

Congress of the United States
Washington, DC 20515

August 8, 2013

The Hon. Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dr. Kathryn Sullivan
Acting Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Attorney General Holder and Dr. Sullivan,

We are writing to request the immediate withdrawal of the *amicus curiae* brief recently submitted on behalf of the United States in the case challenging California's shark finning law in the Ninth Circuit Court of Appeals, *Chinatown Neighborhood Association, et al. v. Governor Edmund G. Brown, et al.* [Case No. 13-15188].

As you know, the National Oceanic and Atmospheric Administration (NOAA) has proposed a rule to amend regulations under the Moratorium Protection Act and Magnuson-Stevens Act to implement provisions of the Shark Conservation Act of 2010 [Docket No. 111014628-3329-01]. The comment period for that proposed rule ended on July 31, 2013. On July 22, 2013, the United States weighed in against California's shark finning law in court. We have not seen any evidence that the draft rule's preemption of state and territorial statutes designed to combat shark finning is necessary, nor do we believe that the proposed rule and *amicus* brief reflect the intent of Congress on this issue.

It is highly unusual that the United States would rely on a draft rule, with the public comment period still open, as the basis for filing an *amicus* brief. The situation is not only procedurally unusual, but has led to an inaccurate and misleading legal position. As part of the public comment period on the rule, prior to the issue of the brief, 62 members of Congress submitted a letter stating opposition to the proposed rule's preemption provision, yet the brief filed by the Department of Justice on behalf of NOAA misleadingly cites several of those same Members of Congress in support of preempting California law.

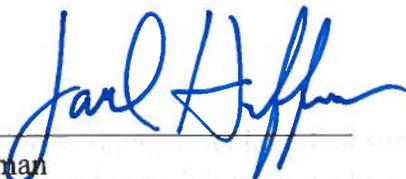
We have discussed both the proposed rule and the *amicus* brief with officials from NOAA, and it is clear to us that the proposed rule misrepresents the breadth of Magnuson-Stevens Act and misconstrues how the Shark Conservation Act should interact with state laws. The federal Shark Conservation Act prohibits the removal of shark fins at sea. California's shark finning law prohibits the sale and trade of shark fins in California. Far from being in conflict, these measures are complementary. As California indicated in its comment letter of July 31, 2013, the state's shark finning rule "does not frustrate any purpose of Congress, and there is no identifiable significant federal regulatory objective that is impaired by the state prohibition." In our meetings and discussions, NOAA has yet to provide a single concrete example to justify preempting

numerous state and territorial laws that support shark conservation, and NOAA has been unable to explain the need to weigh in on the litigation in the Ninth Circuit.

In light of the numerous comments you have received on the proposed rule, and the lack of evidence that preemption of California's state law is necessary or even advisable, we request you withdraw the *amicus curiae* brief prior to the Ninth Circuit Court of Appeals hearing oral arguments on August 14, 2013 on this matter.

Thank you for your consideration of our request. We look forward to your expeditious reply.

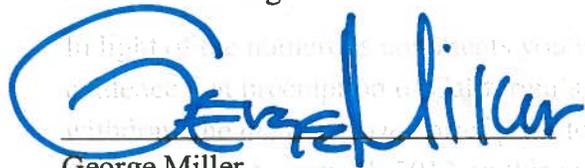
Sincerely,



Jared Huffman
Member of Congress



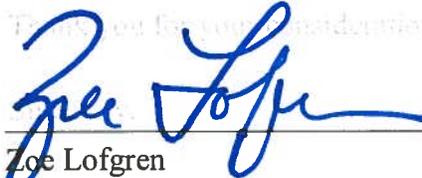
Peter DeFazio
Member of Congress



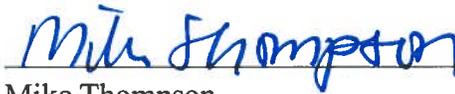
George Miller
Member of Congress



Sam Farr
Member of Congress



Zoe Lofgren
Member of Congress



Mike Thompson
Member of Congress



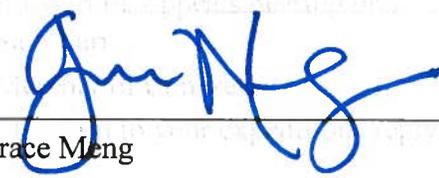
Scott Peters
Member of Congress



Mark Takano
Member of Congress



Gregorio Kilili Camacho Sablan
Member of Congress



Grace Meng
Member of Congress

CC: The Hon. Kamala Harris
Attorney General, State of California