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Mr. Herb Pollard, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
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RE: Agenda Item F.4.c. Groundfish EFH and RCA Amendment 28 Alternatives

Dear Chair Pollard and Council Members,

Below is a written record of my testimony in Council under agenda item F4 on EFH.

My name is Jeff Lackey and I manage two trawlers out of Newport, one of which bottom trawls. I have four subjects to talk about:

Regulations

The regulations for “Contents of Fishery Management Plans” in 600.815 provide guidance for this action, and it is worth noting that new measures (i.e. closures) implemented are to be not only “practicable”, but also “necessary.” Practicable almost just says “it can be done” and necessary says that “it is needed”. Therefore, “necessary” is a word in regulation that requires science and is a higher bar than “practicable.” So if, as regulations say, that “The extent of the EFH should be based on... the quantity and quality of habitat that are necessary to maintain a sustainable fishery,” then any new measures should be necessary to maintaining sustainable fisheries.

Also in 600.815 regs is the statement, “Councils should use the best scientific information available, as well as other types of information according to its scientific rigor.” As the groups constructing the collaborative and mtc proposals discovered, their collective information was much better than the existing scientific information concerning areas of relief, hard ground and soft ground, so the scientific basis for their area constructs were based on a higher degree of scientific confidence.

Central and Northern Oregon Areas

The MTC briefing book comment portrayed accurately the collaborative process in Newport. The MTC proposal that was modified through the GAP statement adds a lot of hard bottom area closures.

It is the belief of Newport area fishermen that EFH and RCAs are completely different issues and should be analyzed as such; that being said, even when RCA openings are taken into consideration, the MTC proposal closes far more hard bottom grounds than it opens; the reason for this is that the vast majority of RCAs off central and northern Oregon are mud, and the MTC proposal adds two closed areas, significantly expands Stonewall Banks EFH closure, and adds a massive expansion to Heceta Bank EFH closure. The MTC proposal goes farther than is required by regulation, because it goes farther than what is necessary to maintain a sustainable fishery.

Process

NMFS, Council, and state staff have done an excellent job working with the data they had to analyze and be creative with items such as the web tool development. That being said, there is only so much you can do when data is not complete. And even if historical fishing data was 100% accurate and complete (which it is not), then that would still not be enough data to fully analyze socioeconomic effects, because the fishery will never again look like it did in 1970 or 1990, and the fishery in 2020 and then in 2030 will look different than it ever has. We do know that closing good trawlable grounds will be precluding them from future opportunity as conditions inevitably change and continue changing. So socioeconomic charts and fishing pressures need to be taken with a grain of salt and some context.

We have a process that is limited by available science related to accuracy of hard and soft bottom, accuracy of relief; importance, abundance, density and habitat function of different grounds. In the absence of certainty, there is opportunity to operate within the process to reach a desired conclusion instead of letting the process play out purely on scientific methodology.

One example already epitomizing this type of reverse engineering is the Oceana Cascadia Shelf Hotspot proposed closure. It is shown as a coral sponge hotspot in the analysis, but an educated guess as to why this shows up this way is that coral / sponge drifting in from another area may sit there, and since this has been a low fishing intensity area, coral / sponge catch per unit effort would be high. Areas of low fishing intensity are selected for closure so that the final analysis concerning practicability as measured in the process prove favorable, but this method is not a good method of identifying habitat protection or truly reflective of actual conditions on grounds and future value of the grounds for fishing.

Half of Cascadia Hotspot is considered "priority habitat," so on paper it may look like a good candidate for closure. The problem with this area is that it is 100% soft bottom and 152 square miles in size. This is one of the more extreme examples of unintended consequences of a well intentioned process, but all eight Oceana closures off Newport area contain good trawlable grounds. Of note is that the MTC proposal adds closure areas to four of the eight Oceana areas without closing off so much of the good, trawlable grounds in addition.

North Pacific Review: The North Pacific Council completed a review of deep-sea coral habitat in the eastern Bering Sea slope and canyons in October of 2015. The review used information from AFSC stereo drop cameras along planned transects conducted and analyzed scientifically. Results included coral & sponge presence, type, and density. The conclusion reached scientifically by the evidence showed other areas already protected had a much higher density of corals than anywhere in the studied area, and because of the low occurrence and relative small height of corals in the studied area, there were limited expected fishery impacts. As a result, no new closures were recommended or adopted by the Council.

Thank you for your consideration,

Jeff Lackey

Chairman Council members my Name for the record is Mark Cooper I am the owner of 3 trawlers that are home ported out of Newport Or. I am an

Oregon trawl commissioner and sit on the boards MTC and Fisherman Market ing ass. I have trawled since the late 70. I have sons that are involved in the trawl fishery and i want to make sure that they have a future n the trawl fishery.

I am supporting the MTC purpose! There has been a lot of thought and hard work put into it.

We are asking on the Heacade backs to move the westward line up on the bank to include areas that we have fished in the past. and we are suggesting to midigate this action are to the North and east that isn't included in the colabrative purposal. This new area has hard bottom soft coral and sponges and is a area that has a lot of juvenil rock fish. I think that protecting juvenile fish and letting us fish in an area that there are marketable fish makes more since. I have heard that biologist say that we have never fished this area but I believe they did not go back in history far enough the fleet had quit fishing in this are by the first of the 90 because red rock trip limits were so small.

The central oregon coast and the heceta banks have a long history of being fished by trawlers to my knowledge starting in the 20 escalating in the world war II era after world war two markets dryed up and in the 50 and 60 trawling almost disapeard and was mainly a beach fishery in the mid 70 it took off again and Newport became a port That produced mainly rock fish and by the 90 most trawlers had converted to DTS complex , whiting or had moved to Alaska.

During the 60 and 70 we had forieng fleets that worked off of our coast first with bottom gear and then changing there stategy and fishing for whiting with mid water gear we really don't have good history on how many fish they took or where they fished but I know they spent a lot of time just west of stonewall banks and aruond heceta banks.

With rockfish species bieing rebuilt I am afraid that we are not going to have access to the grounds to harvest them. Oceana's proposed closed areas are very broad and painted with a broad paint brush that will close a lot of important fishing grounds

I have looked at all the proposed closed areas and thought about the importance to , access to fish,seafloor impacts, past and future. To understand this you really need to understand fishing nets and gear and the history of the grounds.

Forieng fishing and the US fishing on the same grounds that are purposed to be closed. The MTC proposal has tried to paint with a fine paint brush to protect the Habitat of juvenile fish in shallow waters and older fish on the shelf.

I believe that closeing areas dose more harm than leaving the grounds open. When you restrict areas that can be fished by- catch can go up because you can,t move as eas;y to clean grounds.When u have closed lines the fleet tows up and down on lines instead of moving around.

Where we might catch a coral or sponge once in a while in Oceana's proposed areas MTC has proposed areas that have a higher concentration of coral sponges juvenile rock fish and hard bottom.

The impact of trawl nets towed on the bottom is not what Oceana portrays they do not clear cut the bottom the net are small and light. For the clay bottoms that is where we fish off the central Oregon coast.

The horse power of the bottom trawl fleet hasn,t changed much over the years . I believ that the best thing that you can do for the habitat is to change the gear restrictions. Let us use midwater gear all year. Get rid of the foot rope size restriction so we can use a footrope with less impact on the bottom.

I believe you should Encourage the use of semi plegic trawls and other new technologies. This is the best way to protect the future of the fishery and the habitat for the generations to come.

I am concerned about the future. Thank you

My name is Heather Mann and I'm here on behalf of the Midwater Trawlers Cooperative. MTC represents 23 trawl catcher vessels. MTC members are generally considered whiting fishermen on the west coast but I think it is important to note that we have four vessels currently engaged in the traditional bottom trawl fishery, we have many members who have a long history of bottom trawling on the west coast and we have several members who are looking to reengage in the bottom trawl fishery especially into the future, specifically they are looking for sustainable opportunities for their children many who are currently captaining the vessels and who are taking over their trawl businesses. MTC has comments on both EFH and RCA changes. We also submitted a written public comment for the briefing book, parts of which I'll reference here.

First I'd like to address the RCA component of this action. MTC recommends the Council identify Alternative 3b as the PPA at this time. Alternative 3b removes the trawl RCA in its entirety. If there are discrete areas within the RCA that are identified as priority habitat needing additional protection than the simultaneous EFH action can handle that.

For the record, I would reference a joint public comment submitted to the Council in September 2013 – cited as Agenda Item G.6.c Supplemental Public Comment – I believe that the rationale provided in that comment is still relevant today. Specifically, the RCAs were a blunt instrument implemented well prior to the trawl ITQ program essentially to stop the catch of overfished rockfish species. With the implementation of the trawl ITQ program the RCAs are simply no longer necessary and, in fact, are potentially jeopardizing the success of the program. Personal responsibility and the associated regulation that requires quota pound coverage for all ITQ species caught has become the primary incentive to reduce and avoid bycatch. I often say that the trawl industry bears all the burden of being fully rationalized including things like 100% monitoring as well as all the costs associated with participation in the program, but we only realize a fraction of the benefit. Five years into the program and we are nowhere near being able to fish where, when and how we want in order to maximize the value of the Groundfish fishery. Maintaining the RCA or even discrete or block closures undermines the ability of the IQ program to work as intended. A few years ago during a lively debate regarding the RCA, a NMFS staffer said to me “we need to protect you from yourself.” I argued then and I continue to argue now, that no, you don't Let the program work. We have proven that personal accountability has impacted fishing strategy and behavior. I would also argue that fishermen's knowledge of what lives inside the RCA is vast – just because the grounds have been closed to bottom trawl for over 10 years, I disagree with the suggestion that fishermen's knowledge of the grounds is limited – harvesters who have fished on this coast for decades are very aware of what the grounds are like within these areas and they are well aware of what species can be expected to be found in each area. Additionally, extensive midwater trawl fishing and bottom

trawl survey information has occurred in the RCA and this information can inform both Groundfish and salmon interactions. So to reiterate, MTC supports Alternative 3b. I almost fell off my seat when I heard Frank describe keeping portions of the RCA closed so that NMFS could go after funding to study them. I'm disappointed that this wasn't vetted with, at a minimum, the GAP and I'm troubled that this has actually been suggested at this time.

Regarding EFH. MTC submitted a proposal with our written public comment that we believe is reasonable. It increases closed areas to protect priority habitat and includes modest reopenings to either regain valuable trawl tows or provide flexibility in fishing operations that occur near closed areas. As described in our written public comment, MTC members and other fishermen from Newport met on several occasions with members of the collaborative. We had a rocky start but I believe we had some productive meetings late last year and into the spring of this year. Unfortunately we were unable to reach ultimate consensus when the collaborative rejected the proposal that is contained with our public comment. The main area of conflict appears to be around the Heceta Bank location. I believe MTC fishermen made a good faith effort to work with the collaborative. After negotiations broke down we even had fishermen drive from Newport to Vancouver last April so they could meet face to face with collaborative members to try and resolve our differences. That effort failed. We are disappointed with the outcome of our collaborative time. I believe that Newport fishermen have come a long way from where we started – which frankly, was that no new closures were necessary.

We did however approach the GAP with some suggested changes to our proposal having listened closely to ODFW as well as conservation advocates and we made these additional adjustments in good faith and in the hopes of getting unanimous support from the GAP which does contain two collaborative members. Following our suggested modifications, the GAP did support including the amended MTC proposal as the PPA for the Newport area. I believe this is notable and important for Council consideration.

I hope the Council will also consider that the MTC proposal:

- Is informed by multiple decades of trawl fishing experience and the practical knowledge that results from literally hundreds of years of combined time on the ocean – including input from other Newport-area fishermen who are not MTC members
- Is informed by new scientific and anecdotal information from a variety of sources
- Takes into consideration the future generations of fishermen who will make their living off the Oregon coast (many are the sons and daughters of MTC vessel owners who are already skippering the boats)
- Takes into consideration the current health and sustainability of Groundfish stocks
- Considers improved fishing technologies, gear modifications, and more exact fishing strategies

- Acknowledges that overfished stocks have either rebuilt or are rebuilding at much quicker rates than previously anticipated (suggesting that existing management measures and EFH closed areas may be sufficient)
- Acknowledges that there are important priority habitats that may need additional protection
- Includes areas that substantially expand EFH closed area protection from what is currently in place
- More closely reflects the stated purpose and need for EFH protections in the Groundfish FMP and under the Magnuson Stevens Act
- Protects habitat that federally managed Groundfish populations utilize throughout their life cycle
- Recognizes the many other management actions have the ancillary benefit of protecting EFH even though that may not be their primary objective (i.e. the trawl rationalization program), and
- Is a fair approach to protecting EFH off the central coast to the extent practicable while balancing the needs of the fishing industry and coastal communities as well as maximizing the net benefit to the nation from these important natural resources.

I have a couple additional thoughts in closing. One thing that I say a lot is that you can't say one thing in one room and walk across the hall and say something different. I believe it's disingenuous for groups to claim they care about the trawl fishery and its participants when those same groups then malign trawlers or advocate for actions that hurt the trawl industry. Simply saying you care is not enough. Ten years ago I would have been hard pressed to say something kind about EDF. I'm confident now when I say I was wrong about that stance – Shems Jud in particular has proven that he and his organization do care about the success of the trawl industry. He says the same thing on both sides of the hall and I really appreciate the work that he has done and continues to do especially related to this EFH effort.

Lastly, I'd like to say that this action isn't something that occurs within a vacuum. According to a NMFS report the trawl footprint has already decreased by approximately 80% (citation). It's important to balance the competing needs to protect priority habitat at the same time that we manage to the MSA national standards. We believe that the amended MTC proposal, unanimously supported by the GAP, is a win-win for habitat and fishermen. I'm sure I don't need to tell you that adopting a proposal that has broad industry support goes a long way towards showing the industry that you all, as managers, are taking the balancing act seriously – it's even better when what the industry supports is actually a conservation win too. We support

the GAP report and I hope you will agree and select the modified MTC proposal as the PPA for the central Oregon coast.

Thank you for your consideration.