

North Pacific Fishery Management Council

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Minutes of the Legislative Committee

June 5, 2018

Members present: Dan Hull, Bill Tweit, Jim Balsiger, Sam Cotten, Steve Marx, Dave Hanson, Dave Witherell (staff)

Others present: John Lepore (NOAA GC), Joe Macinko, Paul McGregor, Linda Kozak, Representative Louise Stutes, Frank Kelty

Chairman Hull opened the meeting with a review of the agenda. One addition item was added (a review of Governor Walker's letter to the Alaska congressional delegation).

Dave Witherell reviewed the background materials including an action memo and handouts. He provided an update from the recent Council Coordination Committee meeting in Sitka, including reports from Council legislative liaison Dave Whaley, a draft CCC comment letter to Congressman Young on HR 200, updates on consensus positions for the CCC legislative working paper, and updates on NOAAs aquaculture initiative. He also provided a summary of a yet-to-be introduced draft bill on marine aquaculture from Senator Wicker.

The committee spent some time discussing the NOAA aquaculture initiative and the Wicker legislation. The agency is seeking to minimize hurdles for development of marine aquaculture, and NMFS intends to prepare a rule that clarifies that -- barring additional regulations on aquaculture developed through the MSA council process -- aquaculture would be subject to few restrictions (e.g., COE permits, ESA regulatory concerns). One committee member raised the idea of approaching aquaculture using the same precautionary principles that the Council adopted for Arctic commercial fisheries (i.e., prohibiting development of offshore marine aquaculture until the science is fully available to adequately assess the impacts).

The draft marine aquaculture bill would establish NMFS aquaculture divisions in each region to issue permits within regulatory provisions set forth in the legislation. After implementation of the Act, aquaculture would no longer be considered "fishing" under the MSA (and thus not regulated as such). The states, tribal governments, and fishery councils would have only a consultative role. The purpose of the consultation is to ensure that the proposed aquaculture is compatible with navigation, fishing, resource protection and other uses in the EEZ.

Commissioner Cotten briefed the Council on the Governor's letter on MSA revisions. Specifically, the letter proposes changes to 1) language as to what fisheries require federal conservation and management through an FMP; 2) subsistence or tribal interests as qualifications

for a council seat; and the addition of a nonvoting member of the council knowledgeable of Alaska subsistence fisheries or tribal interests and appointed by the Governor of Alaska; and 3) revised wording to National Standard 9 that adds (c) “to the extent that mortality cannot be avoided, minimize regulatory and economic discards.” Commissioner Cotton was interested in having a council statement on amending the FMP to allow the State to continue to manage the Cook Inlet salmon fishery and other Alaska fisheries in federal waters without a federal FMP. General Counsel John Lepore will consider this with respect to the ability of the council to weigh in on proposed MSA revisions.

Following the presentations, public testimony was taken. Chris Woodley (Groundfish Forum): Chris thanked the Council for working the CCC consensus on exempted fishing permits. He was also concerned about the intent and affects of the proposed National Standard 9 language in Gov. Walker’s letter, and he noted that the Halibut Act may also require amending to address halibut discards.

In conclusion, there was new and updated information discussed at the meeting, but no recommendations to the council were made. Nevertheless, the committee made a couple of suggestions:

- The committee is concerned about the role of the council in regulating marine aquaculture. As a first step, the Committee suggests that the staff draft a regional perspective on aquaculture for the CCC legislative workgroup paper. The Council could provide comments on a marine aquaculture bill after it gets formally introduced, if requested to do so by a member of congress (or staff). (Separately, the CCC Legislative Committee will also review the marine aquaculture bill once it is submitted, and draft revised consensus points on it for consideration by the CCC.)
- The staff should draft a regional perspective on “Other Federal Statutes” for the CCC paper to enhance the CCC consensus position on using the transparent council process to develop fishing regulations to ensure consistency with other statutory authorities (e.g., Antiquities Act, ESA, Sanctuaries Act, MMPA, etc.).