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November 21, 2013

Mr. John Laird, Secretary for Natural Resources
Chair, California Ocean Protection Council and Council Members
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: Item 5. Sustainable Fisheries and Marine Ecosystems

5c. Update regarding the Collaborative Fisheries West Programs and Projects
5g. Draft Resolution - Advancement of Fisheries Management and Support of Fishing Communities

Dear Secretary Laird and Ocean Protection Council Members,

Please accept these comments from Turtle Island Restoration Network (TIRN) on the Collaborative Fisheries West Programs and Projects and the Resolution to allocate $4 million for the Advancement of Fisheries Management and of Fishing Communities.

Item 5c - Collaborative Fisheries West Programs and Projects - TIRN Urges No Funding for Pelagic Longline Fishing Research

TIRN remains concerned about the Ocean Protection Council's (OPC) current and potential future funding for pelagic longline fishing, which has been banned in state waters since 1989 and prohibited in the U.S. West Coast Exclusive Economic Zone and on the adjacent High Seas since 2004. The pelagic longline gear bans are due to high bycatch of protected species including endangered leatherback and loggerhead sea turtles and vulnerable non-target finfish such as blue sharks.

OPC FUNDED LONGLINE EXPERIMENT - TOTAL BYCATCH - = 98 PERCENT (by number of non-target fish caught)[i] [28 sets, two multi-day cruises in 2011-12, 5,000 hooks set on 10-to 12 nm longlines]

TARGET FISH CAUGHT Swordfish = 4	BYCATCH CAUGHT Non-Target Fish = 355 (species and numbers below)	
Blue Shark = 267	Lancet Fish = 5	Mola = 1
Opah = 47	Albacore = 4	Dolphin Fish = 1
Pomfret = 13	Bluefin = 2	Oil Fish = 1
King of Salmon = 13	Mako Shark = 1	

The OPC through Collaborative Fisheries West awarded a $241, 965 grant to Pfleger Institute of Environmental Research (PIER) and National Marine Fisheries Service to set deep-set pelagic longlines targeting swordfish during daylight hours in California and West Coast waters, including inside the Pacific Leatherback Conservation Area. The objective was to "see whether we can catch swordfish deep during the day and avoid unwanted bycatch," according to PIER's July 12, 2012, press release.

The results from the pelagic longline research funded by OPC that were presented to the Pacific Fishery Management Council, as follows, only reinforced the fact that bycatch from longlines is high. See table above and presentation attached.

Setting longlines deeper in the ocean, as is done to target tuna, does not eliminate threats to protected species. In fact, the Hawaii deepset longline fishery for tuna is currently approaching the three-year allowable take levels for highly endangered leatherbacks with an estimated 35 turtles captured since 2011.

TIRN urges that OPC funding for any pelagic longline research be suspended and no future longline funding be allocated through the OPC or Collaborative Fisheries Research or any other partners. If the OPC has questions about the impacts of pelagic longlining for swordfish and tuna in the U.S. Pacific and foreign fleets, TIRN would be happy to provide a briefing or supporting data. The following sections provide an overview of the pelagic longline and bycatch issue.

Hawaii Longline Fleet Landing Swordfish in California

The OPC should be aware that even though longlining is prohibited in state and federal waters along the U.S. West Coast including and beyond the 200 mile Exclusive Economic Zone and the High Seas, the Hawaii longline fleet is allowed to fish further out in the High Seas and land in California and other West Coast ports. In fact, 85 percent of swordfish landed in California comes from Hawaii surface longline vessels.[2]

Between 2008 and 2011, Hawaii surface longline vessels operating out of, or landing, in California set 1,092,507 hooks[3] in the deep ocean, often in migratory pathways for leatherback and loggerheads than span the Pacific.

This is troubling because the Hawaii surface longline fishery been closed or shut down early as recently as 2011 for exceeding takes of endangered sea turtles. The surface longline fishery is also ranked as a serious threat to whales as a Category 1 fishery under the Marine Mammal Protection Act.

During the period 2008 through 2011, the Hawaii longline vessels that landed in California captured 12 leatherbacks, six loggerheads and one green turtle. Observer reports indicated that all were released alive, though the post-hooking rate of death is typically estimated at 60 to 80 percent.[4]

The Hawaii fleet that landed in California also captured one humpback whale and 13 dolphins, all reported as released alive except one Risso's dolphin that died.[5] In addition, 25 seabirds were taken and most of them (18) died; 9 each of black-footed and Laysan albatross.[6]

Given that this fishery impacts the natural resources of California and creates a disadvantage for California fishers, the OPC and the state of California should review and consider withdrawing the Hawaii longline fleet's state permits to land swordfish from the from outside the waters of California. [See CCR § 105.1. Permits to Land California Caught Fish at Points Outside of California.]

Foreign Longline Fleets

Foreign fleets continue to provide most of the swordfish consumed in the U.S. These fleets typically do not meet U.S. standards for protection of marine mammals or sea turtles. However, National Marine Fisheries Service has failed to adopt regulations that would require foreign fleets to meet U.S. fishing standards.

To address this federal fishery management failure, in 2009 the state of California passed Assembly Joint Resolution 8, authored by Assemblymember Bill Monning (D-Carmel), requesting that National Marine Fisheries Service provide proof as required by law from any country that sells fish products to the United States that their fishing practices do not harm or kill marine mammals.

By enforcing existing law, the federal government will not only encourage importers of swordfish to reduce their marine mammal bycatch but will also level the playing field for domestic swordfish fishermen who must follow U.S. laws

Until the federal government acts to resolve the foreign swordfish problem, the OPC and the state of California should review and consider whether the importation and sale of foreign swordfish in California is in the best interest of the state's fisheries, seafood industry and public health.

5g. Draft Resolution - Advancement of Fisheries Management and Support of Fishing Communities

TIRN generally supports the resolution to allocate $4 million to Advancement of Fisheries Management and Support of Fishing Communities, providing that none of this funding goes toward pelagic longline fishing research or experiments.

TIRN also urges the OPC to utilize some of this funding to initiate a regulatory effort in conjunction with the appropriate state and federal agencies to retire all California drift gillnet permits and prohibit the use of drift gillnet gear or landings of fish from this gear in California.

End California's Deadliest Catch

As you know, the Pacific Fishery Management Council continues to forward initiatives to expand the high bycatch California drift gillnet fishery into the protected Pacific Leatherback Conservation Area. The CA drift gillnet fishery for swordfish and shark remains a serious threat to California's ocean resources, in particular endangered marine mammals.

This season new emergency regulations were imposed on the CA drift gillnet fishery that would force it to shut down if a single endangered sperm whale is killed. While this was a urgent and necessary step, it is a short-term, unsustainable approach for the conservation of endangered and protected marine species.

As TIRN's new study, California's Deadliest Catch, explains over the past decade more than 1,300 whales, dolphins, and turtles drowned after getting tangled in these large-mesh drift gillnets. Over a hundred thousand giant ocean sunfish and ten thousand blue sharks were also caught and discarded during the last 10 years. More than 90 percent of the ocean life indiscriminately caught by these nets is neither swordfish nor

shark, but dozens of other fish species. Ultimately, only about one-third of all the finfish that is caught is kept for sale as seafood, while the rest is discarded overboard injured, dead or dying.

For these reasons, TIRN urges the OPC and the state of California to take the lead on phasing out this fishery and transitioning the fleet to low bycatch gear or other sustainable fisheries.

Please find a PDF of the report attached. I would be happy to brief the OPC on the findings and recommended actions in the report.

Mercury in Fish

TIRN appreciates that the OPC has considered TIRN's comments in the past about mercury in fish and that in the Sustainable Seafood Initiative made a general commitment to "ensure that the best information available on marine fisheries toxicity is made accessible to the public because toxicity is an important part of consumer choice."

TIRN once again urges the OPC to ensure that mercury levels in fish, particularly swordfish and shark, be flagged as a concern in OPC's fishery research and funding programs. It is essential that the state of California does not promote, certify or otherwise fund fisheries that target high-mercury fish due to the risk to public health, particularly women and children. The state of California has been a leader in adopting and enforcing policies to post mercury-in-fish warnings at seafood counters and restaurants where fish is sold.

As you know, the U.S. Environmental Protection Agency EPA and the U.S. Food and Drug Administration (FDA) continue to advise women who may become pregnant, pregnant women, nursing mothers, and young children to *never* eat shark, swordfish, king mackerel or tilefish because they have high levels of mercury. No science or health studies have prompted any change in these warnings.

However, the OPC should be aware that yesterday, the EPA released a study using data collected by Centers for Disease Control and Prevention (CDC) showing that blood mercury levels in women of childbearing age dropped 34 percent from a survey conducted in 1999-2000 to follow-up surveys conducted from 2001 to 2010. Additionally, the percentage of women of childbearing age with blood mercury levels above the level of concern decreased 65 percent from the 1999-2000 survey and the follow-up surveys from 2001-2010.

During the survey period there was very little change in the amount of fish consumed. The decrease in the ratio of mercury intake to fish consumed suggests that women *may have shifted or are shifting to eating types of fish with lower mercury concentrations.*

TIRN believes that this finding attests to the importance and success of mercury-in-fish warnings and education by the OPC, the state of California and other state and federal entities as well as the private sector.

Conclusion

TIRN thanks the OPC for the consideration of the matters above and hopes that you will consider and respond to these suggestions and requests.

TIRN works to protect endangered marine species, save critical ecosystems, improve consumer choices, encourage government action and inspire corporate responsibility, all to protect marine wildlife and the wild oceans we all rely upon. (www.SeaTurtles.org)

Sincerely yours,

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[i] Progress on research to improve Pacific HMS fishing opportunities while decreasing bycatch interactions by promoting technical change, Dr. Russ Vetter, Director, Fisheries Resources Division, NMFS Southwest Fisheries Science Center, Pacific Fishery Management Council, Agenda Item I.1.c, Supplemental SWFSC PowerPoint (Vetter), Tacoma, Washington March 10, 2013
[2] Pacific Fisheries Management Council, SAFE Report 2011
[3] PFMC Supplemental HMSMT Report 2 March 2012.
[4] PFMC Supplemental
[5] PFMC Supplemental
[6] PFMC Supplemental