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WHAT AAFA IS DOING FOR YOU - 2019

This new format, approved by the Board in April, is designed to be more user friendly and more conscious of your time. It will be submitted on a monthly basis and will be a living document in the sense that we will be adding to (or deleting from) it throughout the course of the month. Text which is new for a given month, will be presented in **red** so that you won't be burdened with rereading content previously published.

North Pacific Albacore – Management Strategy Evaluation (“MSE”)

- Process began in 2015 and AAFA has been participating since then.
- Participated in webinars, calls and meetings about the MSE process
- Dr. Steve Teo, NOAA scientist with the Southwest Fisheries Science Center, will be attending the General Meeting in San Diego to go over MSE.
- Dr. Teo and Dr. Desiree Tommasi gave a lengthy presentation on the results of the first round of the MSE model run. While it was confusing, in parts, the conversation that accompanied the presentation helped clarify.
- Moving forward, these results will be presented to both the Inter-American Tropical Tuna Commission (“IATTC”) and the Northern Committee (“NC”) of the Western and Central Pacific Fisheries Commission’s (“WCPFC”) this summer and fall.
- Based on feedback received the MSE model will be tweaked and the next round of results are expected at the end of 2020 or beginning of 2021.
- Paying attention to the MSE for Pacific Bluefin tuna – which recently started – in order to gain insights to what strategies are proposed/considered for a fishery that is already saddled with severe management restrictions due to a low spawning stock biomass.
- AAFA offered comments on the 1st Round results when it was presented at the June PFMC meeting in San Diego. Spoke, at length, to one of the modelers and began laying the groundwork for learning more about the inputs (and assumptions) which are part of the Model. Without understanding these, it will be difficult to properly evaluate the results.

US – Canada Pacific Albacore Treaty

- Current regime expires at the end of 2019. Bilateral discussions likely to be scheduled for the Spring of this year.
- Catch reporting from the U.S. is behind schedule.

- The Data Exchange for 2018 season took place on April 17. Representatives from the AAFA Board, PMA, Staff and Consultant were on the call. A number of questions resulted from the Data Exchange, which were further flushed out in a call with WFOA on April 24.
- AAFA and WFOA jointly sent a letter to Dave Hogan (from US State Department) seeking clarification on the questions raised during the Data Exchange. To date, we have received no response.
- The USCG, in its report to the PFMC in June stated the following, ““Two Canadian tuna trollers were boarded while fishing in the U.S. EEZ during 2018 with no violations detected. Additionally, the presence of multiple vessels authorized to harvest albacore in the U.S. EEZ was documented by USCG cutters and patrol aircraft throughout the reciprocal access season. All Canadian vessels observed were determined to be in compliance with applicable Treaty provisions.”
- **We learned the Treaty will be an Agenda item during the November PFMC meeting – which will be held in Costa Mesa, Ca. As details about that meeting are made know (what date the Treaty will be discussed), we will share them.**

UN Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction – ABNJ

- Following up U.S. Stakeholder discussions and the UN Conference last September, AAFA remains a participant in the process. AAFA’s current position, which aligns with WFOA, American Tunaboat Association and the Hawaiian Longline Association, is that fisheries should be exempted from any coverage under ABNJ as there are already international bodies responsible for ensuring the sustainability of fishery resources – namely the Regional Fishery Management Organizations (“RFMOs”).
- Participated in U.S. Stakeholder calls leading up to the second session of the Conference (began on March 25).
- The Council Coordination Committee (“CCC”), which gathers representatives from all of the Nation’s Fishery Management Council’s, met in May and were given a presentation on ABNJ. Depending on the outcomes of the CCC meeting, AAFA may be offering comments at the June PFMC meeting.
- The third UN Intergovernmental Conference on ABNJ will take place in August of this year. AAFA will continue to build relationships with the State Dept, PFMC, and other industry groups to ensure our concerns are heard and clearly understood.
- AAFA provided comments at the June PFMC meeting and suggested the Council invite representatives from the US Delegation to the UN to either the September meeting (Boise, Id) or more appropriately, the November meeting (Costa Mesa, Ca).
- The *Draft text of an agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction* was posted on the UN’s website (<https://undocs.org/en/a/conf.232/2019/6>)
- **We participated in the August 7 information session meeting held by the State Dept. This meeting had a greater fishing industry presence than in previous years. AAFA submitted a letter commenting on ABNJ Draft text Agreement, which we have attached to this report.**

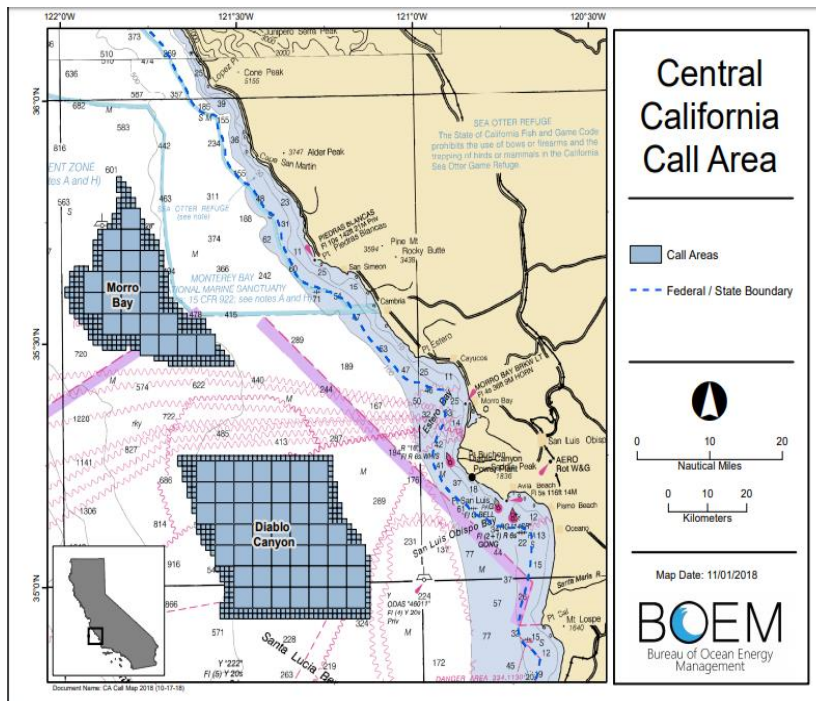
Domestic Management – PFMC

- We have a representative attending each PFMC meeting where North Pacific albacore may be on the Agenda. Although, no AAFA members currently sit on the Highly Migratory Species Advisory Subpanel, AAFA consultant Mike Conroy does.
- Continued presence at meetings (domestic and international) where issues which could impact the albacore fishery are planned for discussion.

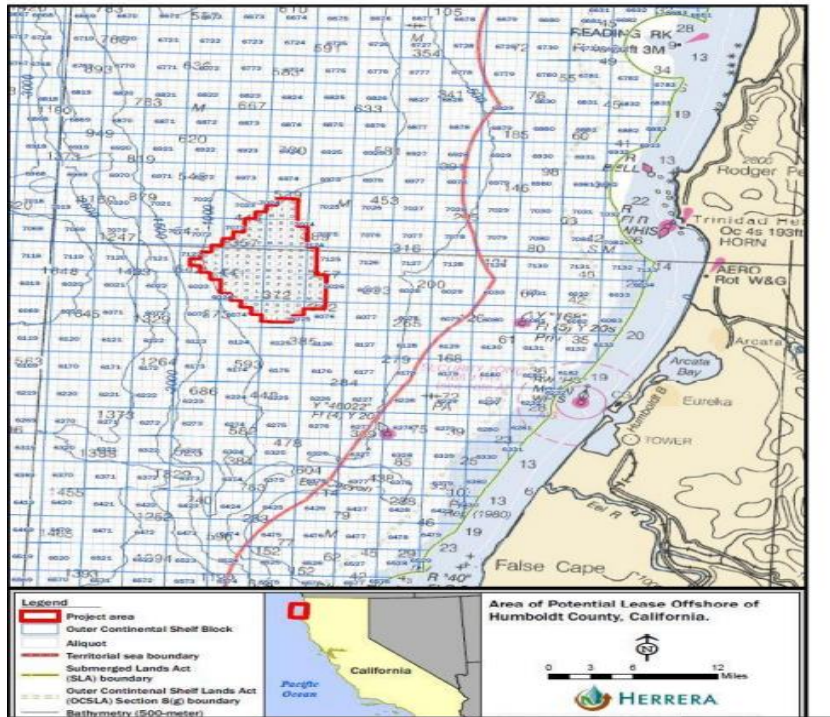
Wind farms off the California Coast

- In January, Mike submitted a public comment on the Bureau of Ocean Energy Management (“BOEM”) federal register notice seeking input on the three areas off the California Coast which could support offshore wind energy: His comment focused on historic importance of the areas to the albacore fishery.

Two Central California Call Areas:



Northern California Call Area:



- BOEM has not yet published its response to the comments received.
- On May 3rd, the California Legislature’s Joint Committee on Fisheries and Aquaculture held a hearing, in Eureka, entitled *California’s Fisheries and Wildlife: Can they co-exist with Offshore Wind Energy Development?* Panels were made up of: Federal, State and Local govt officials, Wind energy industry representatives, environmental organization representatives, and local fishing industry representatives. While nothing was settled, it is clear that the State wants wind farms, the Federal Govt wants wind farms, and the local Govts in the impacted areas want wind farms. Our job – ensure that the fishing industry’s voice is heard and that adverse impacts to the albacore fishery are minimized to the extent possible.
- The Responsible Offshore Development Alliance (“RODA”) was established to by a broad membership-based coalition of fishing industry associations and fishing companies with an interest in improving the compatibility of new offshore development with their businesses. AAFA is having discussions with RODA about expanding their scope of coverage to the West Coast. They have expressed an interest and are currently considering best path forward.
- **There has been a lot of news and activities regarding wind farms off the East Coast; but nothing on proposed wind farms off the West Coast.**

Other items which arose previously and continued through June 10.

This section will appear monthly and highlights issues, etc that aren’t likely recurring items

- California Assembly Bill 5 (AB 5)
 - This would codify the Ca Supreme Court’s holding in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903. This address the distinction between employee and independent contractor. AAFA is working with the State Legislature and other

fishery representatives/groups in an effort to ensure commercial fishing operations can continue to label crew as independent contractors – vs employees.

- On August 12 this Bill passed the Senate Appropriations Committee but was then immediately placed in the Suspense file. We believe this was done to allow the author to work with a number of groups which are seeking exemptions. We are working with other fishing groups and their lobbyists in an effort to secure an exemption for commercial fishing. AAFA submitted a comment to Assemblywoman Gonzalez (author) on this matter.
- MSC Certification - two items arose related to the MSC Certification:
 - *Certificate Holder Forced and Child Labour Policies, Practices and Measures.* All MSC certified fisheries are required to submit a statement declaring that their fisheries are free from forced and child labor. As part of that, we are required to list all laws, regulations, etc which we have to comply with which are designed to ensure such labor isn't used in the fishery. The due date for this is August 31.
 - *Surveillance Audit* – MRAG (current MSC contract) is conducting the surveillance audit as required under MSC. AAFA is negotiating with MRAG on price; but it appears the audit will take place at the end of August (in San Diego) and in early September (in Portland).

Upcoming meetings:

- AAFA will have representation at the upcoming Western and Central Pacific Fisheries Commission's Northern Committee meeting in Portland, Oregon (Sept 2 – 6).
- AAFA will have representation at the upcoming PFMC meeting in Boise, Idaho (Sept 11 – 18)



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August 14, 2019

Via Email

Evan Bloom
Director, Office of Ocean and Polar Affairs
Bureau of Oceans, Environment and Science
U.S. Department of State
Washington, DC

Dear Mr. Bloom:

The American Albacore Fishermen's Association ("AAFA") represents U.S. commercial albacore pole and line and troll fishermen who collectively harvest almost half of the total US North Pacific albacore catch. Most, if not all, of our members, are permitted by NOAA to operate on the high seas. The North Pacific albacore fishery takes place in both the Inter-American Tropical Tuna Commission ("IATTC") Convention area and the Western and Central Pacific Fisheries Commission ("WCPFC") Convention area. Both of these Regional Fishery Management Organizations ("RFMOs") inform management of U.S. fleets targeting North Pacific albacore in the Pacific Ocean. Our members have also participated in the South Pacific albacore fishery, a fishery which is primarily prosecuted on the high seas. The WCPFC informs management of U.S. fleets targeting South Pacific albacore.

AAFA members participated on the August 7 information session held by the State Department; and have carefully reviewed the June 25, 2019 *Draft text of an agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction* ("Draft Text"); and we offer the following comments in advance of the 3rd session of the Intergovernmental Conference later this month in New York.

During the August 7 information session, we were surprised to hear that the U.S. official position could not be provided. We were pointed to recordings of the prior IGC sessions and told those would shed some light. In our eyes, that is unacceptable. The U.S. Government represents the United States (and it's populous) at the United Nations. While we understand and appreciate there are diverse viewpoints and opinions on BBNJ; that should not justify holding the current U.S. position under wraps.

AAFA fully supports, reiterates and concurs with comments you have received from The American Tunaboat Association (“ATA”) and Bluewater Fishermen’s Association (“BWFA”). We believe fully exempting fisheries covered by RFMOs from the application of the Draft Text and any subsequent decisions taken by the Conference of the Parties in implementing the Agreement is in line with the Draft Text’s admonition:

“This Agreement shall be interpreted and applied in a manner that [respects the competences of and] does not undermine [existing] relevant legal instruments and frameworks and relevant global, regional and sectoral bodies, and that promotes coherence and coordination with those instruments, frameworks and bodies, provided that they are supportive of and do not run counter to the objectives of the Convention and this Agreement¹.”

The above quoted passage also highlights another concern we have with the Draft Text, namely, ambiguity which exists within and throughout the Draft Text. For example, what is meant by “not undermine” as used above. Our view is that any action which could inhibit the ability of an RFMO to manage the harvest of fish under its jurisdiction, would fall within the definition of “undermine”. Unless and until clarity is provided, we cannot intelligently offer an informed opinion or offer guidance.

It bears noting that regulatory certainty is important for our members. This certainty is important as U.S. fishermen plan for their future fishing activities in order to provide a healthy source of sustainably harvested protein for U.S. consumers. We are active in both the IATTC and WCPFC processes; and while these venues present their own challenges, we have learned to navigate those processes and work with the Pacific Fishery Management Council and Western Pacific Fishery Management Council to ensure domestic management measures are implemented that comply with IATTC Resolutions and WCPFC Conservation and Management Measures. The creation of another body, or the addition of BBNJ related items, with potential to further complicate an already complicated process, would only serve to increase regulatory uncertainty.

A few other examples from the Draft Text which are ambiguous include (note this is NOT an exhaustive list):

- Article 1, Paragraph 11 – “Marine Technology”. Would this include (1) VMS reports of vessel locations? (2) Data retrieved from tagged fish? Especially archival tags which collect detailed information on a fish’s movements. Would it make a difference if there were no Government time of money spent in the development, deployment or recovery of those tags? (3) Logbook data submitted by fishing vessels?
- Article 1, Paragraph 15 – “Utilization of marine genetic resources” or “Utilization of resources”. Would this include genetic sequencing of a specific species? If this led to the ability to farm fish from egg to harvest – would that be something that would fall under this definition?
- Article 14, Paragraph 1, Clause d – Who is responsible for determining “areas requiring protection”?
- Article 17, Paragraph 2 – Who and what factors determine whether a stakeholder is “relevant” or not?

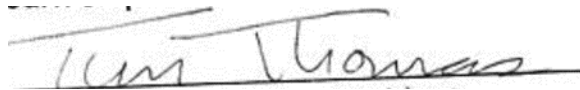
¹ See Draft Text - Article 5, Paragraph 3 (page 7 of 50)

- Article 18, Paragraph (c) – Will a relevant stakeholder be allowed to submit their views absent an invitation?
- Article 20, Paragraph 4 – what is a “disproportionate burden” and who makes that determination?

On August 8, the UN Intergovernmental Panel on Climate Change released its Special Report on Climate Change and Land. This report indicates that reducing red meat consumption could reduce emissions which have been found to contribute to climate change². Sustainably harvested fish and seafood products could have a greater role in the world’s food supply. Our nation’s food security would be more secure by ensuring access to our oceans, unencumbered by geopolitical relationships.

Given the above, and in line with the recommendations you have received from ATA and BWFA, we respectfully request the U.S. adopt a position which expressly and fully exempts fisheries covered by RFMOs from application of the Draft Text and any subsequent decisions taken by the Conference of the Parties in implementing the Agreement. If this fails to obtain consensus by other Parties, the U.S. should state its intention of not being a signatory to the Agreement.

Sincerely,

A handwritten signature in black ink that reads "Tim Thomas". The signature is written in a cursive style and is positioned above a horizontal line.

Tim Thomas, President

cc: Mr. Drew Lawler, Deputy Assistant Secretary for International Fisheries, NOAA
Mr. Barry Thom, Regional Administrator, NOAA Fisheries West Coast Region
Mr. Chuck Tracy, Executive Director Pacific Fishery Management Council

² See - <https://www.apnews.com/afb6990efd7c437da19c6d4d9976899c>