

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE REPORT ON BLACKGILL- SLOPE ROCKFISH COMPLEX REALLOCATION

The California Department of Fish and Wildlife (CDFW) is concerned by the National Marine Fisheries Service (NMFS) recommendations to delay final action under this agenda item (Agenda Item I.6.a, Supplemental NMFS Report, November 2015). CDFW does not believe this recommendation is justified based on the rationale provided in the NMFS report. CDFW also has concerns with numerous statements in the Supplemental NMFS report and provides responses at the end of this report.

Blackgill rockfish was last assessed in 2011 and the stock was found to be in the precautionary zone. Stock biomass had reached a depletion as low as 18% in the mid-1990s and, while it was slowly rebuilding (approximately three metric tons per year; Field and Pearson 2011), concern was raised that something needed to be done to ensure that this stock remained above the overfished threshold (the estimated depletion was 30% in 2011). In 2013, a harvest guideline was implemented and set at a level which was lower than recent historical landings. Commercial trip limits were drastically reduced for the non-trawl sectors, yet no corresponding reductions or changes were made to regulate the trawl fishery.

During 2013-2014 regulation development CDFW requested a modification to the trawl and non-trawl allocations for blackgill rockfish but was informed that the action fell outside the biennial specification process and had to be analyzed under a separate action..

In November 2014, the Council discussed prioritization of new management measures including reallocation of widow and blackgill rockfish. During Council discussions, CDFW noted that reallocation of blackgill rockfish was of greater importance to the state of California than widow rockfish reallocation. As a result, the Council scheduled an agenda item to begin discussing blackgill rockfish reallocation at the November 2014 meeting. Further discussions and decision making on blackgill rockfish reallocation occurred in April 2015, June 2015, and September 2015. At no such time during these various Council discussions or ancillary meetings were concerns raised by NMFS, other agencies, or advisory bodies about the adequacy of the supporting analytical documents¹.

Final action under this agenda item was scheduled for this meeting based in part on advice from advisory bodies who noted that delaying decision making beyond this meeting would increase workload and greatly complicate 2017-2018 biennial specifications analyses. Although NMFS suggests the EA could benefit from further elaboration, CDFW feels that any enhancements would not change the impacts already analyzed in the EA and would not jeopardize the Council's ability to take final action at this meeting. CDFW believes that some of NMFS concerns have already been analyzed, are not critical to informing decision making, and/or can be added to the EA at a later date prior to its release for public comment. It is also our understanding that the original intent was to implement this rule concurrently with the 2017-

¹ Several individuals (including NMFS staff) were directly involved with or consulted during development of the EA. CDFW is not aware of concerns raised by any staff during development of the analytical document that were not addressed in the current draft.

2018 biennial specifications, which should provide sufficient time to complete any additional documentation. The Council could also be given the opportunity to review the enhanced EA and reconfirm any final action, if needed, to ensure there is not conflict with the intent of Council decision making.

CDFW believes that delaying decision making would be extremely disruptive to the Council process. It is not clear when, or if, the Council would be able to revisit this topic given the current workload and time constraints.

CDFW would like to express our gratitude to the Council for recognizing the importance of this topic to our state and for being supportive of prioritizing it on the Council agenda. California constituents have been patiently waiting for a decision and CDFW does not believe that delaying final action and reframing this issue as suggested by NMFS is appropriate; therefore, CDFW recommends the Council take final action at this meeting as publically noticed.

The following are CDFW responses to comments in the NMFS report, including those items NMFS identified as deficiencies (in bold):

- NMFS states in its report that, “As NMFS has previously mentioned, we have concerns the direction the Council is taking...”
 - CDFW was unable to find any reference where NMFS identified a concern with an analytical problem with an action on a conservation issue.
 - The only NMFS concern CDFW was able to identify ([Agenda Item D.9.a, June 2015](#)) was stated in reference to specifically a reallocation process for IFQ species subdivision that *already existed* in the Groundfish FMP, not specifically an issue dealing with a conservation issue.
- The NMFS report states “Blackgill rockfish south of 40° 10' has never been subject to potential overfishing...” (page 31)
 - As documented in the EA “However, the annual total catch prior to 2013 did exceed the more conservative harvest specifications implemented in 2013, which were based on the results of the more pessimistic 2011 assessment.”
 - Figure 4-1 of the EA shows that, since 2009, the trawl and non-trawl combined mortality had exceed the 2015 ACL allocation in four out of five years (2009-2013), which demonstrates a real potential for overfishing.
- The NMFS report states, “The analysis does not provide a strong argument for there being a conservation issue.”
 - The EA states, “The slow growth, late maturation and low depletion ratio of blackgill rockfish drive the conservation concern for the stock.” (page 31)
 - Instantaneous growth rates for blackgill rockfish are the same or very similar to that of cowcod and yelloweye rockfish. In contrast, instantaneous growth rates for roughey rockfish are more than that double blackgill rockfish (Love, 2011). If blackgill rockfish were declared overfished, it would likely take many years to rebuild similar to cowcod and yelloweye rockfish.
 - Blackgill rockfish stock is at 30% of unfished biomass and is projected to remain in the precautionary zone until at least 2022 (Table 4-3, page 32). Under the 10-year projections ACLs are expected to increase slowly, a pattern which is not all

that dissimilar to rebuilding plans for other slow growing (cowcod and yelloweye rockfish).

- The EA states, “There are limited management measures to discourage trawl targeting under the status quo management of blackgill in the southern Slope Rockfish complex, where LE trawl quota is allocated based on the annual allocation of the harvestable surplus of southern Slope Rockfish species in aggregate at the complex level.” There are limited means to control catches of blackgill rockfish in the trawl sector when it is managed within the complex. An analysis of the available measures to reduce catches of blackgill rockfish in both the trawl and non-trawl sectors was analyzed in the 2013-2014 FEIS.
- The NMFS report states, “The average percentage of the ACL caught for blackgill rockfish between 2003 and 2013 was 46.8%... Even when the more conservative management measures were implemented in 2013, fishing pressure was adjusted so that catches remained below the ACL and ABC. Catches in 2013, were 67.6% of the ACL and 60.2% of the ABC.”
 - The average percentage of the ACL actually increased from 46.8% (2003-2013) to 60.2% for 2013.
 - This was the result of the more restrictive harvest guideline, beginning in 2013 (which didn’t exist prior to 2013).
 - Blackgill rockfish trip limits in the non-trawl fixed-gear sectors were reduced in 2013 to discourage targeting and allow incidental landings only; no corresponding reductions measures were made to the trawl fishery and they are currently allowed to target blackgill rockfish.
- The report states, “There is nothing in the analysis that shows that fishing pressure is going to increase substantially.”
 - The EA indicates that there is a potential for overfishing and that it is real.
 - Public comments have also indicated that if trawlers had more blackgill rockfish they would target them. Given this, it is not unreasonable to assume that fishing pressure in the trawl sector may increase, especially as the blackgill rockfish ACL slowly increases as is projected in Table 4-3 in the EA.

The effects of each alternative on target species inside and outside the complex should have been included in the analysis of the alternatives.

- Figures 4-4 to 4-7 describes annual landings between the two action alternatives assuming a 2015 harvest guideline as a bench-mark to compare the effects of both action alternatives analyzed with historical catches.
- Tables 4-11, 4-12, and 4-13 provide projected landings of blackgill rockfish for the three alternatives, estimated ex-vessel revenue associated with the alternatives, and personal income impacts associated with the alternatives, respectively.
- Alternative impacts were also analyzed from an economic perspective by examining price differentials by region and year sector to identify how the differentials drive the differences in projected total ex-vessel revenue and income impacts (§ 4.4.1.2 – pg. 41)

The potential effects on non-target species composition given different gears and management structure for trawl and non-trawl also should have been included.

- The EA includes an analysis on sablefish, petrale sole, and shortspine thornyhead.
- The EA also states, “The action alternatives are not expected to significantly change the magnitude or distribution of bottom trawl or non-trawl effort compared to the No Action Alternative. No change in fishing activity would occur in areas that are currently closed to fishing with specific gears, because no changes are anticipated to RCAs or other EFH conservation measures.”

The general difference in shifting allocations between the trawl and non-trawl sectors, including how the difference in fishery controls (e.g., monitoring, individual fishing quota [IFQ] vs. trip limits) affects the ability to keep harvests within the allocation for blackgill, should have also been included in the analysis of each alternative.

- Fishery control mechanisms available for keeping blackgill within allocations were previously analyzed in the 2013-2014 FEIS. A discussion on available mechanisms to reduce harvest levels within each sector was also included as part of that analysis.
- The current EA address this in sections 1.3 and 4.3.3.

Impacts on protected species, essential fish habitat (EFH), and the general habitat, if more blackgill is taken with non-trawl gears, and a robust cumulative effects analysis are also a necessary component of an environmental assessment (EA).

- The current EA address this in sections 4.1, 4.2 and 4.3
- The EA also states the following:
 - “There is currently insufficient information to predict the effects of fishing on the marine ecosystem in any precise way. NEPA regulations address this issue.”
 - And further, the EA states, “NMFS acknowledges that the information necessary to fully evaluate impacts on the marine ecosystems cannot be reasonably obtained at this time, and impacts are generally unknown.”
- As discussed in the EA, no significant change in the magnitude of effort is to be expected compared to No Action. The proposed action alternatives offer modest increases to the non-trawl sector at best. For example, under Alternative 1, the non-trawl fleet (LE and OA combined) would realize an annual increase of approximately 15 mt over the No Action allocation.

Literature Cited

Field, J.C. and D. Pearson. 2011. Status of the blackgill rockfish, *Sebastes melanostomus*, in the Conception and Monterey INPFC areas for 2011. Pacific Fishery Management Council, Portland, OR.

Love, M. S. 2011. Certainly More than You Want to Know About the Fishes of the Pacific Coast. Really Big Press, Santa Barbara, CA.