



August 25, 2011

Mr. Dan Wolford, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

RE: Council directed task to Ecosystem Plan Development Team

Dear Chair Wolford and Council Members,

On behalf of the Pew Environment Group, thank you for this opportunity to offer public comment regarding the Council's development of an Ecosystem Fishery Management Plan (EFMP) and the conservation of forage fish.

During the Council's deliberation on ecosystem-based fishery management in June, we testified in favor of adopting a Plan with the regulatory authority to establish a policy that would preclude new fisheries on unmanaged forage species until they can be managed through an ecosystem-based approach. While we are disappointed that the Council did not take the opportunity in June to establish such a policy, we were pleased to see that the Ecosystem Plan Development Team (Team) was directed to develop a list of unmanaged species that could potentially be the target of a new fishery. It is our understanding that the purpose of this list would be to identify forage species currently unmanaged in the West Coast Exclusive Economic Zone (EEZ) that may warrant protection. Therefore with regards to the parameters of the list that will be developed by the Team, as proscribed by the Council, we support the exclusion of forage species managed under another Council FMP. However, since the intent of the Council is to identify non-targeted but vulnerable forage species for which a preclusion of directed fishing in the EEZ may be warranted, species meeting those criteria that are subject to state authority or Endangered Species Act (ESA) listing should not be excluded from the list unless the state or ESA regulations prevent new directed fisheries in the EEZ.

We look forward to participating in the Team's discussion of what species to include on this list, and have been working with a group of well known and respected marine ecologists to identify important unmanaged forage species in the California Current Ecosystem. Because the Team has yet to meet as a group to begin the development of the list, we thought it would be helpful to provide them and the Council with a preliminary assessment of important unmanaged forage species that could potentially be the target of a new fishery. We encourage the Council to initiate development of conservation measures that will manage these species for the health of the larger fish and other marine life that rely on forage fish as food and the long-term health of the overall ecosystem.

This is indeed a timely issue for the Council. Recently published scientific findings show that directed fishing on lower-trophic level species – and in particular those species not currently managed or targeted in the California Current - can have significant negative effects on the ecosystem, as well as

other valuable commercial fisheries.¹ Because of the important role these species play in marine ecosystem by transferring production from plankton to larger predators, removing them in large quantities from ecosystem has disproportionate effects up and down the food web. This new scientific information, together with increasing global demand for forage fish to be used to feed a rapidly growing fish farming industry, further demonstrates why we should all be concerned today about thinking ahead to ensure that enough forage remains in the ocean to sustain the valuable fishery and wildlife species that help drive healthy coastal economies. As you heard from us in June, managing forage fish for the health of our existing fisheries and the ecosystem that supports those fisheries should include options to prohibit directed fishing on select forage species and also to suspend the development of new fisheries on select forage species until scientific knowledge and new management measures can be implemented to protect ecosystem structure and function and ensure sustainability.

Protecting an ecosystem's forage base to ensure enough food for other marine life and those species that provide valuable benefits to our society is a concrete and tangible component of an ecosystem-based approach. The Council has already taken one step this direction when it prohibited directed fishing on all species of krill in the California Current, acknowledging its critical importance to the ecosystem. Similar action was taken in the North Pacific, where prevention of directed fishing on forage species was facilitated by identifying those species by family rather than each specific species. This important broader action can be achieved now along the Pacific coast, without creating winners and losers, and without significant negative impacts on existing major fisheries. Even better, not only will this improve the stewardship of our marine resources and the overall health of the ecosystem, but it should help ensure the sustainability and productivity of all of our west coast fisheries.

We request that this preliminary list of unmanaged forage species be forwarded to the Team for consideration as they develop their list to inform and guide Council management decisions. Because these species currently lack any form of active management and because they are important components of the California Current forage base, we strongly feel that the Council should act now to conserve and manage these fish to ensure the critical role they play in supporting a healthy ecosystem and valuable fisheries is maintained. Please also accept this recently published scientific report that echoes and highlights many of the concerns held by the scientific community regarding new fisheries on unmanaged forage species.

Thank you again for this opportunity to provide our comments on ecosystem-based fishery management and the protection of the marine food web. We look forward to continuing to work with the Council and all stakeholders to maintain healthy oceans and sustainable fisheries.

Sincerely,



Paul Shively
Pew Environment Group

¹ Smith et al. 2011. Impacts of Fishing Low-Trophic Level Species on Marine Ecosystems. Published July 21, 2001 on *Science Express*. DOI: 10.1126/science.1209395

Unmanaged Pacific Forage Species *

Common Name	Scientific Name
Neon flying squid	<i>Ommastrephes bartramii</i>
Boreal Clubhook squid	<i>Onychoteuthis borealijaponica</i>
American shad	<i>Alosa sapidissima</i>
Pacific tomcod	<i>Microgadus proximus</i>
Pacific saury	<i>Cololabis saira</i>
White croaker	<i>Genyonemus lineatus</i>
Sandlance	<i>Ammodytidae</i>
True Smelts **	<i>Osmeridae</i>
Lanternfish	<i>Myctophidae</i>
Sanddabs **	<i>Citharichthys spp.</i>
Surfperches	<i>Embiotocidae</i>
Sculpins	<i>Cottidae</i>
Midshipman	<i>Porichthys spp.</i>
Cuskeels	<i>Ophidiidae</i>
Kelpfish	<i>Clinidae</i>
Gunnels	<i>Pholididae</i>
Pricklebacks	<i>Stichaeidae</i>
Silversides **	<i>Atherinopsidae, Atherinidae</i>

* There are a number of other species such as Rockfish, Soles, Flounders, Greenlings, Hakes and Codfishes that are important forage species as juveniles. These species are not included in this list because they are members of a taxonomic family managed under an existing Council FMP.

** These categories (either family or genus) each include one or more species that are federally managed. For details see list of federally managed forage species below.

Federally Managed Forage Species

Common Name	Scientific Name	Management
Pacific Sardine	<i>Sardinops sagax</i>	CPS FMP
Market Squid	<i>Doryteuthis opalescens</i>	CPS FMP
Northern Anchovy	<i>Engraulis mordax</i>	CPS FMP
Pacific Mackerel	<i>Scomber japonicus</i>	CPS FMP
Jack Mackerel	<i>Trachurus symmetricus</i>	CPS FMP
Pacific Herring	<i>Clupea pallasii</i>	CPS FMP
Jacksmelt (Silverside) **	<i>Atherinopsis californiensis</i>	CPS FMP
Eulachon (True Smelt) **	<i>Thaleichthys pacificus</i>	ESA Listed
Delta Smelt (True Smelt) **	<i>Hypomesus transpacificus</i>	ESA Listed
Pacific sanddab (Sanddab) **	<i>Citharichthys sordidus</i>	Groundfish FMP
Krill	<i>Euphasiidae</i>	CPS FMP

Mr. Chairman, Ladies and Gentlemen of the Council,

It is still too early to boast about the success of the catch share program for the shore based non-whiting groundfish fishery but it isn't too early to point out the flaws when they become apparent.

One area of concern, especially in the new light cast upon the sablefish stock from the 2011 stock assessment, the catch of small sablefish that used to be discarded are now being landed because they are going to be accounted for no matter of its final disposition.

According to a FAO report on mortality of fish escaping trawl gear, "A major problem in many fisheries is that too many immature fish are being caught and discarded before they have the opportunity to reproduce or reach optimal size in terms of future yields".¹ In the past, fishermen would "high grade" the small sablefish as quickly as possible in hopes of catching them again when they are more mature. But under the full catch monitoring program with full accountability, fishermen are keeping the small sablefish and landing them for 40 to 45 cents per pound because "they are being taken off of my quota anyway".

Of course the best method of assuring the survival of small sablefish is to make sure they can escape the net. But until the industry can develop a net that excludes halibut and small fish in general at the same time, we need the council to address the situation in a manner like halibut.

"Sablefish are hearty fish like halibut and lingcod. Survival of fish with no gas bladders like sablefish, lingcod and flatfish as compared to fish with gas bladders, mortality after release is more variable...It is obvious that improved deck handling measures can be used to reduce further discard mortality of these species. Halibut maybe more sensitive than round fish like sablefish and lingcod to suffocation in the nets from pressure. They can be released and under many condition they are likely to survive, especially in this new era of short tow times."² "Higher survival rates of sablefish are associated with short air exposure time and low temperatures on deck."³ "Direct sunlight on deck may markedly increase the mortality of discarded fish and any changes in fishing practices that reduce handling time and exposure to air would reduce discard mortality."⁴ "The mortality of trawl caught and discarded sablefish increase with longer tow durations."⁵

Removal of small sablefish during this time when the sablefish biomass may be shrinking is only going to exacerbate the stock biomass problem in the future. We would like the Council, the GMT, the GAP and the SSC to review this situation and determine a quick fix for this problem that would encourage fishermen to continue to "high grade" the small sablefish if the advisors determine it would help the overall situation of the sablefish. A plan similar to the halibut discards protocol (100% alive, 100% dead, etc.) may be enough to help the bottom line of the sablefish stock.

Thank you,

Steve Bodnar
For Coos Bay Trawlers' Association

Dear Pacific Fishery Management Council

I was reading the book on the Great White Shark, and I found out what people were doing when they caught sharks.

They have been illegally cutting off shark fins, and cooking them.

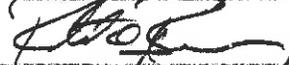
People have misunderstood the sharks for biting humans instead of seals.

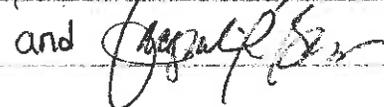
I think that it is your responsibility to stop what people are doing and fast! Thank you for your time.

Sincerely,

Ella Renell,

Ben Renell,



and 

The following public comment is representative of **1,335** similar letters received at the Council office by the September supplemental public comment deadline.

Aug 31, 2011

Pacific Fishery Management Council

Dear Management Council,

I write to you today asking for your support and leadership in emphasizing the conservation of forage fish as the key to a healthy ocean that benefits all of us on the Pacific coast. In light of increasing demands on our oceans and emerging science about the fragility and importance of forage fish, we need to ensure we leave enough in the ocean for marine life before we remove them as feed for fish farms, poultry and livestock.

I appreciate that the council has agreed to develop a fishery ecosystem plan. That plan should start by informing and guiding the protection of forage fish as the critical link in a productive and resilient marine ecosystem -- which will also protect the coastal fishing communities that depend on the ocean. The plan should include a process for making sure the needs of predators are met in all of the council's actions. In addition, I urge you to proactively prevent new fisheries on unmanaged forage species by incorporating them into a council management plan as quickly as possible.

Sincerely,

mr Jonathan Meyers
3415 Wake Dr
Kensington, MD 20895-3220

San Luis & Delta–Mendota Water Authority



P.O. Box 2157
Los Banos, CA 93635
Phone: (209) 826-9696
Fax: (209) 826-9698

State Water Contractors



1121 L. St., Suite 1050
Sacramento, CA 95814
Phone: (916) 447-7357
Fax: (916) 447-2734

September 7, 2011

Michael L. Connor
Commissioner
Bureau of Reclamation
1849 C Street NW
Washington DC 20240-0001

Dear Commissioner Connor:

We are writing in response to your letters dated August 19, 2011. In your letters, the U.S. Department of the Interior (“Interior”) expressed its position that the San Luis & Delta–Mendota Water Authority (“Authority”) and the State Water Contractors (“SWC”) do not meet the definition of applicants for purposes of a Section 7 consultation on the continued, coordinated operation of the Central Valley Project and State Water Project.¹ At the same time, Interior extended an invitation to the Authority and the SWC to seek status as designated non-federal representatives under the Endangered Species Act (“ESA”) and as cooperating agencies under the National Environmental Policy Act (“NEPA”).

The Authority and the SWC have carefully reviewed your letter and respectfully disagree with Interiors' conclusion that the Authority and SWC are not applicants. The Authority and SWC will not restate here all of the arguments presented in our June 3, 2011 letter. Instead, the Authority and SWC emphasize that given the necessary relationship between Reclamation and the Authority's members and DWR and the SWC's membership, the Authority and SWC plainly meet the definition of applicant, particularly when viewed against the intent of the definition (see 51 Fed.Reg. 19926, 19930 explaining that the definition of applicant under the regulation broadly defines "applicant"), and the guidance provided by the Services in their Section 7 Handbook (see Section 7 Handbook, p. 2-12 explaining that resource users that are party to a discrete action that becomes the subject of later consultation or re-initiation may participate as applicants in the section 7 process). We look forward to the opportunity to sit down with you to discuss this matter further.

In the meantime, notwithstanding this disagreement, the Authority and SWC welcome the opportunity to work cooperatively with Reclamation and accept your invitation to be designated non-federal representatives and cooperating agencies. The Authority and SWC

¹ The membership of the Authority and SWC is listing in Attachment 1.

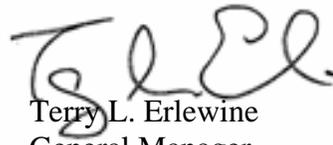
Michael L. Connor
September 6, 2011
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appreciate the extensive information Reclamation must present and analyze in its biological assessment and related environmental impact statement. The Authority and SWC will dedicate the resources needed to assist Reclamation in completing these tasks within the limited timeframe. Thank you for this opportunity to assist in this important endeavor.

Very truly yours,



Daniel G. Nelson
Executive Director
San Luis & Delta–Mendota Water Authority



Terry L. Erlewine
General Manager
State Water Contractors

Attachment

cc: The Honorable David Hayes, Deputy Secretary, Department of the Interior
The Honorable Mike Connor, Commissioner, Bureau of Reclamation
Mr. Rowan Gould, Acting Director, Fish and Wildlife Service
The Honorable Diane Feinstein, California Senator
The Honorable Barbara Boxer, California Senator
The Honorable Mike Thompson, Congressman, CA01
The Honorable Dennis Cardoza, Congressman, CA18
The Honorable Jeff Denham, Congressman, CA 19
The Honorable Jim Costa, Congressman, CA20
The Honorable Norm Dicks, Congressman, WA06
Mark Cowin, Director, California Department of Water Resources
Donald McIsaac, Executive Director, Pacific Fishery Management Council
John McCamman, Director, California Department of Fish and Game
Jim Kellogg, President, California Fish and Game Commission

Attachment 1

San Luis & Delta-Mendota Water Authority Member Agencies:

Banta-Carbona Irrigation District
Broadview Water District
Byron Bethany Irrigation District (CVPSA)
Central California Irrigation District
City of Tracy
Del Puerto Water District
Eagle Field Water District
Firebaugh Canal Water District
Fresno Slough Water District
Grassland Water District
Henry Miller Reclamation District #2131
James Irrigation District
Laguna Water District
Mercey Springs Water District
Oro Loma Water District
Pacheco Water District
Pajaro Valley Water Management Agency
Panoche Water District
Patterson Irrigation District
Pleasant Valley Water District
Reclamation District 1606
San Benito County Water District
San Luis Water District
Santa Clara Valley Water District
Tranquility Irrigation District
Turner Island Water District
West Side Irrigation District
West Stanislaus Irrigation District
Westlands Water District

State Water Contractors Member Agencies:

Alameda County Flood Control and Water
Conservation District Zone 7
Alameda County Water District
Antelope Valley-East Kern Water Agency
Casitas Municipal Water District
Castaic Lake Water Agency
Central Coast Water Authority
City of Yuba City
Coachella Valley Water District
County of Kings
Crestline-Lake Arrowhead Water Agency
Desert Water Agency
Dudley Ridge Water District
Empire-West Side Irrigation District
Kern County Water Agency
Littlerock Creek Irrigation District
Metropolitan Water District of Southern
California
Mojave Water Agency
Napa County Flood Control and Water
Conservation District
Oak Flat Water District
Palmdale Water District
San Bernardino Valley Municipal Water
District
San Gabriel Valley Municipal Water District
San Geronio Pass Water Agency
San Luis Obispo County Flood Control and
Water Conservation District
Santa Clara Valley Water District
Solano County Water Agency
Tulare Lake Basin Water Storage District



Quinault Indian Nation

POST OFFICE BOX 189 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (360) 276-8211

Mr. Rod McInnis
Regional Administrator
Southwest Region, NMFS
501 W. Ocean Blvd. Suite 4200
Long Beach, CA 90802

August 31, 2011

Dear Mr. McInnis,

Per Title 50 of the Code of Federal Regulations (CFR), part 660, the Quinault Indian Nation intends to exercise its treaty right to enter into the Pacific Sardine fishery in 2012.

§ 660.518 **Pacific Coast Treaty Indian Rights**

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest CPS in their usual and accustomed fishing areas in U.S. waters.

(b) For the purposes of this section, "Pacific Coast treaty Indian tribes" and their "usual and accustomed fishing areas" are described at §660.324(b) and (c). [NOTE: the updated, current citation for the "usual and accustomed fishing areas" is § 660.50(c)]

(c) Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented in accordance with the procedures and requirements of the framework contained in Amendment 9 to the FMP and in this Subpart.

(1) The Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public, will implement Indian fishing rights.

(2) The rights will be implemented either through an allocation of fish that will be managed by the tribes or through regulations that will apply specifically to the tribal fisheries.

(3) An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Southwest Regional Administrator at least 120 days prior to the start of the fishing season as specified at §660.510 and will be subject to public review according to the procedures in §660.508(d).

(4) The Regional Administrator will announce the annual tribal allocation at the same time as the annual specifications.

(e) The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

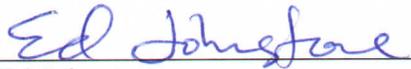
[66 FR 44987, Aug. 27, 2001]

Accordingly, Quinault anticipates a total of three treaty fishing vessels participating in the 2012 Sardine Fishery. At this time Quinault seeks 3,000 metric tonnes per vessel for a total of 9,000 metric tonnes to meet the needs of our fishers. However, this does not set precedent for determination of our treaty share of Pacific Sardines in the Quinault Indian

Nation's Usual and Accustomed (U&A) marine fishing area which we believe to be 50% of the harvestable tonnage of fish available in any given year in our U&A. We anticipate the majority of our harvest will occur in the late spring and summer of 2012.

The Quinault Department of Fisheries will regulate our fishery and we look forward to working with NMFS to facilitate our entry into the Sardine fishery in an orderly manner consistent with Pacific Fisheries Management Council (PFMC) and NMFS management. We thank you for your assistance and stand ready to answer any questions you may have. Please contact me directly if you need further information at 360-276-8215 ext. 368.

Sincerely,

A handwritten signature in blue ink that reads "Ed Johnstone". The signature is written in a cursive style and is positioned above a horizontal line.

Ed Johnstone,
Quinault Fisheries Policy Spokesperson

c.c. Dan Wolford, Chair, Pacific Fisheries Management Council
Phil Anderson, Director, Washington Department of Fish and Wildlife
Mark Helvey, Asst. Regional Administrator for Sustainable Fisheries
Judson Feder, Regional Counsel, Southwest Region