

PACIFIC MARINE FISHERIES COMMISSION

342 STATE OFFICE BUILDING • 1400 S. W. FIFTH AVENUE

PORTLAND, OREGON 97201

PHONE (503) 229-5840

AGENDA ITEM 36.

April 19, 1977

TO: John W. McKean, Chairman, Pacific Fishery Management Council
Elmer Rasmuson, Chairman, North Pacific Fishery Management Council

FROM: John P. Harville *John P. Harville*

RE: Testimony April 14, 1977: Oversight Hearings, P.L. 94-265, convened by Congressman Robert L. Leggett, Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment

My prepared testimony covered the general topics outlined in my memo dated 14 April 1977. I indicated at the outset that I was not speaking for the Councils, but only as a non-voting member with experience serving the Councils, and as executive officer of PMFC. General topics included

- appreciation for Bob Leggett's support of funding augmentations for the Councils and for fisheries grant-in-aid programs;
- emphasis on need for continued support of funding to meet expanded responsibilities under P.L. 94-265, with particular emphasis on data requirements for establishing optimum yield;
- special request for restoration of funds to operate the Oregon;
- concern for intent of Congress with respect to:
 - registered vs licensed (per continued State control of vessels);
 - meaning of predominately with respect to preemption under Sec. 306(b);
 - maintenance of Council initiatives in management planning for transboundary stocks (and here I cited Council actions);
- identification of long-range concerns relevant to P.L. 94-265, including:
 - logistic difficulties imposed regarding meeting scheduling requiring strict adherence to the Federal Advisory Committee Act; thus a 45 day setback time for publication in the Federal Register;
 - concerns for foreign ownership of fishing vessels (per Congressman AuCoin's H.R. 2654) and for joint ventures involving at-sea deliveries to foreign processing ships by U.S. fishermen (per Bellingham Alaska-Korea proposals);

John W. McKean
Elmer Rasmuson
April 19, 1977

- recommendations for amendment of the Marine Mammal Protection Act to conform to other more recent legislation and the ecosystem concept of P.L. 94-265;
- emphasis on need for overall U.S. policy support of U.S. fisheries to take economic advantage of the opportunities available under P.L. 94-265; 1977 a year of decision with Eastland Resolution, GAO studies, and National Plan for Marine Fisheries all available for Congressional review and action.

In addition to the specific areas noted above, I reported briefly on what I feel have been major accomplishments of our two Regional Councils, emphasizing selection of a small, highly qualified staff, organization for management planning to involve full review by the S and S Committee and Advisory Panels, and first priority attention to our most difficult fishery problems--salmon, anchovy, and tanner crab. Because the text of these comments may be of particular interest, I am attaching those pages from my prepared testimony.

Regrettably, the San Francisco hearings were taken up almost totally (except for my comments as noted above) with a well-orchestrated presentation by troll salmon representatives arguing against the Pacific Council salmon management plan. Prior to my turn at 4 PM, some five hours of testimony attacked the plan itself, the review processes for constituency input, and the ethics and intentions of plan developers and Council members. As a Council member with professional background in fisheries, I felt it necessary to round out the record concerning long-term objectives of the Pacific Council, and mechanisms developed for constituency input. I also cited the pressures attendant upon equitable management of Columbia River fisheries which necessitated development of a first-phase management plan for ocean fisheries. Attached is a summary of major points covered.

Despite the fact that my comments were as objective as possible, and designed entirely to explain the factors influencing Council actions, the trollers present were unhappy with this input. Understandably from their partisan point of view, any commentary not entirely supportive was seen as in opposition.

cc Lorry Nakatsu, Executive Director, PFMC
✓ Jim Branson, Executive Director, NPFMC

Attachments: Text of discussion of Council progress
Expanded outline of comments on the salmon plan

JPH:kjs

A Progress Report on Regional Fishery Management Council Operations .

as prepared by John P. Harville for presentation at

Congressman Robert Leggett's April 14-15, 1977 oversight hearing in San Francisco on the Fishery Conservation and Management Act of 1976 ^{1/}

As I noted earlier, I am not empowered to speak officially for the Councils; however, let me offer some observations on my own behalf, as a non-voting member of two Regional Councils: the Pacific Fishery Management Council with jurisdiction over waters off California, Oregon, and Washington, and the North Pacific Fishery Management Council concerned with the extensive fishery resources off the great State of Alaska.

As you well know, our Regional Fishery Management Councils have been faced with an almost bewildering array of extremely difficult problems, some organizational, many technical. In an organizational sense, they have broken new ground, with no guidance from past experience and precedent. At operational and technical levels, Council members have had to recognize an unprecedented role as a new regional level of government, and have been faced with enormously broadened mandate for fisheries management as spelled out in the National Standards. These new requirements go far beyond our traditional management concerns for conservation of stocks and maximum sustainable yield, requiring in addition the determination of optimum yield, which departs from maximum yield in view of relevant economic, social, and ecological factors. These Standards also introduce the new and enormously complex problem of management for economic efficiency.

Chairman, like most other Council members and responsible fisheries managers everywhere, I fully support these National Standards, and heartily commend the Congress for including them in the legislation. However, they vastly complicate the management plan development and evaluation process. Presently our Councils are wrestling with procedures for quantifying the concept of optimum yield. Within a very few months, a national conference will be convened to attempt to achieve a uniform approach to this difficult problem. The key element appears to be full documentation of the rationale and the degree by which one departs from maximum to optimum yield in accommodation to relevant economic, social, and ecologic factors.

Establishment of these new Regional Councils also has created institutional problems for other fishery management agencies. Enormous new demands for expanded fisheries information are being placed upon State and Federal fisheries agencies. Those agencies contribute important manpower resources to Scientific and Statistical Committees and to management plan development teams serving the Councils. It is critically important that the funding supporting this new legislation be adequate to provide for these greatly expanded demands upon our State and Federal fisheries agencies.

I might add that our three interstate marine fisheries Commissions also are undergoing major transformations as result of the new legislation. That portion of former Commission activities relating to cooperative research and management on shared fishery resources now is in process of transfer to the new Councils. It is primarily for the purpose of facilitating this transfer and assuring a continuing interface between Councils and Commissions that the Congress assigned the interstate compact executive officers as non-voting members of the Councils within their service

¹Verbal presentation in some areas involved summarization of main points; full text will be submitted for the record.

areas. This added workload presents major problems for our Commissions. It now appears that each Regional Council will require from 40 to 60 man-days per year for meetings, travel, and preparations for those meetings. This converts to 2-3 man-months per year per Council, and where two Councils are served as in my case, these obligations constitute from 1/3 to 1/2 of my working time. For my colleague Irwin Alperin on the Atlantic Coast, serving three Councils, the added workload is even greater.

Additionally of course, our interstate marine fisheries Commissions continue to serve their States in areas not covered by Council activities. Particularly this includes multi-State activities with respect to fisheries occurring primarily within State waters, and concern for many fisheries matters which lie beyond the purview of P.L. 94-265.

With respect to organization and operation of our new Regional Fishery Management Councils, despite the difficulties I have noted, progress made by the two with which I am associated is indeed phenomenal. The process of internal organization now is essentially complete. Both Councils have recruited highly competent staff, and as was the intent of Congress, have held that staff recruitment to the absolute minimum required to carry out their functions. Scientific and Statistical Committees have been organized as required under the Act, comprised of an excellent interdisciplinary mix of experienced fishery managers, fishery scientists, economists, and other social scientists. Advisory Panels have been convened and are fully operational, representing the concerned fisheries constituency, and comprised of members nominated by that constituency.

Each of the Councils has met frequently, and this extraordinary mix of individuals and constituencies as specified under the terms of the Act is beginning to function as a coherent unit. For the first time in our history a major decision-making body is comprised of a combination of State and Federal fishery managers and public appointees representing the user group constituency. In the case of the Pacific Council, five voting members represent State and Federal fishery management agencies; eight were appointed to be broadly representatives of the public constituency. In addition there are five non-voting members. In my view, the interaction of these Council members has been very much in the public interest, and in accordance with the intent of Congress in creating this particular mix of decision-makers. As a non-voting member, I am particularly pleased with the fact that non-voting members are full participants in the discussion and debate process, and in my view make a significant contribution to the decision-making process even though we are not accorded voting privileges.

I can also report to you that our two Pacific Coast Councils have not shirked the challenge of tough fishery problems. The Pacific Council for example, took as its first priorities the development of management plans for salmon and anchovy fisheries, and certainly thereby addressed the two which are most complex and most controversial in terms of multi-user competition for those resources.

Similarly, the North Pacific Council has directed major attention to the tanner crab fishery, also highly controversial with respect to allocations between foreign and domestic fishermen. It would have been far easier for both Councils to have set aside these difficult fisheries and concentrated in the beginning on those which could more easily be managed without generating public problems. The Councils tackled these tough questions because they fully recognized the gravity of the situations we face in management of these fisheries, and decided that it was high time to get on with the job.

In this context also, I strongly commend the Councils for setting themselves tight time schedules, even though it is this factor which has generated some of our funding problems in the current fiscal year. National planners assumed that the Councils would spend many months organizing to carry forward their assignments. Instead, the Councils plunged immediately into the tasks before them, and as result required considerably more operational funds than were originally budgeted. Again we are deeply appreciative of your leadership and that of your Congressional colleagues in augmenting the funding available to us.

I also believe that our Councils should be commended for moving promptly and effectively with respect to their ongoing operations. Through the non-voting members on the Councils, lines of communication have been strengthened with other concerned governmental entities--the Department of State, the Fish and Wildlife Service, and the Coast Guard. Interactions between Councils also are proceeding effectively, facilitated by shared membership in some cases, and by full exchange of communications throughout. National planning meetings have been held for Council chairmen and for Council executive directors. Furthermore, lines of communication have been kept open and active between Councils and the Department of Commerce. Councils have not been at all reticent in advising Commerce of their views on such matters as disagreements with interim regulations and with budget planning. As an aid to this communication process, Bob Schoning of NMFS has initiated a monthly newsletter reviewing Council-related activities. Also through oversight hearings such as this and by other means, these lines of communication are being maintained with the Congress.

Mr. Chairman, in my view one of the most important achievements by our Regional Councils has been creation of effective internal mechanisms for development and review of fishery management plans. Even where the time frame has been impossibly tight, as in development of our Pacific Council's salmon management plan, procedures have been established for draft plan review by the Scientific and Statistical Committee and by the Advisory Panel, and for incorporation of their recommendations into revisions of that draft. The salmon management plan underwent two cycles of this revisionary process, admittedly limited by unrealistic time pressures and constraints. The second revision then was subjected to full review through a series of hearings held at strategic locations along the Pacific Coast. The products of these extensive interactions became the document finally approved by the Council and forwarded to the Secretary of Commerce for action.

This participation by our fisheries Advisors in early stages of management plan development has generated its own special problems. Advisors have been asked to review provisional drafts, still rough in content and language, rather than the final drafts more traditionally exposed for constituency comment. Also they have been asked to select among an array of alternatives for management action, again a quite different approach from the more usual consideration of a final document, where alternatives are reduced to acceptance or rejection. This new full-term cooperative approach should become easier with experience; certainly it confers major benefits through involving interested user representatives in the planning process from the very beginning.

Expanded Outline of Comments by John P. Harville
Concerning the Pacific Council Salmon Management Plan

presented at

Congressman Robert Leggett's April 14-15, 1977 oversight hearing in San Francisco
on the Fishery Conservation and Management Act of 1976

Because prior testimony at this hearing concentrated only upon the salmon trollers' dissatisfaction with the salmon management plan and with Pacific Council intentions and procedures, I felt it necessary to include in the record both support for Council intentions and some review of factors which forced urgent action on a first-phase management plan for ocean fisheries. Following are topics I addressed, along with supplemental notes on some items. As noted, some items included were as suggested by Oregon in response to my request prior to the hearing for input to my preparation.

1. The Pacific Council is committed to develop a comprehensive salmon management plan, and has said so, on the record, at nearly every meeting. However, that enormous task was temporarily set aside for the reason following.
2. Immediate pressures demand some control over ocean components of the salmon fishery in the Pacific Northwest. These pressures reflect
 - a. need to increase escapement to certain streams presently at low levels (particularly of upper river spring and summer chinooks); and
 - b. court-ordered requirements to satisfy treaty obligations to Indian tribes of the Columbia River and Puget Sound; and
 - c. the need to meet these court-mandated requirements without destroying other (non-Indian) inside fisheries.
3. Per the request of the Oregon Department of Fish and Wildlife, I provided brief background concerning the agreement recently signed by the States of Oregon and Washington, the Treaty Tribes, and the Federal Government, and noted that this agreement is contingent upon achieving an equitable management regime over the ocean fisheries. (I didn't quote the actual language of that agreement, which states that *"the sharing formulas as set forth in this plan are based upon the premise that the marine area catches in U.S. controlled waters of fish originating above Bonneville Dam, other than fall chinook and coho runs, will be regulated by PFMC so as to be essentially de minimis portions of those runs."* Also I didn't add that the parties to that agreement have indicated they will be forced to bring suit if reasonable compliance with that requirement is not achieved. I felt that information would constitute pressure for a particular viewpoint, and was not appropriate to my effort to clarify issues.)
4. As a part of the above issue, again at the request of ODFW, I provided figures on the comparative days fished for trollers, gillnets, and Indians in the Columbia River area, and noted that over the 20 year period of no change in troll regulations, there have been periodic reductions in gillnet fishing time, coupled with increasingly restrictive mesh-size regulations. I emphasized my empathy with the trollers, faced with serious curtailment of fishing time for the first time in 20 years; however I pointed out that parallel curtailments have been placed on net fishermen over that same time period. (I didn't

say, but the inference is obvious, that the Columbia River agreement seeks to distribute reductions required to meet Indian treaty requirements equitably among all non-Indian users, and that do date, the river gillnet fishery has borne the brunt of these losses.)

5. I agreed with Congressman Leggett that reduction in the number of foreign trawlers operating off our coast should reduce their take of our salmon, and that enforcement of our rules, via observers etc. should further help to make more salmon available to our fishermen.
6. I agreed with the comments of earlier speakers that the proposed regulations would transfer some fish to Canada, and increase fishing pressure off the coast south of Tillamook Head. However, I noted that these impacts might be less extreme than feared because
 - a. Canadians would catch only some of the fish we missed in June; the rest would come back to us for harvest at a larger size and for escapement, and any fish the Canadians did catch would enter in our favor into computations of the balancing of interceptions;
 - b. Northern vessels always have moved south to open the salmon season off Northern California and Oregon, but our managers have no good way of predicting the degree to which this movement will be increased by the proposed regulations.
7. Finally, in response to a direct question Friday from Mr. Leggett, I cited the conclusions developed in the plan that the net impact on the troll fleet would be somewhat less severe than that to be inferred from days of fishing lost, since some of the fish not taken in June would be harvested in July-August, and at a larger size and therefore greater value. (Per the summary chart, p. 42 of draft 3 which showed for option 1 a 42% reduction in troll catch of chinook north of Tillamook; a 31% reduction in pounds, and a 28% reduction in dollars.)

Beyond the above, I also endeavored to establish Council good faith in its dealings with Advisors. I repeatedly acknowledged the unreasonably short time frame within which we were forced to operate, but insisted that the comments and recommendations of Advisors were heeded, noting that an objective review of the evolution of Draft I into Draft III will show the continuing impact of that advice.