasing impacts on the world's oceans, caused by development, overfishing, and natural events, are straining the health of our coastal and marine **ecosystems**. Some of these impacts to the marine and Great Lakes environment have resulted in declining fish populations; degradation of coral reefs, seagrass beds, and other vital habitats; threats to rare or endangered species; and loss of artifacts and areas that are part of our nation's historic and **cultural heritage**. The effects of these mounting losses are being directly felt in the social and economic fabric of our nation's communities.

MPAs offer a promising ocean and coastal management tool to mitigate or buffer these impacts. It is important to clarify that the term "MPA," as used here, is not synonymous with or limited to "no-

\* Important terms are bolded the first time they are used and defined in the Glossary found in Section XII of this document.

take areas” or “marine reserves.” Instead, the term “MPA” denotes an array of levels of protection, from areas that allow multiple use activities to those that restrict take and/or access. When used effectively and in conjunction with other management tools, MPAs can help to ensure healthy Great Lakes and oceans by contributing to the overall protection of critical marine habitats and resources. In this way, effective MPAs can offer social and economic opportunities for current and future generations, such as tourism, biotechnology, fishing, education, and scientific research.

Since 2001, the MPA Center and its federal, state, and tribal partners have been collecting information on the vast array of the nation’s place-based marine conservation areas, including those generally considered MPAs, to serve as the foundation for building the National System. This inventory has resulted in the identification of at least 1,500 place-based sites established by hundreds of federal and state authorities. A number of these existing sites are further managed as **systems** by their respective agencies or programs. The types of sites found range from multiple-use areas to no-take reserves. The vast majority of these areas allow multiple uses, and less than one percent of the total area under management in the **United States** (U.S.) is no-take.

This inventory has also revealed a dramatic increase in the use of MPAs over the past several decades. Most MPAs in the U.S. have been established since 1970, and most allow recreational and commercial uses. With this expanded use of MPAs have come many new and enhanced protections to natural and cultural resources. A preliminary analysis of U.S. place-based conservation efforts reveals important trends in how these areas, including MPAs, are being used to conserve some of the nation’s most significant marine resources. The emerging results illustrate that while there are many such areas currently in U.S. waters, these diverse sites vary widely in mandate, jurisdiction, purpose, size, and level of protection.

Moreover, this initial analysis illustrates how the growing recognition of MPAs as essential conservation tools has resulted in a multitude of new MPA programs and authorities at all levels of government, often times for a sole purpose or objective. There also are a number of good examples where MPA efforts are coordinated locally across programs and levels of government; however, there is no larger framework for collaborating MPA efforts across ecosystems and nationally to meet common goals. This complex environment leads to public confusion, and, in many cases, conservation efforts that are not as effective as they could be with better coordination. The results of this initial analysis have further reinforced the need for a National System and provided much of the baseline information to begin building it.

In recognition of the key role MPAs can play and their growing use, the U.S. is developing an effective National System to support the effective **stewardship**, lasting protection, restoration, and sustainable use of the nation’s significant natural and cultural marine resources. The MPA Center is charged by the Order to carry out these requirements in cooperation with DOI. Neither the Order nor the National System establishes any new legal authorities to designate or manage MPAs, nor do they alter any existing state, federal, or tribal laws or programs.

In addition, the U.S. Ocean Action Plan (USOAP) outlines a variety of actions for promoting the responsible use and stewardship of ocean and coastal resources for the benefit of all Americans. A Cabinet-level “Committee on Ocean Policy” (COP) was established by Executive Order 13366 (December 17, 2004) to coordinate the activities of executive branch departments and agencies regarding ocean-related matters in an integrated and effective manner to advance the environmental and economic interests of present and future generations of Americans. The President further directs the Executive branch agencies to facilitate, as appropriate, coordination and consultation regarding ocean-related matters among federal, state, tribal, local governments, the private sector,



foreign governments, and international organizations. Subcommittees of the COP also have been formed as part of the ocean governance structure described in the USOAP, including the Subcommittee on Integrated Management of Ocean Resources (SIMOR) and the Joint Subcommittee on Ocean Science and Technology. Many of the activities outlined in the USOAP and the subsequent work plans of the COP's subcommittees complement efforts to develop the National System. Similarly, many of the collaborative actions under the National System may offer opportunities to help advance the USOAP. As these efforts proceed, the MPA Center will work closely with SIMOR to evaluate progress and plans for developing the National System in order to ensure coordination and consistency with the USOAP's governance structure and overall approach.

The MPA Center has developed this Draft Framework based on information from the initial analysis of information about existing place-based conservation efforts, along with comments from hundreds of individuals at nearly sixty meetings, initial tribal consultations, and recommendations from federal, non-governmental and state advisory groups. As a result, the proposed collaborative development of an effective National System outlined in this document provides a structure for an assemblage of MPA sites, systems, and **networks** established and managed by federal, state, tribal, and local governments to collectively work together at the **regional** and national levels to achieve common objectives for conserving the nation's vital natural and cultural resources.

By establishing an effective structure for working together, the National System will help to increase the efficient protection of important marine resources; contribute to the nation's overall social and economic health; support government agency cooperation and integration; and improve the public's access to scientific information and decision-making about the nation's marine resources. The efforts of the National System are also intended to benefit participating state, tribal, federal, and local government partners through collaborative efforts to identify shared priorities for improving MPA effectiveness and develop partnerships to provide assistance in meeting those needs. Further, it provides a foundation for cooperation with other countries to conserve resources of common concern.

The Draft Framework is available for public comment for 145 days from the date of announcement in the Federal Register. This extended period is intended to accommodate quarterly meeting schedules of some organizations, including regional fishery management councils. At the end of this period, the MPA Center will review all comments received and develop and publish a response to comments and final Framework document. Electronic copies of the Draft Framework can be downloaded at <http://www.mpa.gov/>, or paper copies sent via regular mail can be requested through the contact information below.

## II. For More Information and to Submit Comments



Comments on this Draft Framework for the National System of Marine Protected Areas and the corresponding draft Environmental Assessment found in Appendix D of this document will be accepted if received by 11:59 p.m. EDT, 145 days from announcement in the Federal Register.

An electronic copy of the Draft Framework is available for download at <http://www.mpa.gov/>. Please direct all questions concerning the Draft Framework, as well as any requests for paper copies of the document to: Jonathan Kelsey, NOAA, at 301-713-3100, ext. 130 or via e-mail at [mpa.comments@noaa.gov](mailto:mpa.comments@noaa.gov). E-mail requests should state either "Question" or "Paper Copy Request" in the subject line.

All comments regarding the Draft Framework should be submitted to Joseph Uravitch, National MPA Center, N/ORM, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910. Comments submitted by e-mail are preferred; however, those submitted by mail and fax will also be accepted. Comments sent via e-mail should be sent to [mpa.comments@noaa.gov](mailto:mpa.comments@noaa.gov), and all comments sent by fax should be sent to 301-713-3110. E-mail and fax comments should state "Draft Framework Comments" in the subject line.

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# CORDELL BANK, GULF OF THE FARALLONES AND MONTEREY BAY NATIONAL MARINE SANCTUARIES

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## DRAFT ENVIRONMENTAL IMPACT STATEMENT

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PREPARED AS PART OF THE  
JOINT MANAGEMENT PLAN REVIEW (JMPR)

VOLUME IV OF IV

OCTOBER 2006

U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
NATIONAL OCEAN SERVICE  
NATIONAL MARINE SANCTUARY PROGRAM



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SEP 21 2006

Dear Reviewer:

In accordance with provisions of the National Environmental Policy Act of 1969 (NEPA), the National Oceanic and Atmospheric Administration (NOAA) has enclosed for your review the Draft Management Plans/Draft Environmental Impact Statement (DMP/DEIS) for the Cordell Bank National Marine Sanctuary (CBNMS), Gulf of the Farallones National Marine Sanctuary (GFNMS), and Monterey Bay National Marine Sanctuary (MBNMS). All three sanctuaries are located off the coast of California and were designated in 1989, 1982, and 1992 respectively. The three sanctuaries protect the rich offshore northern and central California marine ecosystems and cultural resources within a 7,100 square mile area. The area is particularly noted for its coastal estuaries, offshore islands, seamounts, kelp forests, diverse marine mammals, and bird species.

These DMPs/DEIS are prepared pursuant to NEPA to assess the environmental impacts associated with NOAA developing revised regulations for the CBNMS, GFNMS, and MBNMS under the National Marine Sanctuaries Act, and are being proposed as part of the management plan review process. The proposed regulatory changes include both new regulations as well as changes to existing regulations. To allow the regulation of certain activities not currently identified as subject to regulation, several of these proposed changes would require the Sanctuary to change its existing terms of designation. The Proposed Rule publishes the proposed new regulations and the proposed changes to existing regulations, the text of the proposed Revised Designation Document for the Sanctuary, and announces the availability of the DMPs/DEIS.

Public hearings will be held in the following locations to take comments on the DMPs, DEIS and the proposed rules:

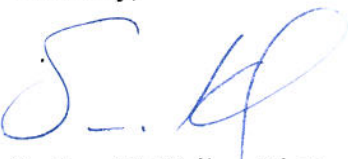
- 1) November 29, 2006, 6:30 p.m. at the Cambria Pines Lodge, 2905 Burton Drive, Cambria, CA 93428.
- 2) November 29, 2006, 6:30 p.m. at the Bodega Marine Laboratory, 2099 Westside Road, Bodega Bay, CA 94923.
- 3) November 30, 2006, 6:30 p.m. at the Monterey Conference Center, One Portola Plaza, Monterey, CA 93940.
- 4) November 30, 2006, 6:30 p.m. at the Dance Palace Community Center, 503 B Street, Point Reyes Station, CA 94956.
- 5) December 5, 2006, 6:30 p.m. at the University of California Santa Cruz Inn and Conference Center, 611 Ocean Street, Santa Cruz, CA 95060.
- 6) December 5, 2006, 6:30 p.m. at the Fort Mason Center, Firehouse (NE corner of Center), San Francisco, CA 94123
- 7) December 6, 2006, 6:30 p.m. at the Community United Methodist Church, 777 Miramontes Street, Half Moon Bay, CA 94019.

Written comments will be accepted within the agency's 90-day comment period and must be received by January 6, 2007. Written comments should be submitted by mail to Brady Phillips,

JMPR Coordinator, NOAA-National Marine Sanctuary Program, 1305 East-West Highway, Room 11163, Silver Spring, Maryland 20910, by fax to 301-713-0404, or by e-mail to [jointplancomments@noaa.gov](mailto:jointplancomments@noaa.gov)

A copy of your comments should be sent to the NOAA Office of Program Planning and Integration, SSMC3, Room 15603, 1315 East-West Highway, Silver Spring, MD 20910, by fax to 301-713-0585, or by e-mail to [nepa.comments@noaa.gov](mailto:nepa.comments@noaa.gov).

Sincerely,



for Rodney F. Weiher, Ph.D.  
NEPA Coordinator



## Draft Environmental Impact Statement Joint Management Plan Review

### Lead Agency:

National Oceanic and Atmospheric Administration  
National Marine Sanctuaries Program  
1305 East-West Highway, N/ORM-6  
Silver Spring, MD 20910

### Proposed Action:

Regulatory changes for Cordell Bank, Gulf of the Farallones and Monterey Bay National Marine Sanctuaries resulting from the Joint Management Plan Review

### Abstract:

This project proposes a series of regulatory changes intended to resolve inconsistencies in regulatory language and enhance resource protection within the three central and northern California National Marine Sanctuaries (NMS) -- Cordell Bank NMS, Gulf of the Farallones NMS, and Monterey Bay NMS. Most of the regulatory changes result in beneficial impacts on resources. The only significant adverse impact was identified on Public Access and Recreation, as a result of the pre-emption of the use of motorized personal watercraft (MPWC) for tow-in surfing in Monterey Bay NMS. This impact could be mitigated to less than significant by providing for special use permits for competitions and training. Less than significant impacts were identified on Commercial Fisheries, Marine Transportation, and Socioeconomics. Beneficial impacts were identified on Air Quality, Biological Resources, Ocean/Geological Resources, Water Quality, Commercial Fisheries, Cultural Resources, Hazardous Materials, Land Use and Development, Public Access and Recreation, Research and Education, Socioeconomics, and Visual Resources. Cumulatively adverse impacts were identified on Commercial Fisheries and Marine Transportation; cumulative beneficial impacts were identified in Air Quality, Biological Resources, Ocean/Geology, Water Quality, Commercial Fisheries, Cultural Resources, Hazardous Materials, Public Access and Recreation, Socioeconomics, and Visual Resources.

<p>NOAA will hold public meetings on the Draft EIS and Management Plans on the following dates:</p> <ol style="list-style-type: none"><li>1) November 29, 2006, 6:30 p.m. at the Cambria Pines Lodge, 2905 Burton Drive, Cambria, CA 93428.</li><li>2) November 29, 2006, 6:30 p.m. at the Bodega Marine Laboratory, 2099 Westside Road, Bodega Bay, CA 94923.</li><li>3) November 30, 2006, 6:30 p.m. at the Monterey Conference Center, One Portola Plaza, Monterey, CA 93940.</li><li>4) November 30, 2006, 6:30 p.m. at the Dance Palace Community Center, 503 B Street, Point Reyes Station, CA 94956.</li><li>5) December 5, 2006, 6:30 p.m. at the University of California Santa Cruz Inn and Conference Center, 611 Ocean Street, Santa Cruz, CA 95060.</li><li>6) December 5, 2006, 6:30 p.m. at the Fort Mason Center, Firehouse (NE corner of Center), San Francisco, CA 94123</li></ol>	<p>If you would like further information regarding this statement, please contact:</p> <p>Brady Phillips JMPR Coordinator National Oceanic and Atmospheric Administration National Marine Sanctuaries Program 1305 East-West Highway, N/ORM-6 Silver Spring, MD 20910 Phone: 301-713-3125 x264 E-mail: Brady.Phillips@noaa.gov</p> <p>Comments should be addressed to the above person and should be received by: <b>January 6, 2007.</b></p>
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<p>7) December 6, 2006, 6:30 p.m. at the Community United Methodist Church, 777 Miramontes Street, Half Moon Bay, CA 94019.</p> <p>Further information on the JMPR can be found at the project website: <a href="http://www.sanctuaries.nos.noaa.gov/jointplan/">http://www.sanctuaries.nos.noaa.gov/jointplan/</a></p>	
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## LIST OF ACRONYMS

Acronym	Full Phrase
AB	Assembly Bill
APPS	Act to Prevent Pollution from Ships
AS	Alaska Statute
ASBS	Area of Special Biological Significance
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BEA	Bureau of Economic Analysis
BP	Before Present
CARB	California Air Resources Board
CBFNA	California Boating Facilities Needs Assessment
CBNMS	Cordell Bank National Marine Sanctuary
CCA	California Coastal Act
CCAA	California Clean Air Act
CDFG	California Department of Fish and Game
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
CINMS	Channel Islands National Marine Sanctuary
CNPS	California Native Plant Society
CO	Carbon Monoxide
CRWQCB	California Regional Water Quality Control Board
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DEIS	Draft Environmental Impact Statement
DMP	Draft Management Plan
DTSC	Department of Toxic Substances Control
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
ENSO	El Niño Southern Oscillation
EO	Executive Order
ESA	Endangered Species Act
ESU	Evolutionarily Significant Unit
FAA	Federal Aviation Administration
FCAA	Federal Clean Air Act
FMP	Fishery Management Plan(s)
FWPCA	Federal Water Pollution Control Act
GFMP	Groundfish Fishery Management Plan
GFNMS	Gulf of the Farallones National Marine Sanctuary
GGNRA	Golden Gate National Recreational Area
GIS	Geographic Information System
HAPC	Habitat Area Of Particular Concern
HC	Hydrocarbons
HMS	Highly Migratory Species
IMO	United Nations International Maritime Organization



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## LIST OF ACRONYMS

Acronym	Full Phrase
JMPR	Joint Management Plan Review
LCP	Local Coastal Program
LNG	Liquefied Natural Gas
MARPOL	International Convention for the Prevention of Pollution from Ships
MBARI	Monterey Bay Aquarium Research Institute
MBNMS	Monterey Bay National Marine Sanctuary
MBTA	Migratory Bird Treaty Act
MBUAPCD	Monterey Bay Unified Air Pollution Control District
MERITO	Multicultural Education of Resource Issues Threatening Oceans
MLMA	Marine Life Management Act
MLML	Moss Landing Marine Lab
MMPA	Marine Mammal Protection Act
MPA	Marine Protected Area
MPRSA	Marine Protection, Research, and Sanctuaries Act also known as the Ocean Dumping Act
MPWC	Motorized Personal Watercraft
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSD	Marine Sanitation Device
MTBE	Methyl Tertiary Butyl Ether
NAAQS	National Ambient Air Quality Standards
NAD 83	North American Datum of 1983
NAO	NOAA Administrative Order
NCCAB	North Central Coast Air Basin
NCP	National Contingency Plan
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMA	Northern Management Area
NMFS	National Marine Fisheries Service
NMSA	National Marine Sanctuaries Act
NMSP	National Marine Sanctuaries Program
NCCOS	National Centers for Coastal Ocean Science
NOI	Notice Of Intent
NO <sub>x</sub>	Nitrogen Oxides
NO <sub>2</sub>	Nitrogen Dioxide
NOAA	National Oceanographic and Atmospheric Administration
NPCA	National Park and Conservation Association
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NPS	National Park Service
NRHP	National Register of Historic Places
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act
OMB	Office of Management and Budget
OTEC	Ocean Thermal Energy Conversion
OWS	Oil-Water Separator
PAHs	Polycyclic Aromatic Hydrocarbons
PCBs	Polychlorinated Biphenyls
PFMC	Pacific Fishery Management Council
PISCO	Partnership for Interdisciplinary Studies of Coastal Oceans

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## LIST OF ACRONYMS

Acronym	Full Phrase
P.L.	Public Law
PM <sub>10</sub>	10-micron particulate matter
PM <sub>2.5</sub>	2.5-micron particulate matter
PPM	Parts per Million
PRNS	Point Reyes National Seashore
RCRA	Resource Conservation and Recovery Act
RFA	Regulatory Flexibility Act
RHA	Federal Rivers and Harbors Appropriations Act of 1899
ROD	Record of Decision
ROI	Region of Influence
ROG	Reactive Organic Gases
ROV	Remotely Operated Vehicle
RWQCB	Regional Water Quality Control Boards
SAC	Sanctuary Advisory Council
SARA	Superfund Amendments and Reauthorization Act
SCCAB	South Central Coast Air Basin
SF-DODS	San Francisco Deep Ocean Disposal Site
SFA	Sustainable Fisheries Act
SFAB	San Francisco Air Basin
SIMoN	Sanctuary Integrated Monitoring Network
SLA	Submerged Lands Act
SLOAPCD	San Luis Obispo County Air Pollution Control District
SMPA	Special Marine Protected Area
SO <sub>2</sub>	Sulfur dioxide
SWQRCB	State Water Quality Resources Control Board
SWRCB	State Water Resources Control Board
TAC	Total Allowable Catch
USACE	United States Army Corps of Engineers
U.S.C.	United States Code
USCG	United States Coast Guard
USDOI	United States Department of Interior
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
VOCs	Volatile Organic Compounds
VTs	Coast Guard Vessel Traffic Service
VTSS	Vessel Traffic Service/Separation

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## **EXECUTIVE SUMMARY**

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## **EXECUTIVE SUMMARY**

### **ES.1 INTRODUCTION AND PURPOSE AND NEED**

This Draft Environmental Impact Statement (DEIS) is the fourth of four volumes that are the result of an extensive Joint Management Plan Review (JMPR) process at Cordell Bank National Marine Sanctuary (CBNMS), Gulf of the Farallones National Marine Sanctuary (GFNMS), and Monterey Bay National Marine Sanctuary (MBNMS), all of which are offshore of northern/central California. Volumes I, II, and III contain the Draft Management Plans (DMP) for each of the three sanctuaries. These DMPs include information about the sanctuaries' environment and resources, regulations and boundaries, staffing and administration, priority management issues, and actions proposed to address them over the next five years. Volume IV, this DEIS, is an evaluation of the potential environmental impacts of each Sanctuary's proposed regulatory actions (changes to Sanctuary regulations and designation documents) associated with the JMPR. The Proposed Actions and several alternative actions are described in Chapter 2 of this DEIS. The National Oceanic and Atmospheric Administration (NOAA) is the lead agency for this project.

This DEIS has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code (U.S.C.) § 4321 et seq.) and its implementing regulations (40 Code of Federal Regulations (CFR) Parts 1500-1508). This DEIS presents, to the decision makers and the public, information required to understand the potential environmental consequences of the Proposed Action and alternatives. The notice of intent (NOI) to prepare this DEIS is provided in Appendix A.

#### **ES.1.1 Background**

##### ***National Marine Sanctuaries Act and National Marine Sanctuary Program***

The National Marine Sanctuaries Act (NMSA) of 1972, as amended (16 U.S.C. § 1431 et seq.), is the legislative mandate that governs the National Marine Sanctuary Program (NMSP). Under the NMSA, the Secretary of Commerce (Secretary) is authorized to designate and manage areas of the marine environment as national marine sanctuaries. Such designation is based on attributes of special national significance, including conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, and aesthetic qualities. The primary objective of the NMSA is resource protection.

Resource protection for national marine sanctuaries is carried out by regulations under the NMSA, which are codified as 15 CFR Part 922, and through the issuance of permits, coordination with other local, state, and federal agencies, outreach, education, research, monitoring, and enforcement. The NMSP regulations include prohibitions on specific kinds of activities, descriptions of Sanctuary boundaries, and a permitting system to allow certain types of activities to be conducted within sanctuaries that would otherwise be prohibited. Each of the thirteen national marine sanctuaries has its own set of site-specific regulations within subparts F through R of 15 CFR Part 922. The regulations for CBNMS, GFNMS, and MBNMS are found at Subpart K, H, and M. Proposed changes to these regulations constitute the Proposed Action for this EIS.

***Joint Management Plan Review Process***

A Sanctuary management plan is a site-specific planning and management document. Each Sanctuary has an individual management plan that describes regulations and boundaries, outlines staffing and budget needs, presents management actions and performance measures, and guides development of future budgets and management activities. The 1992 congressional legislation that reauthorized the NMSA required that each National Marine Sanctuary engage in periodic management plan reviews to reevaluate site-specific goals and objectives, management techniques, and strategies (16 U.S.C. § 1434[e]). The purpose of this review process is to ensure that each site properly conserves and protects its natural and cultural resources.

The NMSP reviewed the management plans of CBNMS, GFNMS, and MBNMS at the same time through a joint process, termed the Joint Management Plan Review (JMPR). These sanctuaries are adjacent to one another, managed by the same program, and share many of the same resources and issues. In addition, all three sites share overlapping interest and user groups. It also has been more cost effective for the NMSP to review the three sites jointly rather than conducting three independent reviews.

The JMPR, initiated in 2001, involved four main phases: issue identification (through public scoping meetings), issue prioritization, development of action plans, and preparation of draft management plans, associated regulatory changes, and appropriate environmental impact documents. As a result of this process, numerous changes to management policies and regulations are proposed to reflect the updated goals, objectives, strategies, and actions. The revised management plans will guide the operation of the sanctuaries for the next five years, helping each Sanctuary set budget and project priorities for resource protection in preparation of its annual operating plan.

**ES.1.2 Project Location**

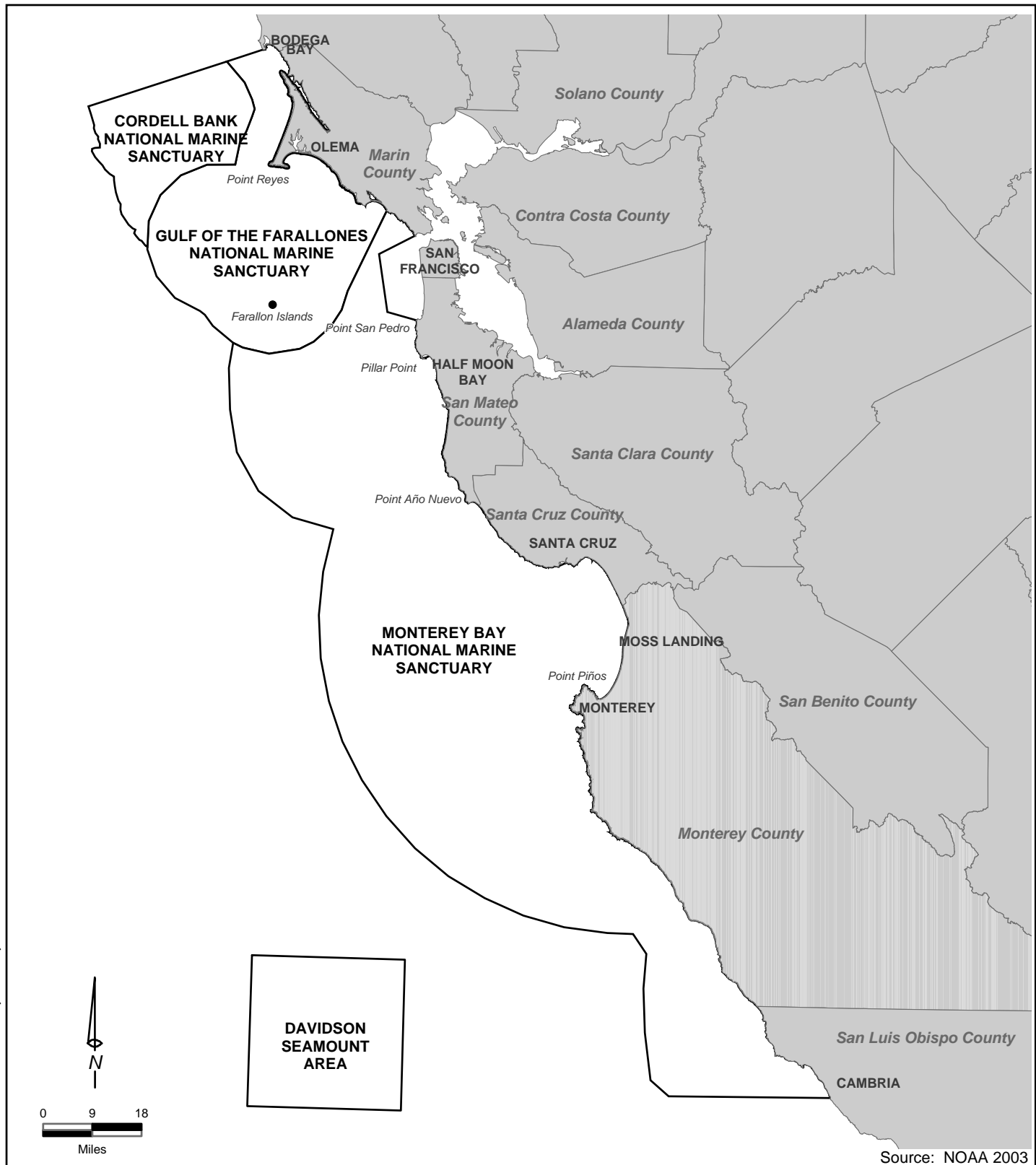
All three sanctuaries are located offshore of northern/central California. Figure ES-1 shows the regional location of the three sanctuaries, including the Sanctuary boundaries and surrounding area. The three sanctuaries cover the coastal area from Bodega Bay in Sonoma County southward to Cambria in San Luis Obispo County, excluding San Francisco Bay and the seaward areas adjacent to San Francisco and northern San Mateo Counties.

CBNMS is entirely offshore and shares its southern and eastern boundary with GFNMS. The eastern boundary of CBNMS is six miles from shore and the western boundary is the 1,000-fathom isobath on the edge of the continental slope. This area contains unique geological and oceanic features that create conditions that support extraordinarily diverse and abundant marine life.

GFNMS extends seaward from the mean high water mark or the seaward boundary of the Point Reyes National Seashore. Between Bodega Head and Point Reyes Headlands, the Sanctuary extends seaward to three nautical miles beyond territorial waters. The Sanctuary also includes the waters within 12 nautical miles of Noonday Rock and the mean high water mark on the Farallon Islands, and the waters between the islands and the mainland from Point Reyes Headlands to Rocky Point.

MBNMS is adjacent to and south of GFNMS. It stretches along the shoreline between the Marin Headlands and Cambria. MBNMS's western boundaries average a distance of 30 miles from shore.

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The JMPR study area covers over 5,000 square nautical miles of open ocean.

## Joint Management Plan Review Study Area

Northern/Central California

### **ES.1.3 Purpose and Need for Proposed Action**

The purpose and need for the Proposed Action are based on both regulatory requirements for management plan review and the need to address current management issues and concerns within each Sanctuary.

#### ***Management Plan Update***

No formal reviews or revisions of the three Sanctuary management plans or regulations have occurred since the time of original designation. CBNMS was designated in 1989, GFNMS was designated in 1981, and MBNMS was designated in 1992. Congress has amended the NMSA numerous times since it was established in 1972, strengthening and clarifying the conservation principles for the program. The amended NMSA calls on each national marine sanctuary to review its management plan at five-year intervals and to revise the management plan and regulations as necessary to fulfill the purposes and policies of the NMSA (16 U.S.C. § 1434[e]). Therefore, the primary purpose and need of the Proposed Action are to review and update the three Sanctuary management plans and regulations to comply with the NMSA.

Stemming from issues raised in the public scoping process, Sanctuary staff, Sanctuary advisory councils, public forum groups, and NMSP leadership contributed to the identification of priority resource management issue categories to be considered in the new management plans. The DMPs (volumes I, II, and III of this document) address the resource management issues through numerous action plans. The CBNMS DMP includes six action plans, the GFNMS DMP includes nine action plans, and the MBNMS DMP includes 22 action plans. In addition, there are five cross-cutting action plans that outline joint implementation strategies for the three sanctuaries. The action plans contain specific strategies and activities that identify how the sanctuaries will address the various marine management issues, including the necessary research, monitoring, education, outreach, policy, or enforcement actions to be implemented. Each action plan outlines how different strategies will be conducted, presents the costs that might be incurred for each strategy, provides a coordinated timeline for carrying out all strategies, and provides performance indicators as a measure of management effectiveness.

#### ***Proposed Changes to Sanctuary Regulations***

For some resource management issues, it is necessary to modify existing sanctuary regulations to better manage and protect the resource and implement the action plans. In some circumstances, the sanctuaries need to regulate new activities occurring or that may occur within Sanctuary boundaries in order to protect and conserve resources. Therefore, specific regulatory changes proposed and analyzed in this DEIS address several of the priority resource management issues (see Chapter 2 for full description of proposed regulatory changes). Note that only a small portion of the action plans require regulatory changes, thus the regulatory changes are essentially a small subset of the overall strategies to address priority issues established in the DMPs. There is a broad suite of education, outreach, research, monitoring, and resource protection activities that have been identified during the management plan review and that do not involve regulatory changes.

The proposed regulatory changes presented in this DEIS, and the action plans in the DMPs are all needed to meet the goals and mission of the NMSP (15 CFR Part 922.2[b]).



### ***Changes to Sanctuary Designation Documents***

When contemplating changes to Sanctuary regulations, a proposed regulation change may necessitate corresponding changes to the designation document to establish authority for the new or modified regulation. In the case of the three sanctuaries' JMPR process, in addition to the nonregulatory strategies and activities developed to address priority issues, there are some specific boundary and regulatory changes under consideration that would require changes to the Sanctuary designation documents. These revisions are narrow in scope, corresponding directly to several proposed regulation changes. Proposed revisions to the terms of designation for each Sanctuary are identified in Chapter 2 and are listed in Appendix B.

#### **ES.1.4 Scope of EIS**

This DEIS is an evaluation of the environmental impacts associated with the proposed revised regulatory actions and alternatives to the proposed regulatory actions. The Proposed Action in this DEIS consists of revising existing CBNMS, GFNMS, and MBNMS regulations, adopting several new regulations, and revising the Sanctuary designation documents. Alternatives to the Proposed Action consist of slight variations in the proposed regulations. Specific regulatory changes contained within the Proposed Action and Alternative Regulatory Actions are described in detail in Chapter 2 and are analyzed in terms of impacts in Chapter 3.

Numerous proposed regulatory changes are minor technical or administrative modifications that do not result in changes to the environment. These types of changes are noted in the project description (Chapter 2) and in the introduction to the environmental analysis in Chapter 3. This DEIS focuses on the regulatory changes that could affect the environment.

Additionally, because Section 304(a)(4) of the NMSA requires that “terms of designation may be modified only by the same procedures by which the original designation is made,” the proposed changes to a sanctuary’s designation documents require a NEPA process and analysis within an EIS.

This DEIS is not an analysis all of the activities in the proposed DMPs. The bulk of the three updated management plans is nonregulatory management strategies and actions that Sanctuary staff and their partners will use to address various issues identified during the management plan review process. Section 6.03c3(d) of NOAA Administrative Order 216-6 (48 Federal Register 14734) specifies that these and other administrative or routine program functions that have no potential for causing significant environmental impacts are eligible for a categorical exclusion from NEPA. The proposed actions within the DMPs individually and cumulatively will have no significant impact on the environment and, therefore, are categorically excluded from NEPA’s requirement for conducting an environmental assessment or preparing an EIS. The non-regulatory actions identified in the DMPs can be implemented independently from the proposed regulatory actions and are not dependent on approval of the proposed regulatory changes. The proposed action plans of each Sanctuary are summarized in Appendix C and are described in detail in each Sanctuary’s draft management plan (volumes I through III).

**ES.1.5 Decisions to be Made**

Decisions related to the Proposed Action in this DEIS include the following:

- approval of the updated Management Plans for each of the three sanctuaries;
- approval of proposed changes to regulations for each of the three sanctuaries; and
- approval of proposed changes to the designation documents for each of the three sanctuaries.

**ES.1.6 Agency Coordination**

No federal agencies were formally requested to be cooperating agencies, nor have any federal or state agencies requested this status. Nonetheless, NOAA is working closely with a variety of pertinent resource agencies on the DMPs, the proposed regulations, and the DEIS. NOAA has also sought the input of numerous federal, state, and local officials and agencies in preparing this DEIS. These officials and agencies are listed in Chapter 6.

**ES.1.7 Public Involvement**

Section 1.8 of this DEIS outlines public involvement in the management plan review process and the steps that have taken place in developing the Action Plans and proposed regulatory changes that will define how these sanctuaries will operate in the future.

Twenty scoping meetings were held between November 2001 and January 2002. A summary scoping report (February 25, 2002) was prepared, based on over 12,500 comments received on the JMPR and is provided in Appendix A.

The NMSP held a series of workshops with its Sanctuary Advisory Councils to help them identify priority issues. The results from the workshops were published in a report and posted on the project Web site for additional public comment and further deliberation at advisory council meetings. Based on input from the public and the advisory councils, the NMSP selected a final list of priority issues to be addressed in the JMPR. These were also posted on the Web site.

NMSP staff also developed a work plan that characterized the issues to be addressed, identified potential working group members, outlined the timelines for completion, and described the potential products to be created as part of either the working group or an internal team effort. Each advisory council reviewed site-specific and cross-cutting Action Plans developed by issue-specific working groups and provided their recommendations to NOAA. These Action Plans form the core foundation of the DMPs.

This DEIS will be widely circulated in order to solicit public comments on the document. A public review period will be provided following publication of the DEIS. Numerous public hearings will be held no sooner than 30 days after the Notice of Availability is published in the Federal Register and at least 15 days before the end of the 60-day comment period.

During the public comment period, oral and written comments are anticipated from federal, state, and local agencies and officials, organizations, and interested individuals. A summary of these comments and the corresponding responses will be included in the Final EIS.

After NOAA issues the Final EIS, a 30-day mandatory waiting period will occur, after which NOAA may issue its Record of Decision.

## **ES.2 PROJECT DESCRIPTION**

### **ES.2.1 Proposed Action Definition**

This DEIS is focused on proposed regulatory changes that are being put forward as part of the JMPR. The Proposed Actions include changes to the regulations for CBNMS, GFNMS, and MBNMS, and corresponding changes to each Sanctuary designation document. The Proposed Actions represent NOAA's preferred alternative, described in Section 2.2. Certain proposed changes are related to site-specific issues and regulations and are addressed by the individual Sanctuary. Other issues were determined to apply to all three sanctuaries and are addressed as cross-cutting measures. In evaluating alternatives for analysis in the DEIS, NOAA considered proposed regulatory changes appropriate for and consistent with achieving increased protection of the Sanctuary's natural and cultural resources. The proposed regulatory changes are intended to further protect and conserve natural resources, thereby minimizing impacts on the environment.

### **ES2.2 Proposed and Alternative Regulatory Changes**

As part of the JMPR, regulations were reviewed to determine if modifications or clarifications were necessary to meet the original intent of a given regulation, to address new resource threats and changes in resource management issues and priorities, to eliminate inconsistencies between sites (if appropriate), and to make technical corrections. New regulations (or prohibitions) also are proposed by each of the three sanctuaries to provide added protection to Sanctuary resources and to address specific resource management issues. In several issues, the proposed change or new prohibition is the same for all three sanctuaries (cross-cutting regulations), but in some cases the proposed regulation may differ among the sanctuaries due to different conditions, circumstances, and needs. The reader should note that alternative regulatory actions have been developed for some, but not all, of the Proposed Actions. The proposed cross-cutting and sanctuary-specific regulations are described in detail in Section 2.2 and listed in Table 2-1.

#### **ES.2.2.1 Proposed Cross-Cutting Regulations in the Sanctuaries**

The proposed cross-cutting actions present relatively minor regulatory changes for each of the three sanctuaries to address water quality and associated biological resources issues. The proposed regulations would do the following:

- Prohibit the introduction or release of nonnative species to the sanctuaries, except striped bass released during catch and release fishing activity, and species cultivated by existing mariculture activities in Tomales Bay (located in GFNMS) pursuant to a valid lease, permit, license or other authorization issued by the State of California;
- Prohibit the discharge of wastewater or any other material (other than vessel engine cooling water, and in the case of MBNMS vessel generator cooling water and anchor wash) from cruise ships in the sanctuaries;

- Clarify and narrow the existing wastewater discharge exceptions for food wastes and sewage. This eliminates exceptions for discharging wastes resulting from meals on board vessels and chumming for non-fishing purposes, and clarifies that discharges allowed from marine sanitation devices apply only to Type I and Type II Marine Sanitation Devices (MSDs) (no raw sewage dumping)).

There is one alternative proposal, which would allow cruise ships to discharge treated wastewater under an approved discharge plan.

#### **ES.2.2.2 Cordell Bank National Marine Sanctuary Regulations**

The proposed regulations would do the following:

- Prohibit the disturbance of the seabed on Cordell Bank or the submerged lands on or within the line representing the 50-fathom isobath surrounding the Bank (These regulations do not impose new restrictions on lawful fishing activities within CBNMS);
- Prohibit the disturbance if the seabed on the submerged lands outside the line representing the 50-fathom isobath surrounding the Bank (These regulations do not impose new restrictions on lawful fishing activities or vessel anchoring within CBNMS);
- Modify an existing regulation protecting benthic invertebrates and algae to define the area within 50-fathoms by specific coordinates and clarify that lawful fishing operations are exempt; and;
- Prohibit “taking” or possessing wildlife within the Sanctuary.

Alternative versions of the seabed and benthic resources protection regulations would include more limitations on fishing in the Sanctuary, equivalent to the expected NOAA Fisheries restrictions on bottom-contact fishing gear on or within the 50-fathom isobath surrounding Cordell Bank .

#### **ES.2.2.3 Gulf of the Farallones National Marine Sanctuary Regulations**

The proposed regulations call for the following:

- Prohibit attracting white sharks anywhere in the Sanctuary or approaching them within a line approximating 2 nm around the Farallon Islands;
- Prohibit discharging from outside the Sanctuary anything that enters and injures a Sanctuary resource;
- Prohibit anchoring a vessel in a designated seagrass protection zone in Tomales Bay, except as necessary for mariculture operations conducted pursuant to a valid lease, permit or license.
- Prohibit deserting a vessel or leaving a deserted vessel with harmful matter aboard;
- Prohibit “taking” or possessing wildlife within the Sanctuary; and
- Permanently fix the shoreward boundary along the western side of Tomales Bay to the boundary along the Point Reyes National Seashore at the time of sanctuary designation in 1981.

An alternative would prohibit attracting or approaching white sharks anywhere within the Sanctuary.

#### **ES.2.2.4 Monterey Bay National Marine Sanctuary Regulations**

The proposed regulations would do the following:

- Add a square area of about 585 square nautical miles around Davidson Seamount to the Sanctuary in which most of the existing site regulations would apply;
- Correct the definition of motorized personal watercraft (MPWC) in order to prohibit their use outside the established MPWC zones in the Sanctuary;
- Expand the prohibition on attracting white sharks to federal waters of the Sanctuary;
- Prohibit deserting vessels or leaving harmful matter aboard a deserted vessel;
- Prohibit possessing, moving or injuring historic resources in the Sanctuary; and
- Define and codify three sites for the disposal of dredged material within the Sanctuary.

Alternative regulations would do the following:

- Create a circular shape for the Davidson Seamount addition to the Sanctuary;
- Prohibit fishing below 914 meters (3,000 feet) in the Davidson Seamount area under the authority of the NMSA; and
- Redefine and prohibit the use of MPWC everywhere in the Sanctuary.

#### **ES.2.3 NO ACTION ALTERNATIVE**

Under the No Action alternative, no new regulations would be adopted, and no changes to the Sanctuary Designation Documents would be made. The No Action alternative could involve maintaining the current management plans and regulations for the three sanctuaries. All management practices currently occurring would continue, and the current regulations would remain in place. However, Action Plans and other policies and provisions of the proposed management plans not requiring regulatory or designation document changes could also be implemented.

#### **ES.2.4 PROPOSED CHANGES TO SANCTUARY DESIGNATION DOCUMENTS**

In addition to and in conjunction with the revisions to the individual Sanctuary regulations mentioned above, there are some specific boundary and regulatory changes under consideration that would require changes to the Sanctuary designation documents. These revisions, discussed in detail in Section 2.5, are primarily focused on the descriptions of the areas each Sanctuary encompasses and the activities in each area that are subject to regulation. Such changes are necessary to establish the authority for certain regulatory activities that are being proposed in the above regulation changes.

#### **ES.2.5 TECHNICAL REGULATORY CHANGES**

There are several proposed technical changes that would not result in adverse impacts and therefore are not subject to detailed environmental analysis in each issue area in Chapter 3. In all three

sanctuaries technical corrections have been made to the textual boundary description and the list of defining coordinates in order to assure accuracy and consistency in the boundary delineation. Technical changes at CBNMS include clarifying that submerged lands are part of the Sanctuary, and making minor changes to the Sanctuary manager permitting requirements. At GFNMS, technical changes include clarifying that submerged lands are part of the Sanctuary, protecting cultural resources, administrative technical changes for vessel regulation, and modifying permit regulations. For MBNMS, technical changes include corrections to the Sanctuary boundaries, managing submerged lands, and protecting wildlife. All such changes are summarized in Section 2.6.

### **ES.3 SUMMARY OF IMPACTS**

Tables ES-1, ES-2, and ES-3 provide a summary of the impacts identified for the Proposed Action, the Alternative Regulatory Actions, and the No Action alternative, respectively.

The Proposed Action would result in a significant adverse impact on Recreational resources from the pre-emption of tow-in surfing in MBNMS; less than significant adverse impacts on Commercial Fisheries, Land Use, Marine Transportation, and Socioeconomics; and beneficial impacts on Air Quality, Biological Resources, Ocean/Geological Resources, Water Quality, Commercial Fisheries, Cultural Resources, Hazardous Materials, Land Use and Development, Public Access and Recreation, Research and Education, Socioeconomics, and Visual Resources. The significant impact on Recreational resources can be reduced to a level that is not significant through implementation of the identified mitigation measure. No significant unavoidable impacts would occur as a result of the proposed actions.

In addition to the impacts of the Proposed Action, the Alternative Regulatory Actions would result in a significant, but mitigable impact on recreational resources from the prohibition of MPWCs throughout MBNMS; less than significant adverse impacts on Commercial Fisheries, Marine Transportation, and Socioeconomics; and beneficial impacts on Air Quality, Biological Resources, Ocean/Geology, Water Quality, Commercial Fisheries, Cultural Resources, Hazardous Materials, Public Access and Recreation, Research and Education, Socioeconomics, and Visual Resources.

The No Action alternative would result in less than significant impacts on Biological Resources and Water Quality. There would be no beneficial impacts from No Action.

**Table ES-1**  
**Impacts of Proposed Action**

Location	Proposed Regulatory Change	Air Quality	Biological Resources	Ocean/Geological	Water Quality	Fisheries	Cultural	Hazards	Land Use/Development	Marine Transportation	Public Access/Recreation	Research and Education	Socio-economics	Visual	Summary
CC	Cruise Ship Definition and Discharges	+	+	○	+	+	○	+	○	⊙	+	+	+	+	⊙+
CC	Discharge - MSDs and Graywater	+	+	○	+	⊙+	○	+	⊙+	⊙	+	+	⊙	+	⊙+
CC	Discharge Regulations Clarifications	+	+	○	+	⊙+	○	+	⊙+	⊙	+	+	⊙+	+	⊙+
CC	Introduced Species	○	+	○	+	⊙+	+	+	⊙+	⊙	+	+	⊙+	○	⊙+
CB	Benthic Habitat Protection	○	+	+	○	+	+	○	○	○	+	○	○	○	⊙+
CB	Seabed Protection	○	+	+	○	+	+	+	○	○	+	○	○	+	⊙+
CB	Wildlife Disturbance	○	+	○	○	○	○	○	○	○	+	○	+	○	○+
GF	Cultural Resources	○	○	○	○	○	+	○	○	○	+	○	+	○	○+
GF	Deserted Vessels	+	+	○	+	⊙+	+	+	○	○	+	+	⊙+	+	⊙+
GF	Manager Permit	○	○	○	○	○	○	○	○	○	○	○	○	○	○
GF	Oil and Gas Clarification	○	+	+	+	○	○	+	○	○	+	○	○	○	○+
GF	Discharge From Outside the Sanctuary	○	+	○	+	+	○	+	⊙+	⊙+	○	+	○	○	⊙+
GF	No-Anchoring Seagrass Protection Zones	○	+	○	+	+	○	○	○	⊙	⊙	○	○	○	⊙+
GF	White Shark Attraction/Approaching	○	+	○	○	○	○	○	○	○	⊙	○	⊙	○	⊙+
GF	Wildlife Disturbance	○	+	○	○	○	○	○	○	○	+	○	○	○	○+
MB	Boundary Changes – Davidson Seamount	+	+	+	+	⊙+	+	+	○	○	○	+	⊙	+	⊙+

**Table ES-1**  
**Impacts of Proposed Action** *(continued)*

Location	Proposed Regulatory Change	Air Quality	Biological Resources	Ocean/ Geological	Water Quality	Fisheries	Cultural	Hazards	Land Use/ Development	Marine Transportation	Public Access/ Recreation	Research and Education	Socio-economics	Visual	Summary
MB	Cultural Resources	○	○	○	○	○	○	○	○	○	○	○	○	○	○+
MB	Deserted Vessels	+	+	○	+	⊙+	+	+	○	○	+	+	⊙+	+	⊙+
MB	Dredge Disposal – Santa Cruz and Monterey Harbors	○	○	○	○	○	+	○	○	○	○	○	○	○	○+
MB	Dredge Disposal – SF-12	+	+	+	+	○	+	○	○	○	+	+	○	+	○+
MB	Motorized Personal Watercraft	+	+	○	+	○	○	+	○	○	⊙+	+	⊙+	+	⊙+
MB	White Shark Attraction and Approaching	○	+	○	○	○	○	○	○	○	○	○	○	○	○+
MB	Wildlife Disturbance	○	○	○	○	○	○	○	○	○	○	○	○	○	○
All	Cumulative Impacts	+	+	+	+	⊙+	+	+	○	⊙	+	+	+	+	⊙+
	<b>Summary</b>	+	+	+	+	⊙+	+	+	⊙+	⊙	⊙+	+	⊙+	+	

## Notes:

○ – No impact

+ – Beneficial impact

⊙ – Less than significant adverse impact

⊗ – Significant mitigable impact

● – Significant unavoidable impact

CC – Cross-Cutting Regulation

CB – Cordell Bank NMS

GF – Gulf of the Farallones NMS

MB – Monterey Bay NMS



**Table ES-2**  
**Impacts under Alternative Regulatory Actions**

Location	Proposed Regulatory Change	Air Quality	Biological Resources	Ocean/ Geological	Water Quality	Fisheries	Cultural	Hazards	Land Use/ Development	Marine Transportation	Public Access/ Recreation	Research and Education	Socio-economics	Visual	Summary
CC	Cruise Ship Prohibition Alternative	+	+	○	+	+	○	+	○	⊙	+	+	+	+	○+
CB	Benthic Habitat Protection Alternative	○	+	+	○	⊙+	+	○	○	○	+	○	○	○	⊙+
CB	Seabed Protection Alternative	○	+	+	○	⊙+	+	+	○	○	+	○	○	+	⊙+
GF	White Shark Approach Prohibition	○	+	○	○	○	○	○	○	○	⊙	○	⊙	○	⊙+
MB	Davidson Seamount Circular Boundary Alternative	+	+	+	○	⊙+	+	+	○	○	○	○	○	+	⊙+
MB	Davidson Seamount NMSA Alternative	○	+	+	○	⊙+	+	+	○	○	○	○	○	○	○+
MB	Motorized Personal Watercraft Alternative	+	+	○	+	○	○	+	○	○	⊙+	+	⊙	+	⊙+
All	Cumulative Impacts	+	+	+	+	⊙+	+	+	○	⊙	+	+	+	+	⊙+

## Notes:

○ – No impact

+ – Beneficial impact

⊙ – Less than significant adverse impact

⊙ – Significant mitigable impact

● – Significant unavoidable impact

CC – Cross-Cutting Regulation

CB – Cordell Bank NMS

GF – Gulf of the Farallones NMS

MB – Monterey Bay NMS

**Table ES-3**  
**Impacts under the No Action Alternative**

<b>Location</b>	<b>Air Quality</b>	<b>Biological Resources</b>	<b>Ocean/ Geological</b>	<b>Water Quality</b>	<b>Fisheries</b>	<b>Cultural</b>	<b>Hazards</b>	<b>Land Use/ Development</b>	<b>Marine Transportation</b>	<b>Public Access/ Recreation</b>	<b>Research and Education</b>	<b>Socio-economics</b>	<b>Visual</b>	<b>Summary</b>
CC	○	⊙	○	⊙	○	○	○	○	○	○	○	○	○	⊙
CB	○	○	○	○	○	○	○	○	○	○	○	○	○	⊙
GF	○	⊙	○	○	○	○	○	○	○	○	○	○	○	⊙
MB	○	⊙	○	○	○	○	○	○	○	○	○	○	○	⊙
All (Cumulative)	○	○	○	○	○	○	○	○	○	○	○	○	○	

Notes:

- – No impact
- + – Beneficial impact
- ⊙ – Less than significant adverse impact
- ⊗ – Significant mitigable impact
- – Significant unavoidable impact

CC – Cross-Cutting Regulation  
 CB – Cordell Bank NMS  
 GF – Gulf of the Farallones NMS  
 MB – Monterey Bay NMS



## Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384  
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | [www.pccouncil.org](http://www.pccouncil.org)

October 17, 2006

Mr. Bob Lohn, Regional Administrator,  
National Marine Fisheries Service, Northwest Region  
7600 Sand Point Way NE, BIN C15700  
Seattle, WA 98115-0070

Re: Pacific Fishery Management Council recommendation for an emergency rule for the 2007 Pacific Whiting fishery.

Dear Mr. <sup>Bob</sup>Lohn:

At its June 12-16, 2006 meeting in Foster City, California, the Pacific Fishery Management Council (Council) heard testimony regarding concerns of harm to the Pacific Whiting fishery from an influx of vessels qualified under the American Fisheries Act (AFA), and scheduled an agenda item for their September meeting to consider appropriate Council action. At its September 10-15, 2006 meeting in Foster City, California, the Council discussed the previously tabled Amendment 15 to the *Pacific Coast Groundfish Fishery Management Plan* and other issues relative to the recent seasons, the 2006 season, and the seasons in 2007 and beyond. The purpose of this letter is to notify you of the Council action taken and speak to coordination on when the detailed justification materials on the matter of the emergency rule recommendation action will be provided.

The Council heard considerable testimony that AFA-qualified vessels have entered the Pacific Whiting fishery since the Council tabled Amendment 15 in 2001. The Council concluded additional fishing effort by AFA-qualified vessels in 2006 likely contributed to a shortened season resulting in decreased revenue for traditional fishery participants and their communities. Additionally, the Council has expressed concern that additional fishing effort and shortened fishing seasons can create a 'race for fish' in the fishery which could lead to higher bycatch of the depleted rockfish and salmon stocks. The Council is concerned about detrimental effects that have occurred since AFA-qualified vessels with no history in the fishery have entered the West Coast Pacific whiting fishery, and the risk that detrimental effects could intensify in 2007 and future seasons if no action is taken.

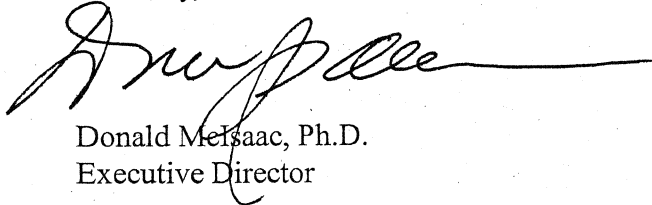
Consequently, the Council passed a motion to (1) move forward expeditiously to complete Council action on a simplified Amendment 15 and (2) to recommend National Marine Fisheries Service (NMFS) approve an emergency rule to be implemented for the 2007 season to prohibit participation in the shoreside, mothership, or catcher-processor sectors of the Pacific whiting fishery of vessels with no sector specific catch history in the fishery prior to 2006 (effectively December 31, 2005).

With regard to the Council's determination that revisiting and completing Amendment 15 represents the best current alternative for permanently addressing potential harm to West Coast groundfish fisheries from vessels qualified under the AFA, the Council determined that completing Amendment 15 and the accompanying rulemaking necessities in advance of the 2007 Pacific whiting fishery is not possible. However, there is the expectation that considerable effort will be expended in 2007 toward the goal completing the full regulatory process in time for the 2008 season. The Council scheduled the next step in the process for their March 4-9, 2007 Council meeting in Sacramento, California.

With regard to the Council recommendation for an emergency rule for the 2007 season, we are not attaching the associated detailed justification and analysis documentation with this letter. Council staff has been informed that the current workload prioritization at NMFS makes it unlikely that considerable work on this proposed rulemaking activity will occur prior to November of this year. Therefore, please expect the complete rationale and justification for the proposed expedited rulemaking process for the 2007 season by November 1. Between now and then, we will strive to assemble the information in a manner as conducive as possible to the necessities of NMFS regulatory review. Please advise should the date change when the most expeditious treatment of the full submission of this Council recommendation can begin.

If you or your staff has any questions regarding this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald Melisaac", with a long horizontal flourish extending to the right.

Donald Melisaac, Ph.D.  
Executive Director

MDB:ckc

c: Council Members  
Eileen Cooney  
Mr. Rod McGinnis, NMFS, Southwest Regional Administrator



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207  
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

September 29, 2006

RECEIVED

OCT 02 2006

PFMC

Mr. Robert Lohn, Regional Administrator  
NOAA – Fisheries  
7600 Sand Point Way NE  
Seattle, Washington 98115

Dear Mr. Lohn: *Bob -*

During the week of September 11, 2006, the Pacific Fishery Management Council (Council) passed a motion to recommend that the National Marine Fisheries Service (NMFS) adopt an emergency rule to prohibit participation in the shoreside whiting fishery by American Fisheries Act (AFA)-qualified vessels that did not participate in the shoreside fishery prior to 2006. The purpose of this letter is to express the Washington Department of Fish and Wildlife's opposition to this action and our recommendation that NMFS deny the Council's request.

The rationale that was articulated for the motion, which was made by the Oregon Department of Fish and Wildlife (ODFW) representative, is: 1) four AFA-qualified vessels participated in the shoreside whiting fishery in 2006 - one vessel had participated since 2001 in the mothership sector and three new vessels that reportedly had not participated prior to the enactment of the AFA; 2) these four new vessels "contributed to the shoreside fishery closing 7-10 days earlier than the previous year;" 3) two "traditional" shoreside participants in Oregon reported declines of 25-30% in deliveries and revenue from previous seasons; and 4) because of the relatively larger size (harvest capacity) and lack of experience of the four vessels in the shoreside fishery, these new AFA vessels have a higher potential to take rockfish, thereby, increasing the risk of exceeding the hard rockfish bycatch caps that are applicable to the entire whiting fishery (all sectors).

As the discussion ensued on the Council floor, it became clear that in addition to the four new AFA-qualified vessels there were also six additional new vessels that were non-AFA-qualified participating in the 2006 shoreside fishery. We agree that the new harvest capacity represented by the ten new vessels that entered the fishery in 2006 was a primary factor in the season being reduced in time; it is unclear from the data presented whether the shortened season was a direct result of the participation by the AFA vessels. We would also point out that the information in the ODFW report is not an accurate post-season estimate of the impact of the proposed emergency rule on the 2006 season. The information regarding the landings by these targeted AFA-qualified vessels referenced 15,928 metric tons (mt) (17.3%) of the 91,995 mt landed into Oregon and Washington. This harvest total includes the harvest by all four vessels when, in fact,

the emergency rule would only impact three of the vessels. The harvest total of the three AFA vessels affected by the rule is 11,352 mt, which is 12.3% of the Oregon/Washington total.

Washington has two processors that participate in the shoreside fishery, one in Westport and the other in Ilwaco. In 2005, 33.2% of the shoreside non-tribal whiting harvest was landed into Washington; 63.6% was landed into Oregon. In 2006, two of the three new AFA vessels landed into Westport, Washington. However, the proportion of the whiting harvest landed into Washington decreased by 3%, while Oregon's landings increased by 2%. The third new AFA vessel and five of the six non-AFA vessels all landed into Oregon. It is likely that these vessels had a more direct effect on the number of deliveries and market availability for those "traditional" participants in Oregon than the boats landing in Washington.

With regard to the potential of the new AFA vessels to have higher bycatch of overfished rockfish, the overall amount of bycatch in the shoreside sector in 2006 decreased by about 50% from 2005 for canary, darkblotched, and widow rockfish, which are the primary species of concern for this fishery. Furthermore, these particular vessels had very low individual bycatch rates of these species.

This emergency rule has the potential to significantly impact Washington's shoreside whiting fishery participants – the two AFA vessels that landed into Washington in 2006 represent about 15% of Washington's total shoreside whiting landings and over 20% of the amount delivered into Westport. The emergency rule singles out three AFA-qualified vessels, while it is well known that a large portion of the vessels participating in the shoreside fishery are AFA-qualified, some of which have maintained their AFA benefits while becoming full time participants in the West Coast whiting fishery. The emergency rule will not fix the problem associated with new entrants into the fishery and the corresponding negative impacts on the historic participants.

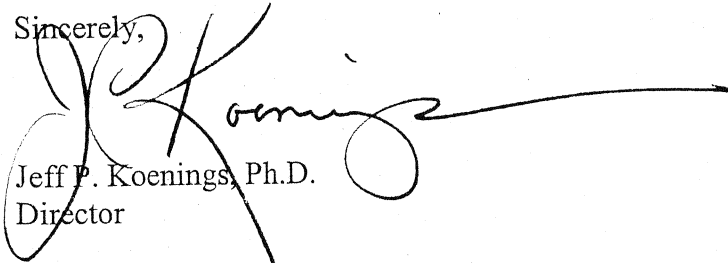
This emergency rule creates a limited access program in the absence of an assessment of the impacts to these participants and due process. The Council adopted two control rules relative to this fishery more than six years ago. These vessel owners made substantial investments to participate in the fishery without any knowledge that their participation would be limited to only one season. In fact, at least one vessel owner purchased a permit from an existing shoreside participant (his vessel did not add a vessel to the fleet, it replaced one). Situations such as this would likely be analyzed through a more deliberative process. From our perspective, to take this action via emergency rule rather than through a full rule making process is indefensible.

Finally, as you know, the Council has begun developing alternatives for a dedicated access program for the West Coast groundfish trawl fishery, including the whiting fishery. If additional effort limitation measures are needed in the shoreside fishery, developing and implementing such measures is more appropriately addressed through that process so that the impacts on those affected can be analyzed and considered by the Council prior to making a final decision.

Mr. Robert Lohn  
September 29, 2006  
Page 3

If you have any questions regarding this matter, please contact Phil Anderson, Assistant Director for Intergovernmental Resource Management, at 360.902.2720.

Sincerely,

A handwritten signature in black ink, appearing to read "Koenings", with a long horizontal flourish extending to the right.

Jeff P. Koenings, Ph.D.  
Director

cc: Phil Anderson  
Michele Culver

FRED A. YECK, President  
(541) 867-3911

## F/V Seadawn Fisheries, Inc.

P.O. Box 352 • Newport, Oregon 97365  
Fax (541) 867-3913



F/V Seadawn

October 12, 2006

RECEIVED

OCT 13 2006

PFMC

Mr. Robert Lohn, Regional Administrator  
NOAA - Fisheries  
7600 Sand Point Way N.E.  
Seattle, WA 98115

RE: PFMC/Emergency Rule to Prohibit New Participation in the Whiting Fishery by  
American Fishery Act Vessels

Dear Mr. Lohn:

I have been continuously involved in the Pacific Whiting fishery since 1983. I am currently the managing owner of the F/V SEADAWN which is a 124 foot AFA Inshore Catcher Vessel with a hold capacity of 640,000 pounds (285 mt). Also, the SEADAWN has a long term history of participating in the Mothership Whiting Fishery which dates back to the Joint Venture days.

I urge you to approve the Emergency Rule passed by the PFMC to protect the Whiting Fishery from destabilization. An Emergency exists as demonstrated by new AFA vessels blatantly ignoring the intent of the AFA entering the fishery in 2006 and causing an early closure of the Inshore Whiting season. What occurred in 2006 is potentially only the tip of the iceberg. In 2007 even more AFA catcher vessels, a Mothership and the possibility of a new Factory Trawler is on the horizon. These potential entrants are all watching to see whether NOAA/NMFS enforces the intent of the AFA or bends to the pressure of the State of Washington which seems to be representing the new entrants. If NOAA/NMFS does not approve the Emergency Rule total destabilization of the Whiting Fishery is likely to occur.

Prior to AFA, the SEADAWN and other large vessels similarly situated, normally did not participate in the Inshore Whiting fishery because of the low value of the whiting and because the Inshore Whiting fishery extended generally late enough into the summer so a commitment would conflict with participation in the Bering Sea Pollock B Season when it was an Olympic fishery. After adoption of AFA the SEADAWN, and I expect others, did not participate because it appeared quite clear based on the terms of AFA that the Council would be establishing sideboards preventing us from increasing participation in this fishery. The control dates published in the Federal Register seemed to further indicate that NMFS and the PFMC was serious about enforcing the intent of the AFA.

However, in 2006 several large AFA vessels with no prior history in the Inshore Whiting fishery took the gamble of jumping into this whiting fishery. This gamble, of course, includes the assumption that the PFMC and NMFS would be unable to respond to this clear violation of the intent of the American Fisheries Act which was to prevent AFA vessels from causing adverse impacts on other fisheries in which they had no prior history. The harvest total of the three AFA vessels that entered the fishery without prior history caused the early closure of the fishery to those historically dependent thereon, which is a serious adverse impact.



It is very important to realize that this issue is not just about the three AFA vessels that entered the fishery in 2006. There has been an extreme change of circumstances in the last year or so that has added to the creation of the Emergency justifying the rule recommended by the PFMF. It appears the pollock resource is in a decline and quotas will be coming down. In addition, the whiting value has increased tremendously providing incentive for new entrants. If this Emergency Rule is not accepted by NMFS there will be further new entrants into the Inshore Whiting fishery next season including the SEADAWN. The SEADAWN is larger than the other three AFA vessels which entered the fishery and can alone be expected to harvest as much as 11,000 mt if there is a season of similar length to 2006. It can be reasonable to expect more than just the SEADAWN will enter the Inshore Whiting Fishery if NMFS fails to approve the Emergency Rule so it is likely that the season will be compressed to 30 days or less (even though historically it has approximated 60 days before the adverse impact of the new AFA entrants). As AFA vessels, we can now use our co-ops to delay our entrance into the Pollock B Season or even lease our pollock quota so it is easy for many of us who already have West Coast permits to join in the Derby. We will collectively cut the season length in half. This is not consistent with any rational form of management.

Furthermore, it is becoming clear that the risk of destabilization in the whiting fishery extends beyond the inshore fishery. It has been reported that given the increased value in whiting that there is the intent that additional AFA Motherships could enter the Mothership Whiting Fishery. In addition, it is reported that an effort is being made by an AFA Factory Trawler to enter the Factory Trawler sector in the whiting fishery.

The bottom line is what NMFS and the PFMF is facing in the West Coast whiting fishery is the possibility of total destabilization in a very short period of time. Fortunately, the motion by the State of Oregon was amended to include protection for the Mothership fishery and the Factory Trawler fishery as well. It is very clear that an Emergency exists and the proposed rule must be approved if destabilization in the West Coast Whiting Fishery is to be avoided.

It should also be noted that although the new AFA vessels that entered the fishery in 2006 may not have contributed a disproportionate amount of rockfish bycatch species, the risk of disproportionate bycatch of rockfish is extremely likely as new entrants increase. As the Olympic Derby compresses the fishery the pressure to catch will become extreme for every Captain on the grounds and especially those who have the alternative of the pollock fishery to the North the incentive to avoid bycatch will be less.

I am urging you and NOAA/NMFS to approve the Emergency Rule even though economically it would be to the disadvantage of the SEADAWN. This is because I have partners, family and friends invested in some of the traditional vessels that have a long term history and dependency in Inshore Whiting Fishery. I have respected the intent of the American Fisheries Act which was to restrict vessels such as the SEADAWN from adversely impacting the participants of fisheries in which the SEADAWN did not have history prior to the adoption of AFA. The SEADAWN and these other new entrants have stable AFA pollock markets in Alaska that has been very profitable. We do not need to enter into the Inshore Whiting Fishery and destroy it for those who have been historically dependent upon it. It is my hope that NOAA/NMFS will view the subject of this Emergency Rule consistent with the policy and intent of the American Fisheries Act and approve the Rule as presented and recommended by the PFMF. If it does not and others are allowed to ignore the intent of the AFA, I will have no choice as a competitive matter but to enter the Inshore Whiting Fishery with the SEADAWN.

It has been suggested by some, including the State of Washington, that the correct approach is to deny the Emergency Rule and to protect the whiting fishery based on the "Dedicated Access Program" currently being studied for the West Coast groundfish trawl fishery by the PFMF and its committees. That

suggestion is hopelessly flawed because if new AFA entrants are permitted into the whiting fishery it will become impossible for the PFMC committee dealing with rationalization issues to reach any kind of consensus based on history prior to 2006, if at the very time this committee is deliberating NMFS allows new large capacity AFA catcher vessels to enter and destabilize the fishery. These new entrants will participate in the PFMC Council process in order to delay the process that would rationalize the fishery based on history prior to 2006. The only way rationalization discussions will become effective is by NOAA/NMFS approving the Emergency Rule, denying access to the Whiting Fishery by all AFA vessels without sector specific history prior to 2006.

The bottom line is that an Emergency exists and the adverse impacts will become dramatically worse in 2007 unless NOAA/NMFS approves the Emergency Rule as proposed by the PFMC.

Thank you.

Sincerely,

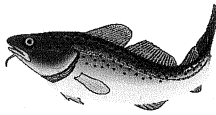
Fred A. Yeck

cc: Dr. William Hogarth  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
Building SSMC3, F  
1315 East West Highway, SSMC3  
Silver Spring, MD 20910

Mr. Frank Lockhart  
Assistant Regional Administrator  
National Marine Fisheries Service  
7600 Sand Point Way N.E.  
Seattle, WA 98115-0070

Dr. Donald McIsaac  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

Mr. Kurt Melcher  
Oregon Department of Fish and Wildlife  
3406 Cherry Ave., NE  
Salem, OR 97303



Fax# 541-574-9257

# *F/V Raven*

Raven Enterprises Inc.

Robert Smith Pres.

1676 N.E. Yaquina Hts Dr,

Newport, Oregon 97365



Ph# 541-574-1980

RECEIVED

OCT 20 2006

PPMC

Wednesday 18, 2006

Mr. Robert Lohn, Regional Director  
NOAA-Fisheries  
7600 Sand Point Way N.E.  
Seattle, Wa 98115

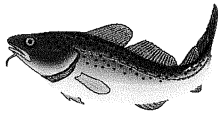
RE: Emergency Rule

Dear Mr. Lohn:

I am writing you today to ask you to support the PPMC decision to put the emergency rule in place for the 2007 whiting season. The council needs this time to analyze amendment 15 and put protective measures in place to stop the over capitalization of the whiting fishery as required by the American Fisheries Act.

I am the Captain and part owner of the F/V Raven. This vessel has been involved in the whiting fishery for 25 years, first in the joint-venture days and since 1991 in the shoreside fishery. Currently large AFA vessels, with no historical shoreside history, are gaining access to the shoreside whiting fishery and having a huge negative impact on it. The 2006 whiting season was shortened by more than 2 weeks compared to the 2005 season which had the same quota, largely due to these new big capacity vessels, who have never fished shoreside whiting before. My vessels income for the whiting season was 25% less this year compared to the 2005 season that was with only 3 large capacity AFA vessels. What is going to happen when more of them show up, as they are already scheduled to do, in 2007.

The PPMC adopted control dates in the Federal Register of Sept. 15, 1999 and June 20, 2000 notifying owners of the AFA vessels that their participation in the west coast fisheries was likely to be limited as required by the AFA. Again in 2003 the Federal Register announced the start of the trawl IQ process. This should not have been a surprise to anyone as the letter from the Washington Dept. of Fish and Wildlife would lead you to believe. EVERYONE had been put on notice concerning the further build up of this fishery.



Fax# 541-574-9257

## *F/V Raven*

Raven Enterprises Inc.  
Robert Smith Pres.  
1676 N.E. Yaquina Hts Dr.  
Newport, Oregon 97365



Ph# 541-574-1980

Page 2  
Wednesday 18, 2006

Please help stop the bleeding of the whiting fishery. This has the potential to turn into a disastrous "derby style" fishery that is already projected to last less than 30 days in 2007 and depending on the quota could be much less than that in the future. It is time to manage the fishery with long term goals in mind that will not cause devastating effects on the communities and fisherman who have relied on it for many years. Please remember those organizations like UCB and its AFA members have everything to gain by creating a derby style fishery and nothing to lose.

It is my hope NMFS will do the right thing and implement an emergency rule in 2007 for the whiting fishery that will give the PFMC time to analyze and implement amendment 15. Please help the council follow the mandate of the American Fisheries Act, as they are required to do, and protect the inshore whiting fishery and its historical participants.

Sincerely,

Robert E. Smith

Cc: Dr. William Hogarth  
Mr. Frank Lockhart  
Dr. Donald McIsaac  
Mr. Kurt Melcher

# *F/V Raven*

Fax# 808-329-8971

Yaquina Trawlers Inc.  
Lyle C. Yeck Pres.  
1676 N. E. Yaquina Hts. Dr.  
Newport, Oregon 97365

Ph# 808-938-6226

Wednesday, October 18, 2006

RECEIVED

OCT 23 2006

Mr. Robert Lohn, Regional Administrator  
NOAA - Fisheries  
7600 Sand Point Way N.E.  
Seattle, WA 98115

PFMC

RE: PFMC/Emergency Rule to Prohibit New Participation in the Whiting Fishery by  
American Fishery Act Vessels

Dear Mr. Lohn:

I urge you to approve the Emergency Rule passed by the PFMC to protect the Whiting Fishery from destabilization. An Emergency exists as demonstrated by new AFA vessels blatantly ignoring the intent of the AFA entering the fishery in 2006 and causing an early closure of the Inshore Whiting season. What occurred in 2006 is potentially only the tip of the iceberg. In 2007 even more AFA catcher vessels is on the horizon. These potential entrants are all watching to see whether NOAA/NMFS enforces the intent of the AFA or bends to the pressure of the State of Washington which seems to be representing the new entrants. If NOAA/NMFS does not approve the Emergency Rule total destabilization of the Whiting Fishery is likely to occur.

In response to the letter written by Dr. Koenings, Director of department of Fish and Wildlife dated September 29, 2006, he is obviously lobbying for these large AFA vessels and clouding the issues by questioning the data's accuracy. It's not material if the data is 1 or 2% off, what is clear to any participant in this fisheries is the simple fact that these new AFA vessels are having a direct adverse impact on the whiting fisheries. Dr. Koenings states that the emergency rule will not fix all the problems associated with new entrants, this is true, but it will protect us from the largest threat to our fisheries and give the council more time to deal with all the issues without further destabilizing the fisheries.

I am managing owner of the vessel F/V Raven. The Raven has participated in the whiting fisheries since 1981 in the early joint venture days. We have been fishing the offshore and inshore for the last 20 years. Our primary market has been delivering shoreside to Pacific Seafoods in Warrenton, Ore. The Raven is an AFA vessel that has traditionally fished Alaska in the first part of the year, and then we have returned to Oregon and participated in the Whiting Fisheries. We have been doing this prior to the enactment of the American Fisheries Act.

What concerns me now is the recent participation of new large AFA vessels that had never been engaged in the Inshore Fisheries. These vessels have no historical participation in this fishery. Every one of these vessels, due to their large size, has a very significant impact on the whiting fisheries. When one of these vessels enters the fishery it shortens the season by at least a week. I've lost 25% of my whiting catch this year because of these new large vessels entering the

fishery. This loss has occurred with just the new recent participation of a couple of large new AFA vessels. What will it be like with 6 or 8 new boats the size of AFA vessel which packs upwards of 600,000 lbs per trip?

This fishery will become a "whiting opening" for a couple of weeks rather than a reliable fisheries for the historical users if protection is not enacted soon. I have heard that the plants "needed" these vessels. But the truth is that the processors greed to get a little more market share than their competitors is what drives this race for fish. That may work for the processors but does nothing to preserve "market share" for the fisherman.

It is my understanding that the American Fisheries Act required the Pacific Fisheries Management Council to protect fisheries under its jurisdiction and the participants in these fisheries from adverse impacts caused by the AFA fishing Cooperatives. These AFA vessels that have no history in the shore side whiting fishery are causing a direct adverse affect on the historical participants of this fishery. They are using the benefits of AFA & Coops by either leasing Pollock quota or delaying their entry into the Bering Sea Pollock B season to make it possible to be on the West Coast at this time of year.

We ask that you immediately implement regulations as required by the American Fisheries Act that will protect the historical participants. Prohibit entry by these new large AFA vessels that have no pre AFA Inshore Whiting history as required by law.

What we need is rationalization of these fisheries so that we can extract the most and best product out of this fishery rather than the current Olympic system which, by its nature, reduces recovery rates, restricts product forms, encourages waste and makes managing the bycatch difficult. The first step in this rationalization should be restricting new entrants into the inshore whiting fishery by prohibiting AFA catcher vessels without pre AFA history in the fishery from entering and establishing the historical participants. Make no mistake about it; this point is not lost on these new AFA vessels. Most of them politic to rationalize the fisheries their in and then use this advantage to gain entrance into new fisheries. The large AFA catcher vessels are members of a group which with its members have successfully rationalized the Pollock fishery (via AFA) and the crab fishery (via Individual Quotas). Their major fisheries are now in the bank so other fisherman cannot steal it. So now this group and its large AFA vessel owners are on the prowl to steal history from other fisherman who are not protected by their council. The North Pacific Fishery Council protected its non AFA fisheries but the Pacific Fisheries Council has not yet acted. The PPMC needs to be decisive now or the Inshore Whiting Fisheries will be converted to a short Derby.

There are a lot more of these vessels capable of entering this fishery. It may not matter to them if the fishery gets reduced down to a couple of weeks. But for us that have relied on this fishery for years it significantly affects our livelihood.

The truth of the matter is that an Emergency exists and the adverse impacts will become dramatically worse in 2007 unless NOAA/NMFS approves the Emergency Rule as proposed by the PPMC.

Please Help now.

Sincerely,

  
Lyle C. Yeck

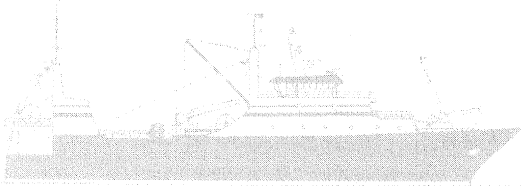
cc: Dr. William Hogarth  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
Building SSMC3, F  
1315 East West Highway, SSMC3  
Silver Spring, MD 20910

Mr. Frank Lockhart  
Assistant Regional Administrator  
National Marine Fisheries Service  
7600 Sand Point Way N.E.  
Seattle, WA 98115-0070

Dr. Donald McIsaac  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

Mr. Kurt Melcher  
Oregon Department of Fish and Wildlife  
3406 Cherry Ave., NE  
Salem, OR 97303

# STARBOUND LLC



Suite 300  
5470 Shilshole Avenue N.W.  
Seattle, Washington 98107

October 25, 2006

Phone (206) 784-5000  
Fax (206) 784-5500

Donald Hansen, Chairman  
Pacific Fishery Management Council  
770 Northeast Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

RECEIVED

OCT 25 2006

PFMC

Re: *Impacts of the Proposed Emergency Rule*

Dear Chairman Hansen:

The Swasand family and their partners have been living and fishing in Washington for more than fifty years. Our company, along with a number of other long-time Washington fishermen, own and operate the catcher/processor STARBOUND. Fishing is our way of life and the revenue is our primary source of income.

I know that I speak for me, my family and all of the other owners of the STARBOUND when I say that we are deeply concerned and disturbed by the Pacific Fishery Management Council's recommendation that the NMFS impose an emergency rule restricting AFA vessels holding valid West Coast Groundfish Permits from participating in the mothership and catcher/processor sector of the 2007 Pacific Whiting Fishery. The exclusion of AFA vessels using permits that are and have regularly and recently been used in the Pacific Whiting fishery is arbitrary, capricious and patently unfair -- particularly given the significant investment required to participate in the fishery and the complete lack of evidence supporting the restriction on the offshore sector. The imposition of this rule on the offshore sector is not supportable by the facts or the law.

We wish to advise the Council that -- in the context of these facts and the elevated standard that must be met to implement an emergency rule -- we vigorously oppose the implementation of the emergency rule as it relates to the offshore sectors. Shortly, we will provide additional factual information accompanied by a legal analysis detailing the many reasons why the emergency rule should not and cannot be implemented. We believe that after the Council considers the correct evidence and completes a comprehensive analysis of the issues, it will agree that the emergency rule should not be implemented.

Thank you for the opportunity to provide these comments and we will remain available should you, the other members of the Council or your staff have further questions.

Sincerely,

A handwritten signature in dark ink, reading "Cary K. Swasand". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Cary K. Swasand



RECEIVED

OCT 25 2006

PFMC

Date: October 15, 2006

To: Mr. Robert Lohn, Regional Director  
NOAA-Fisheries  
7600 Sand Point Way N.E  
Seattle, WA 98115

From: Hank Kentta

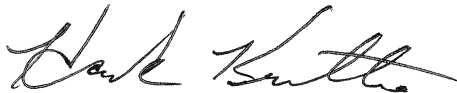
Re: Emergency Rule

I'm the Captain and part owner of the F/V Blue Fox; this vessel has been fishing for Pacific whiting since 1982, and has fished shoreside whiting since 1991. Pacific whiting makes up fifty percent of my annual income, up until this year this has been an adequate income and an enjoyable fishery to participate in. The 2006 shoreside whiting fishery has just ended, 16 days earlier than 2005 while fishing on the same quota as 2005. The shorter season was the result of the Pacific Fisheries Management Council not taking action to protect the long time participants from adverse impacts resulting from rationalized fisheries.

The shoreside whiting fishery needs your help, if action isn't taken to follow the law and protect the fishermen, this fishery will be the worst of derbies with no winners. The losers will be the local fishermen and their families that have depended on and invested in the shoreside whiting fishery for years. Protect us from the spillover from rationalized fisheries, the moving of the overcapitalized pollock fishery into the overcapitalized shoreside whiting fishery is against the law of AFA and needs to be stopped.

I hope that National Marine Fisheries Service will see the urgency to take action on this issue, two more large AFA vessels have already been promised markets for the 07 shoreside whiting season if the emergency is not in place, they will be able to deliver 1.2 million pounds per day. The loss of income to my family and other long time participants in the shoreside whiting fishery is disastrous. We are now dependant on you to stop this nightmare, give the Pacific Council time to solve this problem, please support the Councils decision to put an emergency rule in place for 07. If something isn't done soon this is going to derail all the work that has been done on the trawl individual quota program that we have been pumping money and time into. It's wrong for one State to support the practice of speculation fishing and the purchasing of latent permits and trying to make sure they get into the trawl IQ program. The 2003 Federal Register announcing the start of a trawl IQ process speaks against speculation. How is it that the North Pacific was able to sideboard all the AFA vessels, protect their fisheries from spillover but down here we ignore the law and several Federal Registers and watch a fishery die. Thank you for taking the time to read this letter.

Sincerely,



Hank Kentta  
F/V Blue Fox

cc: Dr. William Hogarth  
Mr. Frank Lockhart  
Dr. Donald McIsaac  
Mr. Kurt Melcher

## **REPORT ON THE 2006 PACIFIC HALIBUT FISHERIES IN AREA 2A**

The 2006 Area 2A total allowable catch (TAC) of 1,380,000 lb set by the International Pacific Halibut Commission (IPHC) was allocated as sub-TACs as follows:

Treaty Tribes	508,000 lb (35% + 25,000 lb)
Non-Tribal Total	872,000 lb (65% - 25,000 lb)
Non-Tribal Commercial	346,424 lb (includes incidental sablefish)
Washington Sport	249,152 lb
Oregon/California Sport	276,424 lb

All weights in this report are net weight (gutted, head-off, and without ice and slime.) The structure of each fishery and the resulting harvests are described below.

### **NON-TRIBAL COMMERCIAL FISHERIES**

A sub-TAC of 346,424 lb (31.7% of the non-tribal share + 70,000 lb for the incidental sablefish fishery) was allocated to two fishery components: 1) a directed longline fishery targeting on halibut south of Point Chehalis, WA; and 2) an incidental catch fishery during the salmon troll fisheries off Washington, Oregon, and California. An additional 70,000 lb was allocated to an incidental catch fishery for limited entry, sablefish-endorsed vessels operating with longline gear north of Pt. Chehalis, WA. This allowance for the tiered sablefish fishery is only available in years when the overall Area 2A TAC exceeds 900,000 lb.

**Incidental halibut catch in the salmon troll fishery** A quota of 41,464 lb (15% of the non-Indian commercial fishery allocation) was allocated to the salmon troll fishery in Area 2A as an incidental catch during Chinook fisheries. According to the Catch Sharing Plan, the primary management objective for this fishery is to harvest the troll quota as an incidental catch during the May/June salmon troll fishery. If any of the allocation for this fishery remains after June 30, the fishery may continue to retain incidentally caught halibut in the salmon troll fisheries until the quota is taken. The final catch ratio established preseason by the Council at the April meeting was one halibut (minimum 32") per three Chinook landed by a salmon troller, except that one halibut could be landed without meeting the ratio requirement, and no more than 35 halibut could be landed per trip. The "C-shaped" yelloweye rockfish conservation area (YRCA) in the North Coast subarea off Washington was designated as an area to be avoided (a voluntary closure) by salmon trollers.

- Halibut retention was permitted in the salmon troll fisheries beginning May 1. Of the halibut taken in the salmon troll fisheries through October 24, 2006, 3,355 lb were landed in Oregon and 30,462 lb were landed in Washington for a total of 33,817 lb (18.4% under quota.)

**Directed fishery targeting on halibut** A quota of 234,960 lb (85% of the non-tribal commercial fishery allocation) was allocated to the directed longline fishery targeting on halibut in southern Washington, Oregon, and California. The fishery was confined to the area south of Subarea 2A-1 (south of Point Chehalis, WA; 46°53.30' N. lat.). In addition, between 46°53.30' N. lat. and 46°16' N. lat., the fishery was confined to an area seaward of a boundary line approximating the 100-fm depth contour and, between 46°16' N. lat. and 40°10' N. lat., to an area shoreward of a boundary line approximating the 30-fm depth contour and seaward of a boundary line approximating the 100-fm depth contour. One-day fishing periods of 10 hours in duration were scheduled by the IPHC for June 28, July 12, July 26, August 9, August 23, September 6, and September 20. A 32" minimum size limit with the head on was in effect for all openings. Vessel landing limits per fishing period based on vessel length were imposed by IPHC during all openings as shown in the following table. Vessels choosing to operate in this fishery could not land halibut in the incidental catch salmon troll fishery, nor operate in the recreational fishery.

**Fishing period limits (dressed weight, head-off in pounds) by vessel size.**

Vessel Class/Size	6/28/06 Opening	7/12/06 Opening	7/26/06 Opening
A 0 - 25 ft.	670 lb	755 lb	200 lb
B 26 - 30 ft.	840 lb	945 lb	240 lb
C 31 - 35 ft.	1,345 lb	1,510 lb	385 lb
D 36 - 40 ft.	3,705 lb	4,165 lb	1,065 lb
E 41 - 45 ft.	3,985 lb	4,480 lb	1,145 lb
F 46 - 50 ft.	4,770 lb	5,365 lb	1,370 lb
G 51 - 55 ft.	5,320 lb	5,985 lb	1,530 lb
H 56+ ft.	8,000 lb	9,000 lb	2,300 lb

- The June 28 directed commercial fishery resulted in a catch of about 78,000 pounds, leaving 156,960 pounds for later openings.
- The July 12 directed commercial fishery resulted in a catch of about 113,000 pounds, leaving 43,960 pounds for later openings.
- The July 26 directed commercial fishery resulted in a catch of about 45,000 lb, over the quota by 1,040 lb.

**Incidental halibut catch in the primary sablefish longline fishery north of Point Chehalis**

A quota of 70,000 lb was allocated to the limited entry primary sablefish fishery in Area 2A as an incidental catch during longline sablefish operations north of Point Chehalis, WA. The primary sablefish season began on April 1 and closed October 31, although incidental halibut retention was not available until May 1. Properly licensed vessels were permitted to retain up to 100 lb of dressed weight (headed-and gutted) halibut per 1,000 lb of dressed weight sablefish, plus up to two additional halibut per fishing trip. The fishery was confined to an area seaward of a boundary line approximating the 100-fm depth contour. In addition, the "C-shaped" yelloweye rockfish conservation area (YRCA) in the North Coast subarea off Washington was designated as an area to be avoided (a voluntary closure) by commercial longline sablefish fishermen.

- Through October 24, this fishery is estimated to have taken 61,394 lb.

**SPORT FISHERIES (Non-tribal).**

A sub-TAC of 525,576 lb (68.3% of non-tribal share – 70,000 lb for the incidental sablefish fishery) was allocated between sport fisheries in the Washington area (47.4%) and Oregon/California (52.6%). The allocations were further subdivided as quotas among seven geographic subareas as described below.

**Washington Inside Waters Subarea** (Puget Sound and Straits of Juan de Fuca). This area was allocated 68,607 lb (27.5% of the Washington sport allocation). Due to inability to monitor the catch in this area inseason, a fixed season was established preseason based on projected catch per day and number of days to achieve the sub-quota. The Eastern Region (East of Low Point) opened on April 9 and continued through June 18, 5 days per week (Thursday-Monday). The Western Region opened on May 25 and continued through August 5, 5 days per week (Thursday-Monday). The daily bag limit was one halibut of any size per person.

- Landings data from this fishery are not yet available.

**Northern Washington Coastal Waters Subarea** (landings in Neah Bay and La Push). The coastal area off Cape Flattery to Queets River was allocated 119,244 lb (47.9% of the Washington sport allocation). The fishery was divided into two seasons with 33,388 lb set aside for the second season. The fishery was to open May 9 and continue 3 days per week (Tuesday, Thursday, and Saturday) until 85,856 lb were estimated to have been taken. The second season was to open in the week of June 22 and continue 2 days per week (Thursday and Saturday) until the entire quota for this subarea was estimated to be taken or September 30, whichever is earlier. The "C-shaped" yelloweye rockfish conservation area (YRCA) in the North Coast subarea off Washington, southwest of Cape Flattery, was closed to sport halibut fishing. The daily bag limit was one halibut of any size per person.

- The fishery opened May 9 and continued 3 days a week, through May 18, when 63,398 lb were estimated to have been taken. The remaining quota for the May season, 22,458 lb, was not enough to continue the 3 day per week fishery; this remaining quota was transferred to the June season.
- The season re-opened on June 22 and June 24, during which days 42,408 lb were taken, for a season total of 105,806 lb, leaving approximately 13,438 lb in the subarea quota.

**Washington South Coast Subarea** (landings in Westport). The area from the Queets River to Leadbetter Point was allocated 53,952 lb (21.7% of the Washington sport allocation). The fishery was to open on May 1 and continue 5 days per week (Sunday through Thursday) offshore, until the quota was taken. A nearshore fishery was also to open May 1 and continue 7 days per week in waters between the Queets River and 47°25.00' N. lat. south to 46°58.00' N. lat., and east of 124°30.00' W. long. through the closure of the offshore fishery until either the subarea quota were estimated to have been taken, or until September 30, whichever is earlier. If there is insufficient quota remaining to open the entire subarea for another fishing day, then any remaining quota may be used to accommodate incidental catch in the nearshore fishery on Fridays and Saturdays only, or be transferred to another Washington subarea. The daily bag limit was one halibut of any size per person.

- The 5 day per week offshore fishery and the 7 day per week inshore fishery opened on May 1 and remained open until May 17. The total catch for this subarea was 58,483 lb, exceeding the quota by 4,531 lb (8.4% overage.)

**Columbia River Subarea** (Leadbetter Point to Cape Falcon). This sport fishery subarea was allocated 21,170 lb, consisting of 2.0 percent of the first 130,845 lb allocated to the Washington sport fishery, 4.0 percent of the Washington sport allocation between 130,845 lb and 224,110 lb (minus the pounds needed for the incidental sablefish fishery), and 5.0 percent of the Oregon/California sport allocation or an amount equal to the contribution from the Washington sport allocation, whichever is greater. The fishery was to open May 1 and continue 7 days per week until 14,819 lb is estimated to have been taken or until July 16, whichever is earlier. The fishery was to reopen on August 4 and continue 3 days per week (Friday through Sunday) until the entire subarea quota has been taken or September 30, whichever is earlier. The daily bag limit was one halibut of any size per person.

- This 7 day per week fishery began on May 1 and closed on May 27 with a total catch of 14,357 lb (3.1% under initial quota).
- The fishery reopened August 4 and continued 3 days a week, until September 3, when 7,363 lb were estimated to have been taken, for a season total of 21,720 lb (2.6% over quota).

**Oregon Central Coast Subarea** (Cape Falcon to Humbug Mountain). This sport fishery subarea was allocated 254,310 lb (92% of the Oregon/California sport allocation less any amount needed to contribute to the Oregon portion of the Columbia River subarea quota).

Three seasons were set for this subarea: 1) a restricted depth (inside 40-fm) fishery to commence on May 1 and continue 7 days a week until October 31 or until the nearshore sub-quota of 20,345 lb were estimated to have been taken; 2) a fixed Spring season in all depths that was to open on May 11-13, 18-20, and 25-27, and June 1-3, and 8-10 with a catch allocation of 175,474 lb (the Spring season was to reopen for additional days if quota remains), and; 3) a Summer season in all depths that was to open on August 4-6 and which was to continue on as many weekends as possible until the total Spring-Summer quotas of 233,965 lb have been taken or until October 31, whichever is earlier. Additional fishing days may be opened if a certain amount of quota remained after August 6 and September 3, and/or an increase in the bag limit

may be considered after September 3. The daily bag limit was one halibut of any size per person, unless otherwise specified.

- The inside 40-fathom fishery opened May 1 through September 21, taking 8,419 lb of halibut, 58.6% under quota (18.6% under the revised quota). On September 6, NMFS, ODFW, and IPHC conferred inseason and took action to provide more fishing opportunity for the Summer all-depth fishery. The agencies agreed to transfer 10,000 lb from inside 40-fm fishery to the Summer all-depth fishery, bringing the revised inside 40-fm quota to 10,345 lb.
- The fixed Spring all-depth season in May-June, held May 11-13, 18-20, and 25-27, June 1-3, 8-10, and, had a total catch of 144,938 lb, which left enough halibut in the quota to allow openings on June 22-24 and July 6-8. During these six additional spring all-depth fishery days, an additional 38,751 lb were taken. A total of 183,690 lb was taken in the Spring all-depth fishery, 8,216 lb over the Spring quota. This overage was deducted from the pounds available to the Summer all-depth fishery.
- The initial Summer all-depth season quota of 58,491 lb was reduced by the 8,216 lb overage from the Spring fishery. As a result, 50,275 lb was initially available to the Summer all-depth fishery. The Summer all-depth fishery opened on August 4-6 (Friday-Sunday). On September 6, NMFS, ODFW, and IPHC conferred inseason and took action to provide more fishing opportunity for the Summer all-depth fishery. The agencies agreed to transfer 10,000 lb from inside 40-fm fishery to the Summer all-depth fishery, bringing the revised Summer all-depth quota to 60,275 lb and leaving 28,861 lb for the remainder of the all-depth Summer season. In addition, because the remaining quota for the combined all-depth and inside 40-fm fishery was 31,267 lb (i.e., greater than 30,000 lb after September 3, as stated in the CSP and regulations), beginning September 8, the Summer all-depth fishery opened every Friday-Sunday with a two-fish bag limit. The Summer all-depth fishery closed at 11:59 pm September 21; the fishery had taken 65,859 lb, 5,584 lb over the revised summer all-depth quota (9.3% over revised Summer quota.)

**South of Humbug Mountain, Oregon and off the California Coast Subarea** This sport fishery was allocated 8,293 lb (3.0% of the Oregon/California quota). This area had a pre-set season of 7 days per week from May 1 to October 31 and a daily bag limit of one halibut of any size per person.

- This season is scheduled to remain open through October 31. No catch estimates are available for this fishery, but it is unlikely that this subarea quota will be taken.

### **TRIBAL FISHERIES**

A sub-TAC of 508,000 lb (35% + 25,000 lb of the Area 2A TAC) was allocated to tribal fisheries. The tribes estimated that 36,000 lb would be used for ceremonial and subsistence (C&S) fisheries and the remaining 472,000 lb were allocated to the commercial fishery. The 2006 management plan was essentially identical to the new management plan that the tribes had agreed to for their 2005 fisheries. This plan divides the fisheries into “separately managed” fisheries and “joint restricted” fisheries.

For the separately managed fisheries, a tribe or group of tribes was allocated a certain percentage of the TAC that could be harvested any time between noon on March 5 and noon on July 30. Collectively, the separately managed fisheries were allocated 75% of the Tribal Commercial TAC. The separately managed fisheries landed 364,372 lbs in 546 landings (out of 354,000 lbs expected).

The remaining 25% of the TAC was open to all parties in the “joint restricted” fishery that was managed to last at least 40 days. The joint restricted fishery opened at noon March 20 with a 500-lb/vessel/day limit. Due to higher than anticipated effort and an inseason adjustment to the target poundage, the limit was reduced to 200 lbs/vessel/day on April 11. This limit greatly reduced participation and remained in effect until the close of the commercial fishery at midnight July 18, when it was determined the commercial quota had been attained. The joint restricted fishery had a total catch of 111,599 lbs in 410 landings (out of 118,000 lbs expected).

Fishery	Dates Held	Pounds Landed	# of Landings
Separately Managed	March 5 - July 18	364,372 lb	546 landings
Restricted, 200-500 lb/vessel/day	March 20 – July 18	111,599 lb	410 landings
Total		475,971 lb	956 landings

The C&S fishery will continue through December 31 and tribal estimates of catch will be reported by the tribes in January 2007.

2006 Area 2A TAC and Catch (in pounds)					
	Quota	Inseason Revised Quota		Catch	Over/Under
TRIBAL INDIAN	508,000			511,971 *	0.8%
Commercial	472,000			475,971	0.8%
Ceremonial & Subsistence	36,000			36,000 *	
NON-TRIBAL	872,000			852,088 ♠	-2.3%
COMMERCIAL	346,424			331,211 ♠	-4.4%
Troll	41,464			33,817 ♠	-18.4%
Directed	234,960			236,000	0.4%
Sablefish Incidental	70,000			61,394 ♠	-12.3%
SPORT	525,576			520,877 ♠	-0.9%
WA Sport	249,152			243,901 ♠	-2.1%
OR/CA Sport	276,424			276,976	0.2%
WA Inside Waters	68,607			68,607 * ♠	--
WA North Coast	119,244			105,806	-11.3%
May season	85,856			63,398	-26.2%
June season	33,388	55,846 ♣		42,408	-24.1% of revised quota
WA South Coast	53,952			58,483	8.4%
Col River Area	21,170			21,720 ♦	2.6%
Early season	14,819			14,357	-3.1%
Late season	6,351	6,813 ■		7,363	8.1% of revised quota
OR Central Coast	254,310			257,968	1.4%
Inside 40 fathoms	20,345	10,345 ★		8,419	-18.6% of revised quota
Spring (May-July)	175,474	183,690		183,690	--
Summer (August-October)	58,491	60,275 ★		65,859	9.3% of revised quota
OR S. of Humbug/CA	8,293			8,293 *	
<b>TOTAL</b>	<b>1,380,000</b>			<b>1,364,059 ♠</b>	<b>-1.2%</b>

\* Assumed.

♣ Washington's North Coast May season fishery had 22,458 lb remaining after it was closed which was transferred to the June season, increasing the June quota to 55,846 lb.

■ The Columbia River Early season had 462 lb remaining after it was closed which was transferred to the Late season, increasing the Late season quota to 6,813 lb.

★ Oregon's Central Coast spring all-depth fishery overage of 8,216 lb, plus 10,000 lb from the inside 40-fm fishery were transferred to the summer all-depth fishery, increasing that quota to 60,275 lb.

♠ Data from these fisheries not complete at the time of the briefing book deadline. Updates will be provided at the Council meeting, if available.

♦ Columbia River catch= 11,005 lb from WA + 10,715 lb from OR.





**MTC**

## **MIDWATER TRAWLERS COOPERATIVE**

P.O. Box 2352  
NEWPORT, OREGON  
PHONE: 541-270-3208 FAX: 541-265-4557  
jincks@pioneer.net

October 22, 2006

OCT 26 2006

Mr. Robert Lohn, Regional Director  
NOAA – Fisheries  
7600 Sand Point Way N.E  
Seattle, WA 98115

Re: Emergency Rule to Prohibit New Participation in the Whiting Fishery by American Fishery Act Vessels

Dear Mr. Lohn:

Midwater Trawlers Cooperative members have been involved in the whiting fisheries since 1982, starting with at-sea foreign joint ventures, and moved into American at-sea markets as they became dominant and replaced foreign processing vessels. About this same time the shoreside whiting fishery started, and within a few short years the Pacific Fisheries Management Council listed shoreside whiting as being overcapitalized in their Strategic Plan. The vessels that have historically participated in the shoreside whiting fishery and have become dependant on this source of revenue are now seeing this fishery turn into a derby nightmare. These vessels are now suffering huge losses due to inaction to protect this fishery from harm being done by the American Fisheries Act.

The harm to the shoreside whiting fishery is obvious, there is over 4 million pounds of excess AFA vessel capacity that has no shoreside whiting history that can be landed daily. These vessels have all participated in the at-sea whiting fisheries for years and are now finding time to move into the shoreside whiting fishery.

### **What makes this possible?**

- Bering Sea pollock is no longer an open access fishery due to the American Fisheries Act.
- AFA vessels are now able to harvest their allocated pollock when they want to, with the ability to lease or trade their pollock freely. This gives them the freedom to participate in other fisheries for which they have no historical participation.
- Without the mandated sideboards to protect the Pacific Councils fishermen from the adverse impacts of AFA, these large vessels are now able to move into the unprotected and overcapitalized shoreside whiting fishery causing conservation and economic impacts.
- Shoreside Whiting and Pollock use the same gear type and deck arrangements, thus making it possible for these large vessels to enter this fishery with no or minor expense.

**David Jincks, President**

880 SE Bay Blvd \* Newport, OR 97365 \* Phone: (541) 265-9317 \* Email: jincks@pioneer.net

- The Bering Sea Pollock TAC is in decline, this is sending owners out looking for new fisheries. The only fishery that never got sector specific protection was the whiting fishery, even though the Pacific Council and the Secretary of Commerce was told to do so by law.

The Washington Department of Fish and Game made the statement that the large AFA vessels with no prior shoreside whiting history that entered the fishery in 2006 made substantial investments to enter this fishery is incorrect. Any vessel that qualified for AFA benefits and delivered Pollock to shoreside markets in Alaska, makes it possible for them to spillover into the shoreside whiting fishery with no expense. These fisheries are identical, the investments were made for the pollock fishery not shoreside whiting.

The fallout of not taking swift action to approve the emergency rule to protect the shoreside whiting fishery for the 2007 fishing season will be felt by the whole West Coast. If the emergency rule is not implemented the Pacific Council will need to prepare for the spillover from a shoreside whiting derby disaster.

### **What will the fallout be with no emergency rule?**

- Destabilization of the shoreside whiting fishery in 2007, the huge amount of excess capacity that is moving into this fishery will cause vessels to alter their long time conservative fishing strategies. Whiting fishermen will need to harvest at an accelerated rate due to the season being cut in half.
- With the addition of two more large AFA vessels with no prior shoreside whiting history that have been promised markets for 2007 if the emergency is not implemented will shorten the shoreside fishery to less than 30 days if the TAC remains the same. This means the traditional shoreside whiting vessels will spillover into the non-whiting fisheries that they haven't participated in.
- The trawl individual quota process that the Federal Government has spent a large sum of money on will never reach completion while vessels are allowed to enter the shoreside whiting fishery on pure speculation. The new large AFA entrants will stall this process in the hopes of gaining catch history while this process struggles through the Council.

The Washington Department of Fish and Game in protesting the emergency rule and defending their States need to protect these vessels and the purchase of latent permits, puts them on record of supporting speculation fishing. Speculation is the most destructive form of fishing when a Council is working towards an IQ fishery. This is spelled out clearly in the **Federal Register / Vol. 69, No. 6 / Friday, January 9, 2004**. Specific language being. **The control date for the trawl IQ program (November 6, 2003) is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program.** For one State to endorse and support this type of action is sending a message to the trawl TIQC committee that the doors open, come on in.

The emergency rule is only temporary; it gives the Pacific Council time to finish what should have been done years ago. It's now time to get behind the Pacific Council and support the decision that was made

**David Jincks, President**

880 E. Bay Blvd \* Newport, OR 97365 \* (541) 270-3208 \* Fax 265.4557 \* Email: jincks@pioneer.net

to protect the shoreside whiting fishery by emergency rule for 2007. Everyone needs to realize that this is no longer about the AFA vessels that entered the shoreside fishery in 2006; it's about the additional AFA vessels that will be in the shoreside fishery in 2007.

The Washington Department of Fish and Game made the comment that AFA vessels have participated in this fishery for years, and trade their pollock or lease it to another vessel to be able to fish shoreside whiting. This is true; these vessels have been part of this fishery since before AFA was enacted by Congress. These vessels were part of this fishery before limited entry; the participation of these vessels is well documented. AFA sideboards was about protecting fisheries and fishermen from the adverse affects coming from vessels that had no prior history, not from the vessels that had always participated in this fishery. The North Pacific protected their fisheries by placing sideboard restrictions on all AFA vessels, restricting them to only the fisheries that they had recent participation in.

The hard facts demonstrate that you have an emergency on your hands; the adverse impacts have already increased and will only become worse as the 2007 season nears. This is an avoidable groundfish disaster, support the Pacific Fisheries Management Councils vote to move forward with an emergency rule. Do not let economic speculation in a fishery do damage to the trawl IQ program that we have invested a large amount of Federal Dollars and personal time in.

Thank you.

Sincerely,



David Jincks  
Midwater Trawlers Cooperative

cc: Dr. William Hogarth  
Mr. Frank Lockhart  
Dr. Donald McIsaac  
Mr. Kurt Melcher

**David Jincks, President**

880 E. Bay Blvd \* Newport, OR 97365 \* (541) 270-3208 \* Fax 265.4557 \* Email: [jincks@pioneer.net](mailto:jincks@pioneer.net)

OCT 27 2006

**F/V Pegasus  
MIKE & JILL STOREY  
89610 SEA BREEZE DRIVE  
WARRENTON, OREGON 97146  
PHONE 503-738-0233  
503-738-3821**

**October 24, 2006**

**Dr. Donald McIsaac  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220**

**Dear Dr. McIsaac:**

**Having testified in favor of the adoption of an emergency rule excluding AFA vessels with no historical deliveries at the September 11, 2006 council meeting; I am deeply disturbed by Washington State Department of Fisheries trying to end run the political process.**

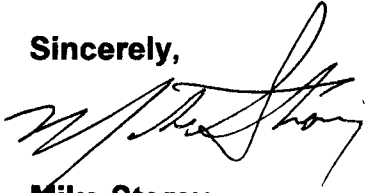
**After lengthy and passionate testimony by both sides the council did the right thing and took the appropriate step to stop the siphoning off of the whiting TAC by AFA vessels with no prior shore-side history.**

**Apparently, WDOF disagrees with this process and continues to put their spin on the landing numbers to some what soften the adverse effects the increased landing by the new AFA participants have on the traditional whiting fisherman.**

**I will not try and confuse the issue with more smoke and mirrors but use just one of their number: 12:3%. I can't help but wonder if WDOF budget was reduced by over 12 percent would Mr. Anderson and Dr. Koenings think it might possibly have an adverse effect on their department?**

**Finally, to believe that the AFA vessel owners, as businessmen invested large sums of monies with their eyes closed and were unaware of the published control dates to quote Dr. Koenig is indeed "indefensible."**

**Sincerely,**

A handwritten signature in black ink, appearing to read 'Mike Storey', written over the printed name.

**Mike Storey  
Captain F/V Pegasus**

**Cc. Dr. William Hogarth  
Mr. Robert Lohn  
Mr. Frank Lockhart  
Dr. Donald McIsaac**

**BRETT HEARNE**

OCT 27 2006

407 SE 4<sup>TH</sup> STREET  
NEWPORT, OR 97365  
541-265-7821  
Laststraw@newportnet.com

October 26, 2006

Dear Dr. Donald McIsaac  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

I am writing to you concerning the impact the of large AFA vessels recently introduced into the pacific whiting fisheries . We own and operate the F/V Last Straw . We have been fishing for pacific whiting since 1998 . This fishery constitutes nearly 40% of our yearly income . The pacific whiting is very crucial to our lively hood . With the introduction of the large AFA vessels into the whiting fishery our season has been shortened causing us to lose income and threatening our business survival. These vessels have no historical participation in this fishery . Every one of these vessels due to their large size has a significant impact on the whiting fishery.

I have personally fished for whiting since 1980 , our boat has history with whiting at least back to 1979, and shore side whiting since 1998. We are a family business that has worked to establish a history in this fishery. large vessels with out established shore-side fishing history negatively impact our market . When the Olympic , Pollock fishery was rationalized the American Fisheries Act established the AFA vessels would not be allowed to impact another fishery.

The Whiting fishery has not been protected by sideboards as required by the American Fisheries Act , When the Pacific Council moves ahead quickly , and, provides the Inshore Whiting fishery with the protection established in the American Fisheries Act , the destabilizing of this fishery can be avoided.

We ask that you immediately implement regulations as required by the American Fisheries Act that will protect the shore-side whiting boats with history in the fishery. Restrict these new large AFA vessels as required by law. Please act quickly to protect our fishery.

We've worked for years developing this fishery and need this emergency rule to manage it. Washington and those large AFA boats are just trying to take advantage of our small

success. By allowing them to do this I believe our business will not survive. We feel the financial results from 2006. Please stay on the Council's September emergency rule.  
Thank you

Sincerely

Brett Heame

OCT 27 2006

WADE HEARNE

407 SE 4<sup>TH</sup> STR.  
NEWPORT, OR  
Phone (541-265-7821  
Fax (541-265-7821  
Laststraw@newportnet.com

October 26, 2006

Dr. Donald McIsaac  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

Dear Dr. Donald McIsaac,

My name is Wade Hearne, my father is shore-side whiting fisherman and owner operator of the F/V Last Straw that holds a west coast ground fish trawl permit. This vessel was mainly used for ground fish in the early 90s but after the restriction were implicated we have become increasingly more reliant on the mid water fishery of pacific whiting. Today I would now estimate that our participation in the shore side whiting season brings 40% of the gross income earned by the vessel for My family and the crew of the vessel. I also have been crewing on the vessel during the whiting season to pay for my college education at Oregon state university and rely totally on this season for all of my income.

After reading the Mid-Water Trawlers Co operative letter to Chairman Hansen I understand that after the American Fisheries Act (AFA) in the north pacific eliminating an Olympic season requires those vessels affected to prevent (AFA) vessels from impacting other fisheries, however I personally witnessed AFA vessels trawling for shore side whiting. As explained by David Jinks and the Midwater Trawlers to the Pacific Fisheries Management Council I now understand that AFA vessels impacting the shore side whiting is against the law, and that it is the Pacific Fishery Management Council (PFMC) to prevent such vessels from doing so. I have also come to understand that PFMC had once had to on its agenda that to prevent such vessels, but dropped it from the agenda because of a large workload.

I would like to ask PFMC to please make this a priority on the agenda because whiting has become such a large part of many of the trawlers on the Oregon coast not just my families I know that my family, our business, our crew and my education rely on the shore side whiting fishery

Sincerely,

Wade Hearne



**Blohm, Mike**

*163 NW 6<sup>th</sup> Street  
Toledo , Oregon 97391*

OCT 30 2006

*October 27, 2006*

*Dr. DonaldMcIsaac*

*P.F.M.C.*

*7700 NE Ambassador Place , Suite 1041*

*Portland, Or 9722091384*

*Dear Dr. McIsaac,*

*Due to the ground fish cutbacks, I have recently started working on the F/V  
LAST STRAW in hopes that shore side whiting will help sustain a year  
round income. Without the Council's emergency vote to prevent AFA  
spillover, I anticipate a very short dangerous derby fishery that won't do  
anything for myself or the others who developed the fishery to what it has  
become so far. Please stay on the Council's September emergency rule.  
Thank You*

*Sincerely,*

**Mike Blohm**

OCT 30 2006

# Troy George

*1809 SE Alder Lane  
Toledo, Oregon 97391*

*October 26, 2006*

*Dr. Donald McIaac  
P.F.M.C.  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384*

*Dear Dr. Donald McIsaac*

*Hello, My name is Troy George. I have been employed on the fishing vessel "Last Straw" since 2001. I depend on Pacific Whiting for a majority of my annual income. I believe we should keep with our emergency rule. My family and I are a part of this community and this community also depends on shore side whiting.*

*I also feel that the State of Washinton's decision is not favorable for all as an industry. Their actions beem corrupt and ill favored. Please stay on the Council's September emergency rule*

*Sincerely,*

*Troy George  
First mate*

# STARBOUND LLC

Suite 300  
5470 Shilshole Avenue N.W.  
Seattle, Washington 98107

October 25, 2006

Phone (206) 784-5000  
Fax (206) 784-5500

Donald Hansen, Chairman  
Pacific Fishery Management Council  
770 Northeast Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

OCT 30 2006

Re: *Impacts of the Proposed Emergency Rule*

Dear Chairman Hansen:

The Swasand family and their partners have been living and fishing in Washington for more than fifty years. Our company, along with a number of other long-time Washington fishermen, own and operate the catcher/processor STARBOUND. Fishing is our way of life and the revenue is our primary source of income.

I know that I speak for me, my family and all of the other owners of the STARBOUND when I say that we are deeply concerned and disturbed by the Pacific Fishery Management Council's recommendation that the NMFS impose an emergency rule restricting AFA vessels holding valid West Coast Groundfish Permits from participating in the mothership and catcher/processor sector of the 2007 Pacific Whiting Fishery. The exclusion of AFA vessels using permits that are and have regularly and recently been used in the Pacific Whiting fishery is arbitrary, capricious and patently unfair -- particularly given the significant investment required to participate in the fishery and the complete lack of evidence supporting the restriction on the offshore sector. The imposition of this rule on the offshore sector is not supportable by the facts or the law.

We wish to advise the Council that -- in the context of these facts and the elevated standard that must be met to implement an emergency rule -- we vigorously oppose the implementation of the emergency rule as it relates to the offshore sectors. Shortly, we will provide additional factual information accompanied by a legal analysis detailing the many reasons why the emergency rule should not and cannot be implemented. We believe that after the Council considers the correct evidence and completes a comprehensive analysis of the issues, it will agree that the emergency rule should not be implemented.

Thank you for the opportunity to provide these comments and we will remain available should you, the other members of the Council or your staff have further questions.

Sincerely,

  
Cary K. Swasand

TRENTON J. CAPOVILLA

Newport, Oregon

OCT 30 2006

October 27, 2006

Dr. Donald McIsaac,  
P.F.M.C.  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

Dear Dr. McIsaac,

I am a deck hand on the F/V Last Straw. I came to this vessel due to grounfish cut backs and am now on a Shore Side Whiting boat. The money I make from this fishery sustains myself and my family for the majority of the year. In September 2006 there was an emergency rule that I am greatly in favor of. If this ruling falls through due to a corrupt and unfair governing body it could force me to lose my job and leave a community which I have grown to love. Please heed this warning and help out an already successful and crowded fishery.

Sincerely,

Trenton J. Capovilla

From: "jon silva" <[jon\\_silva\\_17@hotmail.com](mailto:jon_silva_17@hotmail.com)>  
Date: Mon, 30 Oct 2006 08:02:13  
[To: donald.mcisaac@noaa.gov](mailto:donald.mcisaac@noaa.gov)  
Subject: Shoreside Whiting

Dear Mr. Donald McIsaac:

My name is Jon Silva, I'm the owner/opperater of the F/V Jeanette Marrie.  
I'm writing to let you know I STRONGLY support the "Emergence Rule."

If this Rule does not take effect IT WILL DESTORY THE WHITING FISHERY. I  
looked up the word destory in the Webster dictionary. So I'm passing it on  
to you.

"To Destory is to reduce something to nothingness or to take away its powers  
and functions so that restoraton is impossable."

Thank you for your time,

PRES. Jon Silva

Dear Sir,

I am writing in support of the 2007 emergency rule for the shoreside Whiting fishery.

I am the captain of the F/V Excalibur. We participate in the shoreside Whiting fishery every year. This year we were affected by the large AFA vessels that came and participated in this fishery. We saw a shortened season and lost revenue for our workers and our business. The huge capacity of these vessels will continue to cause the seasons to be shortened. Which in turn will cause, loss of jobs, revenue, and will trickle down to our surrounding communities. The impact will be intense and wide spread.

We urge you to consider the history of this fishery and the people and boats that make their living in this fishery. Please support the Pacific Fisheries Management Council on this matter. In September they voted in favor of an emergency rule. Please join them, and help push this into affect.

Once again, these large AFA vessels entering the shoreside fishery have made no investment to enter this fishery. These vessels have moved down from Alaska where they generally would be located. In which they have caught all their Pollock quotes or have leased the quote (for big money) and then have come down to reap that which has been allotted to the West Coast Fishermen.

In short, I would like your support for the 2007 emergency rule for the shoreside Whiting Fishery.

Sincerely

Mike Retherford  
Owner/Operator, F/V Excalibur

NOV 07 2006

NOV 02 2006

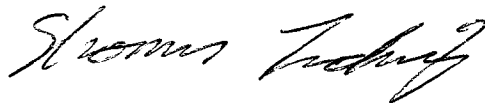
RE: Emergency Rule

Dear MR Lohn:

Hi, my name Thomas ludwig asking you to support the PFMC decision to put the emergency rule in place for the 2007 whiting season. To give the council the time to analyze amendment 15 and put protective measures in place to stop over capitalization of the whiting fishery. As required by the American Fisheries Act.

Just a few big boat's would hurt dozen's of famlies and much needed job's and revenue that they depend on to make a living on. This is very important to me becuase so many friend's and famlies I know that are fishermen, or depend on fishing related job's. So please give the PFMC the time they need to help us.

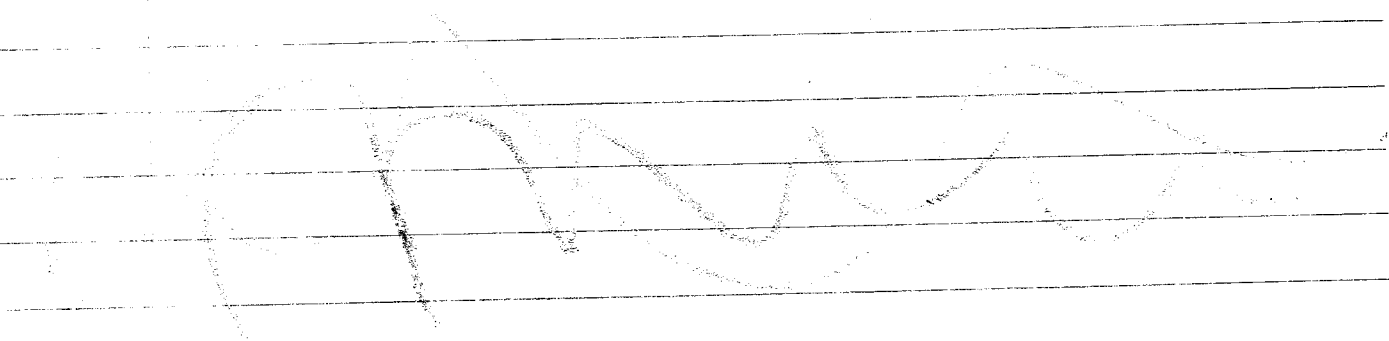
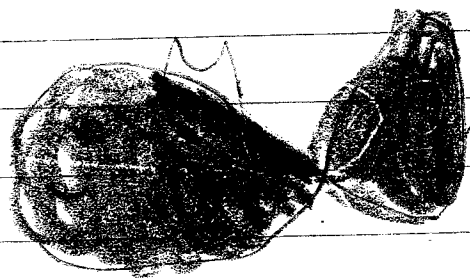
Sincerely ,

A handwritten signature in cursive script, appearing to read "Thomas Ludwig".

my name is Taryn Webb  
I am 6 years old.  
Please give THE COUNCIL  
more time so they can  
help save all our  
cats jobs.

THANK YOU

Taryn Webb





NOV 02 2006

From: Ismael Nava

Re: Emergency Rule

I have been a crew member on the F/V Raven for the past three years. Before I was on this vessel I was a fisherman in Alaska for five years, where I lost my job there due to cutbacks. This year AFA vessels that pack four times more than our size, with no shore side history, are gaining access to shore side whiting fishery. Due to this, it shortened our whiting season by more than two weeks early, compared to last year, which had the same quota. If more vessels are allowed to in the next years to come, then my job will be a risk and many other local fisherman that wait for the whiting season every year.

I hope that The National Marine Fisheries will see the urgency to take action on this important issue. Please, we need your help and support for the councils decision to put an emergency rule in place for 2007.

Sincerely,  
Ismael Nava

Date : 10/24/06

NOV 02 2006

To: Robert Lohn, Regional Director  
NOAA-Fisheries

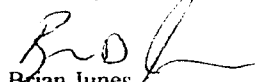
Re: Emergency Rule

My name is Brian Junes and I am writing asking you to support The PFMC decision to put the emergency rule in place for the 2007 whiting season. The council needs this time to analyze amendment 15 and put protective measures in place to stop the over capitalization of the whiting fisheries as required by the American Fisheries Act.

I have been a crew member on the F/V Raven for the last 3 years. Prior to that I worked for 4 years at a fish processing plant in Warrenton Oregon. My family and many of my friends and associates rely heavily on the seasonal income. Over the last few years the seasons have become shorter, financially hurting many around me. If larger vessels are allowed into next years whiting season, it will have a huge negative impact on my family, friends, and community.

Please allow the PFMC the sufficient time they need to protect my Friends, Family, and community.

Sincerely,

  
Brian Junes  
F/V Raven

RECEIVED

NOV 07 2006

Dear Sir,

PFMC

I am writing in support of the 2007 emergency rule for the shoreside Whiting fishery.

I am a crew member aboard the fishing vessel Excalibur. I work aboard my father's boat along side my brother. We work hard and rely on this fishery. This fishery is a big part of the earnings that we anticipate each year. We look forward to this season and rely heavily on the income from it. We are a smaller vessel, but hold our own in this fishery. The fishery offers a lot of boats and crew members a livelihood.

As I spoke earlier, this business is family ran and operated. We all are local and put back into our communities. We urge you to help protect this fishery with the 2007 emergency rule. Not only do you protect the integrity of this fishery, you protect the lives that are directly affected by this situation.

These large AFA vessel that have moved down from Alaska, will wreck havoc on this fishery and the families that have worked their way into this fishery. We will loose all the way around, if there isn't a halt to this process. Not only will the present be interrupted our future will be changed forever.

Please support the Pacific Fisheries Management Council on this emergency rule. Thank you for your time and effort in this matter.

Mikey B Retherford

Crew/Captain F/V Excalibur



## Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384  
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | [www.pcouncil.org](http://www.pcouncil.org)

November 9, 2006

Mr. Robert Lohn, Regional Administrator  
National Marine Fisheries Service, Northwest Region  
7600 Sand Point Way NE, BIN C15700  
Seattle, WA 98115-0070

Re: Pacific Fishery Management Council rationale and justification for an emergency rule for the 2007 Pacific whiting fishery.

Dear Mr. Lohn: *Bob*

On October 17, 2006, you received a letter conveying the September 2006 recommendation of the Pacific Fishery Management Council (Council) for an emergency rule for the 2007 Pacific whiting fishery to protect the fishery from harm caused by vessels qualified under the American Fisheries Act (AFA). The Council motion passed on September 13, 2006 was to (1) move forward expeditiously to complete Council action on a simplified Amendment 15 to the *Pacific Coast Groundfish Fishery Management Plan* for implementation in 2008 and (2) recommend National Marine Fisheries Service (NMFS) approve an emergency rule to be implemented for the 2007 season to prohibit participation of AFA-qualified vessels with no sector specific catch history in the fishery prior to 2006 (effectively December 31, 2005) in the shore-based, mothership, or catcher-processor sectors of the 2007 Pacific whiting fishery. In taking this action, the Council recognized that completion of Amendment 15 represents the best mechanism for achieving long-term protective measures for West Coast fisheries. Because completing Amendment 15 cannot occur prior to 2008, the Council also recognizes the need for an interim rulemaking process to prevent imminent harm to fisheries in 2007. The purpose of this letter is to provide additional background, justification, and rationale in support of this recommendation.

### **BACKGROUND**

When Congress passed the AFA in 1998, Congress designated the Council to develop conservation and management measures to protect West Coast groundfish fisheries from potential harm caused by the AFA. In September 1999, the Council initiated Amendment 15 to address this concern and requested NMFS publish notice of the rules under consideration and a control date of September 16, 1999. This control date applies to participation by catcher vessels in mothership and shore-based Pacific whiting fisheries, and in the inshore groundfish fishery for non-whiting species. The Council also set a control date of June 29, 2000 as notice to the public and potential purchasers of limited entry permits held by AFA entities. This control date provides advance notice that, based on future Council action, groundfish limited entry permits held by an AFA entity may be revoked or restricted to a specific fishery sector.

The Council addressed Amendment 15 again at its September 2001 meeting when the Council reviewed a range of alternatives and initial analyses and adopted a preferred alternative. The preferred alternative covered many issues and included provisions to limit catcher vessel participation in West Coast groundfish fisheries (at-sea whiting, shore-based whiting, non-whiting) by sector to those vessels with qualifying landings during the period of January 1, 1994 to September 16, 1999. The Council directed Council staff to complete public review drafts of the analysis and proposed management measures but, because of competing workload, an urgent need to rebuild overfished groundfish stocks, and the appearance of no imminent harm, the Council tabled action on Amendment 15 in 2002.

At the March 2006 Council meeting, the Council's Legislative Committee discussed a request by staff of the U.S. Senate Committee on Commerce, Science, and Transportation for Council input on draft AFA amendatory language. The Council sent a letter dated March 17, 2006 to the U.S. Senate Committee recommending that "all AFA qualified vessels (original or replacement) - not just catcher/processor vessels - without West Coast landing history prior to June 29, 2000 be prohibited from participating in the Pacific whiting fishery."

At the June 2006 meeting, the Legislative Committee and the Council heard testimony regarding participation by AFA qualified vessels in the shore-based sector of the Pacific whiting fishery. Additional public comments stated that Council recommended restrictions on AFA qualified vessels would not go far enough to protect all sectors of the West Coast Pacific whiting fishery and that sector specific "side board" landing requirements should be requested and that current efforts to address the issue through Federal legislation were unlikely to address all of the Council's concerns. In response, the Council recommended revisiting Amendment 15 to the Groundfish Fishery Management Plan (FMP) as a potential mechanism for protecting West Coast fisheries from adverse impacts caused by the AFA. At its June 12-16, 2006 meeting in Foster City, California, the Council heard testimony regarding concerns of harm to the Pacific whiting fishery from an influx of vessels qualified under the AFA and scheduled a review of various mechanisms for achieving the protective provisions called for in the original act.

At its September 10-15, 2006 meeting in Foster City, California, the Council discussed the previously tabled Amendment 15 and the current status and future prospects for the Pacific whiting fishery and heard considerable testimony that AFA-qualified vessels have entered the Pacific Whiting fishery since the Council tabled Amendment 15 in 2002. The Council concluded additional fishing effort by AFA-qualified vessels in 2006 likely contributed to a shortened season resulting in decreased revenue for traditional fishery participants and their communities. Additionally, the Council has expressed concern that additional fishing effort and shortened fishing seasons can create a 'race for fish' in the fishery which could lead to higher bycatch of the depleted rockfish and salmon stocks. The Council is concerned about detrimental effects that have occurred since AFA-qualified vessels with no history in the fishery have entered the West Coast Pacific whiting fishery, and the risk that detrimental effects could intensify in future seasons if no action is taken.

Consequently, the Council passed its September 2006 motion to expeditiously complete Council action on Amendment 15 and to recommend NMFS approve an emergency rule to be implemented for the 2007 season to prohibit participation of AFA-qualified vessels with no

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sector specific catch history in the fishery prior to 2006 (effectively December 31, 2005) in the shore-based, mothership, or catcher-processor sectors of the 2007 Pacific whiting fishery.

#### **JUSTIFICATION AND RATIONALE FOR AN EMERGENCY RULE**

During its September 2006 deliberations concerning a temporary or emergency rulemaking activity for the 2007 Pacific whiting fishery, the Council reviewed the criteria for an emergency rule as detailed in Federal Register on August 21, 1997 (62FR44421). This notice states that "For the purpose of Section 305(c) of the Magnuson-Steven Fishery Conservation and Management Act 'an emergency exists in any fishery' is defined as a situation that:

- 1) Results from recent, unforeseen events or recently discovered circumstances; and
- 2) Presents serious conservation or management problems in the fishery; and
- 3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process."

The following section of this letter will address each of these criteria listed above individually to provide sufficient justification and rationale for determining an emergency in the Pacific whiting fishery exists and that temporary or emergency rulemaking efforts are warranted until such time the Council can complete work on Amendment 15.

#### **1) The Current Situation "Results from recent, unforeseen events or recently discovered circumstances."**

As mentioned above, the Council did not foresee any imminent threat from AFA-qualified vessels when it tabled activity on Amendment 15 in 2002 and no substantial threat was perceived by the Council until 2006 when the potential harm to West Coast groundfish fisheries, specifically to the shore-based Pacific whiting fishery, by AFA-qualified vessels was realized. Table 1, at the end of this letter, details Pacific whiting harvest, duration of the shore-based Pacific whiting fishery, and participation levels from 1992 through 2006. Landings of the AFA-qualified, non-AFA-qualified, and traditional vessels in the 2006 shore-based whiting fishery are detailed in Table 2.

Compared to prior years, the 2006 shore-based Pacific whiting season demonstrated differentially high risks from AFA-qualified vessel entrants due to bycatch, economic instability, and changes in fishery behavior inherent in a derby fishery. In the 2006 shore-based Pacific whiting fishery, 37 vessels landed 97,314 metric tons (mt) of Pacific whiting. Of the 37 vessels participating in 2006, 15 are AFA-qualified vessels 11 of which participated in the shore-based Pacific whiting fishery prior to the enactment of the AFA in 2000. Of the remaining four AFA-qualified vessels, one vessel has participated in the shore-based Pacific whiting exempted fishing permit (EFP) fishery since 2001. The remaining three vessels first participated in the shore-based Pacific whiting EFP fishery in 2006. The recent entry of these vessels in 2006 was not anticipated when management measures for the 2006 fishery were adopted by the Council and were only recently brought to the Council's attention as reviewed in the previous background material. The four AFA-qualified vessels that participated in 2006 that had not participated prior to the enactment of

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the AFA and the establishment of the control date landed a total of 15,742 mt. This amount was 16% of the 97,314 mt of whiting landed in the shoreside fishery coastwide, and 17% of the 91,840 mt of whiting landed in Washington and Oregon (Table 2).

Five additional vessels that were non-AFA-qualified participated in the 2006 shore-based fishery and not in the 2005 fishery. Four of those vessels had not landed whiting in the shore-based fishery since the inception of EFP fishing in 1992, while one of those non-AFA-qualified vessels does have prior participation in this fishery. Two of those non-AFA-qualified vessels elected to sort-at-sea, and not participate in the EFP fishery. These five non-AFA-qualified participants made 101 deliveries (9%), landing 3,239 mt of whiting, or 3% of the coastwide landings, and 4% of the landings in Washington and Oregon (Table 2). These vessels averaged 32 mt of whiting per landing (Table 2).

There were 28 “traditional” vessels (i.e. those vessels with shore-based Pacific whiting participation history prior to 2006) that participated in the 2006 shore-based Pacific whiting fishery. All of those vessels participated in the EFP fishery. These vessels had significant shore-based Pacific whiting participation history prior to 2006.

AFA-qualified vessels have the necessary infrastructure, the management flexibility, and, under current market conditions there are increasing incentives for AFA-qualified vessels to begin participating in the West Coast groundfish fishery. The price of whiting was unusually high in 2006 at \$0.065 per pound (1992-2005 average price of \$0.04 per pound), and, combined with the expanding markets for white fish have increased the attractiveness of this fishery for those vessels already equipped to participate in this fishery. Existing processors are increasing whiting processing capabilities to supply both domestic and international markets. These new and changing market conditions were not anticipated by the Council prior to recent Pacific whiting fisheries.

In summary, new market incentives and participation in the fishery from AFA-qualified vessels, unforeseen by the Council in 2002 when Amendment 15 was tabled, combined with existing fishing capacity of AFA-qualified vessels likely contributed to increased effort and a shortened season in the 2006 Pacific whiting fishery.

## 2) The Current Situation “Presents serious conservation or management problems in the fishery”

An intensive management regime is in place for West Coast fisheries to avoid or minimize impacts to species of concern and adding capacity to existing traditional fleets creates both management and conservation problems. Council managed groundfish fisheries are constrained by rebuilding requirements for seven groundfish species declared overfished. The entry of new participants to West Coast fisheries could be very disruptive with regard to the incidental catch of overfished rockfish species because additional effort from such vessels creates a derby-style “race for fish” leading to higher bycatch of depleted rockfish. The shore-based whiting fishery is one of low overall bycatch achieved through fleet feedback mechanisms and informed, cautious fishing patterns. As the “race for fish,” and thus the “race for bycatch” escalate, the incentives for maintaining fishery practices that result in low bycatch are sacrificed. The likely result of an influx of new vessel participation is promotion of a derby-style fishery, lasting a few weeks or less, and the associated increased bycatch that typically results from this type of fishery.

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Spillover of vessels from the shore-based whiting fishery into the bottom trawl fishery after the completion of an amplified derby-style fishery for whiting has the potential to negatively impact the West Coast groundfish fishery management due to unanticipated increases in effort, and increased uncertainty in the inseason regulation assessment model.

Avoiding bycatch of overfished groundfish species is of critical importance to groundfish fisheries including the Pacific whiting fishery and efforts to minimize bycatch benefit from knowledge of local fishing patterns and conditions. The very low levels of allowable bycatch in these fisheries create a situation where a single tow that is high in bycatch can have significant impacts on overfished species and the management regime. Even with the bycatch efforts listed above, tows with high bycatch have occurred. For example, in June 2004, a catcher vessel for a mothership caught 3.9 mt of canary rockfish in a single tow representing 53% of the annual fleet-wide bycatch allowance for this species. Additionally, in 2005 and 2006 research trawl surveys designed to assess stock health experienced single tow events with a much larger catch of canary rockfish than anticipated. Although the latter example is a potentially desirable outcome, each of these examples created the potential for fishery closures and unacceptable impacts to overfished species. The likelihood of future high bycatch tows increases with an influx of vessels less familiar with the West Coast whiting fishery, particularly when increased fishing effort creates a derby-style fishery where both traditional vessels and new entrants are forced to land Pacific whiting as quickly as possible. This situation represents a serious conservation problem for several overfished species which are potentially vulnerable to the Pacific whiting fishery.

The intensive and well developed management program currently in place to manage the shore-based whiting fishery on a daily basis is unable to accommodate a fast paced derby-style fishery. As the duration of the fishery decreases, so does the ability of fishery management agencies to react to and adjust for problem situations. The current shore-based whiting fishery is intensively managed, using a daily processor reporting system. The current tracking system is over-burdened at the current pace of the fishery. It is expensive and difficult to try to attempt daily tracking of this fishery. Acceleration of the fishery will likely cause a breakdown in the ability to monitor the harvest of whiting as well as the impacts to species of concern and hinder the ability of fishery managers to respond to either slow the fishery or close it completely in a timely manner. The tacking of both landed whiting catch and bycatch is critical to the management of the groundfish fishery and deterioration of the existing monitoring program represents a serious management problem for West Coast States, the Council, and NMFS.

There exists serious concerns regarding increased pressure associated with a derby-style fishery which is perpetuated by the unique characteristics of AFA-qualified vessels. These vessels pose a unique and substantial risk to the bycatch reduction measures that have already been established by the traditional participants in this fishery. The infrastructure needed to effectively fish in the Pacific whiting fishery is expensive and unattainable for most of the existing bottom trawl fleet. For those vessels that lack the equipment and specifications needed, the cost of outfitting a vessel is prohibitively expensive and outweighs the potential profits in the fishery. For these reasons, the existing traditional whiting fleet has been relatively stable since the inception of the EFP fishery in 1992. However, the needed infrastructure currently exists for AFA-qualified vessels, as the same equipment is used in the Bering Strait/Aleutian Islands (BSAI) pollock fishery. Moreover, the latent capacity of AFA-qualified vessels has greater potential to adversely impact

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the West Coast groundfish fishery than that of the bottom trawl fleet due to their larger capacity (the average landing by the four AFA-qualified vessels was 171.11 mt while the average landing by the remaining 33 vessels was 79.93 mt, an average of more than double). AFA-qualified vessels, with their existing equipment and large capacities, create considerable potential for future derby-style whiting fisheries and their associated management and conservation problems.

An existing trawl vessel no smaller than roughly 70 feet in length is required to effectively haul and operate the equipment needed to fish whiting in a safe manner. Older trawl vessels are not wide enough to maintain stability under the heavy equipment load needed for this fishery. The equipment needed to effectively target whiting includes: sonar, head rope sounder, mid-water trawl net, and a separate engine for the hydraulics needed to operate the mid-water net. To preserve the product once it is brought on board, tanking capabilities and refrigerated sea water systems are required. A conservative estimate of the overall costs associated with configuring a current non-whiting trawl vessel of small size to effectively fish in the shore-based whiting fishery is approximately \$195,000. That cost increases with capacity and size of vessel, with a potential to exceed \$800,000. This cost outweighs the potential profits made in the shore-based whiting fishery by existing bottom trawl vessels. AFA-benefited vessels escape the equipment and vessel re-fitting costs, as the equipment needed to efficiently harvest pollock in the BSAI management area is the same equipment described above, needed to efficiently harvest whiting in the shore-based whiting fishery.

In addition to the needed infrastructure to enter the fishery, the current structure of the BSAI pollock fishery grants AFA-qualified vessels the flexibility needed to adjust fishing strategies to participate in West Coast groundfish fisheries. After enactment of AFA, vessels were granted BSAI pollock dedicated access privileges (DAP) under which fishing cooperatives are assigned a portion of the overall sector allocation based on the historical participation levels of each of the member vessels. Those vessels are then assigned an amount of pollock by the cooperative. The vessel has the flexibility to either harvest their DAP within the set season, lease or trade their DAP to another vessel, or not use the DAP at all. The lengthened season allows AFA-qualified vessels to participate in other fisheries and still achieve their pollock harvest limits.

3) The situation can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

The Council has revitalized the Amendment 15 process but there is insufficient time to complete the amendment process for implementation prior to the 2007 Pacific whiting fishery. As demonstrated above, there is reason to believe AFA-qualified vessels with no qualified history in the traditional West Coast whiting fishery will continue to participate in, or newly enter, the fishery in 2007. The immediate benefits of preventing a derby-style race for fish, both in terms of conservation of rebuilding rockfish species and preserving a stable traditional fishery with its well developed management program, provide adequate justification to forego the normal rulemaking process for the 2007 fishery. The Council's public process and deliberative consideration and analysis of potential harm to West Coast fisheries resulting from the AFA, has and will result in informed decision-making in this matter. Therefore, the Council is requesting

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an expedited rulemaking process to complete and implement the necessary protective measures for 2007 while the normal rulemaking process is underway.

There is both West Coast and North Pacific precedent for this proposed emergency action. The risks to West Coast groundfish fisheries and stocks from a derby-style fishing effort, expanding over-capitalization, and potential overages in bycatch limits exceed the risks and uncertainty present in 2005 when NMFS took action by emergency rule (1) in May 2005 to implement bycatch caps in the open access groundfish fishery when a large longline freezer vessel threatened to enter the fishery targeting on dogfish shark and (2) in August 2005 to implement salmon conservation zones in Pacific whiting fishery. Additionally, initial implementation of AFA sideboards in the BSAI and Gulf of Alaska (GOA) groundfish fisheries, the BSAI crab fishery, and the Alaska scallop fishery were done through emergency rule while the North Pacific Fishery Management Council was executing the amendment process.

As stated in the Council's September 2006 motion, the Council intends to move forward on Amendment 15 as expeditiously as possible. The Council's goal is to complete Amendment 15 and associated rulemaking process in time for the 2008 whiting fishery. To achieve this goal, the Council is scheduled to revise and simplify the existing Amendment 15 alternatives for protecting West Coast fisheries between now and the April 2007 Council meeting in Seattle, Washington. At the April 2007 meeting, the Council is scheduled to hear testimony from its advisory bodies and the public before approving a range of alternatives for additional public review and detailed analysis of the impact of such actions on the fishery participants and the resource. To allow time for advance notice and the normal rulemaking process, the Council will strive to fully analyze the alternatives and choose a preferred alternative at its June 2007 meeting.

It is important to note that under the last deliberative process and normal rulemaking effort by the Council in 1999-2002, the Council implemented control dates of 1999 and 2001 and identified a preliminary preferred alternative to requiring vessel participation by 1999, well before December 31, 2005 as requested in the Council's September motion. It is likely that these existing control dates and qualifying landing periods will again be considered by the Council in 2007 during deliberative analysis and review of a new suite of Amendment 15 alternatives. The requested emergency rulemaking action is intended as an interim and intermediate step towards protecting West Coast fisheries.

## **CONCLUSION**

The Council is quite concerned about detrimental effects occurring to the Pacific whiting fishery caused by vessels advantaged by the AFA. The Council is committed to considering the proper action to addressing the current influx of AFA-qualified vessels with no landing history from entering or switching sectors in the traditional West Coast whiting fisheries. To achieve the necessary protective measures the Council made a motion in September 2006 to move forward expeditiously to complete Council action on a simplified Amendment 15. The Council is currently scheduled to develop and analyze a range of alternatives under its usual public process and identify a preferred alternative by June of 2007 to allow adequate time for the requisite rulemaking and public comment periods before the start of the 2008 fishery.

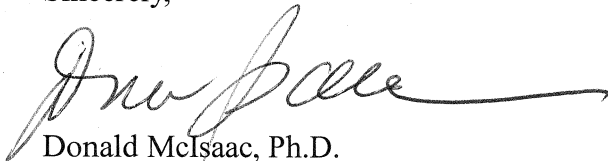
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While the deliberative process to complete Amendment 15 is underway, and to protect the 2007 West Coast whiting fishery from the potential harm from AFA-qualified vessels as demonstrated in this letter and the Council's administrative record, the Council is requesting that NMFS approve an emergency rule to be implemented for the 2007 Pacific whiting season. This rule should prohibit participation of AFA-qualified vessels with no sector specific catch history in the fishery prior to 2006 (effectively December 31, 2005) in the shore-based, mothership, or catcher-processor sectors of the 2007 Pacific whiting fishery. The emergency rule can be justified by both the criteria required and the precedence of recent similar emergency action taken by NMFS on West Coast groundfish and North Pacific fisheries.

Additionally, for your information, we have enclosed the written public comment received at the Council office to date regarding this matter. Although the Council is not scheduled to address Amendment 15 or the emergency rule request directly at the November 2006 Council meeting, these written comments will be presented to the Council and the public as an informational report.

If you or your staff has any questions regarding this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don Isaac", with a long horizontal flourish extending to the right.

Donald McIsaac, Ph.D.  
Executive Director

MDB:ckc

c: Council Members  
Mr. Rod McGinnis, NMFS, Southwest Regional Administrator  
Ms. Eileen Cooney  
Dr. John Coon  
Mr. Jim Seger  
Mr. John DeVore  
Ms. Laura Bozzi  
Mr. Kit Dahl  
Mr. Chuck Tracy

Table 1. Summary of the whiting harvest, season start and end dates, season duration, and vessel and processor participants in the shore-based whiting fishery from 1992-2006.

Year	Whiting Harvest (mt)	Whiting Allocation (mt)	Start Date	End Date	Duration (Days)	# Vessels	# Processors
1992	49,092	80,000	4/15/1992	10/30/1992	198	23	7
1993	41,926	42,000	4/15/1993	8/24/1993	131	24	13
1994	72,367	97,000	4/15/1994	11/23/1994	222	33	8
1995	73,397	75,776	4/15/1995	7/25/1995	101	35	15
1996	84,680	87,001	5/15/1996	9/10/1996	118	37	11
1997	87,499	86,900	6/15/1997	8/22/1997	68	38	12
1998	87,627	86,900	6/15/1998	10/13/1998	120	35	13
1999	83,388	83,800	6/15/1999	9/13/1999	90	36	14
2000	85,653	83,790	6/15/2000	9/15/2000	92	36	14
2001	73,326	72,618	6/15/2001	9/26/2001	103	29	13
2002	45,276	44,906	6/15/2002	7/17/2002	32	29	8
2003	51,061	50,904	6/15/2003	7/14/2003	29	35	9
2004	89,251	90,510	6/15/2004	8/14/2004	60	26	9
2005	97,378	97,469	6/15/2005	8/18/2005	64	29	10
2006	97,322	97,314	6/15/2006	8/2/2006	48	37	14
<b>Average</b>	<b>74,616</b>	<b>78,459</b>			<b>98</b>	<b>32</b>	<b>11</b>

Table 2. Comparison of whiting landings made by AFA-qualified, non-AFA-qualified, and traditional vessel in the 2006 shore-based whiting fishery. (W = Washington, O = Oregon, and C = California)

	AFA-Qualified Vessels (4)			Non-AFA-Qualified Vessels (5)			Traditional Vessels (28)		
	Total	Max. Vessel	Ave. Vessel	Total	Max. Vessel	Ave. Vessel	Total	Max. Vessel	Ave. Vessel
# of Landings									
% of W-O	92	29	3%	101	28	2%	978	81	35
% of W-O-C	9%	3%	2%	9%	3%	2%	91%	8%	3%
	8%	2%	2%	9%	2%	2%	84%	7%	3%
Volume (mt)	15,742	4,576	3,935	3,239	933	648	78,333	6,566	2,798
% of W-O	17%	5%	4%	4%	1%	1%	85%	7%	3%
% of W-O-C	16%	5%	4%	3%	1%	1%	80%	7%	3%
mt/landing	171	158	171	32	33	32	80	81	80

STATUS REPORT OF THE 2006 OCEAN SALMON FISHERIES OFF WASHINGTON, OREGON, and CALIFORNIA.

Preliminary Data Through October 31, 2006.

Fishery and Area	Season Dates	Effort Days Fished	CHINOOK			COHO <sup>a/</sup>		
			Catch	Quota	Percent	Catch	Quota	Percent
COMMERCIAL								
Treaty Indian <sup>b/</sup>	5/1-6/30	383	11,361	22,700	50%	Non-Retention		
	7/1-9/15	416	18,147	19,500	93%	31,379	37,500	84%
Non-Indian North of Cape Falcon <sup>c/</sup>	5/1-6/30	1,645	20,823	22,450	93%	Non-Retention		
	7/7-9/15	931	6,371	11,550	55%	2,705	6,800	40%
Cape Falcon - Florence S. Jetty	6/1-8/3	1,682	14,211	NA	NA	Non-Retention		
	9/17-10/31	750	5,000	NA	NA	Non-Retention		
Florence S. Jetty - Humbug Mt.	Closed			NA	NA	Non-Retention		
Humbug Mtn - OR/CA Border	Closed			NA	NA	Non-Retention		
OR/CA Border - Humboldt S. Jetty	Closed			NA	NA	Non-Retention		
Horse Mt. - Pt. Arena	9/1-9/5	440	10,600	4,000	265%	Non-Retention		
Pt. Arena - Pigeon Pt.	7/26-8/31	2,800	35,000	NA	NA	Non-Retention		
	9/1-9/30	1,600	12,000	20,000	60%	Non-Retention		
Pt. Reyes - Pt. San Pedro	10/2-10/13	280	1,500	NA	NA	Non-Retention		
Pigeon Pt. - Pt. Sur	5/1-5/31	1,150	9,000	NA	NA	Non-Retention		
	7/26-8/31	60	400	NA	NA	Non-Retention		
	9/1-9/30	40	100	NA	NA	Non-Retention		
Pt. Sur - U.S./Mexico Border	5/1-8/31	230	800	NA	NA	Non-Retention		
	9/1-9/30	0	0	NA	NA	Non-Retention		
RECREATIONAL								
U.S./Canada Border - Cape Alava <sup>d/</sup>	6/30-9/17	11,621	1,428	3,200	45%	5,826	7,058	83%
Cape Alava-Queets River <sup>d/</sup>	6/30-9/17	3,337	1,287	1,300	99%	1,821	3,029	60%
	9/23-10/8	772	344	100	344%	36	50	72%
Queets River - Leadbetter Pt. <sup>d/</sup>	7/3-9/17	24,684	5,853	18,100	32%	8,799	25,603	34%
Leadbetter Pt.-Cape Falcon <sup>d/</sup>	7/3-9/30	31,284	2,279	8,300	27%	24,845	36,600	68%
Cape Falcon - Humbug Mt.	3/15-6/16	2,112	250	None	NA	Non-Retention		
	8/1-8/31	4,318	981	None	NA	Non-Retention		
	9/1-10/31	10,626	3,177	None	NA	Non-Retention		
	6/17-7/31	24,374	4,594	None	NA	9,416	20,000	47%
	9/1-9/6	6,942	1,163	None	NA	711		
Humbug Mt. - Horse Mt. (KMZ)	5/15 - 7/4	17,744	16,436	None	NA	Non-Retention		
Horse Mt. - Pt. Arena (Ft. Bragg)	2/18-8/31 <sup>e/</sup>	18,900	12,800	None	NA	Non-Retention		
	9/1-11/12	800	100	None	NA	Non-Retention		
Pt. Arena - Pigeon Pt. (San Francisco)	4/1-8/31 <sup>f/</sup>	50,800	47,300	None	NA	Non-Retention		
	9/1-11/12	4,400	1,000	None	NA	Non-Retention		
Pigeon Pt. - U.S./Mexico Border	4/1-8/31	26,800	10,700	None	NA	Non-Retention		
	9/1-9/24	100	0	None	NA	Non-Retention		

TOTALS TO DATE	Effort			Chinook Catch			Coho Catch <sup>g/</sup>		
	2006	2005	2004	2006	2005	2004	2006	2005	2004
<b>TROLL</b>									
Treaty Indian	799	596	431	29,508	41,975	49,785	31,379	23,997	62,197
Washington Non-Indian	1,593	1,438	1,381	16,704	35,066	35,372	1,281	1,442	13,293
Oregon	3,659	11,361	12,936	30,365	249,452	250,336	1,424	2,622	8,839
California	6,600	16,716	21,733	69,400	340,473	502,110	-	-	-
Total Troll	12,651	30,111	36,481	145,977	666,966	837,603	34,084	28,061	84,329
<b>RECREATIONAL</b>									
Washington Non-Indian	63,544	90,595	112,704	10,683	36,369	24,907	35,919	51,770	112,936
Oregon	61,728	76,001	145,411	11,379	27,952	56,364	15,605	13,709	71,835
California	117,900	170,994	217,204	88,200	142,918	220,776	1,439	725	1,424
Total Recreational	243,172	337,590	475,319	110,262	207,239	302,047	52,963	66,204	186,195
<b>PPMC Total</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>256,239</b>	<b>874,205</b>	<b>1,139,650</b>	<b>87,047</b>	<b>94,265</b>	<b>270,524</b>

a/ All non-Indian coho fisheries are mark-selective

b/ Treaty Indian effort is reported as landings.

c/ Numbers shown as chinook quotas for non-Indian troll and recreational fisheries North of Falcon are guidelines rather than quotas; only the total Chinook allowable catch is a quota.

e/ Closed Mondays and Tuesdays in June; July 10-14, 17-21, and 24-25.

TABLE IR-5. Sequence of events in ocean salmon fishery management, 2006.<sup>a/</sup> (Page 1 of 6)

<b>GENERAL MANAGEMENT ACTIONS AND INSEASON CONFERENCES</b>	
Mar. 10	<p>National Marine Fisheries Service (NMFS) provides the Council with a letter outlining the 2006 management guidance for stocks listed under the Endangered Species Act (ESA).</p> <p>Council recommends inseason adjustment for:</p> <ol style="list-style-type: none"> <li>1. Commercial fisheries between Cape Falcon and the Oregon/California border to be closed March 15 through April 30.</li> <li>2. Recreational fisheries between Point Arena and Point Sur to be closed April 1-30. (State waters remained open).</li> </ol> <p>New regulations take effect May 1, 2006.</p> <p>Council adopts three commercial and recreational ocean salmon fishery management options for public review.</p>
Mar. 15	North of Cape Falcon Salmon Forum meets in Lynwood, Washington to initiate consideration of recommendations for treaty Indian and non-Indian salmon management options.
Mar. 27-28	Council holds public hearings on proposed 2006 management options in Westport, Washington, Coos Bay, Oregon, and Santa Rosa, California.
Mar. 30	North of Cape Falcon Salmon Forum meets in Lynnwood, Washington to further consider recommendations for treaty Indian and non-Indian salmon management options.
Apr. 6	Council adopts final ocean salmon fishery management recommendations for approval and implementation by the U.S. Secretary of Commerce. The proposed measures comply with the salmon fishery management plan (FMP) and the current biological opinions for listed species, except that the Klamath River fall Chinook natural spawning escapement is projected to be 21,100, less than the 35,000 FMP conservation objective; therefore, an emergency rule is required for implementation.
May 4	Ocean salmon seasons implemented as recommended by the Council and published in the <i>Federal Register</i> on May 4 (71 FR 26254).
June 15	NMFS inseason conference number two results in closing the U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon-except-coho fishery effective midnight, June 16. The fishery remains closed until it reopens June 27 through June 30, 2006 with a 20 Chinook per vessel landing limit for the four-day open period.
July 24	NMFS inseason conference number three results in changing the U.S./Canada border to Cape Falcon recreational fishery to open seven days per week and to allow retention of two Chinook in the bag limit beginning August 11.
July 27	NMFS inseason conference number four results in changing the U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon fishery to allow a landing and possession limit of 60 Chinook per open period effective July 29.
Aug. 17	NMFS inseason conference number five results in changing the U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon fishery to allow fishing four days per week (Saturday through Tuesday), a landing and possession limit of 80 Chinook per open period, and use of all gear (lifting the 6 inch plug only restriction) effective, August 19.
Aug. 25	<p>NMFS inseason conference number six results in two actions:</p> <ol style="list-style-type: none"> <li>1. Reducing the coho quota in the Queets River to Leadbetter point recreational fishery from 27,603 to 25,603 and increasing the coho quota in the Cape Alava to Queets River recreational fishery from 1,889 to 3,029 in order to extend the latter fishery into September and maintain impacts on Interior Fraser coho at or below preseason expectations (Effective August 26, 2006).</li> <li>2. Reopening the recreational fishery in the Tillamook Head to Cape Falcon area effective August 26, 2006.</li> </ol>

TABLE IR-5. Sequence of events in ocean salmon fishery management, 2006.<sup>a/</sup> (Page 2 of 6)

<b>GENERAL MANAGEMENT ACTIONS AND INSEASON CONFERENCES</b> (continued)	
Sept. 5	NMFS inseason conference number seven results in closing the Horse Mt. to Point Arena, non-Indian commercial all-salmon-except-coho fishery effective 3 p.m., Sept. 5 as the 4,000 Chinook quota is reached.
Sept. 6	NMFS inseason conference number eight results in changing the U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon fishery to allow fishing during the final open period from September 8 through September 15 with a landing and possession limit of 160 Chinook and 80 coho for the eight day open period.
<b>NON-INDIAN COMMERCIAL TROLL SEASONS</b>	
May 1	Pigeon Point to Point Sur, non-Indian commercial all-salmon-except-coho fishery opens through May 31 with a 75 Chinook per vessel per calendar week landing and possession limit; fish must be landed south of Point Arena; Chinook minimum size limit 27 inches total length.  Point Sur to U.S./Mexico border, non-Indian commercial all-salmon-except-coho fishery opens through September 30; fish must be landed south of Pigeon Point; Chinook minimum size limit 27 inches total length in May, June, and September and 28 inches in July and August.
May 1-2	U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon-except-coho fishery opens with a 75 Chinook per vessel landing limit for the two-day open period and a 22,450 Chinook quota. The fishery reopens with the remaining quota May 6.
May 6	U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon-except-coho fishery reopens Saturday to Tuesday through June 13 with the remainder of the 22,450 Chinook quota, and an 80 Chinook per vessel per open period landing and possession limit.
May 31	Pigeon Point to Point Sur, non-Indian commercial all-salmon-except-coho fishery closes. Fishery reopens July 26.
June 4	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery opens Saturday to Tuesday through June 28 with a 75 Chinook per vessel per open period landing and possession limit.
June 13	U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon-except-coho fishery closes as there is insufficient quota remaining for another opening prior to June 27. The fishery reopens with the remaining quota June 27.
June 27-30	U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon-except-coho fishery opens with the remainder of the 22,450 Chinook quota and a 20 Chinook per vessel landing limit for the four-day open period.
June 28	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery closes. The fishery reopens July 9.
June 30	U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon-except-coho fishery closes as scheduled.
July 9	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery opens Friday to Sunday through July 25 with a 75 Chinook per vessel per open period landing and possession limit.

TABLE IR-5. Sequence of events in ocean salmon fishery management, 2006.<sup>a/</sup> (Page 3 of 6)

**NON-INDIAN COMMERCIAL TROLL SEASONS** (continued)

July 15	<p>U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon fishery opens through the earlier of September 15 or quotas of 11,550 Chinook and 6,800 marked (adipose fin clipped) coho.</p> <p>July 15 through July 25: Saturday to Tuesday, with a 35 Chinook and 35 marked coho per vessel per open period landing and possession limit. Gear is restricted to plugs six inches or longer.</p> <p>July 29 through August 1: Saturday to Tuesday, with a 60 Chinook and 35 marked coho per vessel per open period landing and possession limit. Gear is restricted to plugs six inches or longer.</p> <p>August 5-14: Saturday to Monday with a 60 Chinook and 40 marked coho per vessel per open period landing and possession limit. Gear is restricted to plugs six inches or longer.</p> <p>August 19 through September 4: Saturday to Tuesday with an 80 Chinook and 40 coho per vessel per open period landing and possession limit. No special gear restrictions.</p> <p>September 8-15 with a 160 Chinook and 80 marked coho per vessel landing and possession limit for the eight day open period. Non special gear restrictions.</p>
July 25	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery closes. The fishery reopens August 1.
July 26	<p>Point Arena to Pigeon Point, non-Indian commercial all-salmon-except-coho fishery opens through September 30</p> <p>July 26 through August 31: 75 Chinook per vessel per calendar week landing and possession limit; fish must be landed south of Horse Mt.; Chinook minimum size limit 28 inches total length.</p> <p>September 1-30: fishery opens with a 20,000 Chinook quota; fish must be landed in the area or an adjacent closed area if that area has been closed at least 96 hours; Chinook minimum size limit 27 inches total length.</p> <p>Pigeon Point to Point Sur, non-Indian commercial all-salmon-except-coho fishery reopens through September 30.</p> <p>July 26 through August 31: 75 Chinook per vessel per calendar week landing and possession limit; fish must be landed south of Point Arena; Chinook minimum size limit 28 inches total length.</p> <p>September 1-30: fish must be landed south of Pigeon Point or an adjacent closed area if that area has been closed at least 96 hours; Chinook minimum size limit 27 inches total length.</p>
Aug. 1-3	Cape Falcon to Florence south jetty, non-Indian commercial all-salmon-except-coho fishery opens with a 75 Chinook per vessel per open period landing and possession limit. The fishery reopens September 17.
Sept. 1	Horse Mt. to Point Arena non-Indian commercial all-salmon-except-coho fishery opens through the earlier of September 15 or a Chinook quota of 4,000.
Sept. 5	Horse Mt. to Point Arena non-Indian commercial all-salmon-except-coho fishery closes as the 4,000 Chinook quota is reached.
Sept. 15	U.S./Canada border to Cape Falcon, non-Indian commercial all-salmon fishery closes as scheduled.
Sept. 17	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery opens through September 30 with a 50 Chinook per vessel per calendar week landing and possession limit.



TABLE IR-5. Sequence of events in ocean salmon fishery management, 2006.<sup>a/</sup> (Page 4 of 6)

**NON-INDIAN COMMERCIAL TROLL SEASONS** (continued)

Sept. 30	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery closes. The fishery reopens October 17.  Point Arena to Pigeon Point, non-Indian commercial all-salmon-except-coho fishery closes as scheduled, without reaching the 20,000 Chinook quota.  Pigeon Point to Point Sur, non-Indian commercial all-salmon-except-coho fishery closes.  Point Sur to U.S./Mexico border, non-Indian commercial all-salmon-except-coho fishery closes.
Oct. 2-13	Point Reyes to Point San Pedro, non-Indian commercial all-salmon-except-coho fishery opens Monday to Friday; all fish must be landed between Point Arena and Pigeon Point; Chinook minimum size limit 26 inches total length.
Oct. 17	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery opens through October 31 with a 50 Chinook per vessel per calendar week landing and possession limit.
Oct. 31	Cape Falcon to Florence south Jetty, non-Indian commercial all-salmon fishery closes.

**TREATY INDIAN COMMERCIAL TROLL SEASONS**

May 1	All-salmon-except-coho fisheries open through the earlier of June 30 or a 22,700 Chinook quota.
June 30	All-salmon-except-coho fisheries close as scheduled.
July 1	All-salmon fisheries open through the earlier of September 15, a 19,500 Chinook quota, or a 37,500 non-mark-selective coho quota.
Sep. 15	All-salmon commercial fisheries close as scheduled.

**RECREATIONAL SEASONS**

Feb. 18	Horse Mt. to Point Arena, all-salmon-except-coho fishery opens through June 4.
Mar. 15	Cape Falcon to Humbug Mt., all-salmon-except-coho fishery opens through October 31. Cape Falcon to OR/CA border mark-selective (adipose fin clipped) coho retention allowed June 17 through July 31 (July 4 south of Humbug Mt.) and September 1-6 with a 20,000 marked coho quota.
Apr. 1	Point Sur to the U.S./Mexico border, all-salmon-except-coho fishery opens through September 24.
Apr. 1-30	Point Arena to Point Sur, all-salmon-except-coho fishery opens inside state waters (3 nm).
May 1	Point Arena to Pigeon Point all-salmon-except-coho fishery opens through June 11.  Pigeon Point to Point Sur all-salmon-except-coho fishery opens through September 24.
May 15	Humbug Mt. to Horse Mt., all-salmon-except-coho fishery opens through July 4. Cape Falcon to OR/CA border mark-selective (adipose fin clipped) coho retention allowed June 17 through July 4 (July 31 north of Humbug Mt.) and September 1-6 with a 20,000 marked coho quota.
June 4	Horse Mt. to Point Arena, all-salmon-except-coho fishery closes. The fishery reopens June 7.
June 7	Horse Mt. to Point Arena, all-salmon-except-coho fishery opens Wednesday to Sunday through June 25.
June 11	Point Arena to Pigeon Point all-salmon-except-coho fishery closes. The fishery reopens June 14.

TABLE IR-5. Sequence of events in ocean salmon fishery management, 2006.<sup>a/</sup> (Page 5 of 6)

<b>RECREATIONAL SEASONS</b> (continued)	
June 14	Point Arena to Pigeon Point all-salmon-except-coho fishery opens through July 9.
June 17	Cape Falcon to OR/CA border, all-salmon mark-selective coho fishery opens through the earlier of July 31 north of Humbug Mt. or July 4 south of Humbug Mt., or a quota of 20,000 marked coho.
June 25	Horse Mt. to Point Arena, all-salmon-except-coho fishery closes. The fishery reopens June 28.
June 28	Horse Mt. to Point Arena, all-salmon-except-coho fishery opens through July 9.
June 30	U.S./Canada border to Cape Alava, all-salmon mark-selective coho fishery opens through the earlier of September 17 or a 7,058 coho quota, with a 3,200 Chinook guideline. Fishery is open Tuesday to Saturday with a daily-bag-limit of two fish, only one of which can be a Chinook, through August 10. Beginning August 11 the fishery is open seven days per week with a two fish bag limit and no Chinook bag restriction. All coho must have a healed adipose fin clip. No chum retention in August and September.
	Cape Alava to Queets River, all-salmon mark-selective coho fishery opens through the earlier of September 17 or a 1,889 coho quota, with a 1,300 Chinook guideline. Fishery is open Tuesday to Saturday with a daily-bag-limit of two fish, only one of which can be a Chinook, through August 10. Beginning August 11 the fishery is open seven days per week with a two fish bag limit and no Chinook bag restriction. All coho must have a healed adipose fin clip.
July 3	Queets River to Leadbetter Point, all-salmon mark-selective coho fishery opens through the earlier of September 17 or a 27,603 marked coho quota, with an 18,100 Chinook guideline. Fishery is open Sunday to Thursday with a daily-bag-limit of two fish, only one of which can be a Chinook, through August 10. Beginning August 11 the fishery is open seven days per week with a two fish bag limit and no Chinook bag restriction. All coho must have a healed adipose fin clip.
	Leadbetter Point to Cape Falcon, all-salmon mark-selective coho fishery opens through the earlier of September 30 or a 36,600 marked coho quota, with an 8,300 Chinook guideline. Fishery is open Sunday to Thursday with a daily-bag-limit of two fish, only one of which can be a Chinook, through August 10. Beginning August 11 the fishery is open seven days per week with a two fish bag limit and no Chinook bag restriction. All coho must have a healed adipose fin clip. Closed between Tillamook Head and Cape Falcon August 1-25.
July 4	Humbug Mt. to Horse Mt. all-salmon-except-coho fishery closes. OR/CA border, all-salmon mark-selective coho fishery closes as scheduled.
July 9	Horse Mt. to Point Arena, all-salmon-except-coho fishery closes. The fishery reopens July 15. Point Arena to Pigeon Point all-salmon-except-coho fishery closes. The fishery reopens July 11.
July 11	Point Arena to Pigeon Point all-salmon-except-coho fishery opens through November 12.
July 15-16	Horse Mt. to Point Arena, all-salmon-except-coho fishery opens. The fishery reopens July 22-23.
July 22-23	Horse Mt. to Point Arena, all-salmon-except-coho fishery opens. The fishery reopens July 26.
July 26	Horse Mt. to Point Arena, all-salmon-except-coho fishery opens through November 12.
July 31	Cape Falcon to OR/CA border, all-salmon mark-selective coho fishery closes as scheduled. The all-salmon-except-coho fishery reopens August 1 for the area north of Humbug Mt. The all-salmon mark-selective coho fishery reopens September 1-6 for both areas as sufficient coho quota remains. The all-salmon-except-coho fishery reopens September 7 for the area north of Humbug Mt. and continues through October 31.
Aug. 1	Cape Falcon to Humbug Mt., all-salmon-except-coho fishery reopens through August 31.

TABLE IR-5. Sequence of events in ocean salmon fishery management, 2006.<sup>a/</sup> (Page 6 of 6)

<b>RECREATIONAL SEASONS</b> (continued)	
Aug. 26	Queets River to Leadbetter Pt. all-salmon recreational fishery mark-selective coho quota is reduced from 27,603 to 25,603 to allow the Cape Alava to Queets River coho quota to be increased by 1,140 to 3,029, and remain impact neutral with respect to Interior Fraser coho.
Aug. 31	Cape Falcon to Humbug Mt., all-salmon-except-coho fishery closes. The all-salmon mark-selective coho fishery reopens September 1-6 for the Cape Falcon to OR/CA border area with the remainder of the 20,000 marked coho quota from the June 17-July 31 coho fishery. The all-salmon-except-coho fishery reopens September 7.
Sept. 1	Cape Falcon to Oregon/California border, all-salmon mark-selective coho fishery opens through September 6 with the remainder of the 20,000 marked coho quota from the June 17-July 31 (July 4 south of Humbug Mt.) coho fishery.
	OR/CA border to Horse Mt., all-salmon-except-coho fishery opens through September 6.
Sept. 6	Cape Falcon to OR/CA border, all-salmon mark-selective coho fishery closes as scheduled. The all-salmon-except-coho fishery reopens September 7 for the area north of Humbug Mt.
	OR/CA border to Horse Mt., all-salmon-except-coho fishery closes.
Sept. 7	Cape Falcon to Humbug Mt., all-salmon-except-coho fishery reopens through October 31.
Sept. 17	U.S./Canada border to Cape Alava, all-salmon mark-selective coho fishery closes as scheduled.
	Cape Alava to Queets River, all-salmon mark-selective coho fishery closes as scheduled.
	Queets River to Leadbetter Point, all-salmon non-mark-selective fishery closes as scheduled.
Sept. 23	La Push area (48°00'00" N. Lat. to 47°50'00" N. Lat.), all-salmon mark-selective coho fishery opens through the earlier of October 8, a 100 Chinook quota or a 50 coho quota.
Sept. 24	Pigeon Point to Point Sur, all-salmon-except-coho fishery closes.
	Point Sur to U.S./Mexico border, all-salmon-except-coho fishery closes.
Sept. 30	Leadbetter Point to Cape Falcon, all-salmon mark-selective coho fishery closes as scheduled.
Oct. 8	La Push area, all-salmon mark-selective coho fishery closes as scheduled.
Oct. 31	Cape Falcon to Humbug Mt., all-salmon-except-coho fishery closes.
Nov. 12	Horse Mt. to Point Arena, all-salmon-except-coho fishery closes.
	Point Arena to Pigeon Point, all-salmon-except-coho fishery closes.

a/ Unless stated otherwise, season openings or modifications of restrictions are effective at 0001 hours of the listed date. Closures are effective at 2359 hours of the listed date.