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Subcommittee on Fisheries Conservation, Wildlife and Oceans

Witness Statement

Testimony of

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Mr. Chairman, my name is Russell Dunn and I am the Assistant Director of the Ocean Wildlife Campaign (OWC). The OWC is a coalition of six national conservation organizations --the Center for Marine Conservation, National Audubon Society, National Coalition for Marine Conservation, Natural Resources Defense Council, Wildlife Conservation Society, and World Wildlife Fund--dedicated to conserving and restoring ocean's giant fishes. I appreciate the opportunity to testify today on the issue of shark finning -- the practice of slicing off a shark's fins and discarding its carcass at sea.

Sharks face multiple problems and threats in the U.S. Pacific today, including:

· Increased demand for shark parts and fins in particular;

· Biological traits that make them particularly vulnerable to overfishing;

· Indiscriminate fishing gear generating high levels of bycatch ;

· Wasteful practices, such as shark finning, that are driving up mortality levels;

· Incomplete data on the health Pacific shark populations; and

· A very real absence of management.

At a time when global concern regarding the health of the world's oceans is heightened and international consensus on the need for improved control over shark catches is emerging, the wasteful and destructive practice of shark finning is expanding at an astronomical rate in U.S. waters under the jurisdiction of the Western Pacific Regional Fishery Management Council (WESPAC). Shark finning in this region is best characterized by rampant waste, egregious inconsistencies with both U.S. domestic and international shark management policies, and a dangerous lack of management.

Background

Demand for Shark Fins

International demand for shark parts, and fins in particular, is driving dramatic increases in fishing pressure for sharks around the globe. Fins are typically sold for shipment to Hong Kong where they are processed for use in shark fin soup, a traditional Asian delicacy.

Biological Imperatives

The biological characteristics of sharks--slow growth, late sexual maturity, and the production of few young--make them particularly vulnerable to overfishing and slow to recover once depleted. Even the more fecund blue shark, the primary species of shark caught and finned by the Hawaii-based tuna and swordfish longline fleet, have an extremely limited reproductive capacity when compared to bony fish, such as swordfish or tunas. Female blue sharks reach sexual maturity at 6-7 years of age, gestate for a period of 9-12 months, and give birth to between twenty-six and forty pups on average. Compared to a swordfish, which may spawn as many as a million eggs each breeding cycle, the disparity in reproductive power is clear. If swordfish can be overfished, sharks can more easily be overfished.

It must also be recognized that many other species of sharks, such as mako, thresher, silky, and oceanic whitetip, are being taken in this fishery in addition to the blue shark, which is often made the sole focus of the finning debate. These other shark species are less abundant and equally or less fecund than the blue. The biological vulnerability of sharks, when juxtaposed with the documented collapse of numerous shark fisheries, warrants a particularly cautious management approach.

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The waste associated with shark finning is unconscionable. When terrestrial animals are subjected to similar practices, global public outrage brings swift remedy. Appropriate comparisons can be made to killing an elephant for its tusks or a rhino for its horn -- practices outlawed by international agreement -- or killing an elk for its rack and leaving its carcass in the field to rot -- a practice outlawed in many states.

Because shark fins comprise just 1-5% of a shark's body weight, 95-99% of the shark is simply wasted and there are no regulations in place to slow, halt, or reverse this rapidly increasing trend. The practice grows even more intolerable when it is recognized that 86% of all sharks caught in this fishery are brought to the boat alive, and could be saved--thereby reducing bycatch mortality in accordance with U.S. law--by simply cutting them off the line.

Some will argue that science and economics, not public sentiment, should be the sole factors considered in making a final determination on this issue. In this situation, there is no credible or complete science to turn to at this time according to the National Marine Fisheries Service (NMFS). That is why NMFS is in the

process of putting together a shark population assessment. As such, logic would dictate an examination of other unmanaged shark fisheries. Such an examination would demonstrate an unequivocal pattern of rapid decline and collapse of shark populations.

Further, there is not a strong economic argument supporting a continuation of finning. According to a June socio-economic report released by NMFS, the value of shark fins produced by the Hawaii-based longline fleet amounted to only $1.14 million dollars and estimated the total direct economic contribution of shark fins to the region (HI, Guam, & American Samoa) at between $2.4 and $3.2 million, including fins transshipped through Hawaii. Less than a compelling sum for which to gamble the future of Pacific shark populations, U.S. international credibility, and to stand in defiance of U.S. law and public sentiment. Finally, during a presentation public presentation, the reports author stated that prohibiting finning "would have little impact on the financial performance of the fleet."

Conscience and value judgements, not simply short-term economics, have had and should continue to play an important role in natural resource management. The American public deemed it inappropriate to hunt whales, even though some whale populations are healthy enough to withstand limited hunting pressure, and the practice remains outlawed in this country. The American public has spoken on finning and demanded that it be stopped. NMFS, with jurisdiction over shark populations in the U.S. Atlantic, prohibited the practice of shark finning in 1993, in part, because of tremendous public outcry over the rampant waste associated with finning. In a 1996 national poll on issues affecting the marine environment, no other human activity including oil spills, elicited more anger than shark finning.

Inconsistencies with U.S. Shark Management Policy

NMFS and the National Oceanic and Atmospheric Administration (NOAA) have, on multiple occasions, informed WESPAC that finning is inconsistent with both domestic and international shark management policies and obligations. While the conservation community has unsuccessfully sought the formal intervention of the Secretary of Commerce on this issue, the Assistant Secretary of Commerce and Deputy Administrator for NMFS/NOAA has forthrightly addressed the issue informing WESPAC that it "should take immediate action to ban the practice of finning." The conservation community is fully supportive of NMFS and NOAA's efforts to immediately end this practice.

In concise form, shark finning is inconsistent with the following U.S. federal and state level fishery management policies:

· The Magnuson-Stevens Fishery Conservation and Management Act

· The Federal Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks

· NMFS/NOAA's stated positions on finning

· The United States' declarations of adherence to the precautionary approach to resource management

· WESPAC's own declarations of adherence to the precautionary approach to resource management

· State prohibitions on shark finning

· Findings of WESPAC's Native and Indigenous Rights Advisory Panel

· Traditional native Hawaiian religious beliefs

All sharks caught by the Hawaii-based pelagic longline fleet are caught as bycatch by vessels targeting swordfish and tuna. National standard nine within the Magnuson-Stevens Fishery Conservation and Management Act requires that A) bycatch be minimize to the extent practicable and B) to the extent that bycatch cannot be avoided, the mortality of such bycatch should be minimized. No measures to reduce shark bycatch have been implemented by WESPAC since the passage of the Sustainable Fisheries Act in October of 1996. Further, WESPAC has specifically and explicitly chosen to violate the spirit, if not the letter of the law, by allowing and defending dramatic increases in bycatch mortality as a result of finning despite Magnuson-Stevens Act requirements to minimize the mortality of bycatch.

Shark finning is inconsistent with U.S. international obligations

The United States has been a leader internationally in addressing shark management and the problem of shark finning in particular. Noting increased international concern regarding expanding catches of sharks and the potential negative impacts on shark populations the international community has begun to address this issue. During development of the U. N. Food and Agriculture Organization's (FAO) International Plan of Action for the Conservation and Management of Sharks, the U.S. position was that shark finning should be affirmatively addressed, to the point of putting in place a global ban on shark finning. Under U.S. leadership, the plan ultimately incorporated the goal, among others, of minimizing waste and discards from shark catches, using the specific example of shark finning.

In addition, the United States is a party to the FAO Code of Conduct for Responsible Fisheries. Finning in the waters under the jurisdiction of WESPAC is in direct contradiction to numerous provisions of the FAO Code, including:

1) recommendations to apply the precautionary approach by failing to take measures to conserve non-target species in the absence of adequate scientific information (*FAO Code Articles 6.5, 7.5.1, and 7.5.2*);

2) failing to implement conservation and management measures designed to ensure the long-term sustainability of fishery resources and allowing short-term considerations to compromise the long-term sustainability of fishery resources (*FAO Code Article 7.1.1*);

3) failing to minimize waste, discards, and catch of non-target species through the development of selective, environmentally safe, and cost effective fishing gear and techniques. *(FAO Code Article 7.2.2 9(g))*;

4) failing to take appropriate measures to minimize waste, discards, catch of non-target species, and negative impacts on associated species (*FAO Code Article 7.6.9*);

5) failing to require that gear, methods, and practices are, to the extent practicable, sufficiently selective so as to minimize waste, discards, and catch of non-target species (*FAO Code Article 8.5*).

The current practice of finning in the U.S. central and western Pacific is also inconsistent with the U.N. Agreement on Straddling Stocks and Highly Migratory Fish Stocks, which the U.S. is a party to. Allowing

the practice of finning to continue may significantly diminish U.S. credibility during future international fisheries negotiations.

Dangerous Lack of Management.

In addition to being wasteful, cruel, and inconsistent with U.S. shark management policy, a significant conservation threat is also posed by finning. Increases in shark mortality, inadequate data on Pacific shark populations, the absence of shark management measures, and the inherent biological vulnerabilities of sharks are all causes for extreme concern.

Despite calls from organizations within the OWC dating back five years, there are no regulations in place in the U.S. central or western Pacific to stem or in anyway manage shark catches. Sharks are considered incidental catch by WESPAC and listed as unmanaged in that council's Pelagic Fisheries Fishery Management Plan. As a result, shark finning has been allowed to drive alarming increases in shark mortality. The number of sharks retained (killed and brought to the dock in part--fins-- or whole) by the Hawaii-based longline fleet has increased by more than 20 fold, skyrocketing from just 2,289 sharks in 1991 to 60,857 sharks in 1998. 98.7 percent (60,085) of the 60,0857 sharks retained in 1998 were finned. There is genuine concern that the actual numbers of sharks being finned are even higher than the figures listed above. This concern stems from cases prosecuted by NMFS Southwest Enforcement Division where shark fins were sold, but no sharks were logged. The dramatic spike in shark fishing mortality levels, driven solely by finning, is having unknown and potentially devastating consequences on shark populations.

Failure to Implement the Precautionary Approach

The primary tenet of the precautionary approach to resource management, as ingrained in numerous international agreements that the U.S. is a party to, is to err on the side of resource conservation when managers are faced with insufficient or incomplete data. NMFS has reinforced this principle by stating that the absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target or non-target species (Sec 600.350 (d)(3)). As previously mentioned, all sharks caught in the Hawaii-based longline fishery are bycatch, or "non-target species." The situation facing regional fishery managers in Hawaii today precisely fits the criteria for implementing precautionary management of shark resources. There is no shark population assessment which can used as a basis for management at this time.

The truth is that nobody, not the conservation community, not WESPAC, not NMFS, nor other nations who fish in the Pacific know what impact recent massive increases in fishing mortality are having on pelagic shark populations--no matter how forcefully they may argue otherwise or what tidbits of data from incomplete Japanese studies are raised. There is some data showing declining catch per unit of effort (CPUE) for pelagic sharks, which may suggest declines in the population. A portion of the declining CPUE can be attributed to a shift in targeting by longline vessels from chasing swordfish to hunting tunas, but this shift may be masking declines in the population.

While there is no assessment, there are strong precedents for precautionary shark management. The history of unmanaged shark fisheries around the world --including in the U.S. -- is unequivocal, rapid decline followed by collapse. The large coastal shark species complex in the U.S. Atlantic, the Atlantic porbeagle fishery, and the soupfin shark fishery in California waters, all collapsed as a result of overfishing which was allowed to occur because of insufficient or nonexistent management. However, given an improved understanding of shark biology, NMFS recently (May 1999) instituted precautionary management for

Atlantic pelagic shark populations -- largely the same species being caught in the fishery under discussion--by prohibiting possession of all sharks except those that are expected to be able to sustain fishing mortality when faced with a substantial lack of data. The conservation community applauded this action.

Regional managers have an affirmative responsibility to demonstrate and ensure that current fishing practices are sustainable. The burden of proof should not be on the public to prove that current practices are not sustainable--as appears to be the situation at hand. Until there is good, peer reviewed data and a complete assessment identifying the health of shark populations we must assume the worst. Widespread depletions of shark species demonstrate the need for special protections and precautionary management if sharks are to survive

SOLUTIONS

Shark resources in U.S. federal waters belong to all U.S. citizens. While the regional councils and NMFS have jurisdiction over living marine resources in federal waters, they are owned by the American people and the power to manage is held in trust for the people that they may enjoy the liberty of fishing or non-consumptive uses of sharks freed from destruction of the species. It is time that U.S. fishing regulations in the Pacific are brought into compliance with domestic and international fishery management policies and obligations, as well as the will of the American people, by instituting an immediate end the wasteful and destructive practice of finning.

On behalf of the OWC, I urge Congress to pass H. Con. Res. 189, and to go one step further by passing binding legislation to prohibit shark finning in all U.S. waters at the earliest possible opportunity.

The Ocean Wildlife Campaign continues to call for implementation of comprehensive management for shark populations in all U.S. Pacific waters that will, among other things:

1. Immediately **prohibit the finning of sharks**;

2. Immediately **reduce shark mortality levels by requiring the live release** of all bycatch or "incidentally caught" animals brought to the boat alive;

3. Immediately **reduce the bycatch of sharks**;

4. Prevent overfishing by quickly establishing precautionary commercial and recreational quotas for sharks until a final comprehensive management plan is adopted that ensures the future health of the population. Given the dramatic increase in the number of sharks killed in the Hawaiian longline fishery, WESPAC should cap shark mortality at 1994 levels as a minimum interim action, pending the outcome of new population assessments;

5. Count all sources of shark fishing mortality against species-specific quotas;

6. Prohibit the development or expansion of new/existing shark fisheries in the region until precautionary management measures are in place;

7. Develop a list of prohibited shark species in order to protect exceptionally vulnerable or poorly understood shark species;

8. Provide adequate fiscal support for shark and other elasmobranch research programs

including increased species-specific data collection, tagging efforts to identify stock structure, and better data on the disposition of all incidental and directed shark, skate, and ray catches;

9. Identify, protect, and restore (where degradation has occurred) **the productive capacity of critical habitat areas**, such as pupping and nursery grounds for shark, skate, and ray species;

10. Ensure consistency between state and federal regulations, giving precedence to the more cautionary measures where inconsistencies occur; and

11. Move towards a coordinated, seamless tri-council management plan for sharks, skates, and rays that is truly precautionary.

These critically important steps are wholly consistent with the management of sharks in the U.S. Atlantic and Gulf of Mexico, the Magnuson-Stevens Fishery Conservation and Management Act, and the United Nations' Food and Agriculture Organization's Plan of Action for Sharks, and will help safeguard the health of Pacific shark, skate and ray populations as well as the livelihoods and recreational opportunities of Pacific fishermen.

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