

August 27, 2018

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

RE: H.2 Highly Migratory Species - Opposition to Pelagic Longline Exempted Fishing Permits

The Pacific Fishery Management Council has a great responsibility to protect our ocean resources and the California Current large marine ecosystem. Exempted Fishing Permits (EFPs) can be useful tools to support research and test experimental gears but should not be used to contravene the longstanding prohibition on pelagic longline fishing in the US Exclusive Economic Zone. We oppose authorization of pelagic longlines due to bycatch concerns. Due to similar concerns, we are opposed to the continued authorization of large mesh drift gillnets for targeting swordfish off our coast. We support the goal of transitioning the current drift gillnet swordfish fishery toward a fishery utilizing more environmentally and economically sustainable gear types that can effectively target swordfish. To this end, we support continued experimentation with deep-set buoy gear, which has demonstrated minimal bycatch, minimal bycatch mortality, successful active tending, lack of gear loss, and economic profitability.

In 1989, with the enactment of Section 9028 of the Fish and Game Code, the California Legislature prohibited pelagic longline fishing in the EEZ off the California coast by banning the use of hook and line fishing gear longer than 900 feet. This gear prohibition is incorporated in the Council's HMS FMP, and when faced with the opportunity to authorize pelagic longlines in 2009, the Council selected a "no-action" alternative due to bycatch concerns. Due to the gear similarity, and consequent bycatch concerns, we request the Council deny Dr. John Hall's Exempted Fishing Permit Application to test the use of a five nautical mile section of deep-set pelagic longline fishing gear inside the U.S. EEZ off California and Oregon as revised and submitted on June 11, 2018; and recommend that NMFS not move forward with issuing this EFP.¹

Oceana supports the current prohibition on pelagic longlines due to serious bycatch concerns associated with the gear, and the disproportionately high density of marine mammals, sea turtles, and a wide diversity of sensitive migratory sharks, billfish, manta rays, and other vulnerable migratory fish. Based on recent experimental trials with deep set gear off the West Coast and the high bycatch associated with this gear, no data demonstrates that this gear type can be used to selectively target swordfish (for every swordfish caught, 44 other fish were discarded).² By way of comparison, due to the frequent take and serious injury of marine mammals (including false killer whales, dwarf sperm whales, pygmy killer whales, Risso's dolphin, short-finned pilot whale, sperm whale, striped dolphin, bottlenose dolphin), NMFS lists the Hawaii-based deep-set longline fishery as the only "Category I" fishery in the Pacific

¹ Hall EFP Application, revised June 11, 2018. PFMC Agenda Item H.2, Attachment 1.

https://www.pcouncil.org/wp-content/uploads/2018/08/H2_Att1_Hall_deep_set_longline_EFP_application_SEPT2018BB.pdf

² NOAA SW Fisheries Science Center Deep Set Longline Experiments, at

http://www.pcouncil.org/wpcontent/uploads/K5b_NMFS_SWFSC_ALTERNATIVE_GEAR_MAR2014BB.pdf

Ocean.³ Pelagic longline gears are inconsistent with transitioning the swordfish fishery to more environmentally sustainable gear types, and the Council should not approve any EFP utilizing these gears.

If the Council chooses to recommend this EFP move forward, however, we request the Council require the following:

1. The EFP shall not be used within the Pacific Leatherback Conservation Area, Pacific Loggerhead Conservation Area, or Leatherback sea turtle critical habitat;
2. Any interactions with any ESA-listed sea turtle or marine mammal must be immediately reported to NMFS and the EFP immediately terminated;
3. 100% observer coverage on all trips;
4. Hard caps on the take of all other protected species, and sensitive finfish;
5. The gear must be actively tended at or above the standards used for active tending of deep-set buoy gear under current EFPs;
6. The gear must be fundamentally different than longlines used in the Hawaii or Atlantic swordfish fisheries, such that they have a high likelihood of avoiding all protected species and a high likelihood of having minimal bycatch;
7. The EFP must specify the maximum length and duration of sets with pelagic longline gear less than or equal to that currently allowed for deep set buoy gear; and
8. The EFP activity should not be permitted within 100 nautical miles of the U.S. West Coast or Channel Islands.

In addition, any EFPs should comply with these general criteria:

1. The EFP provides for ecosystem-based management and the precautionary approach;
2. Prior to the issuance of an EFP, NMFS will complete all required analyses and consultations, including, but not limited to, those required under the National Environmental Policy Act, Essential Fish Habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act (ESA), and the Marine Mammal Protection Act;
3. The EFP is not subject to categorical exclusion from NEPA review;
4. The EFP will not detrimentally affect an ESA-listed species;
5. The EFP will not cause detrimental impacts to the critical habitat of an ESA-listed species;
6. The public is allowed full and meaningful participation in the EFP consideration process; i.e., all environmental analyses and consultations are subject to public review and comment prior to final action, approval and issuance;
7. The EFP provides that it will not exceed a bycatch cap or total allowable catch cap set by regulation;
8. The EFP includes detailed descriptions of experimental or sampling designs that adhere to accepted scientific standards including an explicit statement of testable hypotheses, a statistical power analysis and rationale for sample sizes, and a critical assessment of the validity of all assumptions. These designs and their attending results must be anonymously peer-reviewed by at least three qualified independent scientists who are not affiliated with NMFS, the PFMC, or any commercial concern having a direct interest in the results, and must obtain the approval of at least two of the reviewers. The experiment must be conducted to produce non-conflicted scientific results and all data produced pursuant to an EFP must be made available to the public; and
9. The EFP complies with fishery observer or bycatch reporting requirements.

³ Federal Register: 83 FR 5349 February 7, 2018.

Allowing such gear off the U.S. West Coast would simply replace one wasteful fishing gear with another. It is not clear that the Hall EFP application proposes to test gear configurations that differ from those that are proven failures in minimizing bycatch. Due to unacceptably high bycatch in longline fisheries including the specific type of deep-set pelagic longlining on which this EFP application is based, and the importance of protecting the critically endangered Pacific leatherback sea turtle and black-footed albatross, Oceana cannot support approval of the Hall application and we request that the Council deny the proposal.

We look forward to working with you on experimental fishing that will protect our nation's fishery resources and the California Current marine ecosystem.

Sincerely,

A handwritten signature in cursive script, appearing to read "Geoff Shester".

Geoffrey Shester, Ph.D.
California Campaign Director and Senior Scientist



August 25, 2018

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

Agenda Item H.2: Final Recommendations on Non-Deep-Set Buoy Gear Exempted Fishing Permits (EFPs)

Dear Mr. Anderson,

As leading recreational fishing and boating organizations, we wish to express our concern over the Council's consideration of an Exempted Fishing Permit (EFP) application for deep-set longline gear within the EEZ off of California, Washington and Oregon.

Longline gear, of any fashion, is not currently permitted inside the US West Coast EEZ due to the high incidence of bycatch of non-targeted and endangered species. We do not believe that authorizing an EFP to test longline gear, in any capacity, is an appropriate course of action given the fact that other alternative gear, which is actively tended, has already been thoroughly tested with promising results.

Our organizations have repeatedly urged the Council to phase out drift gillnets (DGN) and provide commercial fishermen with a more ecologically and economically viable alternative in the form of deep-set buoy gear (DSBG). Extensive testing through the EFP process over the last seven years has proven that DSBG results in a much lower incidence of bycatch and bycatch mortality. The recent [Review of the California Drift Gillnet Fishery](#) commissioned by the American Sportfishing Association clearly outlines that DSBG has the second lowest bycatch (2%) of any gear targeting swordfish and that DSBG-harvested swordfish fetch nearly double the market price of that harvested with DGN.

We want commercial fisherman to be able to provide a high-quality product to American consumers with gear that has minimal impacts to the environment. As such we urge the Council not to endorse an EFP for a new longline fishery. Instead, we ask that the Council proceed with, and prioritize, authorizing DSBG which has already been extensively tested, with the ultimate goal of terminating the use of DGN gear. Doing so represents the best course of action for commercial fishermen, consumers and the West Coast's marine resources.

Thank you for your consideration.

Cc: Mr. Kit Dahl



Jason Schratwieser
Conservation Director
International Game Fish Association



Theresa Labriola
Pacific Program Director
Wild Oceans



Bill Shedd
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Coastal Conservation Association
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Mike Leonard
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