

11 November 2004

Dear Stakeholder

REASONS FOR DECISIONS REGARDING THE 2004-05 SQU6T SEA LION OPERATIONAL PLAN

This letter outlines the reasons for my decisions on the 2004-05 SQU6T sea lion operational plan under s 15(2) of the Fisheries Act 1996. I have made decisions regarding the limit on fishing-related mortality for New Zealand sea lions in the southern squid trawl fishery, designated as quota management area SQU6T, along with procedures that will be used to monitor sea lion bycatch counting towards this limit. The 2004-05 SQU6T fishery is expected to commence on or around 1 February 2005.

Stakeholders seeking further detail behind my decisions are referred to the operational plan itself and the Final Advice Paper for this plan prepared by the Ministry of Fisheries. These papers are available from MFish, and have been posted on the MFish website at <http://www.fish.govt.nz/sustainability/decisions/sealions/index.html>.

I acknowledge the submissions I have received from stakeholder groups as part of the consultation process. I appreciate the effort undertaken to prepare and provide submissions given the limited time available for consultation.

In reaching my decisions, I have carefully considered the most recent sea lion population assessment information, the efficacy of sea lion exclusion devices (SLEDs) in reducing bycatch mortality, and the merits of alternative procedures that might be employed to monitor sea lion bycatch. In addition, I have taken into account advice from MFish and all of the issues and information put forward by sector groups relating to sea lion interaction in the SQU6T fishery.

I have also given careful regard to the provisions of the Fisheries Act 1996, especially those relating to my obligations regarding fishing-related mortality of marine mammals (s 15), the environmental and information principles (ss 9 and 10, respectively), and the purpose of the Act (s 8).

General Comments

My review of stakeholder input on the 2004-05 operational plan Initial Position Paper reveals continued divided positions on the appropriate limit for fishing-related sea lion mortality and associated measures involving sea lion bycatch monitoring and SLED efficacy.

The operational plans put in place during each of the past two fishing seasons have been challenged in Court. The resulting rulings provide guidance on the interpretation of the Fisheries Act 1996 relevant to my decisions and the information bearing on these decisions, but the Court has not prescribed specific sea lion bycatch limits or monitoring provisions. The Act requires that I provide for the utilisation of fisheries resources while ensuring sustainability. Effecting a balance between these objectives given the range of choices is therefore a major consideration in my decisions.

Sea Lion Mortality Limits

Until such time as the Department of Conservation completes a sea lion population management plan (PMP) under the Marine Mammals Protection Act 1978, I am able, under section 15(2) of the Fisheries Act 1996, to take such measures as I consider are necessary to avoid, remedy or mitigate the effects of fishing-related mortality on any protected species and this may include setting a limit on fishing-related mortality.

Accordingly, after considering submissions from stakeholders, I have, under section 15(2), set the fishing-related mortality limit (FRML) for the 2004-05 SQU6T season at 115 sea lions based on harvest control rule 4.

The sea lion technical working group has agreed upon an interim operational objective for sea lion management in the SQU6T fishery establishing that *management interventions will ensure the sea lion population remained above 90% of its carrying capacity, K, or else remained above 90% of the level it would obtain in the absence of fishery bycatch, 90% of the time in 20- and 100-year runs.*

The limit of 115 sea lion deaths acknowledges there is a range in mortality levels extending to an upper limit of 598 sea lions that satisfies the interim management objective. However, I also recognise information uncertainty, and the Court of Appeal determination that sea lions cannot be managed as a harvestable stock to be exploited to a level that is sustainable. Under these considerations, the adaptive approach of harvest control rule 4 offers a balance in meeting the dual obligation in the Fisheries Act. Model projections indicate rule 4 will meet the criteria established to satisfy the interim management objectives regarding sea lion population, while resulting in mean lost fishing effort of about 12% over time. Rule 4 provides an increasing rate of sea lion bycatch at higher pup production levels, but is relatively more conservative when pup production is low.

Sea Lion Bycatch Monitoring Procedures

Within the parameters of the 115 animal mortality limit, the success of the operational plan depends on accurately measuring sea lion bycatch levels against this limit through an effective bycatch monitoring programme. I have decided that monitoring of sea lion mortalities against the FRML will be conducted based on a predetermined strike rate of 5.3%. This means that 5.3 sea lion mortalities will be assessed per 100 tows undertaken by SQU6T vessels, based on the historical level of sea lion interactions in this fishery calculated from actual sea lion bycatch.

The use of a predetermined strike rate effectively sets an upper limit on the number of tows that may be undertaken in the SQU6T fishery, rather than estimating mortalities from observed sea lion bycatch. Vessels are asked to voluntarily provide timely reports of all tows undertaken in the SQU6T fishery as a basis for ongoing calculation of estimated sea lion mortalities. This information will be coordinated through the Squid Fishery Management Company.

In the past, MFish has considered several options to monitor and estimate the total number of sea lion captures in the SQU6T fleet. These ranged from closely monitored plans with empirical verification of sea lion deaths, to less structured plans based on expected or simulated outcomes.

I agree with stakeholder submissions that an actual strike rate based on 100% observer coverage provides the most reliable information on observed sea lion bycatch. However, for 2004-05, empirical verification of actual sea lion deaths is an unworkable option because: 1) MFish is unable to provide 100% observer coverage for the SQU6T fleet, owing to concurrent needs for observer coverage for other fisheries and limited observer resources; 2) industry appears opposed to deploying sea lion exclusion devices (SLEDs) with tied down cover nets, and with open cover nets some mortally wounded sea lions might not be retained in the net for observer verification, thus precluding accurate accounting of actual mortalities.

SLED Discount Allowance

My decision to employ a 5.3% predetermined strike rate is conditioned by a further provision that a 20% discount factor will be applied to this strike rate for vessels using approved sea lion exclusion devices in the SQU6T fishery. Predicting the survival rate of sea lions passing through SLEDs is contentious in itself, made more so by the low number of animals for which veterinary pathology results are available. Adopting a SLED discount allowance is contrary to the advice of several stakeholders; however, it does allow for a modest increase in squid utilisation on the basis that not all sea lions passing through SLEDs are mortally injured.

As emphasised in last year's operational plan, I want to make it clear that, although I would actively consider a 20% discount to the strike rate in later years, I would not contemplate increasing it without improved information on the efficacy of these devices in reducing sea lion mortalities. I do not believe 20% to be a particularly robust figure, but a 0% discount rate would contradict information that indicates some sea lions are likely to survive SLED encounters.

I have asked Industry and MFish to establish common standards for establishing the types of SLEDs deemed appropriate to qualify for the 20% SLED discount factor. It is my expectation that observer coverage can be provided to document the deployment of such SLEDs, but I acknowledge that alternative monitoring arrangements for ensuring SLED use, such as remote video camera, or gear inspections, might be suitable alternatives.

In addition, I expect that industry, acting through the Squid Fishery Management Company, will act to advance the understanding of sea lion interactions in the SQU6T fishery, including investigation of factors influencing the sea lion bycatch rate, and the efficacy of SLEDs in reducing sea lion deaths. I consider these to be areas of ongoing importance in monitoring sea lion bycatch, and better information is essential to resolving current uncertainties.

Concluding Remarks

I note that the Department of Conservation is developing a population management plan for New Zealand sea lions under the Marine Mammals Protection Act. I anticipate that this undertaking will build upon the progress that stakeholders have achieved in developing and refining the annual sea lion operational plan for the SQU6T fishery over the past several years. The PMP is intended to provide a multi-year management regime, rather than an annual management plan. It will establish a maximum allowable fishing-related mortality limit for sea lions and could include advice to me on measures to mitigate fishing-related deaths.

As this process moves forward, all parties need to consider how best to progress this management issue beyond the contentious debate that has surrounded the annual operational plans. That may include the parties developing a plan of action or fisheries plan that documents the long-term management steps that will be taken regarding marine mammal bycatch in our fisheries.

Yours sincerely

Hon David Benson-Pope
Minister of Fisheries