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VIA EMAIL

AMERICAN ALBACORE FISHING ASSOCIATION  
4252 Bonita Road, #154  
Bonita, CA 91902

Re.: Meetings of the PFMC – November 2010

Dear AAFA Board Members and all AAFA Members:

I recently drove to Costa Mesa, California to participate in the meetings of the Highly Migratory Species (HMS) Management Team (MT) and Advisory Subpanel (AS). These two groups held their meetings in advance of the Pacific Fishery Management Council (PFMC) meetings.

HMS Permit Database

As the HMS Advisory Subpanel turned its attention toward albacore issues, I reminded the Subpanel that the Council had expressed interest in exploring the subject of cleaning up the HMS permit database so it provides a more accurate reflection of the actual fishery. In a typical year, perhaps 800 vessels may fish albacore. Yet the permit database reports approximately 2,000 vessels for troll and pole & line gear.

In recent years, it has become increasingly clear that the permit database contains numerous erroneous entries and does not accurately reflect the fishery. AAFA has supported efforts to examine and verify entries in the database in order to address the issue of significant latent capacity raised by Department of State representatives and documented by NMFS in a report to Congress. West Coast HMS fisheries were included in the top 20 U.S. fisheries with the most severe examples of excess harvesting capacity.

Excess harvesting capacity can exacerbate a fishery's poor economic performance, reduce the viability of coastal communities, and generate costly and complicated regulation. I asked the Subpanel members to recommend the Council initiate an effective review of the permit database.

Representatives from WFOA/AFRF were strongly opposed to taking any action that might reduce the permit database, voicing fears of limited entry.

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There was some confusion among Subpanel members in distinguishing between:  
(1) fishermen's support for improving the accuracy of the database, e.g. cleaning up errors and,  
(2) creating a list of vessels for a limited entry fishery (*which was not requested*).

I reminded the Subpanel members that the issue was the accuracy of the database, not whether it should be limited. After further discussion, some members of the Subpanel expressed interest in conducting an analysis of the database, but the Subpanel would not go as far as making a recommendation to the Council.

Joint Meeting: HMS Advisory Subpanel and Management Team

One agenda item included preparations for the recommendation of appropriate Biological Reference Points for HMS stocks. Members of the HMS Management Team joined the Subpanel to discuss this matter. One definition of BRPs is:

*Biological Reference Points (BRPs) are widely used to define safe levels of harvesting for marine fish populations. Most BRPs are either minimum acceptable biomass levels or maximum fishing mortality rates. The values of BRPs are determined from historical abundance data and the life-history parameters of the fish species.*

*J. Fish. Aquat. Sci. 58: 2167–2176 (2001)*

You could think of BRPs as “*How far can you push a stock down and still have it rebound back to original levels.*”

There is often a question of which BRPs are appropriate for a particular fishery. At times, even scientists don't agree. Currently, Japan and the U.S. have somewhat differing views.

One issue is whether BRPs are “*limit*” reference points or “*target*” reference points. The difference is in how you view them. A “*limit*” reference point represents the state of a fishery that is not considered desirable. You don't want to exceed a limit reference point.

On the other hand, a “*target*” reference point represents the state of a fishery that is considered desirable. You aim to hit a target reference point.

Currently, the ISC has selected a limit reference point associated with the 2006 North Pacific albacore assessment. The ISC chose  $F_{SSB\ ATHL}$  -- the fishing mortality rate (F) for spawning stock biomass (SSB) as a target harvest limit (ATHL).

Until the IATTC and the WCPFC decide upon the appropriate BRPs for albacore, an interim BRP will apply. That interim BRP is:  $F_{SSB-10th}$  = the fishing mortality rate that prevents the SSB from declining below the 10th percentile of observed SSB. You're not alone if you find this somewhat complex.

IATTC Commission Meeting (September, 2010)

Following the presentation and discussion of BRPs, Heidi Hermsmeyer (NOAA) provided the group with a summary of the recent IATTC meetings. The meetings were derailed somewhat from the very beginning by China's statement that they would object to all resolutions and

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recommendations made by the Commission because of the seating arrangement of Chinese Taipei (Taiwan).

China objects to Taiwan's (Chinese Taipei) becoming a full member of the Commission this year. China wanted their representatives seated at a different table than the rest of the Commission. As promised, China objected to all formal resolutions that were presented. Other attending countries made declarations of how this was inappropriate and that the IATTC Commission should be focusing on fishery management and not politics. While efforts during the meetings were unsuccessful, representatives from the U.S. and other countries are continuing in efforts to get China to agree to the measures that were presented.

The U.S. was able to secure passage of a U.S. proposal to impose fines for vessels fishing on data buoys. Lost and damaged data buoys are a significant concern and expense for the U.S.

The U.S. was scheduled to convene an "ad hoc working group" on albacore. The primary goal was to address the definition of "effort" as used in the international resolution on albacore. Unfortunately, the meeting did not take place. The general sentiment among the Commission is to wait until the next stock assessment is available next year.

The EU and Japan each submitted proposals for Catch Documentation Schemes (CDS). Under CDS, fish consignments imported or re-exported by a member must be accompanied by specified documentation. Only fish caught by vessels authorized to fish in the Convention Area would be eligible for such documentation.

Simply put, CDS is designed to trace the origin of a fish from where it was caught, by who, how it was caught, stored and processed before it was sent to the market for consumption. CDS are another tool to combat IUU fishing.

#### VMS Issues

While NMFS personnel were at the meeting, I raised the concerns of AAFA fishermen regarding VMS requirements of the WCPFC. These requirements are a significant burden and cost to our West Coast fishermen and they interfere with the fishery.

NMFS is willing to consider exploring possibilities for making modifications to VMS requirements in order to accommodate our albacore fleet. Mark Helvey reported that NMFS is working on these issues, but reminded us that there is a binding IATTC measure to require VMS on U.S. vessels less than 22m (78.75'). As these proposals are better developed, Mark Helvey will provide drafts to fishing associations for discussion.

#### New NOAA Penalty Policy

Paul Ortiz, senior enforcement attorney for NOAA Southwest Region, joined the meeting to discuss the new Draft Penalty Policy and penalty schedules recently issued by NOAA<sup>1</sup>. He

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<sup>1</sup> [http://www.pcouncil.org/wpcontent/uploads/C1c\\_SUP\\_PENALTY\\_SCHED\\_NOV2010BB.pdf](http://www.pcouncil.org/wpcontent/uploads/C1c_SUP_PENALTY_SCHED_NOV2010BB.pdf)

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led the Subpanel through a number of fact scenarios to demonstrate how the new policy was intended to operate.

Some important aspects of the new policy include a greater focus on specific deterrents, i.e., deterring *this* fisherman as opposed to general deterrents, which deter all fishermen. In addition, after a 5-year period, violations are cleared from the fisherman's record. Sanctions are usually in the form of fines or other monetary penalties, but can extend to include "permit sanctions" where the fisherman's permits can be suspended or revoked.

I asked about a few of the penalty schedules and provided some fact scenarios that demonstrated how the Draft Penalty Policy could generate very large and harsh fines for rather common, even unintentional, violations. Even for "innocent" violations that had little or no negative impact. For example, turning in a late logbook could generate a fine over \$1,000. I gave a number of other examples where the penalty policy generated equally excessive punishments.

At the California Delegation Meeting the following morning, all attendees were united in expressing strong objections to the NOAA Draft Penalty Policy.

The NOAA Draft Penalty Policy is currently available for public comment. Comments must be submitted by December 18, 2010.

Pending Legislative Measures

The Legislative Committee will meet in March of 2011. The Subpanel recommended the Committee be asked to review and report on Senate Bill 2870, the "International Fisheries Stewardship and Enforcement Act" and House of Representatives Bill 1080, the "Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009".

PFMC Session

When the Council addressed HMS matters, they recommended a change in federal regulations on the possession and landing limit for swordfish incidentally caught in the deep-set tuna longline fishery. The change would increase the retention limit from 10 to 25 swordfish, if circle hooks were used. If the vessel is carrying an observer, all incidental swordfish could be retained. This change in regulations is for the deep-set tuna longline fishery. Regulations prohibiting shallow-set longline targeting swordfish remain in place.

I addressed the Council with respect to a number of issues important to albacore fishermen. I encouraged the Council to direct efforts toward improving the accuracy of the HMS permit database and conducting an analysis of the fishery. I recommended the Council support changes to VMS requirements so our fishermen can continue fishing without this expensive and unnecessary burden. I expressed our significant concerns and objections to the NOAA Draft Penalty Policy and its potential consequences. I also requested the Council reaffirm its recommendations for greater cooperation and improved communication between the IATTC and WCPFC.

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The Council was receptive to many of these requests, but with the next albacore stock assessment coming up soon, the Council was not inclined to proceed with a review of the permit database at this time.

At the conclusion of this session, the Council made the following recommendations for the U.S. to advance to the RFMO. The U.S. should work to modify current VMS requirements to take into account the differences in operation that exist between fisheries, particularly those U.S. fisheries that may operate in both the WCPFC and IATTC convention areas.

The Council also agreed to submit a letter to NMFS, expressing serious concerns regarding aspects of the proposed penalty policy.

That concludes my report on this Council session and the accompanying meetings of the HMS Management Team and Advisory Subpanel.

If you have any questions or would like to discuss any these matters, please do not hesitate to contact me. Thank you.

Yours truly,

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Chip Bissell