

Via Electronic Mail

March 17, 2009

Mr. Barry A. Thom
ATTN: Becky Renko
Acting Regional Administrator
National Marine Fisheries Service, Northwest Region
7600 Sand Point Way NE
Seattle, WA 98115-0070

RE: Application for Experimental Fishing Permit; Pacific Whiting [RIN 0648-XN12]

Dear Mr. Thom:

The Magnuson Stevens Fishery Conservation and Management Act (MSA) requires that conservation and management measures minimize bycatch. *See* 16 U.S.C. §1851(a)(9). Excessive bycatch in the Pacific whiting fishery of overfished rockfish species and salmon protected by the Endangered Species Act (ESA) has been demonstrated and documented over the past several years. It is the responsibility of the National Marine Fisheries Service (NMFS) to take immediate action to minimize this bycatch.

The Agency's continued reliance on Experimental Fishing Permits (EFPs) to continue the Pacific whiting shoreside fishery's monitoring program is insufficient to meet the letter of the law. While this monitoring program has merit, NMFS must remember that EFPs allow fishing that would otherwise be prohibited and are only intended for limited experimental purposes. *See* 50 C.F.R. §600.745(b). Initially, an EFP to gather information on bycatch may have been appropriate, but managing a major part of a fishery, year after year, through EFPs violates the basic premise for which EFPs are meant to be used. Even the agency, in its environmental assessment, recognized that "EFPs are intended to be a temporary and an exploratory response[.]" 2007 Draft Environmental Assessment (2007 EA) at 1.

NMFS has stated that it would have a permanent federal maximized retention and monitoring program in place by 2008, but the agency has yet to transition to this program. Instead, the agency intends to implement this program under EFPs for the 2009 fishing season. While we commend the agency for taking action to ensure bycatch species from the whiting fishery are retained and accounted for, the agency must immediately move forward to transition the shoreside whiting sector to a permanent retention and monitoring program.

Thank you for your consideration and we look forward to working with you on this important matter.

Sincerely,



Sarah Winter Whelan
Pacific Counsel
Oceana

CC: Dr. Donald McIsaac, Pacific Fishery Management Council

Agenda Item B.1
Supplemental Comment on Non-Agenda Items (Kawahara)
April 2009

Dr. Jane Lubchenko
NOAA Administrator

Dear Dr. Lubchenko,

I'd like to briefly introduce myself as a commercial salmon troller from Quilcene, Washington. I hold salmon trolling limited entry permits for the states of California, Oregon, Washington and Alaska. I have been fishing since 1976 and have owned a fishing boat since 1987.

Congratulations on your appointment as head of NOAA. Your appointment is a welcome verification of President Obama's pledge in his inaugural speech to raise science above politics in guiding our nation and our future. I have been watching NOAA, NMFS and other state and federal agencies practice biological warfare on the West Coast salmon fleet for decades. I hope that with your appointment and the Obama administration's pledge to follow the science, fishermen will at last see policies that treat salmon as a valuable natural resource rather than as a pest in the way of development of waterfront property.

I am aware that you stressed the need for Marine Reserves in your career in Oregon. Indeed, you recently were interviewed on NPR's "Science Friday" show and stressed Marine Reserves as part of your focus for NOAA.

As a salmon fisherman, I was hoping that you would be more interested in freshwater habitat and would indicate that in your interview. Perhaps some of your comments were edited out to fit the show? But again, as a salmon fisherman, I would like to stress that the loss of freshwater habitat is the historic and most dangerous threat to salmon populations that sustain the West Coast salmon fishery.

The list of threats to freshwater habitat important to salmon is very long. If you are interested, I recommend amendment 14 to the Salmon Fisheries Management Plan (FMP) of the Pacific Fisheries Management Council (PFMC) that describes the Essential Fish Habitat of salmon stocks important to PFMC fisheries. I'll mention dams, water withdrawals and pollution as three of the most destructive elements, and faced by every salmon run on the West Coast.

It is my recommendation that your agency stress recovery and protection of salmon habitat more than it stresses Marine Reserves on the West Coast. The salmon fishery is the most popular recreational fishery and commercial fishery with the highest number of participants on the West Coast. It may not be the highest economic component of PFMC fisheries; in fact because of recent closures I can guarantee you it is not. Salmon fishing is the most historic of our fisheries and by far the most famous. It deserves a good deal of your attention for these and other reasons.

West Coast salmon are taking a huge amount of energy from NOAA. There are over 20 ESA listed salmon ESUs that require monitoring, biological opinions, and permit review from NMFS. NOAA is defending their biological opinions in three federal courts from the Columbia, Klamath and Sacramento Rivers. The

federal government has had to fund fisheries disaster relief programs because of salmon run failures in each of these river basins: Snake (Columbia) River Fall Chinook in 1994, Klamath River Fall Chinook in 2006, and Sacramento River Fall Chinook, plus Columbia River Coho in 2008. NOAA needs to find a way to stop defending itself in court and asking for salmon bailouts.

The Federal Columbia River Power System Biological Opinion has cost the Bonneville Power Administration and the Federal Government an estimated \$800 million over the last ten years. In an agreement with several Columbia Basin Indian tribes, the Bonneville Power Administration has committed \$900 million for salmon habitat restoration in the Columbia River Basin. The FCRPS BIOP remains in litigation in spite of these enormous sums of money, and are questioned by Judge Redden as being sufficiently certain to accomplish recovery of ESA listed salmon.

The Pacific Salmon Treaty (PST) took two years of meetings to re-negotiate. The end result requires \$30 million dollars in compensation to Canada. Subsequent agreements within the United States may add at least \$90 million in compensation for the year 2010. The Pacific Coastal Sustainable Salmon Fund annually costs \$60 to \$90 million as a part of the PST agreement from 1999. All of this is because Columbia River and Puget Sound Chinook Salmon stocks require ever stricter fishing restrictions.

So, why is the emphasis on Marine Reserves? I wish to point out the obvious: Marine Reserves are of no practical benefit to salmon. Salmon are primarily dependent on the pelagic marine ecosystem. Salmon are transients as they look for food along the West Coast. Fixed areas, such as Marine Reserves, will not necessarily provide food or shelter, since sharks and sea lions will be exempt from adhering to the boundaries of a Marine Reserve. And even more obviously, Marine Reserves do not help a salmon that dies in its river.

I thus give a very strong recommendation that you place freshwater habitat as the top priority of your agency's West Coast program. In the simple terms of 'bang for your federal buck', restoring salmon runs will reduce the need for a huge political and legal machine as well as put back to work thousands of fishermen and fishing related workers. The biological opinions for listed salmonids need to get out of the courts by demonstrating certainty of recovery to self sustaining populations instead of trying to maintain the status quo of land and water use that initially endangered these populations. Salmon fishermen, both commercial and recreational, need to get back on the water. Please concentrate on our biggest problems first.

Sincerely,

Joel Kawahara
Quilcene, Washington