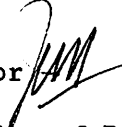


Agenda Item G-5
October, 1979

MEMORANDUM

DATE: September 27, 1979

TO: Council Members, Scientific & Statistical Committee
and Advisory Panel

FROM: Jim H. Branson, Executive Director 

SUBJECT: Herring Draft FMP Update and Notice of Public Hearings

COUNCIL ACTION

Council approval of the location of public hearings on the Herring Fishery Management Plan and/or Environmental Impact Statement is necessary. We also need to know the number of Council members interested in participating in the public hearings.

BACKGROUND INFORMATION

1. Proposed Location of Public Hearings:

After much discussion with local representatives, the following locations were proposed:

Unalakleet	Dillingham
Kotzebue	Togiak
Nome	Kodiak
Bethel	Anchorage
Tooksook Bay	
Hooper Bay	

2. EIS Delays

Fifty copies of the Herring Draft Fishery Management Plan and Environmental Impact Statement were forwarded to Washington on September 12, 1979 for clearance by the Department of Commerce Environmental Work Group (EWG) so that the document could be filed with the Environmental Protection Agency (EPA). This procedure is necessary before the Notice of Availability can be published. After this notice is published, 20 days must elapse

before the first public hearing is held. Public hearings are generally held on both the Draft Fishery Management Plan and the Environmental Impact Statement, although hearings were held in 1978 on the Halibut Fishery Management Plan alone.

On September 24th, the Council received a draft letter from the Plan Review Office requesting a revision of the Environmental Impact Statement. The EIS is in the process of being revised in order to answer some of their problems. However, it was not possible to finalize the EIS and forward it to the Plan Review Office before the Council meeting. We don't anticipate being able to forward it to Washington before October 12. The following alternatives are proposed for action:

1. Draft EIS and FMP Schedule

Plan to Washington	October 12
Cleared by EWG	October 19
Printing Completed (10 working days)	November 2
Notice of Availability of Draft EIS/FMP and Public Hearings Published in <u>Federal Register</u>	November 2
First Public Hearing	November 22
Council/Board Meeting.	Early December

2. Draft FMP only

Plan Sent to Washington.	September 12
Notice of Public Hearings on FMP only in <u>FR</u>	October 12
First Public Hearing	November 7-22
Council/Board Meeting.	Early December

The draft EIS could be legally separated from the FMP; a hearing on the EIS in Anchorage would satisfy the requirements of the National Environmental Policy Act.

3. Council Member Participation

At least one Council member is required to be present at each public hearing.

MD



AGENDA G - 5 *ing plan*
OCTOBER 1979

FILE

SEP 27 1979

FILE	ACT	INFO	ROUTE TO	INITIAL
			Exec. Dir.	
			A. Exec. Dir.	
			Admin. Off.	
			Exec. Sec.	
			Writer/1	
			Writer/2	
			Sec. Recep.	
			Sec. Typist	
SEP 27 1979				

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

Dear Jim,

I have determined that the Discussion Paper for the Bering-Chukchi Sea herring fishery management plan needs to be revised before we can submit it to the Environmental Work Group (EWG) for review, as it is certain to be rejected in its present form. Therefore, I must request that the DEIS, at least, be rewritten so that it complies with the NEPA Regulations.

A cursory review of the FMP reveals that, generally, it is a well-written, informative document, although we have found a few areas of concern. We will critically evaluate the FMP and provide you with specific comments after we conduct our full review.

We expected to find the draft regulatory analysis (RA) and proposed regulations included with this discussion paper, although neither is required at this stage of FMP development until our new guidelines are approved. The draft RA should be prepared as soon as the proposed regulations are decided on. Our Alaska Regional Office will be glad to assist you in preparing the RA and proposed regulations.

SPECIFIC ISSUES

1. Format

The format for the DEIS described in section 1502.10 of the NEPA Regulations (copy attached) should be followed unless the Council has a "compelling reason to do otherwise." This DEIS departs from the recommended format and, thus, misses several required items. Although this comment may appear to be unduly bureaucratic, the specific requirements are there purposely and should be met.

2. Alternatives

The most serious deficiency of the DEIS is the section on alternatives (section 19.5). This section fails to specify possible alternatives and their environmental consequences. It addresses only two: (1) this FMP, and (2) delaying the preparation of this FMP. A number of other alternatives could easily be identified and were

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probably considered by the Council. The NEPA Regulations (section 1502.14) call this section the "heart" of the EIS, and specify that agencies shall "rigorously explore and objectively examine all reasonable alternatives," including those "not within the jurisdiction of the lead agency," and "the alternative of no action." The statement of need for the FMP should also be based on the requirements of the resource, not on any statutory requirement that a plan be prepared.

The EIS should examine reasonable alternative objectives, methodologies, and management measures, and analyze the pros and cons of each, including those rejected by the Council. The EIS, for example, should specify why the particular methodology for determining MSY was chosen. Because the NEPA Regulations (section 1502.21) allow material to be incorporated into an EIS by reference, and because the FMP does discuss a number of alternative methodologies and management measures, the section on alternatives could, where appropriate, refer to sections of the FMP where those alternatives are discussed (e.g., sections 10, 12, 14, and 15).

3. Environmental Consequences

The section in the DEIS on environmental consequences (section 19.3) should point out the conflict between the FMP and the State of Alaska prohibition on trawling for herring north of 56° N (see NEPA Regulations, Section 1502.16(c)). Also, this section deals inadequately with the impacts of the FMP on the environment. It should, for example, discuss the environmental impact of Fucus removal during the spawn-on-kelp fishery, and the impact of the herring fishery on marine mammals and endangered species (perhaps by reference to the relevant sections in the FMP).

4. Summary

According to the NEPA Regulations, the summary shall point out the areas of controversy and the issues to be resolved (e.g., the conflict with State of Alaska regulations prohibiting trawling for herring north of 56° N and the potential conflict between subsistence and commercial fisheries). Your cover letter of September 12, 1979, notes that there is "considerable public interest" in this FMP. The important areas of public interest should be emphasized and meaningfully related to the choices presented in the alternatives section.

5. Cover Sheet

The DEIS is missing the cover sheet required by section 1504.11; although between them, the Preface, the EIS/FMP summary, and the cover letter satisfy some of this requirement. The cover sheet must specify the name of the person to contact (including phone number), specify the lead agency, and contain a one-paragraph abstract of the statement.

If you have any questions or comments, please contact either my office or our Alaska Regional Office.

Sincerely yours,

(S)

William G. Gordon
Director, Office of Resource
Conservation and Management

Attachment