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September 6, 2018

The Honorable Edmund G. Brown Jr.
Governor, State of California
c/o State Capitol, Suite 1173
Sacramento, CA 95814
governor@governor.ca.gov

Mr. Charlton “Chuck” Bonham
Director, Ca Department of Fish and Wildlife
P.O Box 944209
Sacramento, CA 94244-2090
director@dfg.ca.gov
Chuck.bonham@wildlife.ca.gov

RE: SB 1017 – Drift Gill Net Fishery

Dear Governor Brown:

Attached is a letter written for and on behalf of permitholders in the Drift Gill Net Fishery urging you to prevent SB 1017 from becoming law. Should you have any questions, comments please do not hesitate to contact me at your convenience,

Kindest regards,

A handwritten signature in black ink, appearing to read 'M. Conroy', is centered on the page.

Michael Conroy

September 6, 2018

Via email and hand-delivery

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RE: SB 1017 – Drift Gill Net Fishery

Dear Governor Brown:

We are current permitholders in the Federal Drift Gill Net ("DGN") fishery. Due to recent harm and threats of harm to ourselves, our families and our vessels, we are withholding our names and vessel names. We are also long-standing California residents and taxpayers who have chosen a livelihood of providing local seafood, harvested in a sustainable fashion, to California's seafood consumers. We write today to implore you to take whatever steps are necessary to prevent SB 1017 from becoming law as it will result in the elimination of a highly regulated fishery. Eliminating our fishery will result in loss of jobs, increased reliance on imports from fishing nations with less regulated fisheries, and a further expansion of the seafood deficit (imports account for roughly 91% of seafood consumed in the U.S.).

The Legislative findings and declarations are half-truths and misleading statements of opinion. For example, drift gill nets are permitted in other states (Oregon and Alaska each permit their use in salmon fisheries).

Our fishery is been subject to stringent management and we have taken a number of proactive measures which have reduced impacts to marine mammals and other protected species. Earlier this year our fishery was reclassified as a Category II fishery in the Marine Mammal Protection Act's 2018 List of Fisheries¹. A Category II fishery is one in which there is "occasional incidental mortality and serious injury of marine mammals" but at levels well below each mammal's Potential Biological Removal. For years prior, the fishery was a Category I fishery, which is the label placed on those US fisheries with "frequent incidental mortality and serious injury of marine mammals". It is beyond dispute, as noted by fishery managers and regulators the DGN fishery has been responsive to the calls to reduce bycatch of protected marine mammals and has changed its fishing practices to address this. Heidi Dewar, a Fisheries Research biologist from NOAA, in an interview given to the authors of a news feature on the passage of SB 1017 offered the following insights:

- "It's easy to get people emotionally charged when you're talking about marine mammals," she said. "For some people, one sea lion death is too much, but we're looking at it from a practical, sustainable point of view. If you look at it that way, these populations are sustainable and will continue in perpetuity under the current rate of removal."²

¹ <https://www.gpo.gov/fdsys/pkg/FR-2018-02-07/pdf/2018-02442.pdf>

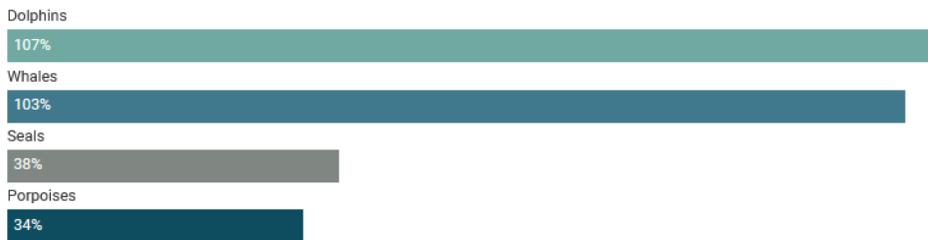
² <https://www.nbcbayarea.com/investigations/New-California-Law-Will-Ban-Mile-Long-Fishing-Nets-Blamed-For-Killing-Whales-Sharks-Dolphins-and-Other-Sea-Life-492137961.html>

The article further provides graphical representations of marine mammal population increases along the west coast between 2008 and 2017.

Marine Mammal Populations Growing

Percentage increase in regions along West Coast (2008-2017)

Source: National Oceanic and Atmospheric Administration



Created with Datawrapper

Note: This chart represents the average growth of several species in a given region. Species were counted in different regions (ex: Northern California and Southern California) in 2008 and 2017. The growth of each region was combined into a single average.
Credit: Sean Myers/NBC Bay Area

This shows that marine mammal populations are thriving along the west coast during a time when our fishery is being prosecuted. This is likely due to improvements to our gear and our general awareness which have both worked to greatly reduce interactions with marine mammals and other species of concern: Acoustic Pingers have reduced beaked whale interactions to almost zero; Net extenders, which places the top of our nets at roughly forty feet below the sea surface, protect sea turtles and marine mammals when travelling at or near the ocean's surface; Skipper's workshops educate us on what types of ocean conditions tend to result in increases in specific species of concern; and seasonal closures to protect loggerhead sea turtles and the California state marine reptile – the iconic Pacific Leatherback sea turtle.

Shutting down our fishery will only serve to increase the importation of swordfish from harvesting nations whose environmental standards are far below those of our domestic fisheries. Numerous articles have appeared recently which speak of the transfer effect and trade leakage. We recommend for your reading the short essay entitled *Can the United States have its fish and eat it too?* For your convenience, we have attached that document to this letter. It is very possible that eradicating our highly regulated fishery will result in a net conservation loss as fishing effort shifts to harvesting nations with less concern over impacts to marine mammals and other species of concern.

SB 1017 also implies that Deep Set Buoy Gear ("DSBG") is an economically viable replacement for our DGN fishery. This is a vast oversimplification of a complex issue. DSBG was designed to supplement the harpoon and DGN fishery. It was never designed to be a stand-alone fishery. In 2015, the DSBG experimental fishery produced roughly 1.3 fish per 8 hours of fishing. In 2016 and 2017 this increased to 1.9 fish³. It should be noted that in 2017, DSBG accounted for 41.1 mt of swordfish while DGN accounted for over four times as much at 175.7 mt⁴. Early reports for the current season indicate catch

³ https://www.pcouncil.org/wp-content/uploads/2018/06/G4b_Supp_PublicPresentation1_Sepulveda-HMS_JUNE2018BB..pdf

⁴ https://www.pcouncil.org/wp-content/uploads/2018/05/G7_Att2_Landings_of_swordfish_2008-2017_Jun2018BB.pdf

is dropping to levels closer to 2015. Vessels which participate in the DSBG fishery are typically smaller and have lower operational costs. Our vessels are larger and even at 1.9 fish per day, we will lose money. DSBG is not economically viable for our larger DGN vessels.

We are also under the belief that once signed into law, provisions contained within SB 1017 will be subjected to federal preemption and be nullified. This will subject the state to unnecessary litigation and the associated time and costs defending a state action which will likely be overturned as it is in conflict with the Magnuson-Stevens Fishery Conservation and Management Act and/or duly adopted regulations of the federal government.

SB 1017 presents a clear and present danger to me, my family, my crewmembers and their families. SB 1017 will unnecessarily harm California seafood consumers who rely upon sustainably sourced local seafood. SB 1017 will further harm the state's struggling coastal fishing communities and could cause further deterioration of necessary infrastructure to support the state's commercial fishermen. SB 1017 will hinder domestic production of seafood and result in more imports, at the expense of our seafood deficit which stands at roughly 90%. We should be taking steps to increase production, not closing a fishery based on hyperbole, half-truths and unfounded allegations.

We fully support and endorse letters you have received from the Alliance of Communities for Sustainable Fisheries, The San Diego Fishermen's Working Group, and the Nossaman law firm on behalf of the Ventura County Commercial Fishermen's Association.

For the reasons provided above, we ask that you use your power as Governor to not approve SB 1017.

Sincerely,

California's Drift Gill Net Fishermen

cc: Gavin Newsom, Lieutenant Governor of California
John Ugoretz, California Department of Fish and Wildlife
Elizabeth Hellmers, California Department of Fish and Wildlife/Highly Migratory Species Management Team Co-Chair
Chris Oliver, Assistant Administrator for Fisheries
Samuel D. Rauch, III, Acting Deputy Assistant Secretary for International Fisheries
Barry Thom, Regional Administrator of NOAA Fisheries, West Coast Region
Heidi Taylor, NMFS West Coast Region, Sustainable Fisheries Division
Lyle Enriquez, NMFS West Coast Region, Sustainable Fisheries Division/ Highly Migratory Species Management Team Co-Chair
Dave Rudie, Highly Migratory Species Advisory Subpanel
Ryan Wulff, NMFS Assistant Regional Administrator, Protected Resources Division
Chuck Tracy, Executive Director, Pacific Fisheries Management Council
Phil Anderson, Chairperson, Pacific Fisheries Management Council