

North Pacific Fishery Management Council

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CERTIFIED:


Vice-Chairman

MINUTES

43rd Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

September 10-11, 1981
Elks Hall
Kodiak, Alaska

The North Pacific Fishery Management Council and the Alaska Board of Fisheries met jointly on September 10-11, 1981 at the Elks Hall in Kodiak, Alaska. Neither the Scientific and Statistical Committee nor the Advisory Panel held meetings in conjunction with the Kodiak Council meeting.

Council members, Board of Fisheries members, Scientific and Statistical Committee and Advisory Panel members, and general public in attendance are listed below.

Council

Clement V. Tillion, Chairman	Donald Bevan
Harold E. Lokken, Vice-Chairman	John P. Harville
Robert Mace, for John Donaldson	Robert W. McVey
Gene DiDonato, for Rolland Schmitt	Don Collinsworth, for
CDR Peter Busick, for RADM Richard Knapp	Ron Skoog

Alaska Board of Fisheries

Nick Szabo, Chairman	Herman Schroeder
Jimmy Huntington	Griffin Quinton
Harry Sundberg	

Scientific and Statistical Committee

Donald Rosenberg, Chairman

Advisory Panel

A. W. "Bud" Boddy, Vice-Chairman	Raymond P. Lewis
Lewis Schnaper	Rick Lauber
Richard Goldsmith	Jeffrey R. Stephan

Support Staff

Guy Thornburgh, ADF&G	Bob Otto, NMFS
Ray Baglin, NMFS	Jack Lechner, ADF&G
Reva Lafavour, ADF&G	Bill Osborne, NMFS
Dave Flannagan, NMFS	Therese Arnetta, NMFS
Kristi L. Stall, NMFS	Milstead Zahn, ABoF
Kris Hauschild, ABoF	LCDR S. W. Vagts, USCG
Bob Larson, ABoF	Lt. Jack W. Jordan, DPS, FWP
Captain Robert Lockman, DPS, FWP	

Council Staff

Jim H. Branson, Executive Director	Peggy McCalment
Clarence Pautzke, Deputy Director	Judy Willoughby
Jim Glock	Jim Richardson
Steve Davis	

General Public

Jude Henzler, RuralCap, Anchorage
Blake W. Kinnear, M/V LIN-J, Kodiak
Allan Adasiak, Kodiak Community College, Kodiak
Jon Newstrom, KMXJ Radio, Kodiak
Dave Herrnsteen, Fisherman, Kodiak
George Johnson, Fisherman, Kodiak
Jeanne Fielder, UFMA, Kodiak
Marcy Jones, Fisherman, Kodiak
Chris Blackburn, Alaska Fishermen's Journal, Kodiak
Fred Kirkes, APL, Kodiak
G. T. Simmons, Alaska Packers Association, Kodiak
Melvin Morgulis, Fisherman, Kodiak

A. CALL TO ORDER AND APPROVAL OF AGENDA

The meeting was called to order at 9:20 a.m. by Chairman Clem Tillion. Chairman Tillion welcomed the Board of Fisheries and public in attendance. Board Chairman Nick Szabo introduced Harry Sundberg of Wrangell, newly appointed Board of Fisheries member.

Chairman Tillion announced that Harold Lokken and Keith Specking were appointed by the Secretary of Commerce for three-year terms as voting Council members.

The Council asked the Executive Director to write a letter of appreciation to former Council member Charles Meacham for his work with the Council over the last three years.

B. SPECIAL REPORTS

B-1 Executive Director's Report

The Executive Director reported that the House Subcommittee on Fisheries and Wildlife Conservation and the Environment has

scheduled oversight hearings on the Magnuson Act for September 24-25 in Washington, D.C. These dates conflict with the Anchorage Council meeting. A memorandum outlining amendments proposed by the Subcommittee staff was distributed to Council members and is made a part of these Minutes as Appendix I. Because of the importance of the proposed amendments, the Executive Director suggested that the Council appoint one person to give oral testimony and answer questions of the Subcommittee at the hearings. *It was the consensus of the Council that Donald Bevan should represent the North Pacific Council at the oversight hearings. The Executive Director was instructed to prepare written testimony for submission to the Subcommittee by September 18.*

A team from Central Office-NMFS will conduct a workshop on the Draft National Standard Guidelines for Council, SSC and AP members, and interested public on Saturday, September 26, 1981, in the Council conference room. Daphne White, Margaret Frailey, and Mary Thompson from the Central Office will lead the workshop.

B-2 Report on West Coast Salmon Situation

Mike Stanley, NOAA General Counsel, gave his interpretation of the Court's August 4 decision in the case Confederated Tribes vs. Baldrige. In that decision Judge Craig ordered a 90-day period for reconsideration (ending November 6, 1981) in which the parties involved were instructed to try to find some way to get more fish back into the Columbia River. The Court questioned the adequacy of the last several years' cutbacks on the Alaska troll fishery, but denied closure of the ocean fisheries because he felt it would not accomplish anything major this year. The order of priority stated in the Decision was treaty obligations first, then conservation of the resource, and then socioeconomic impacts on non-treaty fishermen. Mike Stanley, however, felt that the Judge may have mis-stated the priorities and actually meant to say conservation first, treaty obligations second, and socioeconomic impacts on non-treaty fishermen third.

Mr. Stanley said that because there is no way that 1981 troll fishery data can be available by the November 6 deadline, an extension of time will be sought. In the meantime, Bert Larkins of NMFS-Northwest Region and Bob McVey, Alaska Region, are preparing a response to the Court on behalf of Secretary Baldrige.

On August 24 the Confederated Tribes filed a Complaint with the Court alleging that Washington and Oregon had made no provision for a Columbia River treaty fishery this year. In response to that Complaint, Judge Craig essentially removed management authority from Washington and Oregon by letting the Indians' biologists set the season and optimum yield. Bob Mace explained that the Washington Department of Fisheries decided to limit the Columbia River Indian fishery for conservation reasons. Oregon,

on the other hand, felt that the treaty obligated them to let the Indians fish in the three major pools. Because the question was unresolved, it went to the hands of the Court.

Questions arose on the Council's obligation to the treaty. Mike Stanley said that the treaty obligations may, in fact, be binding on all citizens of the United States. Canada's role in curtailing harvests of upper Columbia River bright stocks was also discussed. Mr. Stanley suggested that the Council may want to attempt to quantify the effects of transfer through Canada to show the futility of taking extreme measures in the Alaska troll fishery.

Bob McVey said that he and Bert Larkins are not yet able to offer management alternatives to the Court, and have solicited technical assistance from the agencies involved. ADF&G has designated Mel Seibel as technical representative and George Utermohle as the Department's liaison. McVey and staff have also met with representatives of Alaska Trollers Association to discuss the situation. An informal group has been established to examine the Washington Department of Fisheries computer model to attempt to understand exactly how it works and learn its limitations and sensitivities.

Mr. McVey suggested that time/area closures may be the most feasible way to selectively save Columbia River brights. Such closures would transfer fishing effort to other stocks. The trollers understand the importance of offering constructive alternatives to the Judge and are willing to consider time/area closures.

Gene DiDonato said that WDF is concerned about the timing for the Board of Fisheries' consideration of troll fishery regulations. He urged the Board and Council to delay action on final regulations until complete assessment of the 1981 fishery can be made.

Mike Stanley said that as a result of the pending Court decision the Council may have no real control of the 1982 troll fishery except for measures which do not affect fish from southern states.

Public Testimony

Lewis Schnaper, consultant representing Alaska Trollers Legal Trust, testified in support of challenging, rather than complying with, Judge Craig's directive in the August 4 Order. He said that giving up just one fish above the level required for conservation purposes would give Judge Craig the right to tell the Secretary of Commerce what to do concerning the fishery off Alaska. Mr. Schnaper said that if Alaska does not challenge the case, the troll fishery will be snuffed out anyway, little by little. And if Alaska does challenge the case and loses it all, at least we can say we gave it our best shot.

Council Action

Bob McVey asked the Council to appoint a small workgroup to help coordinate Council input for the response to the Court. The North Pacific members of the existing Inter-Council Salmon Coordinating Committee (Ron Skoog, Joe Demmert, and Don Bevan) were assigned to work with Mr. McVey and Mr. Larkins on the response to the Court.

Don Collinsworth moved that the following statement be adopted as the Council's position on its obligation to the Court in the Confederated Tribes vs. Baldrige; seconded by Don Bevan.

The North Pacific Fishery Management Council affirms its interest in participating to the extent appropriate in responding to Judge Craig's August 4 Order that management of the ocean fishery off Southeast Alaska be reexamined to find ways to increase escapement of western North American chinook stocks for conservation purposes; further, the Council requests a reasonable extension of time for final compliance with that Order so the data from the 1981 season can be fully evaluated as the basis for equitable and effective management decisions. The Council is working closely with the Alaska Board of Fisheries to this end and will meet with them the first week of January, 1982, at which time the necessary data will be available from the Alaska Department of Fish and Game to complete evaluation of this question.

The motion was adopted without objection.

C. PUBLIC HEARING ON KING CRAB FISHERY MANAGEMENT PLAN

The Council and Board heard testimony on Thursday morning, September 10, on Draft #11 of the Bering Sea/Aleutian Island King Crab Fishery Management Plan. A summary of the hearing is made a part of these Minutes as Appendix II.

D. DISCUSSION OF DRAFT KING CRAB FISHERY MANAGEMENT PLAN

Joint Statement of Principles

A revised Joint Statement of Principles dated September 8, 1981, made a part of these Minutes as Appendix III, was presented to the Council and Board for review and adoption. Revisions had been made to the document to more accurately reflect the current situation and did not substantially alter the text.

Don Bevan moved that the Council approve the Joint Statement of Principles dated September 8, 1981; seconded by Don Collinsworth. The vote was postponed until Friday, September 11, because the Council had not had ample time to review the revised Joint Statement of Principles.

Upon roll call vote, the motion passed 5 to 2 with Harold Lokken and Gene DiDonato in objection.

The Board of Fisheries adopted the revised Joint Statement of Principles, noting that the "no plan" option would be simpler and least burdensome to the State.

Council/Board Discussions

The Council and Board discussed differences in management strategies between the two bodies and various problems with mechanical aspects of management of the king crab fishery and other fisheries of mutual interest.

The Council and Board discussed the Board's favorable reconsideration of a second season in the Kodiak area for 7½ inch crabs and its denial of the petition by the North Pacific Fishing Vessel Owners Association, the Alaska Crab Institute, and the Alaska Marketing Association for a higher-than-normal exploitation rate to reduce the economic hardship caused by setting quotas based on NMFS's abundance estimates. The Board's justification for their negative finding on the petition stemmed from their hesitation to trust "largely untested" scientific information on the higher exploitation rate. They chose to continue with a .6 exploitation rate because previous experience with this harvest level has not demonstrated potential harm to crab stocks.

Mike Rubenstein of the State Attorney General's Office in Washington, D.C. briefed the Council on his interpretation of the legal ramifications of each of the four available options for the King Crab FMP (no plan, state regulation under FMP by delegation, state and federal regulations under an FMP, or "federalized" regulations under an FMP). A copy of his report is made a part of these Minutes as Appendix IV. The Council and Board discussed the positive and negative aspects of approvability and enforceability of regulations promulgated under each of the four options.

Harold Lokken asked that the record reflect his opposition to the exclusion of Kodiak and the Peninsula from the plan.

Mike Rubenstein suggested that the Council may want to include a discussion on the history of the Kodiak king crab fishery as possible justification for exclusion of Kodiak and the Peninsula from the plan. He felt that including such a section may answer some of the Central Office's many questions on the reasons for the plan covering only the Bering Sea fishery.

Mike Rubenstein suggested that the Council may want to send a small workgroup to Washington, D.C. after the Central Office has made its preliminary review of the package to answer questions and attempt to resolve any difficulties which may arise.

Council Action

It was the consensus of the Council that Draft #11 of the Bering Sea/Aleutian Islands King Crab Fishery Management Plan be revised to conform with Option IIB, "federalized" state regulations under

the framework FMP, with the provision that state regulations will not be federalized until the need arises for protection of the fishery. The Council decided not to include a section detailing the history of the Kodiak fishery at this time. After final Council approval of the revised Draft #11 at the September 24-25 Council meeting, the package will be reviewed by the NMFS Regional Office. Changes suggested by the Region will be incorporated into the package and sent to Washington, D.C. to begin Secretarial review. After initial review by the Central Office staff, a small workgroup will meet with Central Office reviewers in Washington, D.C. to answer questions, clarify the Council's position, and consider changes suggested by the reviewers.

E. CHAIRMAN'S CLOSING COMMENTS AND ADJOURNMENT

Discussion on Possible Winter Herring Fishery

Chairman Tillion said that a surplus of herring exists and the Council must consider at its September 24-25 meeting in Anchorage a request for a joint venture winter herring fishery. Failure to utilize the surplus in a domestic fishery could result in allocation of the surplus to a foreign fishery. Board Chairman Szabo said that because data on the Bering Sea herring fishery were incomplete and biomass estimates are far from final, the Board would not be prepared to respond until the December Council/Board meeting. He did suggest, however, that perhaps Ken Parker may be able to furnish preliminary information to the Council at its September 24-25 meeting.

Public Testimony

Oscar Dyson, Kodiak fisherman, said that several management errors may have been committed in the Kodiak spring herring fishery. He felt that the 7 to 8-year age class was not harvested and said that the herring were allowed to spawn before conducting any fishery on them. He said the alleged "missing" 4-year class was there although they had not been observed in the aerial surveys.

Mr. Dyson urged the Board to consider methods of stock assessment other than aerial surveys and indicated that domestic fishermen would want to harvest any available surplus rather than allowing it to be allocated to a foreign fishery.

There being no further business to come before the Council and Board of Fisheries, the 43rd plenary session of the North Pacific Fishery Management Council adjourned at 3:05 p.m.