

# Last Bodega hook-and-line fisherman may see the end

by **Jacoba Charles**

The last hook-and-line fisherman making his living on the deep seas near Bodega Bay hauled his boat out of the water yesterday after learning that his prime fishing grounds are within a protected area.

Josh Churchman of Bolinas may face a fine or have his permit revoked because of inadvertently fishing in a rockfish, or red snapper, conservation area whose boundary had been changed.

"I'm not giving up yet, but it really is a hassle," said Churchman. "I'm getting tired of fighting"

The local rock cod fishing industry has been essentially eliminated by a combination of decreasing allowed catch, increasing regulatory hurdles and expanded rockfish conservation areas (RCAs).

At the beginning of this year there were still five active hook-and-line fishermen between Bolinas and Bodega Bay; Churchman is now the last and worries that he too may give up the industry soon.

In 2006, fishermen landed 6,460 pounds of chilipepper rockfish, which are one of the most abundant and popular rockfish species to fish, in Bodega Bay. In 2000, over 80,000 pounds of the fish were landed at the same port.

"At this point, it's a hobby, not a profession. We can only go out two days per month," Churchman said.

Fishing rock cod provides roughly a quarter of his annual income whereas it used to account for well over half. He also fishes for crab and salmon, but worries that he won't be able to make ends meet—especially this year, with the salmon season closed.

"The fishery management council favors higher impact trawl fisheries," said Paul Johnson of the Monterey Fish Market, who buys Churchman's catch. "Oftentimes you'll go to San Francisco and there are three trawlers working but no hook-and-line fishermen. In Bodega Bay there used to be ten hook-and-line guys; now there's one."

There are two separate rock cod fisheries available to local fishermen: the state-regulated nearshore fishery and the federally regulated limited entry fishery in deeper water. A labyrinth of regulations surrounds each.

"It's become so complicated to fish—these things are tough to keep up with," said Tom Moore, a biologist with the Department of Fish and Game who is based in Bodega Bay. "It's getting to be too much; but a lot of these complicated regulations the only way that you can allow some fishing given the current management schemes."

For example, Churchman has two boats: a small one in Bolinas that fishes in nearshore waters, and a larger one in Bodega Bay that fishes in deeper waters.

From Bolinas, he could take the small boat out to the Farrallone Islands, where

he is allowed to catch 700 pounds of fish per trip, six times a year.

However, in order to legally travel home across federal waters carrying his catch, he would have to install an expensive Vessel Monitoring System (VMS) that the port at Bolinas is not equipped to support. So the Farallones are out, Churchman said.

The only other fishing area near Bolinas is Duxbury, where he refuses to go because it has been over harvested and fish there are depleted.

"The VMS requirements have removed all of West Marin's rockfish fishermen in six months," Churchman said. "It's an incredibly effective tool."

Churchman's larger boat, which also has to have a cumbersome VMS, used to bring home 80,000 pounds of rock cod each year.

"It's a drop in the bucket compared to what the trawlers are bringing in," he said. But when law protected the rockfish, both small and large fishermen were curtailed by roughly 90 percent, said Johnson.

Hook-and-line fishermen are now allowed to bring in 2,500 pounds of fish every two months during the fishing season, whereas large commercial boats bring in 30,000 pounds.

"I just don't see how there isn't room for a few people to keep doing it," Churchman said. "It's a big ocean and I don't see how the few fish me and Rob [Knowles] catch with a fishing pole are tipping the

balance of the ecosystem.

Then there is the matter of where those fish can be caught. Hook-and-line fishermen can only fish safely to 1,000 feet, but many areas with depths under 1,200 feet are now in RCAs.

"I am supposed to stay outside of certain coordinates," Churchman said. "So, I drew a little pencil line on my chart, and then I went along where I think that line is, looking for spots that I could fish."

He found two high points, each about the size of a football field, where the species that he wanted to catch could be found on what he thought was the legal side of the line. He has fished there for the last five years.

However, about three years ago the line was moved deeper, and Churchman didn't realize the change had been made. Last week, he got a call informing him that, according to the VMS, he was in violation of his permit.

"I have been calling them and asking, 'How am I doing? Am I on the right side of the line?'" he said. "They always said, 'We can't tell you that.'"

Even though he is hoping to only receive a slap on the wrist for his first violation, Churchman still will have to find a new fishing ground, learn new techniques, go broke, or give up. But even if he isn't catching them, no one is going to stop eating fish.

"I went down to the Bolinas store to-

Please see **facing page**

## >> Park

continued from page 1

"We were surprised by some parts of the outcome and not by other parts," said Kevin Lunny of Drakes Bay Oyster Company (DBOC), which operates on park land. "We expected the science to be found problematic, and it was. But there is just a lot more information."

The National Park Service declined to comment, saying they had just received the 53-page report on Tuesday morning and had not had time to review it.

Conflict surrounding the operation of the oyster farm within Drakes Estero, which was designated as potential wilderness in 1976, has been escalating since Kevin and Nancy Lunny bought the business three years ago.

Pro-wilderness advocates claim that the farm is degrading the estero and threatening wilderness designations everywhere; oyster farm supporters deny this and say they are a sustainable business and part of the historic landscape. Both camps accuse the other of malicious misrepresentation of fact.

The current investigation was triggered when the Lunnys filed allegations of scientific misconduct and disparate treatment with the Office of the Inspector General (OIG) in April of last year.

Since then a team of investigators has interviewed nearly 80 people, conducted a voluntary search of PRNS senior science advisor Sarah Allen's office, retrieved and analyzed computer files from PRNS Superintendent Don Neubacher's and Allen's computers, and reviewed over 1,100 documents and email messages.

The investigation focused on two main areas: whether the park was guilty of scientific misconduct, and whether the Lunnys were being treated disparately from other businesses on the point.

The investigation stopped short of legal opinions or an analysis of the disputed science. A separate investigation by the National Academy of Sciences will examine the soundness of the park's scientific conclusions.

"We did not evaluate the validity of scientific interpretations made by NPS or by those whose interpretations differed from NPS," the report said.

### Scientific misconduct

Sarah Allen, who has been with PRNS since 1997 and has done research in

Drakes Estero for three decades, was the main subject of the investigation. Neubacher also came under scrutiny.

Investigators examined claims by the park service about the impact of the oyster farm on increased particles in the water, eelgrass damage, fish composition, non-native species abundance and harbor seals.

According to the report, Allen failed to provide an e-mail in response to a Freedom of Information Act (FOIA) request; stated publicly—and incorrectly—that the park had over 25 years of seal data in the estero; and misrepresented research by Roberto Anima through omission and exaggeration to conclude that the oyster farm was having negative impacts by creating sediment.

"According to Neubacher, Allen was 'devastated' that she had made mistakes," the report said. "He said, 'it was just an honest mistake on her part.'"

Nonetheless, investigators concluded that at least some of the misrepresentations were intentional, writing "Allen was privy to information contrary to her characterization of...findings in the Sheltered Wilderness report and other public releases, and she did nothing to correct the information prior to its release to the public."

In an e-mail to Allen dated May 15,

2007, Anima objected to the PRNS interpretation of his research and it's subsequent citation by environmental groups and the California Coastal Commission. Later that email was the only one omitted from a FOIA request by Corey Goodman, a scientist and outspoken supporter of Lunny.

Though the message was in a file labeled "communication" in Allen's office, it had been deleted from the park's e-mail system.

The report also said that Neubacher and Allen made concerted attempts to refute Lunny's portrayal of oyster farming as beneficial, intending to counter what they felt to be misinformation. "In several instances, [Neubacher] could have exercised better judgment and expressed NPS' position with greater clarity and transparency," the report said, adding that he exaggerated statements made by the Marine Mammal Commission when speaking to the Marin County Board of Supervisors.

Neither Allen nor Neubacher could be reached for comment.

### Disparate treatment

The investigation was started largely

Please see **facing page**



Josh Churchman is one of the last commercial rock cod fishermen left. He has been fishing along the Marin and Sonoma coasts for over 30 years. Photo by J. Charles.

day, and they have red snapper—but it all comes from Canada,” Churchman said. “The tuna comes from Hawaii and the tilapia is farm raised god-knows where. All three fish that you can buy in Bolinas, down by the sea, come from thousands of

miles away—and this is one of the richest oceans in the world. This is an oasis. That’s another ironic thing: you can’t have any fishing in the richest ocean in the world.”

in response to complaints by the Lunnys that Neubacher was interfering with their business; undermining leases, permits, grants and certifications; slandering the family’s name; and partaking in a movement to shut down the oyster farm by crippling the family financially.

The investigators found no support for those allegations.

“Our investigation revealed no indication that Neubacher treated the Lunny family with any disparity regarding either of their businesses in the park,” the report said.

The Lunnys had complained that the park had ordered the removal of a business sign; prohibited road repair work; denied a native oyster restoration project; obstructed resolution of a Cease and Desist Order issued to the previous owners; and applied punitive provisions to the family’s G Ranch permit.

The report also uncovered no indication that the superintendent was working to shut down DBOC prior to the time when their reservation of use and occupancy (RUO) expires in 2012. Conversely, it pointed out that the family was remiss for operating both the oyster company and the G ranch without signed special use permits.

The report weighed in on the ongoing debate regarding whether or not the park can allow the farm to operate after the RUO expires in 2012, concluding that it would take an act of congress to extend operations. They based that conclusion on a report from the Office of the Solicitor, which Lunny and his supporters continue to dispute.

That the controversy between DBOC and PRNS will continue to rage in the wake of the investigation is evident in the headlines of several misleading press releases sent Wednesday. One drafted by Lunny’s PR firm read, “Drakes Bay Oyster Co. abused by government agency, according to U.S. Department of Interior Inspector General Report.”

The nonprofit National Parks Conservation Association announced that they were pleased with the report for concluding that “the National Park Service operated fairly and appropriately toward the private Drakes Bay Oyster Company.”

Finally, and most creatively, Public Employees for Environmental Responsibility announced, “Park Service cleared in complaint by Point Reyes oyster farm; environmental effects of industrial shellfish operations remain murky.”



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