

To Whom It May Concern:

I have represented U.S. commercial fishermen in various fisheries off the west coast for about 25 years. This includes primarily highly migratory species caught with different gear types – purse seine, troll and bait boat, long line, and legal driftnet. I also have more limited experience representing California fishermen in the wet fish, squid, and salmon fleets, as well as lobster men and crab men.

I have followed the activities of the California Ocean Protection Council (OPC) since its inception, and I have attended meetings of the Council when possible, usually when they are held in southern California. While I recognize that the drafting of a strategic action plan for 5 years is a major undertaking, I find what has been set forth as a great disappointment to commercial fishermen. I find this particularly disturbing since the OPC is a major partner in the Western Governors Ocean Health Agreement, which in turn has been designated as a Regional Body for the President’s Ocean Council’s marine spatial planning initiative. When the OPC expanded its mandate to include more than State waters, extending its influence out to the full breadth of the U.S. 200 nautical mile EEZ, its decisions and advice have become increasingly more relevant to my clients.

At the moment I will pass on including in this letter a discussion of whether the OPC has vastly exceeded its statutory authority, however, that is an interesting question worthy of further study.

Actually, our concerns were initially aroused when the OPC took a public position which was contrary to the position the Pacific Fisheries Management Council (PFMC) had taken on approving a permit for an experimental long line fishery off the California coast in federal waters. As mentioned above, our concerns have been increased by the recent organization of the marine spatial planning initiative without the guaranteed presence of the PFMC at the front table.

While we respect the goal of the OPC in trying to bring organization and a united purpose to the various California agencies which deal with coastal and ocean matters, we do not believe that commercial fisheries off the California, Oregon, and Washington coasts have been given sufficient emphasis and consideration.

The following are comments specific to your proposed 5 year strategic plan. *Section B. Sustainable Fisheries and Marine Ecosystems Focal Area.* The first paragraph under this heading puts our teeth on edge – “California’s ecosystems face numerous threats including . . . historical overfishing . . .” Maybe the word “overfishing” is supposed to be qualified or softened by adding the adjective “historical”. The point is that every scientist who has reviewed the way fisheries are managed off the west coast, including California, has given the PFMC management programs high marks and described the California ocean ecosystem as one of the most productive and healthy that the U.S. has. Why “buy into” the ENGOs’ claims which may

apply to other parts of the U.S. and other parts of the world. The OPC should be boasting about the state of the commercial and sport fisheries off the west coast. True, habitat loss, toxins, pollution, etc. are real problems which need solutions — but “overfishing” is, if you will pardon the expression, a red herring.

The next paragraph states that the OPC strives to “improve coordination and provide resources and science” to inform management decisions. Actually, this is the job of the California Department of Fish and Game, the PFMC and its staff, and the National Marine Fisheries Service (NMFS). In fact, a close review of the monies that have been diverted from Cal. Fish & Game to OPC discussions and projects would probably indicate reduced resources flowing to this Department. Additionally, I know of several commercial fishing groups which have applied to the OPC for grants to improve their fisheries only to be turned down.

While it may be correct to call the Marine Life Management Act of 1998 and the Marine Life Protection Act of 1999 “innovative” you would be hard pressed to find a commercial or sport fishermen, lobster, crab or shrimp trapper, or local fishing communities which would call these Acts “helpful”, particularly in the way they have been implemented. That process has cost thousands, if not millions, of dollars which would have been much better spent on scientific fisheries research. I am also unaware that any of the regulatory bodies charged with managing coastal pelagic or highly migratory species (federal agencies) have asked the OPC for assistance. In fact, as pointed out above, the OPC has interfered with that agency’s management decisions. The following sentence which lists the goals of the MLPA leaves out any reference to the provision of local food fish for the public.

Next the report cites the fact that the OPC has invested in data collection in critically important baseline studies *in MPAs*. This should have been done, if it hasn’t been, throughout the coastal waters, not just in MPAs. Furthermore, the statement that the MPAs are an important step in the recovery of California’s marine ecosystems is a “solution” where there is no problem.

Issue 3: Sustainable Fisheries This paragraph, although it starts out well by at least mentioning that local seafood is important to Californians (quite true) then goes on to muddle the waters by suggesting that things such as “ecolabel” enable local fishermen to sell more fish to markets such as Europe. This totally misses the point that California fishermen would like to sell their fish locally, not having to discount the price they are paid for their produce because of additional processing and shipping costs. Furthermore, every study which has been done here and in Europe has found that consumers are much more responsive to seafood described as local, than they are to seafood described as “sustainable”. Finally, the paragraph suggests, with no factual basis that California fishermen should move from high volume low profit fisheries to low volume higher profit fisheries to promote their extremely price sensitive produce. It is not the volume that matters, but rather the quality!

I also take issue with the statement at the top of page 23 that the OPC has worked extensively with local fishing communities, and I know of no commercial fishing ports which have been

“revitalized” in the past 5 years. I am aware that the port of Morrow Bay, almost totally destroyed by ENGO measures and initiatives has been help in an attempt to come back, but I am not aware that the OPC has contributed to this effort in any major way. I could be mistaken about this.

Moving on to the “Sustainable Seafood Initiative” and its implementation, the goals of this statute have been turned on their head in its implementation with the considerable help and influence of the OPC. What the legislature intended was the initiation of a marketing program or council which would actually help California fishermen sell their fish. Instead the group advising on how to implement the program has spent over a year in trying to stack additional “requirements” on top of MSC criteria, and make MSC certification a pre-qualification for any California fishery which asks for monies to help their marketing. This is ridiculous! MSC and its “certifiers” merely charge horrendous amounts of money to utilize public information, usually gathered at considerable expense by fishermen and government management agencies, to say what the federal government has already said — the fishery is being conducted in a sustainable manner. This is after all, the primary goal of the federal fisheries management councils pursuant to the Amended Mangnuson Fisheries Management Act.

The FDA is actually in charge of food purity and contamination not the State of California – as recently reiterated by the courts in the recent OEHHA litigation with the tuna industry over the mercury content in some fish species. This really makes “Action 3.1.2” quite unnecessary

Moving on to 3.1.3 – “Support for innovative projects” is also pointless. There are already multiple readily available studies on the number of jobs created (or lost to foreign competition) by California fisheries. Re-certification by MSC of fisheries is already taken care of by the pressure of market forces inflamed by million dollar ENGOs such as WWF. Regional fishing associations exist where they are needed – the State of California does not need to encourage or monitor their increase.

“Issue 4: Supporting Effective Fisheries Management. This is also a nice sounding goal, but the truth of the matter is that the OPC has bled the Department of Fish and Game dry of its resources by mandating meetings, reports, committees, and projects which are of no demonstrable value to California commercial fishermen. The OPC has been holding World Ocean Conferences which, while they provide a nice forum for fisheries and other ENGOs to talk endlessly about over fishing (which is not occurring off the California coast) and other topics of no value to the fisheries. Instead they should be holding marketing and fish handling seminars in various coastal locations, timed so they do not coincide with the height of the various fishing seasons in different areas. Many of the items under “Objective 4.1” are already being done so to make these objectives of the OPC is merely duplicative and leads to wasted motion and confusion.

I surmise that by the time anyone reached objective “4.2: Improve coordination and governance of California fisheries” they were at least at a loss for words. My understanding is that this was one of the explicit objectives of the OPC, and yet all that can be said here is to recommend changes to eliminate ambiguities and consolidate management authority. Management authority

is already consolidated under the PFMC, of which California is a major and influential member. Is the idea to get rid of the Fish and Game Commission? If so, it should be more clearly stated.

Perhaps I have been overly critical of this “Action Plan”, but I do not believe so. If the OPC would return to its primary goal and objective of coordinating coastal and marine management of our abundant resources, that would be best. This does not require the formation or sustaining of a large bureaucratic super entity. This does not require the State of California to make the same mistake as the federal government did when it created an over arching entity to do marine spatial planning, instead of utilizing, and perhaps adding to, the existing structure whose members include the State Department, Department of the Interior, Homeland Security Department, Department of Commerce and the States of California, Oregon, Washington, and Alaska , for the west coast.

California fishermen under the guidance of the PFMC already have established sustainable fisheries. That news should have reached even Sacramento”. They are not in need of more fisheries “managers” who manage fishermen, not fish. What they need is a system of credible regulations which mesh with the federal regulations, and many of *these* could be thinned and consolidated. They need reliable sources of funding for truly collaborative scientific research. They need help with sources of reasonably priced financing. They need affordable health and life insurance. They need advice on fish handling. They need help funding public relations and marketing which promote their produce, such as a more focused California food or California Dairy program. They need the kind of advice and help the commercial fishermen obtain from the Oregon Albacore Commission and the Alaskan Seafood Council. They need help obtaining funds from the federal government for scientific research. They need help soliciting the federal for support and funding similar to what the Canadian government or the Japanese government provide for their fishermen.

Thank you for allowing me to comment on the sustainable fisheries part of your Action Plan. My hope is that it can be substantially modified so that it might actually focus on the true needs of California fishermen and perhaps even enhance their lives.