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May 22, 2018

Mr. Phil Anderson, Chairman  
Members of the Pacific Fishery Management Council  
7700 NE Ambassador Place #200  
Portland OR 97220-1384

Dear Mr. Anderson and Council Members,

The Sportfishing Association of California (SAC) would like to comment on the Live Bait Fishery Allowance scoping document, agenda item F.1. SAC represents over 150 Commercial Passenger Fishing Vessels (CPFV) operating between Santa Barbara and San Diego. We also represent several of the vessels supplying live bait to the CPFV fleet. Sardines represent the vast majority of live bait used by the fleet with anchovies, Pacific mackerel, jack mackerel, and squid comprising the remainder. The annual catch from live bait logs, as reported in the December 2017 SAFE report, documents average landings from 2012 through 2016 at slightly less than 1,850 mts per year.

At the April 2018 meeting, the Council directed the CPSMT to evaluate the live bait fishery allowance in the context of an overfished stock condition, and to develop a purpose and need statement for a potential amendment to FMP section 5.1.4 starting at the June 2018 Council meeting.

SAC believes the scoping document should include language allowing the Council greater flexibility in determining the take of sardines or any other CPS when the species is declared overfished. Current rules allow for the take of sardines when the species is overfished, but only as a 15% incidental catch. Essentially, this means that the live bait fishery for sardines would cease, as mixed schools are rare and not desirable for live bait. The need to revise the FMP is paramount to the industry and all recreational anglers in California that rely on live bait to engage in their sport.

When considering changes to the CPS FMP, the Council should be aware of the minimal impact the live bait fishery has on the sardine stock. As stated earlier, for the past five years less than 1,850 mts have been landed on an annual basis. Current CPFV fishing practices dictate that most is returned to the ocean alive either as chum or released at the end of the day. It is estimated that 90% of live bait is used as chum, which has a high survival rate. Fish released at the end of the trip have a 100% survival rate.

Furthermore, a recent NOAA survey published in 2015 (NOAA Technical Memorandum NMFS-F/SPO-170) stated that marine recreational anglers in California spent \$2.1 billion on fishing activities.

This adds an additional \$1.3 billion of economic value, and supports approximately 16,500 full and part-time jobs. This represents a significant positive impact to the economy with remarkable socio-economic benefits. If the live bait fishery is curtailed, the negative economic impact will be significant.

Thank you for considering this matter. We hope you will strongly consider the paramount importance of live bait to the CPFV fleet and to the countless other anglers who benefit from its use.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Franke", written over a large, faint blue fish graphic in the background.

Ken Franke  
President, SAC

May 29, 2018

Mr. Phil Anderson, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220

**RE: F.1 Live Bait Fishery Allowance and Amendment Scoping**

Dear Chair Anderson and Council members:

At the April 2018 Pacific Fishery Management Council meeting, the Council directed an evaluation of section 5.1.4 of the Coastal Pelagic Species Fishery Management Plan (CPS FMP) which states that the incidental catch allowance for overfished CPS taken in the live bait fishery “shall be set to no more than 15 percent of landed weight”.<sup>1</sup> At the June 2018 meeting the Council will be considering whether changes to section 5.1.4 of the CPS FMP should be considered, and if so, what is the Purpose and Need and scope of the analysis and FMP amendment.

This is a critical time for forage fish management; conservation and science-based limits are of paramount importance. If the Council moves forward with an FMP amendment process, we ask that you direct the CPS Management Team and National Marine Fisheries Service to address the questions and recommendations in this letter, and ensure any changes to CPS management enhance the conservation and recovery of overfished forage fish.

**Background:**

Fish populations managed under the CPS FMP like Pacific sardine and northern anchovy are critical forage species important to the health of the California Current Ecosystem.<sup>2</sup> These forage fish support important recreational and commercial fisheries either directly, or indirectly through their role as prey for other managed fishes. The northern subpopulation of Pacific sardine has declined 97 percent between 2006 and July 2018, and at the start of this fishing year (July 1) the population is projected to be only slightly above the 50,000 metric ton overfished level specified in the FMP.<sup>3</sup> The NMFS acoustic trawl survey estimated the Pacific sardine northern subpopulation in the summer of 2017 at 36,644 mt.<sup>4</sup>

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<sup>1</sup> PFMC 2018. CPS FMP, Section 5.1.4, at 47.

<sup>2</sup> Szoboszlai AI, Thayer JA, Wood SA, Sydeman WJ, Koehn LE. (2015). Forage species in predator diets: Synthesis of data from the California Current. *Ecological Informatics*, 29:45-56.

<sup>3</sup> Hill, K.T., P.R. Crone, J.P. Zwolinski. 2018. Draft Assessment of the Pacific sardine resource in 2018 for U.S. management in 2018-19. Pacific Fishery Management Council, April 2018 Briefing Book, Agenda Item C.5. Attachment 1, Portland, Oregon. 113 p.; PFMC 2018. CPS FMP Section 4.6.2.1 Definition for Overfished Stock for Sardine, at 40.

<sup>4</sup> *Id.* at 25.

What is more, the central subpopulation of northern anchovy has only recently shown signs of recovery after it declined by as much as 99 percent since 2005.<sup>5</sup> Anchovy and Pacific sardine can experience extended periods of low biomass and productivity that can last one to two decades or more, respectively.<sup>6</sup> Contrary to previous studies, McClatchie et al. 2017 finds anchovy and sardine abundance are significantly positively correlated.<sup>7</sup> Overall forage fish abundance is now low, with the Pacific sardine population approaching an overfished condition<sup>8</sup> and anchovy at relatively low levels.

Rebuilding overfished populations is a cornerstone of the Magnuson-Stevens Fishery Conservation and Management Act. The Magnuson-Stevens Act requires that FMPs “contain the conservation and management measures . . . necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery.”<sup>9</sup> For an overfished population, an FMP must “contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery.”<sup>10</sup> Further, rebuilding measures must specify a time for rebuilding the stock that is “as short as possible” and may not exceed ten years, unless, *inter alia*, the biology of the stock or other environmental conditions will not allow rebuilding within ten years.<sup>11</sup> Overfishing restrictions and recovery benefits must be fairly and equitably allocated among sectors of the fishery.<sup>12</sup>

Accordingly, the CPS FMP states if sardine are overfished, “no directed fishing” is allowed and that the Council “is required to minimize fishing mortality on an overfished stock to the extent practicable and to undertake a rebuilding program which may be implicit to the harvest control rule or explicit.”<sup>13</sup> Further, the CPS FMP has established goals for setting incidental catch allowances for overfished stocks, stating:

In order of priority, the Council’s goals in setting incidental catch allowances for overfished stocks should be to (1) minimize fishing mortality on overfished stocks, and (2) minimize discards of overfished stocks. Incidental catch allowances for overfished stocks should approximate rates of incidental catch when fishing is conducted in a manner that minimizes catch of the overfished stock.<sup>14</sup>

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<sup>5</sup> MacCall, A.D., W.J. Sydeman, P.C. Davison, J.A. Thayer (2016). Recent collapse of northern anchovy biomass off California. *Fisheries Research* 175, 97-94.

<sup>6</sup> McClatchie, S., I. L. Hendy, A. R. Thompson, and W. Watson (2017), Collapse and recovery of forage fish populations prior to commercial exploitation, *Geophys. Res. Lett.*, 44, doi:10.1002/2016GL071751.

<sup>7</sup> *Id.*

<sup>8</sup> 50 CFR § 600.310(e)(2)(i)(G) (explaining that “[a] stock or stock complex is approaching an overfished condition when it is projected that there is more than a 50 percent chance that the biomass of the stock or stock complex will decline below the MSST within two years”).

<sup>9</sup> 16 U.S.C. § 1853(a)(1)(A).

<sup>10</sup> *Id.* § 1853(a)(10).

<sup>11</sup> *Id.* § 1854(e)(4)(A)(i).

<sup>12</sup> *Id.* at 1854(e)(4)(B).

<sup>13</sup> PFMC 2018. CPS FMP Section 4.6.2.1 Definition for Overfished Stock for Sardine, at 40.

<sup>14</sup> *Id.* at 48.

The FMP states, “The Council must set incidental catch allowances for all overfished stocks”<sup>15</sup> and the FMP specifies that the incidental catch allowance for overfished stocks taken in the commercial fisheries must be set no higher than 20 percent, and for the live bait fishery, it must be “set to no more than 15 percent of landed weight.”<sup>16</sup>

### **Recommendations:**

If the Council moves forward with a CPS FMP amendment to address the live bait incidental catch allowance for overfished stocks, we request the scope of the amendment and analysis address the following questions and issues:

1. Is the current California live bait voluntary logbook program appropriate for accurately monitoring and managing catch of an overfished CPS stock?
  - a. Consider a mandatory logbook and a live bait monitoring program that allows for in-season management of the live bait fishery.
2. If incidental catch allowances specified in the FMP are part of an implicit rebuilding plan for overfished stocks, what comparable conservation and management measure will be implemented to ensure fishing mortality on overfished stocks is minimized and rebuilding to MSY levels can occur within ten years, or as quickly as biological and environmental conditions allow?
  - a. Evaluate alternative management approaches to limit incidental catch such as fishing seasons, area restrictions, and an overall annual incidental catch limit.
3. What analyses were used to evaluate and establish current incidental allowance limits and what analyses will be conducted to test how alternative incidental levels will affect the recovery of overfished CPS?
  - a. Conduct an updated harvest parameters evaluation to examine the effects of alternative catch levels on the depletion and recovery of overfished CPS.
4. Pacific sardine assessments describe two sardine populations off the U.S. West Coast, but the Council and NMFS are managing the sardine fishery based on the northern subpopulation alone. What is the status of the southern subpopulation and to what extent is the live bait fishery taking the southern subpopulation?
  - a. Evaluate the extent to which the live bait fishery is taking the southern subpopulation and consider management of the southern sardine population in the CPS FMP, as appropriate.
5. There is little information in Council documents – like the CPS Stock Assessment and Fishery Evaluation reports – on the characteristics and economics of the live bait fishery.
  - a. Provide more detailed information on the live bait fishery, dependent recreational fisheries and fishery economics to inform management decisions.

### **Broader CPS management reforms are needed:**

Many scientific studies and reports recommend harvest strategies for important forage fish like sardine and anchovy that are more precautionary than those in the CPS FMP, particularly the

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 47, section 5.1.1 (incidental catch allowance for overfished stocks in the commercial fishery) and section 5.1.4 (incidental catch allowance for overfished stocks in the live bait fishery).

need for sufficiently high cutoffs.<sup>17</sup> Based on these studies, Oceana has repeatedly requested the Council and NMFS revise the CPS management system to leave more fish in the water to allow sardine and anchovy to successfully reproduce, recover, and support ocean wildlife. Unless the current CPS management framework is improved, we are concerned the observed pattern of excessive fishing pressure on a declining sardine population, long periods with low abundance, and rippling ecosystem impacts due to a dearth of sardine and anchovy are likely to continue. As previously stated, we believe now is the right time to develop an alternative, risk-based management framework for sardine, anchovy and other CPS.<sup>18</sup> As you consider changes to the FMP to address potential constraints on the live bait fishery, please also consider a broader set of management reforms to ensure precautionary, ecosystem-based CPS fisheries that prevent overfishing, quickly rebuild overfished stocks, and provide adequate forage for dependent marine life.

Thank you for your consideration of these comments.

Sincerely,



Ben Enticknap  
Pacific Campaign Manager & Senior Scientist

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<sup>17</sup> E.g. Pikitch, E., Boersma, P.D., Boyd, I.L., Conover, D.O., Cury, P., Essington, T., Heppell, S.S., Houde, E.D., Mangel, M., Pauly, D., Plagányi, É., Sainsbury, K., and Steneck, R.S. 2012. Little Fish, Big Impact: Managing a Crucial Link in Ocean Food Webs. Lenfest Ocean Program. Washington, DC. 108 pp, AND, Essington et al. 2015. Fishing amplifies forage fish population collapses, PNAS Early Edition, available at <http://www.pnas.org/content/early/2015/04/01/1422020112.full.pdf>.

<sup>18</sup> E.g. see: Oceana (March 30, 2018). Letter to the Pacific Fishery Management Council regarding 2018-19 Pacific sardine harvest specifications. Available: [https://www.pcouncil.org/wp-content/uploads/2018/04/C5b\\_Supp\\_Public\\_Comment2\\_Apr2018BB\\_v2.pdf](https://www.pcouncil.org/wp-content/uploads/2018/04/C5b_Supp_Public_Comment2_Apr2018BB_v2.pdf) AND Oceana and Earthjustice (March 29, 2018) Letter to the Pacific Fishery Management Council regarding the process for review of reference points for monitored CPS stocks. Available: [https://www.pcouncil.org/wp-content/uploads/2018/04/C4b\\_Supp\\_Public\\_Comment2\\_FullVersionElectricOnly\\_Apr2018BB.pdf](https://www.pcouncil.org/wp-content/uploads/2018/04/C4b_Supp_Public_Comment2_FullVersionElectricOnly_Apr2018BB.pdf) at pages 336 -397.