

October 7, 2011

Eric Schwaab
Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
1315 East West Highway
Silver Spring, MD 20910

Dear Mr. Schwaab,

We are writing to you on behalf of our organizations regarding our grave concern for the global decline of oceanic sharks. The demand for shark fins, meat, liver oil and other products has driven some shark populations to the brink of extinction. Up to 73 million sharks are killed annually to support the international shark fin trade. Shark life history characteristics, such as their slow growth rate and low reproductive value, make sharks extremely vulnerable to overexploitation and slow to recover from depletion. The International Union for Conservation of Nature's (IUCN) Red List of Threatened Species has assessed that 30 percent of shark and ray populations around the world are threatened or near threatened with extinction. The decline in shark populations could have cascading effects throughout the ecosystems they inhabit, resulting in economic and ecological consequences that may be irreversible.

In recent years the momentum towards protecting sharks has increased globally. Some countries, such as Chile, have taken action to require sharks be landed whole. Guam and the Commonwealth of the Northern Mariana Islands have taken the prohibition of shark finning a step forward by prohibiting the import and export of shark fins. Other countries, such as Palau, the Maldives, and most recently Honduras and The Bahamas, have established shark sanctuaries, prohibiting the commercial fishing of sharks in their waters. In addition, progress on shark conservation has been seen at some regional fisheries management organizations (RFMOs), including the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC). Both RFMOs prohibited the retention of certain vulnerable shark species within their jurisdictions.

At the end of 2010, the U.S. passed the Shark Conservation Act, which was a great initial step forward for shark conservation both domestically and internationally. However, individual states are enacting laws that are even more stringent than the federal law. Through state laws Hawaii, Washington and Oregon, and soon California, have prohibited the sale, trade and possession of shark fins in their states and when combined with the federal law, the retention of most sharks is essentially banned by these states. On the east coast, Florida regulations prohibit the catch of many threatened shark species, including lemon sharks, and the state is considering additional protections for hammerhead and tiger sharks. With all this growing momentum to protect sharks, we are disappointed that the National Marine Fisheries Service (NMFS) is not taking stronger measures when it comes to the protection of sharks.

We request NMFS list additional species to the Highly Migratory Species (HMS) prohibited species list. These species include, but are not limited to, the oceanic whitetip, shortfin mako, porbeagle, lemon and hammerhead sharks.

- Oceanic whitetip and hammerhead sharks are experiencing drastic declines in their populations. These shark species are mainly targeted for their highly valued fins for exports and are generally not used for their meat. The U.S. issued its concern for the role of international trade in driving population declines of hammerheads and oceanic whitetip sharks in 2010 with the proposed CITES listings. Yet, the U.S. is still allowing fishermen to catch and kill vulnerable shark species for the fin trade. The U.S. had an opportunity to prohibit the catch of these vulnerable shark species in all Atlantic fisheries, but they limited the scope to include only the pelagic longline fishery and some recreational fisheries.¹ We are concerned with the other fisheries, such as the bottom longline, gillnet and handgear fisheries, where oceanic whitetip and hammerhead sharks are targeted and the majority of hammerhead sharks are caught. In implementing the ICCAT recommendations through the recent final rule, NMFS chose the path of least resistance, which is also the path that corresponds with the weakest conservation measures for these vulnerable shark species.² In addition, NMFS recently declared scalloped hammerheads overfished with overfishing occurring.³ Consequently, oceanic whitetip, scalloped, smooth and great hammerheads should all be listed on the HMS prohibited list.
- Shortfin mako sharks are approaching an overfished status with overfishing occurring, according to a stock assessment conducted in 2008 by ICCAT. While management measures in the U.S. were pursued for shortfin mako sharks under HMS Fishery Management Plan (FMP) Amendment 3, the final amendment concluded action was to be taken at the international level to end overfishing of shortfin mako sharks and live release of shortfin makos would be encouraged domestically.⁴ The U.S. pursued international action through the submission of proposals to limit the catch of shortfin mako sharks at ICCAT in 2009 and 2010, but these proposals did not pass and fishing on these species, therefore, continues. Since international action through ICCAT has not occurred, the U.S. has an obligation under the Magnuson-Stevens Fishery Conservation and Management Act to prevent overfishing of the shortfin mako and, thus, implement stronger management measures for this species in its own waters. NMFS should list shortfin mako sharks on the HMS prohibited list.
- In 2007, the U.S. recognized that the porbeagle shark was experiencing population declines, had an overfished status and should be listed on the HMS prohibited species list.⁵ Despite support for prohibiting the landings of porbeagle sharks, in the final

¹ Department of Commerce, National Oceanic and Atmospheric Administration, “Atlantic Highly Migratory Species; Atlantic Shark Management Measures [50 CFR Part 635],” Federal Register 76, 83, April 29, 2011.

<http://www.nmfs.noaa.gov/sfa/hms/fishery_rules/2011/042911_Proposed_2011_ICCAT_Shark_Rule_76_FR_23935.pdf>

² Department of Commerce, National Oceanic and Atmospheric Administration, “Atlantic Highly Migratory Species; Atlantic Shark Management Measures [50 CFR Part 635],” Federal Register 76, 167, August 29, 2011.

<http://www.nmfs.noaa.gov/sfa/hms/fishery_rules/2011/08-29-11_2010_ICCAT_Shark_Measures_Final_Rule_76_FR_53652.pdf>

³ Department of Commerce, National Oceanic and Atmospheric Administration, “Stock status determination for Atlantic highly migratory scalloped hammerhead shark [RIN 0648-XA196],” Federal Register 76, 82, April 28, 2011.

<http://www.nmfs.noaa.gov/sfa/hms/fishery_rules/2011/0411_Scalloped_Hammerhead_Determination_76_FR_23794.pdf>

⁴ Department of Commerce, National Oceanic and Atmospheric Administration, “Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3 [50 CFR Parts 600 and 635],” Federal Register 75, 104, June 1, 2010.

<http://www.nmfs.noaa.gov/sfa/hms/fishery_rules/2010/06-01-10_Amendment_3_Final_Rule_75_FR_30484.pdf>

⁵ Department of Commerce, National Oceanic and Atmospheric Administration, “Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Proposed Rules [50 CFR Parts 600 and 635],” Federal Register 72, 144, July 27, 2007.

Amendment 2 to the HMS FMP, NMFS decided to reduce the total allowable catch to 1.7 mt dw stating that by capping the mortality at the current level porbeagle sharks could rebuild within 100 years.⁶ Concern for the future survival of porbeagle sharks continues to build. The IUCN Red List of Threatened Species classifies the northwest Atlantic population of porbeagles as Endangered. At the conclusion of ICCAT/ICES specialist meetings in 2009, officials recommended that high-seas fisheries stop targeting porbeagles.⁷ A proposal to include porbeagles on Appendix II of CITES was supported by the U.S. in 2010. Significant action has not been taken at the international level, however, to protect these vulnerable sharks. Furthermore, recent overages in terms of the current commercial landings point to difficulties in conforming to the existing management measures that were put in place to allow the stock to recover. Even though the fishery is designed to close when landings reach 80 percent of the quota, recently the porbeagle fishery wasn't closed until landings reached 147 percent of the available quota.⁸ Consequently, porbeagle sharks need to be included on the HMS prohibited species list to allow the stock to rebuild in a timely manner.

- Lemon sharks are extremely vulnerable to overexploitation as a result of their life history characteristics and their susceptibility to being caught. Lemon sharks are found in the nearshore and often aggregate seasonally. While the majority of lemon sharks are found in Florida and The Bahamas, both protected areas for this species, sharks don't recognize state boundaries and thus, are still being caught in other areas. As a result, lemon sharks need protection throughout their range and, thus, should be listed on the NMFS prohibited list.

Thank you for your consideration of our concerns regarding how the U.S. plans to move forward in advancing efforts for shark conservation and management in U.S. waters. We look forward to continuing this dialogue with you.

Sincerely,

Susan Millward
Executive Director
Animal Welfare Institute

Carl Safina
Founding President
Blue Ocean Institute

< <http://edocket.access.gpo.gov/2007/pdf/E7-14536.pdf>>

⁶ NMFS. 2007. Final Amendment 2 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan. National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office of Sustainable Fisheries, Highly Migratory Species Management Division, Silver Spring, MD. Public Document. pp. 726.

< http://www.nmfs.noaa.gov/sfa/hms/FMP/AM2_FEIS/Total.pdf>

⁷ ICCAT/ICES, Report of the 2009 porbeagle stock assessments meeting (Copenhagen, June 22–27, 2009), <www.iccat.int/Documents/Meetings/Docs/2009_POR_ASSESS_ENG.pdf>.

⁸ Department of Commerce, National Oceanic and Atmospheric Administration, “Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Porbeagle Shark Fishery Closure [50 CFR Part 635],” Federal Register 76, 166, August 26, 2011. <<http://www.gpo.gov/fdsys/pkg/FR-2011-08-26/pdf/2011-21930.pdf>>

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