



F31/RS

DATE: JUL 1 1977

TO: Chairmen, Regional Fishery Management Councils

FROM: ^{B. L.} Robert W. Schoning, Director
National Marine Fisheries Service

SUBJECT: Request for Council Views on Proposed Funding
Policies and Procedures

Since the passage of the Fishery Conservation and Management Act, funding of Council activities has remained a matter of concern to both the Regional Councils and NOAA/NMFS. This is attributable, in major part, to the fact that estimated Council budget needs surpassed available funds and, also, that the respective roles of NMFS and the Councils remain unclearly defined. This memorandum attempts to define the limits of the problem and provide you with some of our thoughts and proposals for resolving it. No final policy decisions will be made until you have expressed your views and an appropriate course of action can be established. Simply, we need to develop a shared viewpoint for accomplishing the common goal of managing the fisheries resources of the fishery conservation zone. I would hope that while we are attempting to resolve these concerns, we do not let them divert us from being able to get on with the job at hand. I can assure you that this agency will continue to be as responsive as possible to your needs as we address the difficult questions raised in this memorandum.

THE PROBLEM

As you know, \$3.111 million in permanent base funding was appropriated for Council activities for FY77 as part of the NMFS extended jurisdiction budget. After subtracting NOAA overhead, \$3.065 million actually became available for Council support. The initial budgets prepared by Councils for FY77, however, requested \$6.199 million. The difference between available funds and proposed Council requirements is even greater in FY78. A supplemental appropriation was considered for FY77, but was not included in the Administration's budget revisions sent to the Congress on February 22. More recently, in a March 13-14 telephone survey of Council spokesmen, an attempt was made to identify additional "urgently needed" funds for the remainder of FY77. This survey indicated a need for up to \$1.35 million beyond presently appropriated Council budget levels. The Administration has reprogrammed,

JUL 27 1977



AMERICA'S
FIRST INDUSTRY



with Congressional approval, \$3.75 million from the construction of a research vessel to Council operations, assistance to States to support their active participation in Council activities, and initiation of the foreign observer program. Of this amount, \$1.2 million is being made available for FY77, and the balance for FY78. The additional \$1.2 million now available, however, is approximately \$0.5 million short of the amount needed to meet requirements of the Councils, and support for State agency participation in Council activities. We plan to make up this deficit by reprogramming a portion of our own extended jurisdiction funds.

Not only is NMFS presently faced with the difficult situation of having to allocate limited funds among eight Councils, but also of having to allocate those funds among competing activities, i.e., "housekeeping" or administrative, as opposed to programmatic. In this regard, it is further reasonable to assume that Council budgets will, in all probability, vary widely because of the expected variability in the number and complexity of problems that different Councils will face, the extent of the fishery resources and management units that each Council will have to address, etc. We feel it would be desirable to establish criteria for the rational allocation of the total Councils' budget for both immediate and future needs.

Inseparably associated with the budget question are the respective roles and responsibilities of the Councils and the Secretary (i.e., NOAA/NMFS) as mandated by the FCMA. Therefore, it becomes necessary to examine the budget question not only in the light of the availability of funds, but also in terms of appropriate areas of responsibility for NMFS and the Councils. The respective roles and responsibilities of the Councils and NMFS are not as clearly spelled out in the FCMA as they might be. Indeed, the law seems to be open to varying degrees of interpretation. Such flexibility, however, can be used to our mutual advantage through the common understanding and agreement that this memorandum is intended to encourage.

I want to share with you some of our views on the matters raised above and, in turn, ask for yours. Some difficult decisions will have to be made at an early date, and your reaction and advice concerning appropriate criteria would be very greatly appreciated.

ADMINISTRATIVE COSTS

In Section 302(f)(3) of the FCMA, it states that "the Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council."

Further, in Section 302(f)(7)(E), the Act states that the "Secretary shall pay such other costs as the Secretary determines are necessary to the performance of the functions of the Councils." Examples of administrative costs are compensation to Council members; staff salaries and fringe benefits; travel expenses for staff or members of the Council, Scientific and Statistical Committee, and Advisory Panels; rental of office space, equipment, supplies, telephone, printing, janitorial services; etc.

We view administrative costs as being the basic operating needs of the Councils and, accordingly, place the highest priority on meeting Council funding requirements in this area. Therefore, I propose to accommodate all reasonable administrative grant requests within budgetary and authorization limitations. Assuming that you concur, I feel our next concern is to allocate available administrative funds among the eight Councils in some reasonable fashion. There are certain objective criteria that can be usefully applied such as Council size, numbers of committee and panel members, frequencies of meetings, number and salaries of staff, office rental costs, etc. Rather than apply a rigid formula to the allocation of funds for administrative purposes, I would prefer, for the present, to simply assume that each Council will exercise reasonable restraint in its requests and will prepare its requests using the same general guidelines and criteria.

I would like you to understand, however, that our capability to meet administrative budgets will have to be balanced against a Council's perception of its additional financial requirements and strategy for carrying out its functional responsibilities.

We prepared the initial Council administrative budgets taking into account some of the parameters noted above, and you have operated on them for up to six months. It is our view that administrative costs will probably become relatively stable, subject of course to inflationary increases or other minor adjustments. We do not, for example, see much expansion of Council permanent staff beyond the seven-person base, the acquisition of larger office facilities, or major changes in meeting schedules or travel expenses. In conclusion, we would ask Councils to keep administrative expenses to a minimum, but not to the detriment of their operational effectiveness. Given the above, we feel administrative requirements can be satisfied with available funding. We recognize that as we gain experience, some of these views may have to change.

PROGRAMMATIC COSTS

Programmatic costs involve costs over and above the administrative costs described above, and for which Councils are seeking funds

to carry out their functional responsibilities under the FCMA. The primary Council responsibility is the preparation and amendment of fishery management plans. Therefore, we could expect that the purposes for which such programmatic funds are required may vary widely from the collection and analysis of certain data, to the formulation of management options and the monitoring of implemented management strategies. There are two major issues of concern to me with regard to Council requests for programmatic funds. The first is how might we decide which requests should be supported, and which should not? The second is how might such requests be handled procedurally?

Concerning the first issue, a good share of the programmatic funds requested by Councils for FY77 are in the interpretive area of Council/NMFS roles. Accordingly, we have hesitated to make any immediate commitment to Councils on their programmatic funding requests until this subject has been thoroughly addressed. In this regard, I propose that several decision criteria be considered in approving or disapproving funding support for any programmatic proposal submitted by a Council in order to carry out its legal responsibilities. The proposed criteria represent our views as based on the law and how we think it was intended to work. I solicit and welcome your views on the efficacy of these proposed decision criteria which would be used to evaluate current and future Council programmatic funding requests.

Criterion 1. Functional Propriety

Is the request for funding consistent with the functions assigned to the Councils by law?

To paraphrase Section 302(h) of the law, Councils are required to prepare and amend fishery management plans; prepare comments on applications for foreign fishing permits; conduct public hearings; submit certain reports to the Secretary; review and revise assessments and specifications with regard to optimum yield and total allowable level of foreign fishing; and conduct other activities necessary and appropriate to the foregoing functions.

NMFS Perspective

The funding request should clearly be related to the Council functions stated above, i.e., the mandated role of the Council. It is clear that the principal responsibility of the Regional Councils is to prepare and amend fishery management plans. The Act further states that such plans are to be prepared on the basis of the best available

scientific information. Based on this, it is our view that Councils are to function primarily as transformers of available data into fishery management plans, and as identifiers of additional information needs and their potential sources for the purposes of amending those management plans. Appropriately, therefore, Council programmatic proposals ought to relate specifically to the preparation or amendment of a management plan(s), or directly to one of the other stated Council functions.

Given these basic responsibilities, I would think that funds might be made available by NMFS to the Councils for such purposes as:

- o Accumulating, assimilating, and analyzing all available information on fisheries, and their supporting habitats, for which a Council intends to prepare fishery management plans.
- o Financing personal services for the preparation and amendment of fishery management plans if that function cannot or will not be done by Council staff, NMFS personnel, or State agency personnel, as appropriate.
- o Evaluating potential biological, economic and social impacts of various management objectives/options through the development and application of management models.
- o Collecting and analyzing certain biological, economic and social data, which otherwise are not or cannot be made readily available by or through NMFS, States, Sea Grant or other established sources in a timely fashion for the preparation, amendment and monitoring of fishery management plans. I think that such efforts would, in most cases, be highly specific to plan preparation requirements and, therefore, of relatively short duration, i.e., designed to fill immediate data needs unavailable elsewhere. In a large number of cases, NMFS should be able to satisfy long-range Council data needs through its existing operational and programmatic channels (see Criterion 2). NMFS has a statutory responsibility to provide much of the data needed by the Councils, and is prepared to do so either through its existing staff and capabilities, or through contracting as appropriate to the extent that the job can be done that way.

Criterion 2. Cost Efficiency

How can maximum cost efficiency and avoidance of duplication be achieved?

One of the national standards for fishery conservation and management (Section 301(a)(7)) directs that "conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication." Moreover, Section 302(f)(3) of the Act states that "The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council," and Section 304(e) states that "The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy and provisions of this Act."

NMFS Perspective

As suggested earlier, Council requests might always exceed available funds. In order to stretch limited dollars to the maximum, it is necessary for us (i.e., NMFS and the Councils) to avoid duplication of effort and to operate as cost-efficiently as possible. Just as the Act clearly specifies Councils to be the preparers of fishery management plans, it charges NMFS with the key responsibility for providing administrative and technical support services to the Councils, and to maintain a comprehensive program of fishery research. These requirements indicate that Congress did not intend for the Councils to establish any permanent or independent research capability that would duplicate the existing capabilities of NMFS (or other public or private sources). Therefore, one of NMFS' primary responsibilities is to assure that the data and information necessary for Councils to accomplish their responsibilities are made available. This role needs to be carried out in close coordination with States, Councils and other organizations so as to complement, rather than compete with, each other's responsibilities.

NMFS is mandated to carry out many legislated responsibilities under the authority of several separate statutes including the FCMA. In carrying out these responsibilities, heavy funding and human resource commitments are already made to major ongoing programs of national scope. Included among these, for example, are such activities as:

- o Resource Surveys
- o Data Analysis
- o Fisheries Oceanography
- o Fisheries Engineering
- o Fisheries Habitat Protection and Investigations
- o Fisheries Development
- o Marketing Research

Therefore, when a Council has identified informational needs to prepare or amend fishery management plans, we view NMFS' and the States' base programs as the most likely sources of data, information or expertise. We would further expect that the Scientific and Statistical Committee of each Council will be the mechanism through which a Council will identify short-term research and data needs, and that planning teams will identify additional mid- and long-term research and data. If certain biological, economic or social data or information are needed on a high priority basis for the preparation of specific fishery management plans, and are not reasonably available from NMFS or the States, and neither they nor another similar source has plans or the capability to produce it, then it would seem appropriate for that data or information to be obtained by contract through NMFS or directly by the Council. NMFS would be obliged to provide, within budgetary limitations, funds for such purposes.

Further, with regard to such matters as legal services, for example, the NOAA Office of the General Counsel has already assigned staff lawyers to the field to provide such services to the Councils. Nevertheless, this is not intended to imply that Councils are totally precluded from seeking legal counsel from outside of NOAA and the Federal government. It is our interpretation that Councils may contract with outside attorneys, experts, and consultants as required consistent with available resources. However, in the interest of minimizing costs and avoiding any unnecessary duplication of effort, we would not expect non-government legal counsel to be contracted for on a continuous or near-continuous basis. We would anticipate that Regional Councils will first seek legal counsel from NOAA, and seek it from some other source only when NOAA cannot provide it.

In short, it is our view that existing NMFS, State, Sea Grant and other organizations' resources should be utilized by Councils to the fullest extent possible before they seek information and services elsewhere. Therefore, in evaluating a Council programmatic proposal, both the NMFS and the Council will need to ask themselves whether the information or services being sought can be most cost-efficiently and appropriately provided by, and are within the capacity and capability of, existing NOAA/NMFS programs or with some other entity. Consideration must be given to the adequacy of the final product.

Criterion 3. Priority Status

Effective management, as we all recognize, embraces the need to establish priorities among program goals and resources to attain them. We feel Councils will have to establish priorities and justifications for their requests both within and among Councils, and make joint Council recommendations to NMFS on the basis of this. In turn, NMFS will rely in large measure on such priorities and justifications in making programmatic funding-request allocations. Whatever the proposed activity and cost, it must be defensible to both the Administration and the Congress.

With respect to administrative requirements, if Councils do not agree with our perspective that administrative costs should be relatively fixed and of the highest priority, then we would ask that proposed increases in administrative costs be incorporated into the array of Council priorities.

With regard to these proposed criteria and our perspectives on them, I would like to turn to the second issue of concern, i.e., the matter of procedural handling of Council programmatic funding requests. I would again like to offer some proposals and ask for your views on them. The proposed procedures which follow are designed to enable Councils to obtain the needed technical support with a maximum of flexibility, while minimizing costs, avoiding unnecessary duplication, and meeting the requirements of the budgetary process.

1. Council Recommendations for Biological, Economic, Social and other Technical Research

Councils should first seek technical information needed to prepare fishery management plans from NOAA/NMFS, States and universities. When Councils find that existing information on biological, economic, social and other technical aspects of fisheries is inadequate to prepare these plans, they should request NMFS to arrange to provide it to them. In the event that NMFS is unable to provide the requested information, then the Councils should seek to obtain it from some other appropriate source. Council requests for programmatic funds should be included in the annual budget submissions by each Council and will be provided by NMFS to the extent possible within other budget and personnel constraints.

Councils should describe to NMFS, in as much detail as necessary, the kind of information they require, how they believe it should be obtained, and what agencies or groups they think would be appropriate to conduct the biological, economic, social and technical research or studies. The Councils' Scientific and Statistical Committees are expected to play a primary role in identifying the types and sources of technical expertise needed.

Obviously, there will be limits to the amount of research which can be carried out in response to requests from the Councils. As indicated earlier, each Council should therefore develop priorities for its information needs, and the Councils jointly should recommend research priorities on a national basis within the guidelines provided by NOAA as the agency responsible to OMB to develop budget submissions.

If the NMFS decides not to fund a particular project after receiving consideration under the proposed criteria and procedures, a Council may appeal the decision to the Director, NMFS. To do this, the Council Chairman and Regional Director shall separately submit recommendations, with justification and estimated costs, to the Director. Such issues shall be referred to the Associate Administrator for Marine Resources for final decision.

2. Council Funding for Evaluation of Information

Funds will be made available to the Councils to enable them to obtain independent evaluations of research information on the biological, economic, social or other technical aspects of the preparation of fishery management plans supplied to them by NMFS or other groups. The evaluation might be made by contracts with universities or other groups.

The priorities for the use of funds set aside by NMFS for this kind of purpose should be established by the same procedures as outlined above for determining priorities for research efforts.

3. Emergency Studies

To provide for funding of unanticipated or emergency biological, economic and social research, and studies judged to be essential for the preparation of fishery management plans by the Councils, NMFS will establish a special fund for this purpose.

Until I receive your views on these proposals, and these procedural matters are resolved, I intend to make programmatic funds available only on a case by case basis with appropriate Council input.

Your Views Requested

In summary, it is my earnest desire to provide for maximum Council flexibility within the requirements and framework of the law, and the responsibility and accountability of the Secretary for the expenditure of Federal funds.

Our views and proposals on Council funding are offered basically for the purpose of developing policy guidelines and urging Councils to examine their functions closely, identify needs in accord with their role and request assistance from appropriate sources--but principally from the Secretary (NOAA/NMFS). We would prefer to avoid fixed formulae for making grants, and instead rely on Council-established priorities. Your views and comments with regard to these matters will be appreciated. In view of the importance of this matter, I urgently solicit those views so we can come to an early agreement on how to proceed. There is a critical need to make programmatic funds available to Regional Councils as soon as possible. Therefore, I would appreciate receiving your responses by July 22.



Agenda Item #14, Aug. 1977

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Washington, D.C. 20235

F31/RW

0 9 AUG 1977

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
P.O. Box 3136 DT
Anchorage, Alaska 99510

Dear Jim:

Thank you very much for your July 27, 1977, letter responding to my July 1, 1977, memorandum, "Request for Council Views on Proposed Funding Policies and Procedures." I recognize that your comments are preliminary and I can appreciate the need to consult with the Council. Therefore, I am extending the review period for Council comments until August 31, 1977.

I will delay responding to your comments until I hear further from you following the North Pacific Council Meeting in August.

Again, thank you for your response.

Sincerely,

for *Maris M. Pallezzi*
Robert W. Schoning
Director



July 27, 1977

Mr. Robert W. Schoning, Director
National Marine Fisheries Service, NOAA
3300 Whitehaven Street, Page Bldg. 2
Washington, D.C. 20235

Dear Bob,

Your memorandum of July 1st requesting Council views on proposed funding policies and procedures arrived on July 7. The Council will not be meeting as a body until late August, but they have been developing criteria for spending, both in the operating and programmatic areas. I will endeavor to explain that developing policy, although we may expect changes when the Council has an opportunity to consider this question as a group.

Council administrative costs, as outlined in your memorandum on Page 2 and 3, probably will stabilize eventually. It is still too soon, however, to make a really accurate estimate of annual administrative costs for the North Pacific Council. Until we have gone through the complete cycle of management plan development a relatively firm figure for operating costs will not be available. It's apparent that the secondary and terminal stages of management plan development are going to be more costly to the Council than the initial drafting because of printing costs, public hearings, temporary labor for redrafting and retyping, and other expenses that are not involved in the initial drafting procedure. Real costs, in terms of manpower and money to other agencies, principally the Alaska Department of Fish and Game and NMFS, still remain highest during initial plan development.

The North Pacific Council is rapidly settling into an operating procedure that should stabilize the number of meetings (approximately 10 per year), their length, and the associated travel costs and salaries. After all of the Council management plans are in place meeting frequency may decline considerably, but that time is still 3 or 4 years in the future. There will still be some variables, mostly associated with travel costs and expenses for small working groups appointed by the Council. Examples are the ongoing working groups developing positions on INPFC renegotiation, halibut working groups and

IPHC renegotiation, etc. These are ad hoc groups consisting of both Council members, Scientific and Statistical Committee and Advisory Panel members, and scientists or experts from outside of those groups.

There is one area that may lead to confusion in administrative costs. The North Pacific Council has been paying travel and expenses for members of management plan drafting teams from such agencies as the Alaska Department of Fish and Game (ADF&G), the University of Washington and University of Alaska. For State accounting purposes ADF&G needs to be reimbursed by contract, but in reality these might still be considered administrative funds. An alternative budgeting system, which we are considering, would place all plan development expenditures in the 'programmatic' category - perhaps as line items in the budget. Many of those costs would not be contract items, and thus not readily identifiable as programmatic unless such a system is used.

The budgets for line items for each management plan under development could be developed by the drafting team at an initial meeting funded out of Council administrative monies. Thereafter, however, all plan development costs would be considered as programmatic expenditures, even though they are paid directly from the Council's overall operating grant.

In summation, I want to stress that the dividing line between 'administrative' and 'programmatic' costs is not as clear cut as it might appear, and further definition is necessary if we are to avoid future budgeting and funding problems.

PROGRAMMATIC FUNDS

The Council is currently in the process of establishing criteria for contract funding and have tentatively outlined the following guidelines:

- a. Research must be responsive to Council needs.
- b. It must be timely.
- c. Funding requests and research projects will be prioritized by the Council in relation to ongoing management plan development.
- d. Projects must be clearly necessary for management plan development.
- e. The projects should be short-term. Where it appears that a funding need will continue for more than one or two years the Council contract should serve as "seed money", with the project to be picked up by some other agency after its initial start-up.
- f. The contracts must be identified with ongoing plan development.

The NMFS perspective on Criteria One in your memo is essentially in agreement with Council thinking. The Council's role as a coordinating body in accumulating, assimilating and analyzing all available information on fisheries is paramount. The North Pacific Council has never intended duplication of agency efforts, either Federal, State, or university.

The preparation of fishery management plans is being done with existing personnel in the ADF&G, NMFS and the two Universities associated with this area. Financing personnel services, except those of a clerical or strictly writing nature, has not been necessary to date. I should point out, however, that this situation may not last indefinitely. If we continue to place major demands on State personnel, particularly if they should get into areas clearly different from and in addition to those normal to their State - mandated responsibilities, federal funding will be both appropriate and necessary. We should not expect Alaska to cover extensive costs associated with a program which has been established by the federal government, and which is being extensively funded in other areas from federal sources.

The research projects for which the Council has requested funding, including the three submitted by telecopy on July 7, are projects for which no other funding appears to be available. It has been the Council's practice, through the Scientific and Statistical Committee, to canvas the research and management agencies to see if they can fund and organize a needed piece of research before the Council proposes to fund it through its programmatic funds. Representatives of the ADF&G, NWAFC, University of Washington, University of Alaska, Washington Department of Fisheries and the Oregon Department of Fish and Wildlife all serve on the Scientific and Statistical Committee. Generally it is easy to ascertain whether or not research funds are available in those agencies or whether there is some ongoing research that will fill the Council's needs. The Scientific and Statistical Committee also serves as an excellent forum where the Council can furnish some guidance to those agencies in the development of their own long term research programs, to the benefit of both the Council and the agencies.

The Council has submitted a contract proposal from the Alaska Department of Fish and Game for \$60,000 for management plan development, intended to reimburse them for travel and per diem expenses, some computer time, necessary extra clerical help, and a limited amount of personnel "back-up" for their research personnel tied up in drafting plans. As mentioned earlier, this money could be considered either administrative or programmatic. It would be possible to reimburse them directly from Council administrative funds, however, the State of Alaska requires legislative

approval of monies received by the State from other agencies, and this can best be done in the form of a contract. Thus, this particular contract is for the administrative benefit of the State of Alaska rather than a Council need to use this method for reimbursing State personnel for their work on the Council management plans.

CRITERION TWO

As already stated the Council agrees on the concept of using all available outside sources and agencies for management plan drafting, research, data analyzation, etc., before considering funding a particular project itself. If other sources of funding are available and Council recommendations or approval would aid in getting them, the Council would move in that direction. An example is the Council recommendation this spring for a short-term tanner crab processing capability study which was funded by NMFS and conducted by the University of Alaska Sea Grant Program, primarily for the benefit of the Council. Another study endorsed by the Council entitled "Market Demand and Market Channels for Tanner Crab" is being funded by the National Sea Grant Program. It is a long range study which will help the Council in the management of tanner crab.

In the matter of legal services I am sure the Council wishes to retain the option to employ legal counsel from outside of NOAA and the federal government if they feel it is necessary. I doubt if they would be interested in contracting for such counsel on a continuous or near continuous basis. NOAA and NMFS are to be complimented for the timely staffing of a NOAA Office of General Counsel in Juneau. Without the services of Mr. Kim White it would have been awkward indeed to have handled the many legal questions and problems which have arisen in the course of Council business. He has been very responsive and I am sure the Council is very pleased with the help that he has given them. In light of this reponse the Council will undoubtedly continue to seek legal counsel from NOAA as its' first order of priority. I would not expect them to go elsewhere for legal help unless it could not be provided by NOAA or a serious point of contention arose in which the use of NOAA legal staff would be inappropriate.

CRITERION THREE, PRIORITY STATUS

It should be like you are suggesting the Councils get together to make joint recommendations on programmatic funding for each Council. I question the workability of such a scheme. I would think that each Council will consider their activities of the highest priority and a consensus on funding for all of the Councils would be impossible to arrive at. There

will be some programmatic requests that will obviously be of national interest and therefore of value to all of the Councils. These could most properly be funded directly by the National Marine Fisheries Service with Council guidance and endorsement.

Administrative requirements, without which management plan development could not proceed even if all needed data was available, obviously must have a first priority. If the Council is unable to meet regularly to develop plans, review permit applications, and conduct the other activities required by P.L. 94-265, it's obvious they would be unable to function at all. Administrative costs probably will become relatively fixed, but as stated earlier, I doubt that we are yet in a position to estimate those costs closely. Once we have finished a full cycle of management plan development, we should be able to make a reasonably close estimate of annual administrative costs. In the meantime, the North Pacific Council is in a continual process of budget estimation, both for the rest of the current fiscal year and for FY 78-79-80. We have endeavored to hold our operating costs as low as possible and affected economies wherever we could, but it is not yet time to lock into a relatively fixed annual figure.

COUNCIL RECOMMENDATIONS FOR BIOLOGICAL, ECONOMIC, SOCIAL AND OTHER TECHNICAL RESEARCH

As already discussed the Council has sought data first from existing agencies, usually NOAA/NMFS or ADF&G. Only when information has been unavailable, or funds for a specific program needed to obtain necessary short-term data have been unavailable, has the Council requested direct funding for research.

There are problems with requesting programmatic funds for specific projects as annual budget submissions in these initial stages of Council organization and management plan development. Until management plans are well into the drafting stage, it is sometimes not apparent exactly what the data needs are. Once a management plan is in place, it should be relatively simple to identify those areas where more information is needed and to prioritize necessary research projects. That will not be the case for the next two years, at least, for the North Pacific Council as they will be initiating management plans that far into the future. A more workable solution from a budgeting standpoint for the next two or three years might be a flat sum allocated to the Council for programmatic purposes that could be used as the need develops. While programmatic needs would not necessarily fall to the exact dollar requested or allocated for the budget year, at least the Council would

have a figure to work with as it develops priorities for projects that cannot be funded through other sources. It has the advantage of immediate availability when a short-term data need is identified that cannot or should not wait on regular cyclic budgeting processes. Obviously, some programmatic funds can be budgeted in advance; currently the North Pacific Council has two requests on their way to your office for research projects that extend through more than one fiscal year. I recognize the difficulties with this type of contingency funding, OMB and the rest of government abhors it, but initially this, or some system that will accomplish the same thing, seems very necessary.

To summarize, administrative funds for Council operations should be the priority item. They will undoubtedly stabilize, but that stabilization cannot be expected to take place immediately. Programmatic monies should be utilized for projects that cannot be funded from other sources and those projects should meet the criteria now being developed by the North Pacific Council, that is, they should be responsive to short-term Council needs, clearly necessary, and identified with ongoing management plan development. Within that framework they should be timely and should be prioritized by the Council with the assistance of the Scientific and Statistical Committee.

If these criteria are used it will be impossible to make annual budget submissions for all programmatic needs, some of it will of necessity fall in the "emergency studies" category described on page 9 of your memo. It would seem wise, however, to allocate at least a portion of this money to each Council for these needs, rather than holding it in a national fund. The Councils will thus have some financial guidelines to prioritize and budget for short-term research projects. Also, in the case of the North Pacific Council, I again wish to point out that some expenditures that might be considered either programmatic or administrative, can be either contracts or grant expenditures (direct disbursement), and should be recognized as to category both in budgeting and in bookkeeping - once the definitions are satisfactory to all of us.

It behooves us to bear in mind, also, that the Council may not always be able to depend on the current amount of 'free' labor it is now receiving. Long range planning by both NMFS and the Council should recognize the possibility of greatly expanded funding needs if that occurs.

Sincerely,

Jim H. Branson
Executive Director

PACIFIC FISHERY MANAGEMENT COUNCIL

526 S.W. Mill Street
Portland, Oregon 97201
Phone: 503-229-5769

CHAIRMAN
John W. McKean

EXECUTIVE DIRECTOR
Lorry M. Nakatsu

August 2, 1977

Mr. Robert W. Schoning, Director
National Marine Fisheries Service
U. S. Department of Commerce
Washington, D. C. 20235

Dear Bob:

At its recent meeting in Boise, the Pacific Council reviewed your memorandum of July 1, addressed to the Chairmen of the Regional Councils, on proposed funding policies and procedures.

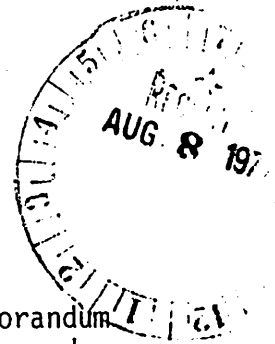
The Council is greatly concerned with the intent of your memorandum since it can lend itself to various interpretations. On the one hand, an interpretation could be made that NMFS is seeking to control through the budgetary process the regional councils which have been assigned a clear mandate for the conservation and management of the fishery resources within their respective areas of jurisdiction in the 200-mile zone. The other interpretation is that NMFS, as the lead federal agency, is truly seeking input from the councils so as to promote and expedite the achievement of council objectives.

The Pacific Council has been fortunate in that it has had the full support and cooperation of both the Northwest and Southwest regional offices of NMFS, and the Council has not to date encountered difficulty in seeking programmatic funds on a timely basis under the current procedures. We are concerned that this relationship, which has been working well, could easily change depending on how future funding requests as outlined in your memorandum are processed.

The Council further recognizes the important role that NMFS/NOAA plays in the council process and the need for exercising some type of overall control over council budgets. At the same time, the Council feels that the control exercised over the budget should be sufficiently flexible so as to promote, not impede the achievement of the mandate delegated to the councils.

It is with these thoughts in mind that we offer the following suggestions:

1. It is recognized that NMFS and the state agencies will have to be relied on heavily for information necessary for plan preparation, but we feel that it is the Councils that should make the determination of how best to obtain needed data. Your memorandum implies that NMFS will make that determination.
2. The Council must act with considerable speed in order to have management plans in place as soon as possible. The review process described in the memorandum should be shortened to the minimum amount of time necessary and clearly should not be an impediment to plan development.

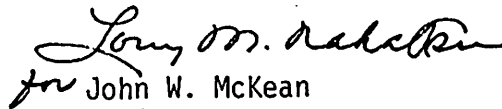


August 2, 1977

3. This leads to the suggestion that each council have a budgeted sum for contract work to be allocated on the basis of Council-determined priorities. Funds over and above those levels would be on a national competitive basis.
4. We would emphasize the need for some autonomy in the allocation of contract funds on two grounds: (a) speedy actions; and (b) the clear mandate in the FCMA to develop fishery management plans whenever foreign allocations are requested, *regardless of the national importance of the fishery concerned.*

Again, let me emphasize this Council's pleasure in the prompt processing of our past request for programmatic funding. We hope the above suggestions can be implemented to expedite development of Council fishery management plans.

Sincerely,


for John W. McKean
Chairman

cc: PFMC Members
Other Regional Councils
H. Hutchings
G. Howard
R. Schaefer

pw



F31/RS

DATE: JUL 1 1977

TO: Chairmen, Regional Fishery Management Councils

FROM: ^{B. L.} Robert W. Schoning, Director
National Marine Fisheries Service

SUBJECT: Request for Council Views on Proposed Funding
Policies and Procedures

Since the passage of the Fishery Conservation and Management Act, funding of Council activities has remained a matter of concern to both the Regional Councils and NOAA/NMFS. This is attributable, in major part, to the fact that estimated Council budget needs surpassed available funds and, also, that the respective roles of NMFS and the Councils remain unclearly defined. This memorandum attempts to define the limits of the problem and provide you with some of our thoughts and proposals for resolving it. No final policy decisions will be made until you have expressed your views and an appropriate course of action can be established. Simply, we need to develop a shared viewpoint for accomplishing the common goal of managing the fisheries resources of the fishery conservation zone. I would hope that while we are attempting to resolve these concerns, we do not let them divert us from being able to get on with the job at hand. I can assure you that this agency will continue to be as responsive as possible to your needs as we address the difficult questions raised in this memorandum.

THE PROBLEM

As you know, \$3.111 million in permanent base funding was appropriated for Council activities for FY77 as part of the NMFS extended jurisdiction budget. After subtracting NOAA overhead, \$3.065 million actually became available for Council support. The initial budgets prepared by Councils for FY77, however, requested \$6.199 million. The difference between available funds and proposed Council requirements is even greater in FY78. A supplemental appropriation was considered for FY77, but was not included in the Administration's budget revisions sent to the Congress on February 22. More recently, in a March 13-14 telephone survey of Council spokesmen, an attempt was made to identify additional "urgently needed" funds for the remainder of FY77. This survey indicated a need for up to \$1.35 million beyond presently appropriated Council budget levels. The Administration has reprogrammed,

JUL 27 1977



AMERICA'S
FIRST INDUSTRY



with Congressional approval, \$3.75 million from the construction of a research vessel to Council operations, assistance to States to support their active participation in Council activities, and initiation of the foreign observer program. Of this amount, \$1.2 million is being made available for FY77, and the balance for FY78. The additional \$1.2 million now available, however, is approximately \$0.5 million short of the amount needed to meet requirements of the Councils, and support for State agency participation in Council activities. We plan to make up this deficit by reprogramming a portion of our own extended jurisdiction funds.

Not only is NMFS presently faced with the difficult situation of having to allocate limited funds among eight Councils, but also of having to allocate those funds among competing activities, i.e., "housekeeping" or administrative, as opposed to programmatic. In this regard, it is further reasonable to assume that Council budgets will, in all probability, vary widely because of the expected variability in the number and complexity of problems that different Councils will face, the extent of the fishery resources and management units that each Council will have to address, etc. We feel it would be desirable to establish criteria for the rational allocation of the total Councils' budget for both immediate and future needs.

Inseparably associated with the budget question are the respective roles and responsibilities of the Councils and the Secretary (i.e., NOAA/NMFS) as mandated by the FCMA. Therefore, it becomes necessary to examine the budget question not only in the light of the availability of funds, but also in terms of appropriate areas of responsibility for NMFS and the Councils. The respective roles and responsibilities of the Councils and NMFS are not as clearly spelled out in the FCMA as they might be. Indeed, the law seems to be open to varying degrees of interpretation. Such flexibility, however, can be used to our mutual advantage through the common understanding and agreement that this memorandum is intended to encourage.

I want to share with you some of our views on the matters raised above and, in turn, ask for yours. Some difficult decisions will have to be made at an early date, and your reaction and advice concerning appropriate criteria would be very greatly appreciated.

ADMINISTRATIVE COSTS

In Section 302(f)(3) of the FCMA, it states that "the Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council."

Further, in Section 302(f)(7)(E), the Act states that the "Secretary shall pay such other costs as the Secretary determines are necessary to the performance of the functions of the Councils." Examples of administrative costs are compensation to Council members; staff salaries and fringe benefits; travel expenses for staff or members of the Council, Scientific and Statistical Committee, and Advisory Panels; rental of office space, equipment, supplies, telephone, printing, janitorial services; etc.

We view administrative costs as being the basic operating needs of the Councils and, accordingly, place the highest priority on meeting Council funding requirements in this area. Therefore, I propose to accommodate all reasonable administrative grant requests within budgetary and authorization limitations. Assuming that you concur, I feel our next concern is to allocate available administrative funds among the eight Councils in some reasonable fashion. There are certain objective criteria that can be usefully applied such as Council size, numbers of committee and panel members, frequencies of meetings, number and salaries of staff, office rental costs, etc. Rather than apply a rigid formula to the allocation of funds for administrative purposes, I would prefer, for the present, to simply assume that each Council will exercise reasonable restraint in its requests and will prepare its requests using the same general guidelines and criteria.

I would like you to understand, however, that our capability to meet administrative budgets will have to be balanced against a Council's perception of its additional financial requirements and strategy for carrying out its functional responsibilities.

We prepared the initial Council administrative budgets taking into account some of the parameters noted above, and you have operated on them for up to six months. It is our view that administrative costs will probably become relatively stable, subject of course to inflationary increases or other minor adjustments. We do not, for example, see much expansion of Council permanent staff beyond the seven-person base, the acquisition of larger office facilities, or major changes in meeting schedules or travel expenses. In conclusion, we would ask Councils to keep administrative expenses to a minimum, but not to the detriment of their operational effectiveness. Given the above, we feel administrative requirements can be satisfied with available funding. We recognize that as we gain experience, some of these views may have to change.

PROGRAMMATIC COSTS

Programmatic costs involve costs over and above the administrative costs described above, and for which Councils are seeking funds

to carry out their functional responsibilities under the FCMA. The primary Council responsibility is the preparation and amendment of fishery management plans. Therefore, we could expect that the purposes for which such programmatic funds are required may vary widely from the collection and analysis of certain data, to the formulation of management options and the monitoring of implemented management strategies. There are two major issues of concern to me with regard to Council requests for programmatic funds. The first is how might we decide which requests should be supported, and which should not? The second is how might such requests be handled procedurally?

Concerning the first issue, a good share of the programmatic funds requested by Councils for FY77 are in the interpretive area of Council/NMFS roles. Accordingly, we have hesitated to make any immediate commitment to Councils on their programmatic funding requests until this subject has been thoroughly addressed. In this regard, I propose that several decision criteria be considered in approving or disapproving funding support for any programmatic proposal submitted by a Council in order to carry out its legal responsibilities. The proposed criteria represent our views as based on the law and how we think it was intended to work. I solicit and welcome your views on the efficacy of these proposed decision criteria which would be used to evaluate current and future Council programmatic funding requests.

Criterion 1. Functional Propriety

Is the request for funding consistent with the functions assigned to the Councils by law?

To paraphrase Section 302(h) of the law, Councils are required to prepare and amend fishery management plans; prepare comments on applications for foreign fishing permits; conduct public hearings; submit certain reports to the Secretary; review and revise assessments and specifications with regard to optimum yield and total allowable level of foreign fishing; and conduct other activities necessary and appropriate to the foregoing functions.

NMFS Perspective

The funding request should clearly be related to the Council functions stated above, i.e., the mandated role of the Council. It is clear that the principal responsibility of the Regional Councils is to prepare and amend fishery management plans. The Act further states that such plans are to be prepared on the basis of the best available

scientific information. Based on this, it is our view that Councils are to function primarily as transformers of available data into fishery management plans, and as identifiers of additional information needs and their potential sources for the purposes of amending those management plans. Appropriately, therefore, Council programmatic proposals ought to relate specifically to the preparation or amendment of a management plan(s), or directly to one of the other stated Council functions.

Given these basic responsibilities, I would think that funds might be made available by NMFS to the Councils for such purposes as:

- o Accumulating, assimilating, and analyzing all available information on fisheries, and their supporting habitats, for which a Council intends to prepare fishery management plans.
- o Financing personal services for the preparation and amendment of fishery management plans if that function cannot or will not be done by Council staff, NMFS personnel, or State agency personnel, as appropriate.
- o Evaluating potential biological, economic and social impacts of various management objectives/options through the development and application of management models.
- o Collecting and analyzing certain biological, economic and social data, which otherwise are not or cannot be made readily available by or through NMFS, States, Sea Grant or other established sources in a timely fashion for the preparation, amendment and monitoring of fishery management plans. I think that such efforts would, in most cases, be highly specific to plan preparation requirements and, therefore, of relatively short duration, i.e., designed to fill immediate data needs unavailable elsewhere. In a large number of cases, NMFS should be able to satisfy long-range Council data needs through its existing operational and programmatic channels (see Criterion 2). NMFS has a statutory responsibility to provide much of the data needed by the Councils, and is prepared to do so either through its existing staff and capabilities, or through contracting as appropriate to the extent that the job can be done that way.

Criterion 2. Cost Efficiency

How can maximum cost efficiency and avoidance of duplication be achieved?

One of the national standards for fishery conservation and management (Section 301(a)(7)) directs that "conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication." Moreover, Section 302(f)(3) of the Act states that "The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council," and Section 304(e) states that "The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy and provisions of this Act."

NMFS Perspective

As suggested earlier, Council requests might always exceed available funds. In order to stretch limited dollars to the maximum, it is necessary for us (i.e., NMFS and the Councils) to avoid duplication of effort and to operate as cost-efficiently as possible. Just as the Act clearly specifies Councils to be the preparers of fishery management plans, it charges NMFS with the key responsibility for providing administrative and technical support services to the Councils, and to maintain a comprehensive program of fishery research. These requirements indicate that Congress did not intend for the Councils to establish any permanent or independent research capability that would duplicate the existing capabilities of NMFS (or other public or private sources). Therefore, one of NMFS' primary responsibilities is to assure that the data and information necessary for Councils to accomplish their responsibilities are made available. This role needs to be carried out in close coordination with States, Councils and other organizations so as to complement, rather than compete with, each other's responsibilities.

NMFS is mandated to carry out many legislated responsibilities under the authority of several separate statutes including the FCMA. In carrying out these responsibilities, heavy funding and human resource commitments are already made to major ongoing programs of national scope. Included among these, for example, are such activities as:

- o Resource Surveys
- o Data Analysis
- o Fisheries Oceanography
- o Fisheries Engineering
- o Fisheries Habitat Protection and Investigations
- o Fisheries Development
- o Marketing Research

Therefore, when a Council has identified informational needs to prepare or amend fishery management plans, we view NMFS' and the States' base programs as the most likely sources of data, information or expertise. We would further expect that the Scientific and Statistical Committee of each Council will be the mechanism through which a Council will identify short-term research and data needs, and that planning teams will identify additional mid- and long-term research and data. If certain biological, economic or social data or information are needed on a high priority basis for the preparation of specific fishery management plans, and are not reasonably available from NMFS or the States, and neither they nor another similar source has plans or the capability to produce it, then it would seem appropriate for that data or information to be obtained by contract through NMFS or directly by the Council. NMFS would be obliged to provide, within budgetary limitations, funds for such purposes.

Further, with regard to such matters as legal services, for example, the NOAA Office of the General Counsel has already assigned staff lawyers to the field to provide such services to the Councils. Nevertheless, this is not intended to imply that Councils are totally precluded from seeking legal counsel from outside of NOAA and the Federal government. It is our interpretation that Councils may contract with outside attorneys, experts, and consultants as required consistent with available resources. However, in the interest of minimizing costs and avoiding any unnecessary duplication of effort, we would not expect non-government legal counsel to be contracted for on a continuous or near-continuous basis. We would anticipate that Regional Councils will first seek legal counsel from NOAA, and seek it from some other source only when NOAA cannot provide it.

In short, it is our view that existing NMFS, State, Sea Grant and other organizations' resources should be utilized by Councils to the fullest extent possible before they seek information and services elsewhere. Therefore, in evaluating a Council programmatic proposal, both the NMFS and the Council will need to ask themselves whether the information or services being sought can be most cost-efficiently and appropriately provided by, and are within the capacity and capability of, existing NOAA/NMFS programs or with some other entity. Consideration must be given to the adequacy of the final product.

Criterion 3. Priority Status

Effective management, as we all recognize, embraces the need to establish priorities among program goals and resources to attain them. We feel Councils will have to establish priorities and justifications for their requests both within and among Councils, and make joint Council recommendations to NMFS on the basis of this. In turn, NMFS will rely in large measure on such priorities and justifications in making programmatic funding-request allocations. Whatever the proposed activity and cost, it must be defensible to both the Administration and the Congress.

With respect to administrative requirements, if Councils do not agree with our perspective that administrative costs should be relatively fixed and of the highest priority, then we would ask that proposed increases in administrative costs be incorporated into the array of Council priorities.

With regard to these proposed criteria and our perspectives on them, I would like to turn to the second issue of concern, i.e., the matter of procedural handling of Council programmatic funding requests. I would again like to offer some proposals and ask for your views on them. The proposed procedures which follow are designed to enable Councils to obtain the needed technical support with a maximum of flexibility, while minimizing costs, avoiding unnecessary duplication, and meeting the requirements of the budgetary process.

1. Council Recommendations for Biological, Economic, Social and other Technical Research

Councils should first seek technical information needed to prepare fishery management plans from NOAA/NMFS, States and universities. When Councils find that existing information on biological, economic, social and other technical aspects of fisheries is inadequate to prepare these plans, they should request NMFS to arrange to provide it to them. In the event that NMFS is unable to provide the requested information, then the Councils should seek to obtain it from some other appropriate source. Council requests for programmatic funds should be included in the annual budget submissions by each Council and will be provided by NMFS to the extent possible within other budget and personnel constraints.

Councils should describe to NMFS, in as much detail as necessary, the kind of information they require, how they believe it should be obtained, and what agencies or groups they think would be appropriate to conduct the biological, economic, social and technical research or studies. The Councils' Scientific and Statistical Committees are expected to play a primary role in identifying the types and sources of technical expertise needed.

Obviously, there will be limits to the amount of research which can be carried out in response to requests from the Councils. As indicated earlier, each Council should therefore develop priorities for its information needs, and the Councils jointly should recommend research priorities on a national basis within the guidelines provided by NOAA as the agency responsible to OMB to develop budget submissions.

If the NMFS decides not to fund a particular project after receiving consideration under the proposed criteria and procedures, a Council may appeal the decision to the Director, NMFS. To do this, the Council Chairman and Regional Director shall separately submit recommendations, with justification and estimated costs, to the Director. Such issues shall be referred to the Associate Administrator for Marine Resources for final decision.

2. Council Funding for Evaluation of Information

Funds will be made available to the Councils to enable them to obtain independent evaluations of research information on the biological, economic, social or other technical aspects of the preparation of fishery management plans supplied to them by NMFS or other groups. The evaluation might be made by contracts with universities or other groups.

The priorities for the use of funds set aside by NMFS for this kind of purpose should be established by the same procedures as outlined above for determining priorities for research efforts.

3. Emergency Studies

To provide for funding of unanticipated or emergency biological, economic and social research, and studies judged to be essential for the preparation of fishery management plans by the Councils, NMFS will establish a special fund for this purpose.

Until I receive your views on these proposals, and these procedural matters are resolved, I intend to make programmatic funds available only on a case by case basis with appropriate Council input.

Your Views Requested

In summary, it is my earnest desire to provide for maximum Council flexibility within the requirements and framework of the law, and the responsibility and accountability of the Secretary for the expenditure of Federal funds.

Our views and proposals on Council funding are offered basically for the purpose of developing policy guidelines and urging Councils to examine their functions closely, identify needs in accord with their role and request assistance from appropriate sources--but principally from the Secretary (NOAA/NMFS). We would prefer to avoid fixed formulae for making grants, and instead rely on Council-established priorities. Your views and comments with regard to these matters will be appreciated. In view of the importance of this matter, I urgently solicit those views so we can come to an early agreement on how to proceed. There is a critical need to make programmatic funds available to Regional Councils as soon as possible. Therefore, I would appreciate receiving your responses by July 22.



Agenda Item #14, Aug. 1977

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Washington, D.C. 20235

F31/RW

0 9 AUG 1977

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
P.O. Box 3136 DT
Anchorage, Alaska 99510

Dear Jim:

Thank you very much for your July 27, 1977, letter responding to my July 1, 1977, memorandum, "Request for Council Views on Proposed Funding Policies and Procedures." I recognize that your comments are preliminary and I can appreciate the need to consult with the Council. Therefore, I am extending the review period for Council comments until August 31, 1977.

I will delay responding to your comments until I hear further from you following the North Pacific Council Meeting in August.

Again, thank you for your response.

Sincerely,

for *Maris M. Pallezzi*
Robert W. Schoning
Director



July 27, 1977

Mr. Robert W. Schoning, Director
National Marine Fisheries Service, NOAA
3300 Whitehaven Street, Page Bldg. 2
Washington, D.C. 20235

Dear Bob,

Your memorandum of July 1st requesting Council views on proposed funding policies and procedures arrived on July 7. The Council will not be meeting as a body until late August, but they have been developing criteria for spending, both in the operating and programmatic areas. I will endeavor to explain that developing policy, although we may expect changes when the Council has an opportunity to consider this question as a group.

Council administrative costs, as outlined in your memorandum on Page 2 and 3, probably will stabilize eventually. It is still too soon, however, to make a really accurate estimate of annual administrative costs for the North Pacific Council. Until we have gone through the complete cycle of management plan development a relatively firm figure for operating costs will not be available. It's apparent that the secondary and terminal stages of management plan development are going to be more costly to the Council than the initial drafting because of printing costs, public hearings, temporary labor for redrafting and retyping, and other expenses that are not involved in the initial drafting procedure. Real costs, in terms of manpower and money to other agencies, principally the Alaska Department of Fish and Game and NMFS, still remain highest during initial plan development.

The North Pacific Council is rapidly settling into an operating procedure that should stabilize the number of meetings (approximately 10 per year), their length, and the associated travel costs and salaries. After all of the Council management plans are in place meeting frequency may decline considerably, but that time is still 3 or 4 years in the future. There will still be some variables, mostly associated with travel costs and expenses for small working groups appointed by the Council. Examples are the ongoing working groups developing positions on INPFC renegotiation, halibut working groups and

IPHC renegotiation, etc. These are ad hoc groups consisting of both Council members, Scientific and Statistical Committee and Advisory Panel members, and scientists or experts from outside of those groups.

There is one area that may lead to confusion in administrative costs. The North Pacific Council has been paying travel and expenses for members of management plan drafting teams from such agencies as the Alaska Department of Fish and Game (ADF&G), the University of Washington and University of Alaska. For State accounting purposes ADF&G needs to be reimbursed by contract, but in reality these might still be considered administrative funds. An alternative budgeting system, which we are considering, would place all plan development expenditures in the 'programmatic' category - perhaps as line items in the budget. Many of those costs would not be contract items, and thus not readily identifiable as programmatic unless such a system is used.

The budgets for line items for each management plan under development could be developed by the drafting team at an initial meeting funded out of Council administrative monies. Thereafter, however, all plan development costs would be considered as programmatic expenditures, even though they are paid directly from the Council's overall operating grant.

In summation, I want to stress that the dividing line between 'administrative' and 'programmatic' costs is not as clear cut as it might appear, and further definition is necessary if we are to avoid future budgeting and funding problems.

PROGRAMMATIC FUNDS

The Council is currently in the process of establishing criteria for contract funding and have tentatively outlined the following guidelines:

- a. Research must be responsive to Council needs.
- b. It must be timely.
- c. Funding requests and research projects will be prioritized by the Council in relation to ongoing management plan development.
- d. Projects must be clearly necessary for management plan development.
- e. The projects should be short-term. Where it appears that a funding need will continue for more than one or two years the Council contract should serve as "seed money", with the project to be picked up by some other agency after its initial start-up.
- f. The contracts must be identified with ongoing plan development.

The NMFS perspective on Criteria One in your memo is essentially in agreement with Council thinking. The Council's role as a coordinating body in accumulating, assimilating and analyzing all available information on fisheries is paramount. The North Pacific Council has never intended duplication of agency efforts, either Federal, State, or university.

The preparation of fishery management plans is being done with existing personnel in the ADF&G, NMFS and the two Universities associated with this area. Financing personnel services, except those of a clerical or strictly writing nature, has not been necessary to date. I should point out, however, that this situation may not last indefinitely. If we continue to place major demands on State personnel, particularly if they should get into areas clearly different from and in addition to those normal to their State - mandated responsibilities, federal funding will be both appropriate and necessary. We should not expect Alaska to cover extensive costs associated with a program which has been established by the federal government, and which is being extensively funded in other areas from federal sources.

The research projects for which the Council has requested funding, including the three submitted by telecopy on July 7, are projects for which no other funding appears to be available. It has been the Council's practice, through the Scientific and Statistical Committee, to canvas the research and management agencies to see if they can fund and organize a needed piece of research before the Council proposes to fund it through its programmatic funds. Representatives of the ADF&G, NWAFC, University of Washington, University of Alaska, Washington Department of Fisheries and the Oregon Department of Fish and Wildlife all serve on the Scientific and Statistical Committee. Generally it is easy to ascertain whether or not research funds are available in those agencies or whether there is some ongoing research that will fill the Council's needs. The Scientific and Statistical Committee also serves as an excellent forum where the Council can furnish some guidance to those agencies in the development of their own long term research programs, to the benefit of both the Council and the agencies.

The Council has submitted a contract proposal from the Alaska Department of Fish and Game for \$60,000 for management plan development, intended to reimburse them for travel and per diem expenses, some computer time, necessary extra clerical help, and a limited amount of personnel "back-up" for their research personnel tied up in drafting plans. As mentioned earlier, this money could be considered either administrative or programmatic. It would be possible to reimburse them directly from Council administrative funds, however, the State of Alaska requires legislative

approval of monies received by the State from other agencies, and this can best be done in the form of a contract. Thus, this particular contract is for the administrative benefit of the State of Alaska rather than a Council need to use this method for reimbursing State personnel for their work on the Council management plans.

CRITERION TWO

As already stated the Council agrees on the concept of using all available outside sources and agencies for management plan drafting, research, data analyzation, etc., before considering funding a particular project itself. If other sources of funding are available and Council recommendations or approval would aid in getting them, the Council would move in that direction. An example is the Council recommendation this spring for a short-term tanner crab processing capability study which was funded by NMFS and conducted by the University of Alaska Sea Grant Program, primarily for the benefit of the Council. Another study endorsed by the Council entitled "Market Demand and Market Channels for Tanner Crab" is being funded by the National Sea Grant Program. It is a long range study which will help the Council in the management of tanner crab.

In the matter of legal services I am sure the Council wishes to retain the option to employ legal counsel from outside of NOAA and the federal government if they feel it is necessary. I doubt if they would be interested in contracting for such counsel on a continuous or near continuous basis. NOAA and NMFS are to be complimented for the timely staffing of a NOAA Office of General Counsel in Juneau. Without the services of Mr. Kim White it would have been awkward indeed to have handled the many legal questions and problems which have arisen in the course of Council business. He has been very responsive and I am sure the Council is very pleased with the help that he has given them. In light of this reponse the Council will undoubtedly continue to seek legal counsel from NOAA as its' first order of priority. I would not expect them to go elsewhere for legal help unless it could not be provided by NOAA or a serious point of contention arose in which the use of NOAA legal staff would be inappropriate.

CRITERION THREE, PRIORITY STATUS

It should be like you are suggesting the Councils get together to make joint recommendations on programmatic funding for each Council. I question the workability of such a scheme. I would think that each Council will consider their activities of the highest priority and a consensus on funding for all of the Councils would be impossible to arrive at. There

will be some programmatic requests that will obviously be of national interest and therefore of value to all of the Councils. These could most properly be funded directly by the National Marine Fisheries Service with Council guidance and endorsement.

Administrative requirements, without which management plan development could not proceed even if all needed data was available, obviously must have a first priority. If the Council is unable to meet regularly to develop plans, review permit applications, and conduct the other activities required by P.L. 94-265, it's obvious they would be unable to function at all. Administrative costs probably will become relatively fixed, but as stated earlier, I doubt that we are yet in a position to estimate those costs closely. Once we have finished a full cycle of management plan development, we should be able to make a reasonably close estimate of annual administrative costs. In the meantime, the North Pacific Council is in a continual process of budget estimation, both for the rest of the current fiscal year and for FY 78-79-80. We have endeavored to hold our operating costs as low as possible and affected economies wherever we could, but it is not yet time to lock into a relatively fixed annual figure.

COUNCIL RECOMMENDATIONS FOR BIOLOGICAL, ECONOMIC, SOCIAL AND OTHER TECHNICAL RESEARCH

As already discussed the Council has sought data first from existing agencies, usually NOAA/NMFS or ADF&G. Only when information has been unavailable, or funds for a specific program needed to obtain necessary short-term data have been unavailable, has the Council requested direct funding for research.

There are problems with requesting programmatic funds for specific projects as annual budget submissions in these initial stages of Council organization and management plan development. Until management plans are well into the drafting stage, it is sometimes not apparent exactly what the data needs are. Once a management plan is in place, it should be relatively simple to identify those areas where more information is needed and to prioritize necessary research projects. That will not be the case for the next two years, at least, for the North Pacific Council as they will be initiating management plans that far into the future. A more workable solution from a budgeting standpoint for the next two or three years might be a flat sum allocated to the Council for programmatic purposes that could be used as the need develops. While programmatic needs would not necessarily fall to the exact dollar requested or allocated for the budget year, at least the Council would

have a figure to work with as it develops priorities for projects that cannot be funded through other sources. It has the advantage of immediate availability when a short-term data need is identified that cannot or should not wait on regular cyclic budgeting processes. Obviously, some programmatic funds can be budgeted in advance; currently the North Pacific Council has two requests on their way to your office for research projects that extend through more than one fiscal year. I recognize the difficulties with this type of contingency funding, OMB and the rest of government abhors it, but initially this, or some system that will accomplish the same thing, seems very necessary.

To summarize, administrative funds for Council operations should be the priority item. They will undoubtedly stabilize, but that stabilization cannot be expected to take place immediately. Programmatic monies should be utilized for projects that cannot be funded from other sources and those projects should meet the criteria now being developed by the North Pacific Council, that is, they should be responsive to short-term Council needs, clearly necessary, and identified with ongoing management plan development. Within that framework they should be timely and should be prioritized by the Council with the assistance of the Scientific and Statistical Committee.

If these criteria are used it will be impossible to make annual budget submissions for all programmatic needs, some of it will of necessity fall in the "emergency studies" category described on page 9 of your memo. It would seem wise, however, to allocate at least a portion of this money to each Council for these needs, rather than holding it in a national fund. The Councils will thus have some financial guidelines to prioritize and budget for short-term research projects. Also, in the case of the North Pacific Council, I again wish to point out that some expenditures that might be considered either programmatic or administrative, can be either contracts or grant expenditures (direct disbursement), and should be recognized as to category both in budgeting and in bookkeeping - once the definitions are satisfactory to all of us.

It behooves us to bear in mind, also, that the Council may not always be able to depend on the current amount of 'free' labor it is now receiving. Long range planning by both NMFS and the Council should recognize the possibility of greatly expanded funding needs if that occurs.

Sincerely,

Jim H. Branson
Executive Director

PACIFIC FISHERY MANAGEMENT COUNCIL

526 S.W. Mill Street
Portland, Oregon 97201
Phone: 503-229-5769

CHAIRMAN
John W. McKean

EXECUTIVE DIRECTOR
Lorry M. Nakatsu

August 2, 1977

Mr. Robert W. Schoning, Director
National Marine Fisheries Service
U. S. Department of Commerce
Washington, D. C. 20235

Dear Bob:

At its recent meeting in Boise, the Pacific Council reviewed your memorandum of July 1, addressed to the Chairmen of the Regional Councils, on proposed funding policies and procedures.

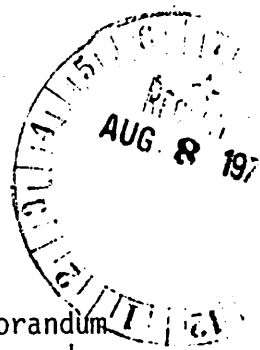
The Council is greatly concerned with the intent of your memorandum since it can lend itself to various interpretations. On the one hand, an interpretation could be made that NMFS is seeking to control through the budgetary process the regional councils which have been assigned a clear mandate for the conservation and management of the fishery resources within their respective areas of jurisdiction in the 200-mile zone. The other interpretation is that NMFS, as the lead federal agency, is truly seeking input from the councils so as to promote and expedite the achievement of council objectives.

The Pacific Council has been fortunate in that it has had the full support and cooperation of both the Northwest and Southwest regional offices of NMFS, and the Council has not to date encountered difficulty in seeking programmatic funds on a timely basis under the current procedures. We are concerned that this relationship, which has been working well, could easily change depending on how future funding requests as outlined in your memorandum are processed.

The Council further recognizes the important role that NMFS/NOAA plays in the council process and the need for exercising some type of overall control over council budgets. At the same time, the Council feels that the control exercised over the budget should be sufficiently flexible so as to promote, not impede the achievement of the mandate delegated to the councils.

It is with these thoughts in mind that we offer the following suggestions:

1. It is recognized that NMFS and the state agencies will have to be relied on heavily for information necessary for plan preparation, but we feel that it is the Councils that should make the determination of how best to obtain needed data. Your memorandum implies that NMFS will make that determination.
2. The Council must act with considerable speed in order to have management plans in place as soon as possible. The review process described in the memorandum should be shortened to the minimum amount of time necessary and clearly should not be an impediment to plan development.

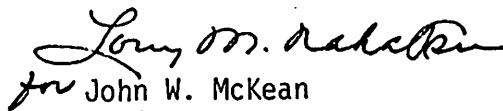


August 2, 1977

3. This leads to the suggestion that each council have a budgeted sum for contract work to be allocated on the basis of Council-determined priorities. Funds over and above those levels would be on a national competitive basis.
4. We would emphasize the need for some autonomy in the allocation of contract funds on two grounds: (a) speedy actions; and (b) the clear mandate in the FCMA to develop fishery management plans whenever foreign allocations are requested, *regardless of the national importance of the fishery concerned.*

Again, let me emphasize this Council's pleasure in the prompt processing of our past request for programmatic funding. We hope the above suggestions can be implemented to expedite development of Council fishery management plans.

Sincerely,


for John W. McKean
Chairman

cc: PFMC Members
Other Regional Councils
H. Hutchings
G. Howard
R. Schaefer

pw