

November 1, 2022

Mr. Marc Gorelnik, Chair Pacific Fishery Management Council 70 NE Ambassador Place, Suite 101 Portland, OR 97220

Re: Agenda Item G.3. – Drift Gillnet Fishery Hard Caps - Final Action

Dear Chair Gorelnik and Council Members:

Wild Oceans, The International Game Fish Association, American Sportfishing Association and Coastal Conservation Association of California are invested in the sustainable management of our Pacific highly migratory species and the removal of indiscriminate fishing gear from our oceans. We support the transition of the California swordfish fishery from drift gillnets to innovative gear that imposes minimal bycatch or negative impacts on the open ocean ecosystem. In the meantime, we remain supportive of the Council's continued effort to develop hard caps on the drift gillnet (DGN) fishery. Hard caps specify the Council's policy of what level of protected species bycatch is unacceptable in the DGN fishery. We urge the Council to take final action in November to adopt drift gillnet hard caps and take a strong conservation posture associated with **ALTERNATIVE 2 - Rolling Two-Year Hard Cap.**

Hard caps send a clear message to stakeholders that the Council values its responsibility to manage fisheries in a way that minimizes bycatch of marine mammals, sea turtles and protected species. By setting a limit on the catch of protected species, the Council will incentivize fishermen to take extra caution before setting nets for swordfish or tuna or other marketable species and adopt fishing practices and tools that may mitigate bycatch and bycatch mortality. Hard caps may convince fishermen to use EcoCast or work with National Marine Fisheries Service or California to further develop a risk assessment and mitigation program for whales based on oceanographic features. Fishermen may choose to modify gear or make shorter sets. When risk increases, fishermen may switch to alternative swordfish gear or to a different fishery, reducing the chance of catching marine mammals or sea turtles and reducing finfish bycatch.

Alternative 2 yields the greatest conservation benefit to the California Current Large Marine Ecosystem.¹ The Environmental Assessment, Table 2-19, reveals that Alternative 2 has the greatest reduction in mortality and serious injury of high priority protected species from the status quo. The conservation benefit may be greater than predicted in the Environmental Assessment because the total estimated bycatch of protected species species for 2015-2019 (Table 2-13) does not include data on the two humpback whales that were observed caught in the drift gillnet fishery in 2021. Under the Alternative 2 hard cap regime, the second catch would have triggered a fishery closure for the remainder of the 2021-2022 fishing season and prevented any additional observed or unobserved catch of hard cap species, protected or prohibited species or finfish.

Alternative 2 will provide a most effective conservation backstop and limit harm to protected and endangered species when the fishery changes behavior or when species shift in response to changing ocean conditions. In 2021, the fishery entangled two humpback whales. This coincided with a shift in fishery behavior to target Pacific bluefin tuna (DGN bluefin catch increased from historic levels of less than 10 mt per year to 54 mt in 2021).² Without the hard caps, the fishery was allowed to continue fishing without pause. With hard caps, fishermen are incentivized to consider whether changes in fishing location or oceanographic conditions or technique may increase risk to humpback whales.

Alternative 2 does not have significant long term economic impact on DGN fishermen. Given that fishery participation is likely to fall between Scenario 1 (2 boats) and Scenario 2 (11 boats), Alternative 2 is predicted to have a decline in long-term ex-vessel revenue of between .86 percent and 4.7 percent.³ Recent engagement in the DGN fishery has declined to fewer than 10 boats due in part to the decision by many DGN fishermen to participate in the California drift gillnet buyout program. This makes it is less likely the fleet will reach the hard caps, further minimizing the economic impact. While Alternative 2 mirrors the Council's 2015 Final Preferred Alternative, the lower DGN fishing effort and the new, alternative fishing opportunities should result in reduced impact on exvessel revenue when compared with 2015.

¹ Initial Public Review Draft, Environmental Assessment/Regulatory Impact Review/Regulatory Flexibility Analysis/MSA Analysis, Proposed Regulations to Apply Strict Limits (Hard Caps) for Protected Species in the California/Oregon Large-Mesh Drift Gillnet Fishery Pursuant to the Fishery Management Plan for the U.S. West Coast Fisheries for Highly Migratory Species, Page 54, Table 2-19, Agenda Item G.3, Attachment 1, November 2022, available at https://www.pcouncil.org/documents/2022/10/g-3-attachment-1-initial-public-review-draftenvironmental-assessment-regulatory-impact-review-regulatory-flexibility-analysis-msa-analysis-for-proposedregulations-to-apply-strict-limits-hard-cap.pdf/

² Pacific Fisheries Information Network APEX reporting system, HMS005 - HMS Fishery Group Report: Commercial Landed Catch of HMS Species: Weight, Revenue, and Price, 2010-2022 available at https:// reports.psmfc.org/pacfin

³ Draft Environmental Assessment, Page 28, Table 2-10.

DGN fishermen have access to other fishing opportunities, including swordfish, and the revenue is not fully considered in the Environmental Assessment. The analysis minimizes the potential economic value of the DSBG fishery by 1) limiting DSBG landings data to only include vessels also making landing in the DGN fishery and 2) averaging data from 2014, 2015, 2016 and 2017 when very few Exempted Fishing Permits were issued. If we instead consider all DSBG swordfish landings for 2018-2021, when 23 boats participated, the average ex-vessel revenue grows from \$232,019⁴ to \$796,414.⁵ California fishermen are also participating in the hook and line Pacific bluefin tuna fishery. The Environmental Assessment does not include analysis of this fishery, which had an average ex-vessel value of \$913,570 in the past five years (2018-2022).⁶

In addition to Alternative 2 - Rolling Two Year Hard Caps, we would welcome the addition of individual hard caps, specifically those outlined in Alternative 3, Option A. Individual caps may trigger additional incentives for fishermen to modify their fishing behavior. Individual caps should be set below the Alternative 2 limits so that they may act as a strong incentive to minimize and avoid bycatch.

We are grateful for the Council's continued commitment to limit the catch of threatened and endangered species in the DGN fishery. Even a small fleet can have an outsize impact on marine mammals and sea turtles that is out of step with our collective efforts to safeguard precious and valuable ocean resources and marine life. We look forward to the Council's final recommendations that draws a clear line about what is unacceptable bycatch in the drift gillnet fishery and thank you for supporting new gear research that maximizes sustainable fishing opportunities while minimizing bycatch.

Sincerely,

Theresa Labriola Wild Oceans

Jason Schratwieser President The International Game Fish Association

Bill Shedd President Coastal Conservation Association of California

Long Phillips

Larry Phillips Pacific Fisheries Policy Director American Sportfishing Association

⁴ Environmental Assessment, Page 20, Table 2-4.

⁵ National Marine Fisheries Service (NMFS) Report on the Swordfish Management and Monitoring Plan, Agenda Item I.5.a, Supplemental NMFS Report 1, September 2022, *available at https://www.-council.org/documents/2022/09/i-5-supplemental-NMFS-report-1.pdf*

⁶ Pacific Fisheries Information Network APEX reporting system, HMS005 - HMS Fishery Group Report: Commercial Landed Catch of HMS Species: Weight, Revenue, and Price, 2018-2022 available at https:// reports.psmfc.org/pacfin