



MARINE MAMMAL COMMISSION

26 June 2015

Eileen Sobeck, Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Ms. Sobeck:

The Marine Mammal Commission (Commission) has been following the recent proposal from the Pacific Fishery Management Council (PFMC) to address marine mammal bycatch in the California thresher shark/swordfish ($\geq 14''$ mesh) drift gillnet (DGN) fishery.¹ This letter highlights some of the Commission's concerns with the proposed bycatch measures, as well as with procedural issues associated with the PFMC's development of those measures.

The Commission is grateful for the opportunity to have a staff member serve on the Pacific Offshore Cetacean Take Reduction Team (POCTRT). The POCTRT has seen much success over the past two decades, achieving reductions in marine mammal bycatch and even meeting the zero mortality rate goal for most stocks. The PFMC is now proposing to implement a bycatch reduction measure independent of those already in place, by setting hard caps on the allowable bycatch of Endangered Species Act (ESA)-listed marine mammals, as well as on certain non-listed marine mammal stocks. It is not clear how the PFMC measures would be implemented vis-à-vis those already in place under the Take Reduction Plan applicable to this fishery, or currently under evaluation by the POCTRT, and under the applicable incidental take permit for sperm and humpback whales. Specifically, would the measures proposed by the PFMC supersede or supplement the measures adopted under the Marine Mammal Protection Act (MMPA) and, if there were inconsistencies, which would take precedence and how would the differences be reconciled?

The Commission is concerned that the PFMC's proposed measures are rather blunt, are not based on the best available science, do not reflect the most recent estimates of bycatch rates (and their variances), and would not reduce the probability of fishery interactions with marine mammals while the fishery is operating. At recent POCTRT meetings, team members reviewed information and considered advice from Southwest Fisheries Science Center scientists with expertise in marine mammal population dynamics on the use of permanent hard caps of the sort being recommended by the PFMC. The team agreed with NMFS scientists that hard caps would be inappropriate for managing marine mammal interactions that are "rare events" and involve long-lived species. Finally, shutting down the fishery when a cap is reached would require in-season monitoring (something not currently in place and not possible under the current monitoring system) and seems more burdensome to the fishery than necessary for meeting MMPA requirements concerning the mortality and serious injury of marine mammals in commercial fisheries.

¹ Also known as the West Coast large mesh swordfish drift gillnet fishery.

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The Commission appreciates the PFMC's interest in marine mammal protection from the fisheries under its jurisdiction. However, the Commission believes that close consultation and coordination with the POCTRT is the best approach to ensure that the marine mammal bycatch expertise on the POCTRT is reflected in the development of alternatives.

The Commission welcomes an opportunity to discuss this issue with you during our next in-person meeting.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large initial "R" and a long horizontal stroke extending to the left.

Rebecca J. Lent, Ph.D.
Executive Director

cc: Samuel D. Rauch, III
William W. Stelle, Jr.
Donna S. Wieting
Christopher E. Yates