



Cover Story

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PLUNDERING THE PACIFIC

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The cats who run the fishhouse

The personal business interests of federal fishery managers collide with their job to protect endangered wildlife

Imagine the CEO of Weyerhaeuser appointed to run the national forests. As part of the deal, he gets to keep his old job. Federal law wouldn't allow it, of course. It's a simple conflict of interest. But when it comes to the folks who regulate ocean fishing, conflicts of interest are not only permissible, they're a regular part of the game.

Consider Sean Martin of Hawai'i, and the four hats he wears. As a fisherman, Martin earns a living from the sea. He owns a business that sells equipment so others can, too. As an activist, he heads a trade group that is fighting environmental regulations to protect endangered sea turtles. And as a regulator, he recently voted to open fishing in areas and ways that have been proven harmful to endangered species.

Martin and his business partner, Jim Cook – himself a council member in 1990s – have had it both ways: they help make the rules, and they profit from the rules. And on occasion, Martin and Cook have been prosecuted for breaking those very rules.



Fisherman, businessman, regulator and activist: Sean Martin meets the press in 2000 after a federal judge closes longline fishing to protect endangered sea turtles.

Martin is one of 13 members of the Western Pacific Regional Fishery Management Council (known as "Wespac"), a position Cook held throughout the 1990s. Congress created the council in 1976 as one of eight that govern U.S. waters in the Atlantic, Caribbean, Gulf of Mexico and the Pacific. Wespac governs close to 50 percent of U.S. waters, an area of ocean as large as the other councils' areas combined.

Congress put three of the councils in charge of the Pacific Ocean: the Western Pacific Council, based in Honolulu; the North Pacific Council in Anchorage; and the Pacific Council in Portland. The Council member's job, which pays \$380 per day, is to set the seasons and allocate the catch among various interest groups. They must also protect the environment, guard against overfishing, prevent the killing of endangered species and reduce the immense amount of wasted catch.

But with billions of dollars worth of fish to divvy up, the councils have repeatedly helped to deplete fish stocks and to kill massive numbers of endangered animals as they voted for more fishing. If the oceans belong to everyone, should the fishing industry be allowed to claim it as its own? The industry thinks so, but others disagree.

None of the 38 members on the three Pacific Ocean councils represents conservation interests. In their 27-year history, none of the three councils has ever had a representative from the conservation community. The overwhelming majority on each council has always represented groups that are clamoring for more and more fish.

This year, the Bush administration was given a chance to fill a vacancy on the Pacific council. Instead of picking a qualified conservationist or biologist, the administration packed the council with its fourth charter boat operator. Some say it's no coincidence that in September, the council voted to increase the charter industry's catch of

bocaccio, the most depleted Pacific stock.

In 1976, Congress reasoned that the fishers would be better than anyone else at regulating ocean fisheries because of their experience at sea. But it turned out that Congress hired cats to run the fishhouse. Congress set up the system for plundering.

Since 1976, the number of stocks listed as overfished has skyrocketed from 14 to at least 86. With the status of hundreds more stocks not known, odds are many more are in trouble, says biologist Mark Hixon, Ph.D., of Oregon State University. And with many of the so-called "healthy" stocks themselves mired in a deep decline, the problem is likely to get worse.

The councils claim the failed policies of the past are gone. But the number of overfished species has increased three of the last four years, and has climbed 25 percent since 1997. The councils continue to allow fishing on even the most depleted stocks, and some stocks are in such bad shape that recovery is a going to take 100 years or more. After thoroughly reviewing America's troubled oceans, the Pew Oceans Commission recently called for an end to the current system of an industry that governs itself.

"The councils are acting like the tobacco industry did with the denial of health effects," says Mark Powell of the Ocean Conservancy. "It took a long time to provide the evidence, but common sense always told you there was a problem."

In June 2003, the Secretary of Commerce appointed Sean Martin to a seat on the Western Pacific Fishery Management Council. The appointment brought the number of commercial fishermen on the council to four. Martin is a longliner, a segment of the industry that pursues tuna and swordfish on the high seas and in the process kills endangered sea turtles and sea birds. He is also co-owner, with Jim Cook, of Pacific Ocean Producers, a leading fishing equipment supply company. Cook is chairman of the council's advisory committees, and is a former council chair.

Almost every time a fishing vessel sails out of Honolulu, Martin and Cook make money. They sell the bait, the ice, and the gear. They have a personal stake in the outcome of almost any fishing regulation they help write.

So will the creatures of the sea that interact with commercial fishing. Longlining has played a major role in the decimation of leatherback sea turtles over the last two decades. Populations crashed in the 1990s by 95 percent at the same time swordfish longlining boomed. Longlining has also harmed four other endangered sea turtle species – the green, loggerhead, hawksbill and olive ridley – and two types of albatross.

The leatherback may now be just 10 years away from extinction, biologists say. In June 2000, the scientific journal, *Nature*, published an article warning about the imminent leatherback extinction and citing commercial longline fishing around Hawai'i as a leading cause. "If these turtles are to be saved, immediate action is needed to minimize mortality through fishing and to maximize hatchling production. We believe that fishing practices in the Pacific must be changed to save marine biodiversity," the authors wrote.

The longliners fasten thousands of baited hooks to lines that extend for up to 60 miles. When turtles cross the lines, their long pectoral fins can get tangled, causing some to drown. Others bite the bait and get hauled on deck. Dead or alive, these turtles are tossed back as just so much industrial waste. Studies show about a third of the injured turtles die.

It didn't take long for Martin to participate in a decision that had potential to fatten his wallet at the expense of the leatherback. On Sept. 23, 2003, the council faced the question of whether to reopen swordfishing in the very waters where leatherbacks are known to migrate. Biologists told the council the rule would harm 144 sea turtles per year, of which more than 40 would be leatherbacks. It would allow longliners to employ 75 percent of the number of hooks they had set during the boom years of 1994-1998.

On a motion by Martin, the council voted 8-5 to reopen the fishery. One council member suggested Martin had violated the council's conflict of interest rules, according to two witnesses. But executive director Kitty M. Simonds says the council's attorney determined that no conflict of interest rules were broken. Yet the vote has provoked continuing furor among conservationists.

"It's a big conflict of interest," said Linda Paul, a Honolulu attorney with Hawai'i Audubon. "Martin had no business making the motion or voting for it. This council is industry-controlled, managed by short-term economic interests."

"The council is rife with conflicts of interest," says Rick Gaffney, a prominent recreational fisherman and president of the Hawai'i Fishing and Boating Association. "That is one of the reasons it's been such a failure." Gaffney also said the council favors a tiny handful of people while "completely ignoring the fishing interests of the most valuable fishing

industry in Hawai'i, recreational fishing." In doing so, Wespac has threatened the fragile Northwestern Hawaiian Islands ecosystem. "It's being managed improperly," said Gaffney, a strong supporter of the reserve.

The Sept. 23 vote may also lead to violations of the Endangered Species Act. "It would authorize a far higher number of sea turtle takes than the scientific record supports," says William Hogarth, assistant administrator of NOAA Fisheries (the federal agency in charge of ocean policies; until recently it changed its name from the National Marine Fisheries Service, though it still sometimes calls itself that).

The Western Pacific council dismisses concerns that it has a track record of advocating environmentally damaging fishing plans.

With about 1.5 million square miles under its jurisdiction, the Western Pacific council governs 50 percent of oceans under U.S. control, an area known as the Exclusive Economic Zone, or EEZ. It also controls fishing access to as much as 70 percent of all U.S. coral reefs. For the last 27 years, Kitty Simonds has been executive director of the Western Pacific Fishery Management Council, and before that served as an aide to Sen. Hiram Fong, Hawai'i's first member of Congress.

Wespac claims it is devoted to protecting the environment. As a recent article in its newsletter, *Pacific Island Fishery News*, stated, "The ocean and its resources define our way of life in the Pacific Islands. Ensuring that these resources remain healthy for future generations of US Pacific Islanders is the work of the Western Pacific Management Council."

But others say the Western Pacific council has built fisheries at the expense of protecting the environment. The council is now trying to expand commercial fishing for bottomfish and coral into protected areas within the relatively pristine Northwestern Hawaiian Islands. This 1,200-mile long archipelago between the Main Hawaiian Islands and Kure Atoll is the primary breeding grounds of the Hawaiian monk seal, one of the most endangered marine mammals in the world. At the same time, the council is trying to undermine the Coral Reef Ecosystem Reserve created by executive order, with broad public participation, in 2001.

Over the last two decades, scientists say, the Western Pacific council and NOAA Fisheries helped push the monk seal and the leatherback sea turtle toward the brink of extinction. Yet the council vehemently denies any major role in the demise of these species. In fact, the council is pursuing ways to resume fisheries banned by the courts for their destructive impacts on monk seals and sea turtles.

And yet, when it comes to its environmental record, the Western Pacific council is not necessarily out of step with other federal fishery councils that govern the Pacific Ocean. An investigation by *Cascadia Times* shows that the other councils have created similar nightmares in their own backyards. For example:

- The Pacific council is presiding over the continuing disastrous collapse of rockfish, its once most valuable fishery. With 82 groundfish stocks to manage, the council has assessed only 20, and has declared nine stocks to be overfished with at least three more approaching an overfished condition. The Pacific council is letting fishers kill species that have declined by as much as 96 percent from historical levels. In June it approved rules allowing the destruction of endangered sea turtles in its own longlining fisheries. The council also has ignored commercial fishing's ongoing permanent damage to coral ecosystems offshore of California, Oregon and Washington.
- The North Pacific council recently refused to slow down the industrial-scale fishing and the loss of Alaska's rich coral heritage. It has presided over fisheries in Alaska that apparently have taken food away from the endangered Steller sea lion, aiding in its collapse over the last several decades. The walleye pollock fishery has systematically reduced the abundance of this main sea lion prey by approximately sixty percent.

A 2002 report by the National Research Council concluded that the effects of fishing cannot be rejected as a cause for the almost ninety percent decline in western Alaska, and that the current sea lion population decline may be due to a combination of factors. The report recommended an experimental design to examine these issues. The experimental design would close substantial portions of fishing areas in prime sea lion foraging habitat, similar to a system of closed areas required by NOAA Fisheries in 2000, at least until a congressional rider changed the rules. The experimental design has yet to be implemented.

The Northern council says its groundfish are in good shape, but it has never defined a threshold below which it defines an "overfished" species. Of 191 groundfish species, the council has assessed only 21. The condition of the other 170 stocks, or about 89 percent, is unknown. A 2001 analysis by the Ocean Conservancy said some other stocks "did not appear to be in as good shape as the subset the Council assessed." In addition, overfishing on crab in the Aleutians and Bering Sea has led to fishing closures.

The definition of terms like "overfishing" depends on whom you ask.

"None of the fishery resources that we manage are overfished," Simonds told the Honolulu Star Bulletin in 2000.

As Simonds spoke, the lobster fishery in the pristine Northwestern Hawaiian Islands had just been ordered closed by NOAA Fisheries in the wake of a federal court ruling protecting the monk seal [see TMG, Hawaiian News, *passim*].

Between 1982 and 1992, the catch was nearly 4 million animals above the quota and then it crashed. They caught these lobsters in or near areas now designated as "critical habitat" for the Hawaiian monk seal, which was added to the Endangered Species List in 1976.

At the same time, large numbers of seal pups were dying of starvation. From the monk seals' point of view, humans were stealing their food. Those humans included the skipper of a vessel owned by Jim Cook and Sean Martin. At the time, Cook was a member – and soon to be chairman – of the Western Pacific council.

Carroll Cox, then a special agent for the U.S. Fish and Wildlife Service in Honolulu, told Cascadia Times in a recent interview that Cook was fined \$40,000 for the illegal harvest of 1,200 undersized juvenile spiny and slipper lobsters, the illegal harvest of 1,300 females with eggs, and failing to maintain accurate and complete lobster catch reports. This was the same lobster fishery blamed for the catastrophic decline of endangered Hawaiian monk seals.

Cox says that in 1993 and 1995, NOAA Fisheries twice fined Martin and Cook's Pacific Ocean Producers \$5,000 for failing to file commercial fishing logbooks. The logbooks contain important records on the killing of fish and other marine animals. In 1999, the company was fined \$10,000 for fishing within the monk seal's range in a protected area near the Northwestern Hawaiian Islands.

Rick Gaffney, the recreational fishing advocate, said "I don't know any other place in America where someone who is tasked with management of a resource and who violates the rules is allowed to continue."

In the Western Pacific, the people who write the rules don't always obey them. And sometimes they just change them. In 1997, the Western Pacific council – with Cook as chairman – voted to allow a "retain-all" fishery for lobsters. In most other places in the country it is illegal to kill egg-bearing females and undersized juveniles.

"They were like thieves in the night," Cox says.

"To me," says Achitoff of Earthjustice, "they are just a bunch of pirates, lining their pockets on the public teat."

NOAA closed lobster seasons in the islands several times in the 1990s because of potential overfishing, and on June 26, 2000, NOAA closed them again. Lobster fishing has been closed ever since. The 2000 Executive Order establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve made those closures permanent.

When Congress created the councils in 1976, it granted them a certain amount of autonomy. The Western Pacific council has repeatedly pushed against the limits of that authority, and has resented efforts by the courts, Congress and NOAA Fisheries to rein it in.

For example, in the late 1990s, the Western Pacific council vigorously fought proposals to ban the practice of removing shark fins at sea and dumping the live animal overboard to drown. The practice outraged many people across the country, in Congress and in the Department of Commerce – where NOAA Fisheries is headquartered – as inhumane.

But the folks who work for the council felt otherwise. At one point, Simonds, the Western Pacific council executive director and a federal employee, personally lobbied the Hawai'i Legislature against legislation banning the practice. Her use of her federal office to lobby the state raised some eyebrows among conservationists but apparently failed to trigger any official inquiry into whether her actions were appropriate for a federal employee. Jim Cook, the former swordfish longliner who during those years served as the Western Pacific council chairman, lobbied Congress against passing its own ban. Cook said a proposal to ban sharkfinning "calls into question the integrity and authority of not only the Western Pacific Regional Fishery Management Council but all regional councils."

For Cook and other Hawai'i longliners, sharkfinning was a \$1 million a year business. Asian markets paid \$50 a pound or more for fins to make shark fin soup. Most of the fins came from blue sharks caught accidentally in the pursuit of tuna and swordfish. In 2000, both Congress and the Hawai'i Legislature passed laws banning the sale of shark fins unless accompanied by a corresponding shark carcass.

But the sharkfinning firestorm didn't stir nearly the controversy as the fight over swordfishing and sea turtles. From the beginning, business partners Jim Cook and Sean Martin were involved in that fight in nearly every possible way.



Leatherback sea turtle.

As large as a car, leatherbacks can weigh up to 2,000 pounds and measure 9 feet in length. They are the largest, deepest diving and most wide-ranging of all sea turtles. Leatherbacks nest on tropical beaches in places like Mexico, Costa Rica and Papua New Guinea, and have been known to travel thousands of miles to feed exclusively on jellyfish in the cooler latitudes of the North Pacific. One study estimated that they consume their body weight in jellyfish per day.

Longline and gill-net fisheries killed at least 1,500 female leatherbacks per year in the Pacific during the 1990s, according to Nature's "conservative estimates." They said "a long-lived species like this cannot withstand such high rates" of fishing mortality. The vessels responsible, Nature said, included Asian

and Central and South American boats, as well as Hawaiian longline fisheries.

In 1980, scientists estimated the Pacific's female leatherback sea turtle population at 91,000. But soon after swordfish longlining got going in the Pacific, the leatherback population plummeted, says Scott Eckert, a leading sea turtle biologist. The Mexican population was dropping by 22 percent each year. "Their slide toward extinction has been the most rapid decline for any significant large vertebrate population in history," he says.

But in the opinion of the Western Pacific Fishery Management Council, there were more important things to worry about than an endangered sea turtle. For example, in the Winter 2000 issue of its newsletter, the council noted that swordfishing closures ordered by a federal court for the benefit of sea turtles cost the industry \$15 million a year. "It is not in the best interest to have Hawai'i's catch levels reduced at this critical time," the council said in an article. It called the court decisions to protect sea turtles "an affront to the council process."

The council also protested NOAA Fisheries' 2001 ruling that the longline fishery jeopardized the leatherback's existence. "After reviewing the (ruling) one is left with the unsettling conclusion that the data and rationale have been manipulated to fit a pre-conceived jeopardy opinion for leatherbacks ..."

The council's critics say it often acts as though it is a subsidiary of the Hawai'i Longline Association, a trade group headed by Sean Martin, its president and a Western Pacific council member. The Hawai'i Longline Association called NOAA Fisheries' ruling "faith based population dynamics" and "junk science." It said NOAA Fisheries was engaged in a "shameful pattern of sham actions."

Hawai'i's longliners grew fourfold between 1987 and 1990, and within a decade annual landings had soared to 13.2 million pounds, worth \$21 million. Much of this increase occurred after longline vessels decimated Atlantic populations of targeted fish and moved to Hawaiian waters. Cook and Martin held two of the 164 swordfishing longline permits in Hawai'i.

Many threats have caused the leatherback's collapse in the Pacific, including the theft of eggs from nests. But the authors of the Nature article found that adult females were getting lost at alarmingly high numbers in the general area of the Pacific where the Hawai'i longliners were setting their hooks.

While this sea turtle slaughter was taking place in the 1990s, Cook was chair of the Western Pacific council's Pelagics Standing Committee, which made recommendations on the yearly swordfish catch and corresponding sea turtle kill. Cook was also a member of the Western Pacific council, which voted on those recommendations. And like his partner Sean Martin, Cook stood to personally benefit from votes allowing him to fish in ways that kill sea turtles.

NOAA Fisheries knew as early as 1982 that longline gear off Hawai'i accidentally captured leatherbacks. In a 1991 biological opinion, it authorized the annual taking of 25 sea turtles, with no more than one death of leatherback and one death for two other endangered turtles harmed by longliners, the olive ridley and the green. And it limited the longliners to 1.4 million hooks.

But the longliners weren't paying attention or didn't care, and apparently neither did the Western Pacific council. In 1991, longline fishermen in the waters off Hawai'i set approximately 12.3 million hooks – more than 10 times the limit set by NOAA Fisheries. They caught 9.9 million pounds of swordfish, 5.8 million pounds of various large tuna – and, according to the best estimates of NOAA Fisheries, 752 endangered or threatened sea turtles, of which about 250 were believed to have died.

Rather than battle the Western Pacific council and its influential longliners, NOAA Fisheries authorized the capture of 754 sea turtles in 1994, including 244 leatherbacks. But the longliners caught 993 that year. Over the next several years the agency authorized increasing numbers of turtle captures or killings. In 1999, it allowed the longliners to capture 955 sea turtles, in spite of its own conclusion that this would jeopardize the continued existence of the sea

turtle species.

As early as 1994, the Ocean Conservancy (known then as the Center for Marine Conservation) warned NOAA Fisheries about the need to protect the turtles.

Finally, in 1999, with sea turtle populations collapsing around the Pacific, two groups – the Ocean Conservancy and the Turtle Island Restoration Network – sued NOAA Fisheries for allowing longliners to kill the turtles in violation of the Endangered Species Act and the National Environmental Policy Act. Though the lawsuit did not name the Western Pacific council as a defendant (the council cannot be sued over its regulations because they technically are just recommendations that are enforced by NOAA Fisheries), the council has always expressed its own “continuing opposition” to rules protecting the turtles.

“We told the court that these turtles are heading for extinction and you can’t keep authorizing the longliners to take more and more turtles,” said Paul Achitoff, the attorney for Earthjustice who filed the lawsuit. “Their analysis just didn’t make any sense.”

The federal judge agreed, issuing a sweeping injunction that closed millions of square miles in the Pacific to swordfish longlining. Soon after, NOAA Fisheries finally announced that the fishery was likely to jeopardize the continued existence of the green, leatherback and loggerhead turtles.

In response, the Hawai’i Longline Association, the trade group headed by its president, Sean Martin, filed at least three legal actions with the intent to reverse the agency decision, calling it “deeply flawed, clearly contrary to the best science available, unlawful, and detrimental to the best interests of the species NOAA Fisheries is required to protect.”

The Hawai’i longliners argue that most of the leatherbacks are killed by foreign fishing fleets, and that their own impacts are miniscule in comparison. “Because the (U.S.) fishery is so highly regulated, and so small in number, it neither could cause the existing population decline, nor, through further regulation, can it reverse the trend,” the longliners’ association said in court papers.

The group noted that Asian and South American vessels kill many more sea turtles than the Hawaiian vessels do, and employ far more destructive methods. The Hawaiian longliners say that a shutdown of the U.S. fleet will result in more turtle deaths, not less.

Interestingly, Sean Martin and Jim Cook helped build the very fisheries they now criticize. According to the web site of their company, Pacific Ocean Producers has installed more than 350 longline systems since 1985 in Hawai’i (125 systems), Tahiti (75 systems), Samoa, Fiji, Micronesia, Marshall Islands, Tonga, Papua New Guinea, Guam, Saipan, New Zealand, New Caledonia, Australia and California. “Pacific Ocean Producers has played a major role in developing fisheries in the South Pacific islands,” the web site says.

Of course, just because other nations kill sea turtles doesn’t make it right for Americans to do it. Should we expect others to do anything until the U.S. takes the lead?

“I blame the U.S. government for failing to create a fishery here that’s a model for the rest of the world,” says Todd Steiner of the Turtle Island Restoration Network, a conservation group. “Until we clean up our own act we’re not in any positions to put forward any progressive fishery plan for the rest of the world. That’s what we’re trying to do with this litigation. And I don’t buy their claim that U.S. vessels are treating sea turtles with more respect than foreign vessels.”

In August 2003, a federal court in Washington, D.C., struck down the swordfishing ban on procedural grounds, granting the longliners at least a temporary victory. In October, another ruling gave NOAA Fisheries six months to redo its biological opinion.

None of this implies, of course, any criminal activity. From the beginning, Congress explicitly exempted fishery council members from federal conflict-of-interest laws.

Congress wanted to let the industry govern itself. Conservation groups and scientists participate in advisory panel discussions but have no seat at the table when the councils meet. Members of the public who attend council meetings may be discouraged by the acronyms and the difficult science (See [“How to Speak ‘Fisheries’”](#)).

The fishery councils make little effort to translate their information to words the public can easily understand, says Michael Hirschfield, a scientist with Oceana, a conservation group. The councils don’t publish simple summaries of stock assessments that would help the public more easily understand what is happening to their fisheries. Even experts have trouble deciphering the fishery councils’ reports. “I think it’s outrageous that the people who are

responsible for managing our fisheries make it so difficult for ordinary citizens or anyone else to get accurate clear information about how our fish are doing,” Hirschfield says.

The system seems custom built for industry insiders only. A recent study of the nation’s eight fishery councils found that 49 percent of all council members appointed between 1990 and 2001 represented commercial fishing interests. Another 33 percent represented recreational fishing interests, according to the paper written by Tom Okey (a researcher at the University of British Columbia) and published in the academic journal Marine Policy. These numbers do not include the state and federal officials who are statutory members of the councils.

Between them, the two prongs of the fishing industry controlled 82 percent of the appointed members’ votes. The other 18 percent of the seats were held by biologists, social scientists, environmentalists, conservationists, consumer affairs experts, and tribal representatives. (The three Pacific Ocean councils have never had a conservation or consumer affairs expert on their rosters, though the Pacific council does have one tribal member.)

Okey says granting the fishing industry such dominance over ocean policy and management decisions has led to unsustainable fishing, degraded marine ecosystems, and impoverished fishing communities.

“Management systems tend to favor big money interests when they are structured to be influenced by those interests,” he says.

“We have an antiquated structure with a narrow view of fisheries that is not up to the task of rebuilding species or protecting endangered species like turtles,” says Kate Wing of the Natural Resources Defense Council. “It was not designed to fix those problems.”

Until this year, Hans Radtke, an economist, served as chair of the Pacific council. When his term expired, Commerce Secretary Don Evans filled the seat with a charter boat operator.

The Pacific council already had three charter boat operators on its roster. Now it has four, and still no conservationists, biologists or industry outsiders. With two other recreational fishers on the council, that one industry controls a clear majority of the votes.

“Charter boat operators make up less than 10 percent of recreational fishing trips in the ocean but yet for some reason they are very heavily represented on the council,” Radtke says. “This representation by the one industry does not make sense. The general public, whoever that might be, is not there anymore.”

Just because a council member gets a paycheck from fishing does not automatically mean his or her votes will go contrary to good conservation, says Peter Huhtala, conservation director for the Pacific Marine Conservation Coalition in Astoria. “But you look at the track record of what’s happened to say the Pacific council, there’s got to be a problem.”

That track record, says Zeke Grader of the Pacific Coast Federation of Fishermen’s Associations, has been poor. “In both New England and the West Coast, of course, the council process allowed, even encouraged, the near total collapse of those groundfish fisheries,” he says. “Even among the less publicized fisheries there are lots of stocks that are overfished or on the verge of collapse. Stock rebuilding programs have had spotty success, and frankly provide too little too late.

“Prevention of a collapse in the first place would have saved fishing dependent families, jobs and communities from intense economic dislocation that should never have happened. Even if you quibble with the definitions of ‘overfished’, the fact is inescapable that today nearly half of the fisheries under council management are in piss poor shape.”

Much of this had been due to politics, particularly as played by the powerful Republican Senator from Alaska, Ted Stevens and two powerful Democrats, Hawai’i’s Daniel Inouye and Sen. Fritz Hollings. As members of the Senate Appropriations Committee, Stevens, Inouye, and Hollings have a say over every dollar the government spends and make special appropriations directly to fishery councils. For example, Inouye secured \$230,000 from the 2000 budget specifically to fund the development of Wespac’s “coral reef ecosystem” fishery plan. According to a former high-ranking government official, “They are the most



Commercial fishing is a dangerous living. Lives are lost every year as crews face violent weather and long hours. This vessel fishes out of Dutch Harbor, Alaska.

micromanaged agencies in the federal bureaucracy." Over the years Inouye has funneled many millions of dollars more related to the council's work, including \$5 million for "economic disaster assistance" for the longline fishing industry that helped devastate endangered sea turtles.

In 2000, Inouye — citing Wespac's plans for its "coral reef ecosystem" fishery — convinced Congress to pass a bill requiring Clinton to place the planned Northwestern Hawaiian Islands Reserve under the jurisdiction of the Department of Commerce, Wespac's home agency. This sparked fears among Hawai'i observers that, as a result of backing from the powerful Senator, the council would be able to continue its legacy of environmental destruction, unchecked, in some of the most vulnerable areas of the Western Pacific.

This summer Stevens pushed a rider that would stop NOAA Fisheries from conducting scientific research on deep sea coral habitat off Alaska until 2005 (when he presumably would ascend to chairman of the powerful Commerce committee, which oversees ocean fisheries, and from where he will be able to exert even more influence on behalf of the industry).

In the past, Stevens pushed similar riders saying that the Endangered Species Act shall not apply to the Steller sea lion. The sea lion plummeted as bottom-trawlers scooped up pollock in huge quantities.

With Stevens and Inouye looking over their shoulders, the bureaucrats at NOAA Fisheries have given "a rubber stamp" of approval to council decisions, says Josh Eagle of the Stanford Fisheries Policy Project at Stanford Law School. "The system was set up by Congress with the intention that (NOAA Fisheries) would have a very small, limited role with respect to overseeing the councils. As the system is set up, the choice is being made by fishermen, who are going to err on the side of not giving up income."

Shutting down a fishery in one location often leads them to go fish someplace else. So when the federal court closed a million square miles of high seas to swordfishing to save the sea turtle, the fleet didn't just give up. They sailed right through a loophole in the court decision.

Longliners discovered that if they shifted their operations to California or Mexico, they could escape the narrow terms of the court ruling. Soon after, at least 40 longline boats from in Hawai'i began unloading their catches in California ports. Pacific Ocean Producers, the ship chandlery operated by Sean Martin and Jim Cook, opened a warehouse in Ensenada, Mexico, to supply them with gear, ice and bait.

The quantity of swordfish landed at San Pedro, Calif., increased from 1.5 million pounds in 1999 to 2.6 million pounds in 2000.

"Nobody thought the response of the industry would be to just move outside the geographic scope of that injunction," said Deborah Sivas of Earthjustice. "We have the exact same issues here."

"Whenever there have been regulations, they moved to where there weren't regulations," said Brendan Cummings, an attorney with the Tucson-based Center for Biological Diversity, one of the plaintiffs in sea turtle litigation.

NOAA Fisheries scientists found that longliners out of California appear to be killing sea turtles in the same numbers as they did in Hawai'i, yet the agency at first refused to shut them down.

So once again, conservation groups went back to court. After an initial setback in district court, the Ninth U.S. Circuit Court of Appeals granted them a favorable ruling in August 2003.

"NOAA Fisheries knew they were violating the Endangered Species Act, and even had observers on board observing the take of turtles. But NOAA Fisheries was unwilling to take enforcement action — either prosecution under the ESA, or by imposing Hawai'i-style regulations," Cummings said.

This summer, the Pacific council had an opportunity to impose Hawai'i-style regulations on the migrating longliners. Instead the Pacific council voted to let them continue catching swordfish and killing sea turtles.

The Pacific council's action may not stand. It prompted a pointed response from William Hogarth, assistant director of fisheries at NOAA Fisheries, who indicated the agency would soon overturn the Pacific council's decision — perhaps because it has finally grown weary of losing lawsuits.

"It is difficult to understand how the council chose to propose measures that clearly do not provide adequate protection for endangered and threatened sea turtles," Hogarth said in a letter to the judge. "Nonetheless, that is the situation, which disappoints me greatly."