

North Pacific Fishery Management Council

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Minutes Legislative Committee Meeting October 3, 2017 1-4 pm

Members Present: Dan Hull (chair), Bill Tweit, Steve Marx, Jim Balsiger, Dave Hanson, Dave Witherell (staff).

Public present: Mike Szymanski, Lauren Smoker (NOAA GC), Arne Fuglvog, Chris Woodley, Buck Laukitis, Lori Swanson, Mary Beth Tooley, Jeff Regnart (ADFG), Brent Paine, Arthur Severance, Linda Kozak, Anne Vanderhoeven, Elizabeth Reed.

Chairman Hull opened the meeting with introductions and a review of the agenda. He also provided a summary of the August 23 hearing of the Senate Commerce Committee in Soldotna, and discussed the charge to the committee in developing comments for Council consideration.

Dave Witherell provided the request from Senator Sullivan's office for Council comments on several fishery related bills including:

- S. 1520 Modernizing Recreational Fishing Management Act of 2017,
- Hr. 200 Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act,
- Huffman discussion draft: Strengthening Fishing Communities Through Improving Science, Increasing Flexibility, and Modernizing Fisheries Management Act;
- S. 1323 Young Fishermen's Development Act of 2017;
- S. 1322 American Fisheries Advisory Committee Act

The Committee discussed the proposed procedures to develop comments on these bills, noting the NMFS and NOAA guidance on providing comment to Congress. Any comments the Council submits should be tied to the Council's performance of its grant as specifically as possible. The Council should explain how the Council believes specific provisions of the bills could have harmful or beneficial impacts on the Council's ability to fulfill its responsibilities under the MSA, or affect the Council ability to conserve and manage marine resources and resources users. The agreed-upon procedure would be for the Committee to provide recommendations for the public to comment on and the Council to review as part of the B-reports. From this input, the Council (through its Executive Director and Chair) would prepare a letter that summarizes specific comments on each bill, together with a table that provides a comparison of issues across the three comprehensive MSA amendment bills, along with Council comments. The letter would incorporate prior comments on H.R. 200, sections in other bills that have already been addressed in H.R. 200 comments and NPFMC perspectives in the CCC working draft, Chairman Hull's MSA hearing testimony, discussions and comments by the Legislative Committee as applicable, and other comments the Council may have on these bills.

Public testimony was provided by Lori Swanson (Marine Conservation Alliance) and Arthur Severance (Coastal Villages). Ms. Swanson noted that the Huffington draft language on requiring an assessment of conflict of interest provides an avenue for the Council to comment on recusal language and interpretation. Mr. Severance noted that 1) because we have been asked to comment on MSA reauthorization generally, in that broad context providing comment on recusals is within bounds, 2) H.R. 200 language on the Arctic CDQ provides an avenue for the Council to comment on the allocation of fish among Arctic villages should be based on population size, and 3) that Congress should review the existing allocations to Western Alaska CDQ groups.

Committee comments on specific bills are as follows:

S.1322 The American Fisheries Advisory Committee Act

The Committee notes that the S-K proposal review process has been subject to criticism over who does the reviews, the criteria used to evaluate reviews, the timing of the notification and time for review comments, and transparency of the process. This draft legislation addresses some of these concerns by establishing a formal committee process for decision-making, and making the evaluation criteria more explicit. The Committee suggest that a comparison of how the proposed structure compares with the existing proposal funding process would be helpful to understand the improvements made by the legislation. The Committee notes that under the legislation, representation of Alaska fisheries on the Committee may be very limited (possibly only one or two members). Further, representation from tribal or indigenous communities -- as well as membership from the conservation community -- is lacking (unless included in the group as marine scientists). Additionally, it appears that only 2 of the 25 members of the Committee represent fisheries research expertise, even though the criteria for funding establishes that applicants must have the requisite technical capabilities to carry out the project, and that projects have sound design and a methodology for evaluating the success of project.

The Committee notes that it will be very challenging for the committee to evaluate the scientific design and methodology of these proposals. The Committee notes that the North Pacific Research Board utilizes a separate Science Panel to review all proposals for scientific adequacy prior to Board deciding on what proposals to fund. The Committee suggests that a review of NPRB's process for developing the RFP, scientific review and evaluation of proposals, may be beneficial to the structure of this bill. The Committee notes that poorly designed projects affect our ability to effectively conserve and manage the resources. A well-designed experiment gives us the ability to build our management program on a strong scientific foundation.

S. 1323 Young Fishermen's Development Act of 2017

The Committee notes that it is not clear how the funding for this grant program falls in the priorities of other activities funded through Section 311 (e). Does the \$2 million come off the top before the other uses of the money specified in the MSA (e.g., costs incurred in storage of seized property, rewards to whistleblowers, enforcement costs, liens on forfeited property and other claims, reimbursement to any Federal or State agency for services) are spent? In a 2014 comment letter on MSA legislation to Congressman Doc Hastings, the Council noted that funds from this source are critical to various enforcement and investigative activities of the NOAA Office of Law Enforcement, and reductions in these activities could be detrimental to the Council's overall management objectives. The Committee notes that the proposed language of proportionality addresses concerns about funds being used only in the region in which they were collected. The Committee further notes that "a beginning commercial fisherman" is undefined and provides little guidance in determining who can participate in the program. The Committee also suggests providing clarification of the term 'desires to participate in commercial fisheries...' in 2(A)(i).

S. 1520, H.R. 200, and Huffman Discussion Draft

The Committee reviewed and provided comments on the issues and sections most relevant to the North Pacific. These comments are included in the attached table.