



## B1 Executive Director's Report

February 2019

### Action Memo

#### Government Shutdown

The partial government shutdown, and furlough of 'non-essential' NMFS staff beginning on December 22, 2018 and continuing through January 25, has impacted the Council meeting in several ways: 1) it prevented the Council from taking final action on any issue at this meeting, 2) it prevented NMFS staff from doing any work on Council issues, including analysis, coordination, and review of documents, and which in turn, created delays in the completion of documents and associated reduced time available for public review, 3) it required that some issues and Committee meetings be postponed to a future meeting, and 4) it means that we are potentially operating shorthanded at the February meeting, without full support staff from NMFS, USCG, and USFWS.

Internal protocols require all notices be reviewed by NOAA GC before publishing, and with NOAA GC employees on furlough, the Council meeting agenda has not yet been published in the Federal Register (FR). To ensure adequate public notice in the absence of the FR publication, we expanded our normal process for providing timely meeting notice by advertising the meeting in newspapers in the major ports (The Kodiak Daily Mirror in Kodiak, Sitka Sentinel in Sitka, *Fishermen's News*) and widely publicizing through the harbor master/port of Seattle on their social channels as well as the social channels of *National Fisherman*. While the Council can still hold the meeting, the Council cannot take final action on any issue unless the FR notice requirements are met (published 14 days prior to the meeting date when action is taken). Final action items scheduled for the February meeting include: ABC specification for Norton Sound Red King Crab, Fixed gear CV rockfish retention, and IFQ medical lease and beneficiary provisions. In the absence of a FR notice, the Council could make a **'preliminary final determination'** on these issues, and take final action at a later meeting.

With respect to the Norton Sound Red King Crab harvest specifications, which requires timely action to open the fishery, we have submitted a FR notice that **the Council will be meeting by teleconference meeting at 9 am (Alaska time) on March 8**. After a short staff briefing, we can take a roll call vote on the specifications at that time. Written public comments will be accepted through March 7.

#### ADF&G Designee

[Ms. Rachel Baker](#) has been named Deputy Commissioner of the Alaska Department of Fish and Game, and in that position, she will serve as the principal designee for ADF&G Acting Commissioner Doug Vincent-Lang. Most of you know Ms. Baker already, as she previously worked for NMFS Sustainable Fisheries Alaska Region and ADF&G extended jurisdiction, and most recently at NMFS headquarters, where she led the Sustainable Fisheries Management and Coordination branch. Welcome back to Alaska and the Council process, Rachel!

#### Canadian Visitor

Dr. Lyne Morissette, a Canadian marine biologist specializing in marine mammal and fisheries interactions is here this week to observe our process and talk with various stakeholders. She is currently

working with several crab fishing associations on environmental mediation for the case of North Atlantic Right Whales in the Gulf of St. Lawrence, and is preparing a report on how the crisis was managed since the 2017 mortality event for this whale population, including the measures that were imposed on fishermen, their compliance, the precautionary approach and the lack of integration of socioeconomic aspects in its application. She is thus interested in how protected species conflicts are considered, evaluated, and addressed through the North Pacific Council process. She would welcome any meetings with key stakeholders and managers better understand our process and develop recommendations in her report. She is also very knowledgeable about development of technology and gear innovations (ropeless gear, hydrophones, etc.) to reduce entanglement risks, so people may wish to talk to her about these innovations as a potential management and mitigation measure.

## S-K Grant Results and Reporting

On Tuesday evening, there was an evening session to give stakeholders an opportunity to provide feedback on the Saltonstall-Kennedy (S-K) grant program. Mr. Jorge Fraga, who works with JRD & Associates, Inc. (JRD), has been contracted by NOAA Fisheries (NMFS) to conduct an assessment of the S-K Competitive Grant Program. As part of the assessment, they canvassed the country and interviewed over 150 people. One major finding from the assessment was that a large amount of time and effort is spent ensuring the best projects are selected, but it was not known to what extent the results achieved by the selected S-K projects are being utilized or how well they are being disseminated to the fishing industry. To improve the dissemination and utilization of these S-K project results, NMFS has contracted JRD to conduct feedback sessions and interviews to collect information from the fishing industry to determine their interest in the S-K project results and the best methods to disseminate and share the S-K project results and information about the S-K Competitive Grant Program. The feedback session, facilitated by JRD, will solicit suggestions for improving communications, dissemination, and utilization of results achieved by S-K awarded projects. The feedback session is interactive, where information will be gathered from constituent attendees on how to best message the results, store the results, and how the results will be/could be used by the public.

This morning, Mr. Cliff Cosgrove, the NOAA Fisheries S-K Program Manager, will provide a presentation on the S-K grant program, its process, and recent program changes.

## Central Arctic Ocean Fishing Agreement

**Tentative.** Mr. Jean-Pierre Ple (NOAA) has organized a presentation on the Arctic Ocean Agreement, which is slated to be presented as part of the B-4 report (assuming he is able to attend). As you may recall, back in December 2017, ten countries [reached an agreement](#) to prevent the start of commercial fishing in the Central Arctic Ocean (CAO) for at least 16 years while scientists study the effects of climate change on this area. The presentation will include:

- An overview from a representative from the State Department (who led the negotiations) who will walk through and explain the agreement and take questions from the Council.
- An update on the CAO scientific effort to date and necessary next steps (i.e., need to develop a data sharing protocol, develop a coordinating mechanism for possible vessels of opportunity to support data collection, etc.).
- A discussion on exploratory fishing, which is likely to be the first substantive CAO measure the signatories will need to address. This follows up on the Council's February 2018 [discussion paper](#) on this topic.

## Research Priorities Process for 2019

The Council's research priorities subgroup, which includes Council members, SSC chairs, and Council staff, was convened last year to streamline the process for review of research priorities by the SSC and Council in 2018. This resulted in the development of a "top ten list" of key research priorities for 2018, while maintaining the continued essential need for priorities labeled critical ongoing monitoring, generally surveys. The subgroup intended to meet again in January to provide a recommendation for 2019, however as two members were unavailable due to the government shutdown, and other changes to the Council agenda created space on the SSC's schedule, this discussion was deferred to the SSC. A short background document is [included with this agenda item](#). The SSC chair will report on their recommendations during his report to the Council.

## Financial Disclosure and Recusal

On November 16, 2018, NMFS published a [proposed rule](#) that would change regulations that address disclosure of financial interests by, and voting recusal of council members appointed by the Secretary of Commerce. Ms. Lauren Smoker (NOAA GC) provided an [overview](#) of the rule in December.

The proposed rule: 1) includes the multi-step test NOAA GC uses to determine whether a voting recusal is required, 2) defines the term "close causal link" and provides guidance on determining whether a close causal link exists, 3) includes the attribution principles that are applied when calculating a Council member's financial interests in the fishery, including a "proportional attribution" approach for certain financial interests, and 4) requires each region to develop and make publicly available a recusal determination procedure handbook which will explain the procedures typically followed by the region in preparing and issuing recusal determinations.

Comments are due by March 6, 2019. I am preparing a draft comment letter for Council members to review this week. I suggest that we revisit this in Staff Tasking to make any clarifications on Council positions or make other necessary revisions to the letter.

## Legislative Update

The Modernizing Recreational Fisheries Management Act of 2018 (S. 1520) which amends the Magnuson-Stevens Fishery Conservation and Management Act, was signed into law by the President on December 31, 2018. The text of the bill can be found at: <https://www.congress.gov/bill/115th-congress/senate-bill/1520/text>. The Act:

- Defines 'mixed-use fishery' as a fishery in which 2 or more occur: recreational, charter, or commercial fishing.
- Requires reports on 1) allocations in mixed use fishery in South Atlantic and Gulf of Mexico, 2) use of LAPPs for mixed-use fisheries (but not to include PFMC and NPFMC areas or LAPPs), 3) facilitating greater incorporation of data, stock assessment, and analysis from State agencies and nongovernmental sources, and 4) a NAS review of the Marine Recreational Information Program
- Authorizes the use of fishery management measures (e.g., extraction rates, fishing mortality rates, harvest control rules, or traditional or cultural practices of native communities) for recreational fisheries.
- Requires the SOC to establish a partnership with a State to develop best practices to collect and analyze data, and authorizes grants to States to facilitate implementation.

In November, Senator Sullivan's staffer Erik Elam released a staff working draft of an [MSA reauthorization bill](#) and on December 20 he formally requested written comments from the Council prior to the end of the year. We submitted a letter with preliminary comments ([included with this agenda](#)

[item](#)), based primarily on prior Council MSA comments, as well as comments on the EM technology/data storage and Recreational Quota Entity funding issues consistent with stances previously taken by the Council. We did not address issues where the draft legislation puts status quo guidance into statute (e.g., ecosystem component species, multi-year annual catch limits, and consideration of ecosystem impacts on ACL determinations), all of which are already defined in national standard guidelines.

The Council may wish to provide further comments on this draft. From my standpoint, a few other issues that the Council might wish to address could include:

- **Incorporation of economic, social, and ecological factors in establishing annual catch limits (ACLs).** The new section on page 16 says in establishing ACLs, Councils shall account for relevant economic, social, and ecological factors in accordance with section 3(36).

**Suggested Comment:** This requirement is inconsistent with the Council's approach because the ACL is defined in our fishery management plans as the ABC. As drafted, this section would mean that councils must now account for social and economic factors in the setting of ABCs. The North Pacific Council has a policy that ABCs should remain a science-based process strictly for determining the allowable biological catch for maximum sustainable yield, and that the appropriate place for incorporating social and economic variables is in setting TACs. Note that in the North Pacific, OY is defined as TAC, which is consistent with National Standard 1. [I have already alerted Erick to this concern].

- **Cost recovery fees for management and enforcement on LAPPs and CDQ programs.** The new section on page 20 would specify the amount NMFS collects for LAPP and CDQ costs to include incremental costs to management. Additionally, this section requires that the Council must prepare an analysis that identifies the costs that will be recovered by the fee, and costs that won't be recovered by the fee, prior to the Secretary collecting any fees. Further, the Secretary must report annually and in detail how the funds were spent in the prior year on a fishery-by-fishery basis.

**Suggested Comment:** It will be difficult to define exactly what fees will and will not be collected, because agencies don't always have information (from timesheets, rent, utility bills, etc.) that break out the information in detail. Further, it may be impossible to go back and recreate cost data that does not exist to compare to costs after a LAPP is implemented.

- **Limited Access Privilege programs.** The Councils must assess impacts on fishery-dependent communities and consider how to ensure access to, and sustained participation in a fishery, before approving a LAPP. This section (pages 55-58) also includes detailed requirements for denial, suspension, revocation, and reallocation of privileges for any person who fails to comply with the requirements of a fishing community or regional fishery association plan.

**Suggested Comment:** Community sustainability plans and Regional Fishery Associations (RFA) are already an element of MSA that exists, but have not been used in practice as of yet, and no guidance exists on how these should be developed. The bill references (3)(A)(ii) that currently just says the Secretary can deny/revoke LAPP privileges for persons who fail to comply with the community sustainability plan. The amendment language would add that not only can privileges be denied/suspended/revoked but they can also now be reallocated to other eligible entities and that criteria for doing so should be developed "in consultation with the Council." This would not apply to our current LAPPs because we don't have community sustainability plans (nor does it appear they are required).

## Recent Staff/Council activities

Sarah Marrinan traveled to Unalaska/Dutch Harbor on January 16-20 to gain a first-hand understanding of groundfish and crab unloading, dockside sampling, and processing.

On January 28-30, I attended the IPHC interim meeting in Victoria, and provided an update on Council management actions. My [presentation](#) is available on the IPHC website.

On January 23-25, Diana Stram, Jim Armstrong, and Shannon Gleason attended the Crab Plan Team meeting in Nome, and took advantage of the outreach opportunities while they were there.

Council analytical staff participated in a Social Impact Assessment Workshop held by Mike Downs in Anchorage on January 29-30, 2019.

## Committee Meetings

**Halibut ABM Stakeholder Committee**— On Monday February 4, the Halibut ABM Stakeholder Committee met to review and recommend scenarios (combination of alternatives, elements, and options) for analysis. The Committee Chairman (Mr. Mezirow) will provide the Council with a report under Agenda Item D-3.

Other committee meetings that had been originally scheduled for this week (Ecosystem Committee and the Fishery Monitoring Advisory Committee) were postponed due to the partial government shutdown.

## Events this week

On Monday and Tuesday, the SSC and the AP each began their meetings with a short administrative discussion or '101' orientation session, reminding members of their terms of reference, meeting duties and procedures, and other logistics.

On Tuesday evening, from 5:30 – 7 pm, NMFS contractors will host an evening feedback session on research funding and projects funded by Saltonstall-Kennedy funds (S-K funds).

On Wednesday, February 6, the Council will have a joint lunch with the Advisory Panel.

On Thursday, February 7, staff from the Pacific States Marine Fisheries Commission will be joining us for lunch.

On Friday, February 8, our staff will be meeting with the Pacific Council staff for an extended lunch, so we won't come back into session until 1:30 that afternoon. Additionally, from 4-5 pm, there will be an Executive Session for the Finance Committee to review the current status of finances and discuss plans for the upcoming 5-year budget submission.