

Informational Report 1
Letters Regarding Special Marine Protected Area Workgroup
March 2007

February 2, 2007

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PPMC

Dr. Holly Price
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Subject: Structure and Function of the SMPAWG

Dear Holly:

We, the undersigned members of the Special Marine Protected Area Workgroup (SMPAWG), who represent either commercial or recreational fishing, or communities that have an interest in those activities, are writing to voice our strongest concerns about the structure and function of this workgroup. Simply put, we feel as though we are only tokens in this process, and our real concerns are not respected. We also question whether the best available science for the consideration of the utility of MPAs will be utilized. It feels to us as though the only purpose of our presence is so that the MBNMS can claim it has "worked with fishermen."

Although the first part of this letter contains a lengthy complaint, the latter part makes constructive suggestions about how this process can be improved to be a more fair, open, and science-based process.

A Breach of the SMPAWG Process

First, let us tell you in a very straightforward manner that we viewed the way in which MBNMS staff, which included you representing NOAA, participated in the State's Marine Life Protection Act process to be contrary to the ground rules of our SMPAWG, and contrary to the promise made to the fishing community at the time of Sanctuary designation, that the Sanctuary would not impose new fishing regulations on our already heavily regulated industry. At the time of the MLPA stakeholder process, our SMPAWG had only agreed on a general outline to evaluate the need for MPAs in Sanctuary waters. We had not agreed on any sites for MPAs. It would have been therefore, appropriate for the MBNMS to speak to those general guidelines during the State's process. However, MBNMS staff actually advised the State as to which areas that NOAA wanted to see put off-limits to fishing. The Sanctuary was a leader in what became known as "Package #3," that created a network of MPAs. We feel this was highly inappropriate, as the Sanctuary had no position on specific locations because its workgroup had not yet completed its work. It also violates of the goodwill that we brought to this process. We would like to know if you made the decision to represent NOAA and the NMSP in this way yourself, or if you were directed to do so by a superior. If so, who? We hope that the MBNMS will not claim that the public scoping process or the vote of the SAC has given you, NOAA, or the MBNMS a mandate to create new MPAs. Our letter to you of March 6, 2003 is attached and discusses any claims of such a mandate.

Additionally, we have come out of this State Marine Life Protection Act process with a strong sense that an agreement, either verbal or written, informal or formal, has already been made with the State for placing NOAA MPAs adjacent to those adopted by the State, at least in some locations. These two events make it a “fait accompli” that NOAA will have MPAs, and take away more prime fishing grounds. This negates the first and most important question for us in this SMPAWG process...to determine the need, if any, for new MPAs within the Sanctuary Region. Please confirm or deny if any such agreement has been made with State officials.

Workgroup Composition

We have had longstanding concerns about the makeup of the workgroup. The makeup of the group relates to the decision making process, which we will comment on later in this letter. Regarding the makeup, the biggest problem is that it does not contain the right mix of expertise. We think that its fundamental task is confused: is it supposed to be a stakeholder group? Is it supposed to be an expert panel? Is it supposed to be an adaptive management exercise with both science and stakeholder participating? It appears to be none of these things and we wonder what is it supposed to do.

Our answer as an observation about how this process has gone so far, will reveal the depth of our skepticism. It seems to us that the function of this group is to create a token space where stakeholders (us primarily) can participate, but without any real power. We think that the decisions for MPAs will be made by the Sanctuary Advisory Council as advice to the Sanctuary Program, or if they are not unanimous, then it is made by Senior Sanctuary Staff. The Sanctuary will never hear a unified response out of this working group answering the question, “Are additional MPAs needed in the Sanctuary?” Given the current SMPAWG structure, we are also unlikely to agree about the location for new MPAs.

At minimum, one of the three “science” oriented seats should be dropped, and instead a qualified fishery biologist experienced in fish population dynamics, modeling, and existing fishery management measures, should be added to the group. We request that we be able to pick who will fill this role.

Several seats should be dropped, such as the diving seat, the “research PRBO” seat, the “coastal businesses and ecotourism”, and “education” seats as we are only concerned with federal waters, three or more miles offshore.

Another problem is in the socioeconomic seat, wherein the Sanctuary has also contracted with this person to provide socioeconomic work. This is a breach of scientific ethics, in our opinion, as the same person should not be in both roles. (This is also a good example of why we think the purpose of this workgroup is confused.)

What is the role of the Sanctuary officials who participate in this workgroup, yourself included, who are managing this workgroup process? It appears that the Sanctuary, who is ultimately a stakeholder in this process, is also in charge of the process. This cannot

lead to an unbiased decision, and certainly is a major factor contributing to virtually all of the complaints that we have identified in this letter. Ideally, this group should be managed by a completely non-aligned person having no connection with and owing nothing to any stakeholder group.

All of these problems and potential solutions are actually band-aids instead of a real solution. We will outline later in this letter how we think this workgroup needs to be comprised and how it should function.

Decision Making Process is Faulty

As touched on in the discussion of the makeup of the stakeholder group, the decision making of this workgroup is not one of required consensus. Instead, the group appears to be designed so the consensus will never be reached, nor will it be reached by the Sanctuary Advisory Council. Therefore the decision will be in the hands of Sanctuary Management, who are non-elected federal staff. This is a major reason why the fishing interests on the working group do not feel as though they have any real say in the outcome of this process. This is true for both the broad question as to whether any additional MPAs are needed within the Sanctuary region, and also for specific questions of the locations of future MPAs, needed or not. What assurance can you provide that if the fishing community strongly objects to additional MPAs in federal waters being placed offshore of points, such as Pigeon Point, Point Sur, Point Purisima, Point Ano Nuevo, and Point Piedras Blancas, that this would have any effect on the outcome of this process? This decision-making needs to be one of consensus with clearly defined goals.

Regarding the goals, we should also remark that we withdraw our support for the workgroup action plan that was brought to the Sanctuary Advisory Council in 2003. This is primarily due to the Sanctuary's advocacy in the State Marine Life Protection Act process, and its failure after four years of meeting, for this process to deal with the question of the need for any future MPAs. This should be the first item of business, and to put it off is to waste taxpayer money. Please communicate the withdrawal of our support for the SMPA Action Plan to those working on the Draft Management Plan.

More Flawed Science?

We have already suffered through some really poorly done science in the development of the Marine Life Protection Act science guidelines and MPA evaluation criteria. These guidelines and criteria have not held up under a professional peer review. We wonder how the information brought forward by the State in their science process, as well as the peer review, will be evaluated in this Sanctuary MPA process? It is our belief that the conclusions found in the Walters/Hilborn/Parrish Peer Review are applicable to federal waters. A group like the PFMC's Science and Statistical Committee needs to reconcile this issue. We note that the Sanctuary program has no such equivalent to the SSC, nor does it have any explicit requirement to base its decisions on the best available science.

Also relevant to this question of good science, is the "secret" science meeting that the Sanctuary and the National MPA Center hosted. We use the term "secret" because the

meeting date and agenda for this meeting were not made available to us, other SMPAWG members, or to the general public. Only selected people were invited. In fact, public members who wished to attend were specifically told they could not.

In your announcement of this meeting to the selected attendees, the purpose of the meeting was “to explore the physical and biological characteristics of offshore habitats and how those characteristics influence the design of MPAs in the deeper portion of the Sanctuary, outside of state waters....” This certainly sounds like the public’s business! Further, it was described to the scientists in your e-mail that “The group has articulated its goals in detail, compiled and reviewed spatial data (both physical and biological data layers), and with the help of a web-based MPA decision support tool, has now identified specific geographic areas of interest in federal waters for further consideration.” This gave the impression that the SMPAWG has reached some agreement on the potential location of federal MPAs, which it has not.

One grave concern about this science team meeting is the fact that the best available science on MPA processes emphasize that stakeholders must be involved in all phases of MPA design, location, and goal setting. By specifically excluding stakeholders from this group, the science process has been violated. Another concern is that any science team must have a fair balance of disciplines, and it must be recognized that some scientists also are stakeholders, and may not be completely objective about the use of MPAs.

We also have a deep concern regarding the development of socioeconomic products. Just like in the MLPA process, a professional peer review was done on the work products developed by Ecotrust. We note that Ecotrust has been retained by the Sanctuary to use the same methodology as in the State process, but as applied to federal waters. What assurance can the MBNMS give that the insights developed in the professional peer review will be applied to Ecotrust’s work? What kind of peer review does the Sanctuary Program envision for the Ecotrust work products? We think you will find there is great skepticism amongst the fishing community regarding Ecotrust’s methodology and interview practices.

Please don’t expect us to sit on our hands while more alleged science is produced, using the same model as the MLPA.

Ecosystem Protection Mandate

So far this SMPAWG process has heard much about the Sanctuary’s ecosystem protection “mandate.” However, there’s been no discussion about what, if anything, is required that the Sanctuary do with this “mandate”. Our reading of the National Marine Sanctuary Act shows that it does not require the Sanctuary to create MPAs. Nor is there any science that says that fishing necessarily creates harm to habitats. We want the MBNMS to publicly acknowledge that MPAs are not required to fulfill the NMSA. Again, our letter of March 6, 2003 is attached and speaks to this point.

Please Answer the Fundamental Question

As referenced above, the workgroup has never really engaged in a systematic way to answer the fundamental question "Are new MPAs needed within the MBNMS?" This question can probably be addressed as sub questions: Is overfishing occurring? Are there any real threats or is actual damage occurring to marine habitats? Are there any fish stocks or other Sanctuary resources that need further rebuilding or protection efforts? Is the marine ecosystem healthy within the Sanctuary region? What is the degree to which the Sanctuary's other rules, such as in water quality protection, public education, prohibition against oil and gas development, etc., contribute to ecosystem health? These questions have never been addressed by the workgroup, and that is amazing since we've been meeting for over four years. As you know several of us have asked repeatedly that this question be agendized and finally dealt with. Your response has always been that we would deal with it when we got to discussing specific areas. This is not satisfactory. In fact it makes no sense to wait to talk about specific areas because the question of need will be answered on a larger scale.

Related to this is our sense that the significant actions taken by the PFM, the State, California Legislature, and the Fish and Game Commission, will never be given credit for their conservation/protection value. Certainly in our four years of discussion they have been disregarded.

We also must point out that by our calculations, in excess of 40% of the MBNMS (including the Davidson-Seamount and new State MPAs) already are MPAs with substantial fishing restrictions, if not outright bans. This includes the Federal Essential Fish Habitat areas and the Rockfish Conservation Area, created by the PFM. 40% of a 5,800 square mile Sanctuary, that is itself an MPA, is an extremely large area.. This certainly gives weight to the question of whether or not there is a need for additional MPAs.

Recommendations for an Improved Process

We believe the best way to deal with these questions, including decisions on specific MPA locations if any, and goals and objectives - should discussion lead to that, would be to create an adaptive management workshop structure. Adaptive management workshops have been used successfully to work through a number of contentious resource management/allocation issues. In this process the workshop would be lead by a skilled independent facilitator. We would like to have significant input into the selection of this facilitator. The make up of the workshop members would be primary stakeholder and scientist based.

Our initial suggestion would be that the workgroup be composed of six marine biological scientists, three of whom would be experienced fisheries biologists knowledgeable in population dynamic modeling and fishery management measures. Additionally five fishermen, three of whom would be commercial and two recreational would be selected. We, and/or the major fishing organizations for this area, should be tasked with selecting these representatives and at least three of these six biologists. We would also choose one representative of the harbor communities. Additionally two competent socio-economists

would also serve; one of whom would have work dedicated to developing information for the consumptive sector. The other would develop information for the non-consumptive sector. We would choose one of these socio-economists. The MBNMS is represented by one staff member who would in turn represent the requirements and language of the National Marine Sanctuary Act. Lastly there would be one or two representatives from the conservation community selected by the conservation-working group to represent other conservation views that might not be represented by the National Marine Sanctuary Act requirements.

This group would operate in a series of two day all day workshops and begin with evaluating the MPA action plan already developed. From this specific goals would be identified followed by a gap analysis aimed at identifying what areas may be missing from existing protections. As one of its first tasks, the group would fully assess the conservation value of existing State and Federal fishery management measures. It would also fully assess the conservation and ecosystem health protections already provided by the functions of the National Marine Sanctuary. The Sanctuary, of course, already is a 5,800 square mile MPA (including the Davidson Seamount).

If the gap analysis reveals a need for additional MPAs, various locations and regulations for those locations would be modeled to show how on an ecosystem wide basis those MPAs would perform relative to all other protection measures in existence, or likely.

Ultimately any specific locations for new MPAs would be agreed upon by consensus of this group.

If this group performs as outlined above, the Sanctuary would have something to hang its hat on: An MPA plan that has a scientific basis and support of the fishing community, to be presented to the Pacific Fisheries Management Council. This of course would still be a recommendation to the Council. We do not want the Sanctuary to change its Designation Document. The Council would submit the MPA plan to its SSC for analysis and would be free to adopt, modify or reject our MPA recommendation.

What is our alternative?

If we cannot come to terms to make this workgroup a fair and science based process, then our alternative will be to drop out of the MBNMS Workgroup and start our own, based roughly on the adaptive management model described above. This is not our goal, and it would be a lot of work for us, but a science-based MPA assessment/proposal based on the goals of the National Marine Sanctuary Act that has support by the fishing community, might well resonate with the Pacific Fishery Management Council.

Several of us are also Sanctuary Advisory Council Members

Many of us signing this letter are on the SAC, and/or are reapplying for our SAC positions. We are aware that several past SAC members who openly criticized MBNMS actions were not re-appointed to the SAC. We hope this phase of Sanctuary management of the SAC composition is over, and that SAC appointments will be based on the degree

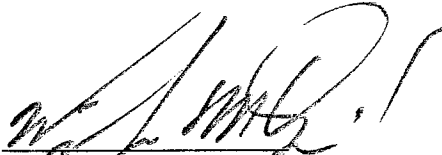
to which constituent support is evident, and not on whether an individual has been outspoken on Sanctuary matters.

Thank you for considering our comments, criticisms, and constructive suggestions. We request that the February 8, 2007 meeting be devoted to resolving these issues and that you provide this letter to all SMPAWG members.

Sincerely,



Tom Canale
SAC Commercial Fishing Rep



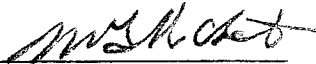
Wilson Quick
Commercial Fisherman



Howard Egan
SAC Recreational Fishing Rep



David Crabbe
SAC Commercial Fishing Rep (Alt)



Mike Ricketts
Commercial Fisherman



Steve Scheiblaue
Coastal Community/Fishing
Infrastructure Rep

C: The Honorable Sam Farr, Representative, 17th Congressional District
John H. Dunnigan, Director NOS
William T. Hogarth, Director, NMFS
Ryan Broddrick, Director, California Dept. Fish & Game
Bill Douros, NMSP West Coast Regional Director
Karen Grimmer, Acting Superintendent, MBNMS
Donald Hansen, Chair, PFMC

March 6, 2003

Holly Price, Ph.D.
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Dear Holly:

We the undersigned members of the MBNMS MPA Working Group want to communicate in the clearest terms to the Sanctuary Program that we do not support the position that MPA's, including Marine Reserves, are somehow REQUIRED or NECESSARY for the Sanctuary Program to fulfill its legal responsibilities.

When we pressed this point at our recent MPA workgroup meeting, the response from you and several other panel members was twofold. First, that some 7000 scoping process comments supporting that there be MPA's within the Sanctuary somehow made it required that the Sanctuary adopt this position. Secondly, you stated that the Sanctuary Advisory Council in voting to move the issue of Marine Reserves forward as an issue to be worked on during the Plan Review Process, had also mandated that MPA's and/or Marine Reserves would now be required to be created within the Sanctuary boundaries.

We believe that both of these rationales are seriously flawed. Regarding the 7000 responses, we all recall very well the numerous times Sanctuary Management was questioned as to whether they would value quality responses over quantity. We were told that the Program would value quality over quantity comments. The very issue that caused this question to be raised was concern that the general public, who has no particular expertise in this issue, would be used to generate an electronic or form-type letters to "save the ocean through MPA's". We also know that quality comments were heard from multiple public agencies and by a petition by 1400 direct users of the Sanctuary Program, that the Sanctuary Program should not enter into new regulations or zones that had an effect on fishing unless the Program worked cooperatively and knew that it had the support of the fishing community. It should be noted that the comments did not say that the fishing community would not embrace certain types of MPA's to solve identified problems. Lastly, and most importantly, we do not see anywhere in the National Marine Sanctuary Act, nor in our Management Plan, any provision that allows the Sanctuary Program to make important decisions like this based on public opinion or for other than scientifically valid reasons.

The second rationale provided to attempt to justify the Sanctuary decision to require MPA's in the Sanctuary is based on a vote of the Sanctuary Advisory Council. This is also gravely flawed. Numerous times Sanctuary Management has been queried about the Plan Review issues, and when we would be notified as to the recommendations Sanctuary Management would make. Consistently during this process, we were told that the SAC and the Sanctuary were simply identifying issues and creating issue statements to move forward, and that the actual product of the working groups would be to develop actions to address the identified issue. We do not believe that the Sanctuary Advisory Council, as a whole, understood in any way that they were voting to mandate MPA's within the Sanctuary when

they prioritized the SAC issues. Indeed, two of the members of the SAC are among the signers of this letter who did not have that understanding. We have attached the Issue Statement that the SAC voted to prioritize the marine reserves question and move it forward in the process. To quote: *"The MBNMS will also develop a framework to address the need for, and if necessary, location, and type of marine reserves in the federal waters of the Sanctuary"*. Further, as you well know, some of us have great concerns over the composition of the SAC and the representation selection process, which might well affect such a vote. But even more importantly, we would submit that the topic of MPA's and their benefits, limitations, and unintended consequences, is highly complex, and the SAC as it is presently constituted is simply not qualified to make this decision.

It is our position that the question of creating MPA's, including full Marine Reserves, within the Sanctuary is certainly one which deserves consideration; however, what needs to occur are very clear condition statements that will then put into context what problem it is that we are trying to solve. Otherwise, the quote that has been batted around for several years regarding Marine Reserves remains true – "Marine Reserves are a solution looking for a problem." The problem is not one of public opinion. The problem needs to be what exact fishery or habitat issues exist, (i.e., real damage, real impacts, etc.,) that have not and cannot be been addressed by traditional fishery management measures. With a complete and unbiased assessment of the state of the resources in place, our process could then unfold as identifying MPA or other strategies that would solve these problems. Fishermen are more than willing to help the Sanctuary Program with that part of it; however, fishermen are not willing to have MPA's shoved down our throats based on vague concepts and public opinion. "Ecosystem Protection" is an example of a vague concept. Could not any action to exclude the public from the Sanctuary be justified as "ecosystem protection"? Again, we believe that the Sanctuary Program needs to identify specific problems and be open to a full discussion of ALL options as to how to solve them.

The Sanctuary has often referred to its expertise in "multiple-stakeholder consensus processes". Please don't start our process with a statement requiring MPA's when there is no stakeholder consensus for this. We want this letter to stand in the record of these proceedings, so that there is no illusion of what is supported or not supported during this process.

Sincerely,

Tom Canale

Mike Ricketts

David Crabbe

Howard Egan

Peter Grenell

Steve Scheiblauber

Don Dodson

The Pacific Fishery Management Council's Groundfish Bycatch Mitigation Program Work Plan -- March 2007

1. Introduction

Amendment 18 to the groundfish fishery management plan (FMP), implementing the preferred alternative in the Bycatch Mitigation Program Final Environmental Impact Statement, adds language to the FMP to:

- Require the use of current bycatch minimization measures.
- Provide the current standardized bycatch reporting methodology in the FMP.
- Incorporate the Groundfish Strategic Plan goal of reducing overcapacity in all commercial fisheries. (FMP Objective #2: "Adopt harvest specifications and management measures consistent with resource stewardship responsibilities for each groundfish species or species group. Achieve a level of harvest capacity in the fishery that is appropriate for a sustainable harvest and low discard rates, and which results in a fishery that is diverse, stable, and profitable. This reduced capacity should lead to more effective management for many other fishery problems.")
- Support the future use of individual fishing quota (IFQ) programs as bycatch reduction tools for appropriate commercial fishery sectors.
- Authorize the use of sector-specific and vessel-specific total catch limit programs to reduce bycatch in appropriate sectors of the fishery.
- Authorize the use of full/maximized retention requirements for selected fisheries, where practicable.

The Groundfish FMP provides information on the fishery, and contains specific requirements for managing the fishery. As a framework plan, it also contains standards and procedures for adopting new management measures, and provides the Council with a range of management measures they may consider for implementation through federal rulemaking. Implementing new management measures most commonly occurs as part of the biennial harvest specifications regulatory process. The Council may also develop regulatory amendments to change or amend federal regulations.

The Council reviewed this work plan at its November 2004, March 2005, September 2005, November 2005, September 2006, and November 2006 meetings. At its November 2005 meeting, the Council debated the practicability of implementing the various bycatch mitigation measures made available for use in the groundfish fishery through Amendment 18. The Council determined that, while sector- and vessel-specific bycatch limits could be useful bycatch mitigation measures in some cases, fishery management agencies do not, at this time, have the resources, money, or infrastructure to manage major portions of the groundfish fishery with sector- or vessel-specific bycatch limits. Therefore, the Council is focusing its current efforts on management tools that could be developed and implemented within a 2- to 3-year time frame, in order to evaluate and improve bycatch accounting, reduce bycatch through programs that are practicable for near-term implementation, and build a management infrastructure to support implementation of more complex bycatch reduction measures. As initial steps, the Council directed that this work plan first focus on:

- Requiring permits in the open access sector of the groundfish fishery to better monitor overall participation in the groundfish fishery;

- Analyzing how total catch data is delivered to the Council process, in order to improve the speed of data delivery.

Section 2 of this work plan reviews the range of measures the Council has already implemented. Section 3 discusses additional bycatch mitigation measures under Council development.

At its September 2006 meeting, the Council asked that the work plan be revised to include a preliminary schedule of when groundfish actions related to bycatch minimization are expected to be on the Council's future agendas (see below.)

At its November 2006 meeting the Council requested some additions to the schedule and asked that there be a description of how the document will be used and revised.

2. Bycatch Mitigation Measures and Programs Currently in Place

Ongoing management measures and programs implemented by the Council and NMFS that mitigate bycatch include:

- At-sea observer programs in both shore-delivery and sea-delivery groundfish fisheries, including groundfish limited entry trawl, limited entry fixed gear, and open access vessels.
- Large-scale closed areas to reduce protected salmon bycatch: Klamath and Columbia River Conservation Zones.
- Large-scale closed areas to reduce overfished species bycatch: Rockfish Conservation Areas, Cowcod Conservation Areas, Yelloweye Rockfish Conservation Areas.
- Large-scale closed areas to protect groundfish essential fish habitat: 51 new closed areas implemented off West Coast in June 2006.
- Vessel Monitoring System (VMS) requirements for the limited entry fleet to ensure compliance with closed area restrictions.
- Landings limits set for harvest of healthy stocks so that they constrain the incidental catch of overfished species that co-occur with those stocks.
- Season restrictions to reduce directed and incidental catch of overfished species.
- Trawl mesh size, chafing gear, and codend regulations to reduce juvenile fish bycatch.
- Trawl footrope size regulations to reduce access to rocky habitat and rockfish bycatch.
- Selective flatfish trawl regulations to reduce bycatch of rockfish in flatfish fisheries.
- Escape panel requirements for groundfish pots to prevent lost pots from ghost fishing.
- FMP Amendment 14 to reduce capacity in the limited entry fixed gear fleet.
- Trawl buyback to reduce capacity in limited entry trawl fleet.
- Geographically-based harvest guidelines where appropriate, especially in recreational fisheries.
- Total catch limits for canary, darkblotched, and widow rockfish in the non-tribal Pacific whiting sector.
- Amendment 18 implementing regulations: Require that groundfish fishery management measures take into account the co-occurrence ratios of overfished species with more abundant target stocks; require vessels that participate in the open access groundfish fisheries to carry observers if directed by NMFS; update the boundary definitions of the Klamath and Columbia River Salmon Conservation

Zones and Eureka nearshore area to use latitude and longitude coordinates in a style similar to that of the Groundfish Conservation Areas; and authorize the use of depth-based closed areas as a routine management measure. The purposes for the routine use of depth-based closed areas are: protect and rebuild overfished stocks, prevent the overfishing of any groundfish species, minimize the incidental harvest of any protected or prohibited non-groundfish species, control effort to extend the fishing season, minimize the disruption of traditional commercial fishing and marketing patterns, spread the available recreational catch over a large number of anglers, discourage target fishing while allowing small incidental catches to be landed, and allow small fisheries to operate outside the normal season.

- 2007-2008 Groundfish Harvest Specifications and Management Measures: In addition to those measures already listed above as currently in place, this rulemaking adds three new Yelloweye Rockfish Conservation Areas to constrain yelloweye bycatch, and adds an Ocean Salmon Conservation Zone for inseason use to constrain salmon bycatch in the whiting primary season.

Bycatch mitigation measures and programs developed by the Council and planned for implementation in 2007:

- VMS regulations: Expand VMS program to require that all commercial vessels that take and retain, or possess groundfish in the EEZ, or land groundfish taken in the EEZ, and all trawl vessels that operate in the EEZ, must carry and use VMS units.

3. Bycatch Accounting and Mitigation Measures Under Development

3.1 Total Catch Data Collection, Analysis, and Delivery

In June 2006, per the Council's request, NMFS's Northwest Fisheries Science Center presented a report, *Summary of West Coast Groundfish Observer Program Data Collection and Quality Control Process* (Agenda Item F.1.b., NWFSC Report, June 2006). That report described the data collection and quality control process as occurring in four phases: 1) observer data collection, entry, and initial quality control; 2) identifying and attaching corresponding fish ticket data with observer data; 3) data processing and analysis; 4) validating and delivering discard data, and developing models based on this data, for use in management.

To estimate total catch rates in the groundfish fishery, observer data must be expanded from the observed trips in a particular sector to all of the trips taken in that sector. These expansions require that fish tickets are complete for the time period being analyzed and that fishing depth information for each tow, currently only accessible from trawl logbook records, is available for the entire fleet. In its report, NMFS suggested that the delivery to the Council process of analyzed observer data could be speeded up if fish ticket upload time to the PacFIN data system were shortened; logbook data upload time, particularly for identifying fishing depths, were shortened; fish tickets were more consistent between states; and fish tickets and logbooks were altered to add an identifier for when the trip was associated with an exempted fishing permit. Changing this system will require coordination among and action by the three states, NMFS, and the Pacific States Marine Fisheries Commission as fish tickets and trawl logbooks are state and not federal reporting requirements.

3.2 Inter-Sector Allocation

The Council has previously established formal allocations between different fishery sectors for several species or species groups: 1) all groundfish species between the limited entry and open access commercial fisheries based on relative catch histories of the two fleets; 2) whiting between the shore-based, mothership, and catcher/processor sectors of the groundfish limited entry trawl fleet; and 3) sablefish between the limited entry fixed gear and trawl sectors, sablefish between the endorsed and non-endorsed portions of the limited entry fixed gear fleet, and sablefish between the three Amendment 14 tier groups. Several of the bycatch mitigation tools provided by Amendment 18 would first require that the Council

develop additional groundfish allocations between fishery sectors. Implementing sector- or vessel-specific bycatch cap programs would first require that available groundfish harvest be allocated between sectors and/or vessels. Implementing an individual quota program for any one sector of the groundfish fleet would require groundfish allocations between that sector and the remaining sectors in the fleet. To that end, the Council has released a Notice of Intent to prepare an Inter-Sector Allocation Environmental Impact Statement (EIS). The public comment period on this Notice of Intent ended on June 16, 2006. Scoping for the EIS is continuing and the Groundfish Allocation Committee met in October 2006 to refine a range of alternatives for review at the November 2006 meeting. Any inter-sector allocation would likely require an FMP amendment in addition to the EIS. The FMP requires that FMP amendments be considered over at least three Council meetings.

3.3. *Open Access Sector License Limitation*

When it considered this work plan in November 2005, the Council recommended expanding the current limited access system to cover a larger segment of vessels targeting groundfish. The Council noted that fishery managers cannot currently identify all of the vessels participating in the groundfish fishery. Better identification of the fishery participants would allow fishery managers to better monitor and account for bycatch in the sector, and to better target particular management measures to reduce bycatch in the sector. A license limitation program to reduce effort in the fishery would reduce the number of vessels targeting groundfish and having opportunities to discard incidentally-caught fish.

Currently, a federal limited entry permit is not required for all vessels that land groundfish. A trawl-endorsed permit is required to land groundfish with that gear type (as defined in the FMP and Federal regulations), although certain trawl fisheries catching groundfish incidentally, such as the pink shrimp trawl fishery, may land limited amounts of groundfish consistent with specified limits and under defined gear exemptions. Vessels targeting groundfish without a Federal permit may use fixed gear (longline and pot), but may be subject to lower landing limits (such as the daily trip limit for sablefish) than those vessels with a fixed gear endorsed groundfish limited entry permit. Other legal groundfish commercial gear types, such as vertical hook-and-line, may also land groundfish under the same set of open access landing limits, which are established in biennial specifications. In most cases these open access fisheries are subject to state limited entry programs, as is the case for nearshore groundfish fisheries in Oregon and California. (Washington prohibits commercial groundfish fisheries in state waters.) Like the non-groundfish trawl fisheries, there are other fisheries, such as salmon troll, that may land small amounts of groundfish without those species being their principal target. At their September 2006 meeting, the Council began discussions on developing a permit system for the open access fishery participants. Any such program would require amending the groundfish FMP, a process that requires at least three Council meetings (per the FMP) to complete.

3.4. *Trawl Individual Quota Program*

The Council has been considering the development of a dedicated access privileges program, principally focusing on individual fishing quotas (IFQs) for the groundfish limited entry trawl sector. As discussed above, implementing such a program would require allocating harvest of a wide range of target and non-target species between the limited entry trawl sector and all other groundfish sectors in aggregate (by means of the Inter-Sector Allocation EIS.) The Council has appointed an Ad-hoc Trawl Individual Quota Committee to develop alternatives, which will be analyzed in a separate Trawl Individual Quota Program EIS. Like open access permitting, a trawl IFQ program would require an FMP amendment. The Council has already discussed this issue at several past meetings. The Groundfish Allocation Committee will meet in December 2006 to refine and simplify alternatives under this program. The draft timeline for this action estimates that, depending on the complexity of the program proposed, a trawl IFQ program could be implemented beginning January 1, 2011.

3.5 *Maximized Retention Program for the Shore-based Whiting Sector*

Federal groundfish regulations require that groundfish catch be sorted at sea because they prohibit retention of groundfish in excess of trip limits, and retention of prohibited species. The shore-based Pacific whiting trawl sector has been operating under an exempted fishing permit (EFP) that allows participating vessels to land their catch without sorting it, and to retain until offloading prohibited species and groundfish in excess of trip limits, in order to allow the unsorted catch to go directly into the hold to better preserve the condition of the whiting flesh. Since 2004, NMFS and the states have operated the EFP with at-sea electronic monitoring, and with a requirement that participating vessels maximize their retention of all catch (eliminate discards as much as possible). Pursuant to the FMP's Amendment 10, the Council may exempt a fishery with an approved monitoring program from the prohibitions from landing unsorted catch and from retaining incidentally-caught salmon as part of that unsorted catch. Amendment 18 made electronic monitoring available as a monitoring tool for use outside of experimental efforts. Implementing such a program for the shore-based whiting sector will require: 1) development of requirements for electronic monitoring system components; 2) development of maximized retention regulations; 3) evaluation of the shore-based total catch monitoring program for the whiting fishery; and 4) development of permanent infrastructures to support inseason monitoring of the shore-based whiting fishery's catch and to support collection and analysis of electronic monitoring system data. An EA is currently under development to support the transition from the EFP to a permanent regulatory framework for the exemptions and required monitoring program. Although Amendment 10 initially envisioned a program for the monitoring of incidental salmon catch, current Council efforts have expanded the intent of the program to ensure better accounting of all bycatch species and to reduce fishery discards.

At the Council's September meeting, NMFS and state agencies reported on issues for Council consideration and needed next steps to move this program to Federal regulation. This program may or may not need an additional FMP amendment. For its November 2006 meeting, the Council plans to adopt a range of alternatives for public review. Depending on the complexity of the program developed, the fishery is expected to transition to Federal regulations in time for the 2008 primary whiting season.

3.6 *Sector- and Vessel-Specific Bycatch Limits*

Per Council recommendations, NMFS has implemented bycatch limits for canary, darkblotched, and widow rockfish taken incidentally in the whiting fishery. At its June 2006 meeting, the Council asked that additional discussions be held at its autumn 2006 meetings on the feasibility of implementing sector-specific overfished species bycatch limits for the three different sectors within the non-tribal whiting fishery. As discussed above, whiting has been allocated between the fishery sectors that target whiting. For overfished species bycatch limits to be implemented for the whiting sectors, those species would have to be allocated between the sectors and an adequate monitoring system would need to be developed and implemented. The Council could recommend that such an allocation be considered as part of the Inter-Sector Allocation EIS, or through some separate action. The trawl IQ program, discussed above, would be a vessel-specific total catch limit program for the trawl sector. Like the trawl IQ program, additional sector- and/or vessel-specific bycatch limit programs could be implemented, if found to be practicable, following the development of inter-sector groundfish allocations for those sectors and development of an adequate monitoring program. A Council evaluation of the total catch data collection, analysis, and delivery program will also be needed to develop an appropriate total catch monitoring program for any sector managed with bycatch limits.

3.7 *Other Bycatch Mitigation Measures the Council May Consider*

Under Amendment 18, Council could also consider the following bycatch mitigation measures for development:

- Integrating EFH- and bycatch-related groundfish closed areas so that where EFH-related closed areas reduce bycatch; that reduction is accounted for in bycatch rate modeling.
- Expanding VMS coverage requirements to commercial passenger fishing vessels that are subject to groundfish closed area restrictions.
- Hot-spot management to either prevent fishing in an area of overfished species abundance, or to allow fishing in an area of target species abundance.

4.0 *Use and Revision of this Document*

This Pacific Fishery Management Council intends to use this document for guidance and planning as it moves forward with deliberations on the above described bycatch reduction efforts. The Council could consider this document when reviewing the 3-meeting schedule or during other planning exercises. The Work Plan is a living document, and will be updated by the Council staff as appropriate to reflect Council actions.

The timing and related outputs for planned activities to achieve strategic goals and program objectives are outlined below. As noted above, progress in achieving goals and objectives is subject to change, based on the availability of resources and changes in priorities. Further development and implementation of any program described above will depend upon whether the Council and NMFS determine, among other things, that it is practicable. This document may be periodically updated to reflect these changes.

Table 1: Preliminary timetable and deliverables for initiatives identified in the bycatch workplan.

The below schedule is based on current projections of Council and NOAA Fisheries requirements and capabilities. It is subject to revision due to staffing levels, resource availability and unanticipated events. Brackets ({}) indicate activities subject to further planning.

2006 Council Meetings

| | Bycatch Data Collection, Analysis, and Delivery | Trawl Individual Quota Program | Intersector Allocation | Shore-Based Whiting Full Retention | {Open Access Sector License Limitation} | Groundfish Harvest Specifications |
|-----------|---|---------------------------------------|--|------------------------------------|---|---|
| September | | | | | | Council recommended inseason action for 10/1/06. |
| | | | GAC; preliminary range of alternatives | | {Planning and Scoping} | NOAA implemented inseason action for 10/1/06. |
| November | | | Adopt preliminary range of alternatives for analysis | Alternatives & core regulations | | Council considers inseason actions for 12/1/06 |
| | PACFIN Meeting to discuss issue | GAC: Review and Simplify Alternatives | | | | NOAA may implement Council inseason recommendations |

2007 Council Meetings

| | Bycatch Data Collection, Analysis, and Delivery | Trawl Individual Quota Program | Intersector Allocation | Shore-Based Whiting Full Retention | {Open Access Sector License Limitation} | Groundfish Harvest Specifications |
|-----------|--|--------------------------------|--|------------------------------------|---|---|
| March | | | | | | Council finalizes 2007 whiting ABC/OY. Council considers inseason actions for 4/1/07 |
| | NOAA Science Center – 1 st Annual Constituent Mtg on Observation Data Collection & Analysis | | | | | NOAA implements 2007 whiting ABC/OY and may implement Council inseason recommendations |
| April | PSMFC Whiting Fish Ticket Pilot Program started | | | Draft EA for final action | {Preliminary scoping meeting; determines process and schedule for action} | Council considers inseason actions |
| | NOAA Science center – ongoing discussions with states | GAC Meeting | GAC Meeting | | | NOAA may implement Council inseason recommendations |
| June | | Council refines Alternatives | Select alternatives for EIS | | | Council considers inseason actions |
| | | | Draft preliminary DEIS | Proposed rule publishes | | NOAA may implement Council inseason recommendations |
| September | | | | | | Council considers inseason actions |
| | | | | | | NOAA may implement Council inseason recommendations |
| November | PSMFC report on Whiting fish ticket pilot | Select alternatives for EIS | Select preferred alternative for public review | Report on electronic logbooks | | Adopt Preliminary ABCs and range of OY alternatives Council considers inseason actions |
| | PACFIN Meeting – Issue on the agenda; develop workplan | | | | | NOAA may implement Council inseason recommendations |
| | | | | Final Rule Publishes | | |

2008 Council Meetings

| | Bycatch Data Collection, Analysis, and Delivery | Trawl Individual Quota Program | Intersector Allocation | Shore-Based Whiting Full Retention | {Open Access Sector License Limitation} | Groundfish Harvest Specifications |
|-----------|---|--|------------------------|--------------------------------------|---|---|
| March | | | | | | Council finalizes 2008 whiting ABC/OY. Council considers inseason actions for 4/1/08 |
| | | | | | | NOAA implements 2008 whiting ABC/OY. NOAA may implement Council inseason recommendations |
| April | | | Final Council Action | Action for core regulation effective | | Adopt 2009-10 preferred ABC/OY alternative and Preliminary range of management measure alternatives Council considers inseason actions for 5/1/08 |
| | | | | | | NOAA may implement Council inseason recommendations |
| June | | Select preferred alternative for public review | | | | Final adoption of 2009-10 ABCs/OYs & management measures preferred alternatives Council considers inseason actions for 7/1/08 |
| | | | | | | Complete EA/DEIS on 2009-10 fisheries; Public review NOAA may implement Council inseason recommendations Proposed Rule on 2009-20 fisheries published |
| September | | | | | | Council considers inseason actions for 10/1/08 |
| | | | | | | NOAA may implement Council inseason recommendations |
| November | | Final Council action | | | | Council considers inseason actions |
| | | | | | | Final Rule on 2009-10 fisheries Publishes. NOAA may implement Council recommendations |



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

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FEB 20 2007

PFMC

February 9, 2007

F/SWC

Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council
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Dear Don,

Thank you for sending the Pacific Fishery Management Council list of Research and Data Needs for 2006-2008. The SSC document was useful in elucidating the Council's priorities and how they are set and did a good job in documenting progress with research and data needs prescribed in the 2000-2002 plan. My staff reviewed the current document and we agree with much of its prescriptions, but wish to share with you some comments and concerns. Namely, the FMP-by-FMP approach used by the Council in assembling the document omits over-arching requisites for successfully acquiring critical data and information. These fundamentals – listed below – should be addressed to ensure quality science and scientific advice for all FMPs. Each requires strong Council action to ensure that it is addressed.

1. Collection of fishery data across the board – recreational and commercial, and biological and economic – must be substantially bolstered for all managed fisheries and for all species-stocks that are included in the FMPs. This specifically includes age/growth sampling, catch-effort by year, location and gear, and cost-earnings surveys. Without improvements in the current collection format and emphasis, for groundfish, CPS or HMS, data limitations will continue to weaken the reliability of stock assessments and scientific advice.

2. Ship-time must be adequately allocated to ensure that critical surveys are conducted and to support better survey methods for accurately measuring stock abundance independently from fishery data. Continued rationalization of ship-time, without concern for stock assessment requirements, jeopardizes survey data. Furthermore, without adequate support for developing better survey techniques, especially for current survey techniques known to be inadequate or marginally accurate, we can not reduce the large uncertainty in stock assessments that rely on data from those techniques.



3. We must remove barriers, diplomatic or budgetary, that inhibit international cooperation and exchange of scientific data for assessing the status of shared and highly migratory fish stocks. Improving the level of international cooperation well above its current level is required to significantly improve stock assessments for CPS and HMS or advice for Council management actions on those stocks.

Many of the research and data needs outlined in the PFMC document align with the priorities outlined in the SWFSC Coastal Pelagic Species, Highly Migratory Species, California Anadromous Species, and California Demersal Species Research Plans. There are, however, some notable discrepancies and a few omissions. It should be noted that where the SWFSC does not plan to or can not address the needs listed in the PFMC plan, there is a lack of resources (funding, people, ship time, etc.) or prerequisites (an overarching need as listed above) for successful execution. A few of the discrepancies between the SWFSC research plans and the PFMC 2006-2008 Research and Data Needs are listed below.

SWFSC Priorities not identified in the PFMC Research and Data Needs document

Groundfish

- Develop genetic methods to identify larval fish in plankton samples for accurate species identification
- Explore use of genetic tags in population size estimation
- Evaluate relationship between fish distribution and role of invertebrates in the structure of demersal habitats
- Maintain and expand CalCOFI sample processing
- Develop an acoustical-optical survey for abundance index of groundfish off southern and central California

Salmon

- Describe environmental variability in the California Current regional ecosystem on seasonal to decadal time scales for use in understanding the impact of environmental variability on the distribution and population structure of salmon and sturgeon, and develop and distribute tools to describe the environmental state and potential habitat utilization for near-shore anadromous fishes
- Characterize and map the ocean habitats for anadromous species in the California Current ecosystem using data from satellites and electronic tags
- Characterize climate variability in the northeast Pacific and its relation to salmon production
- Evaluate impacts of ocean fisheries on ESA listed ESUs
- Evaluate data needs and modeling approaches for improved assessment of Central Valley Chinook

Highly Migratory Species

- Continue collecting albacore length data through port sampling for stock assessments
- Modernize albacore data collection in the form of electronic fish ticket system on U.S. West Coast
- Develop new indices of abundance particularly from fisheries that regularly catch recruitment age albacore (age 1), e.g. the USA recreational fishery

- Conduct comprehensive shark for stock assessments of shortfin mako, common thresher and blue sharks
- Assess life history and stock structure of bycatch (turtles) in HMS fisheries

Coastal Pelagic Species

- Develop and test microsatellite DNA markers for Pacific sardine to examine DNA variation throughout the range to test for stock structure
- Assess changes in early life history information from CalCOFI samples to evaluate the response of the fish community to climate change

Economic components

- Assess the economic impact of Marine Protected Areas
- Assess the impact of protected species regulatory policy on trade flows, bycatch and the economic value of U.S. fisheries

The Council should also note that the document focuses on needs for 2006-2008, but is not timed to have the best chance of influencing annual NMFS operating plans and budget requests for those years. It is too late to influence draft budget plans for Fiscal Years 2007 and 2008. Work on Fiscal Year 2009 plans and budget has commenced with a completion date in May 2007. Council needs for 2006-2008 can be incorporated into this planning cycle, but funding for the needs will be available well past the period desired. We look forward to meeting with the Council Chair as the Council procedures indicate to be the next step to discuss these overarching concerns and this Center's contribution to the Council's high priority needs.

Sincerely yours,



William W. Fox, Jr.
Science Director, SWFSC

cc: Roger Hewitt
Gary Sakagawa
Meghan Donahue
Churchill Grimes