



# NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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## Action Memo

File Number: REP 17-028

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Agenda Date 10/2/2017

Agenda Number: B1

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Dan Hull, Chairman  
David Witherell, Executive Director

### Executive Director's Report

*(including a discussion of timing of allocation reviews; report on St. Paul Outreach meetings)*

#### New ODFW Council member

The Director of the Oregon Department of Fish and Wildlife, Mr. Curt Melcher, has appointed Mr. Steve Marx to be his official designee, replacing Roy Hyder who has been the Oregon representative since October 2001 (letter **attached**). Mr. Marx recently retired from ODFW after 34 years, where he worked as a fish biologist and regional manager. Welcome aboard Steve, and best wishes in retirement Roy! The Council will present Roy with a plaque of appreciation after all testimony and action has been taken on the B-reports.

#### Visiting Dignitaries

The Assistant Administrator for NOAA Fisheries Mr. Chris Oliver, and Department of Commerce General Counsel Mr. James Uthmeier, will be visiting with our Council for a few days this week. Mr. Oliver took the helm of NOAA Fisheries on June 19. In this position, Mr. Oliver oversees the Federal management and conservation of fisheries, habitat, and protected species, as well as managing an agency with 3,200 people in regional offices and science centers across the country. Mr. Uthmeier has been involved in the Administration's Regulatory Reform efforts. We welcome you both to Alaska, and thank you for taking the time to visit with the North Pacific Council.

#### Retirements at NOAA GC

NOAA GC Alaska Region attorneys Lisa Lindeman and Jonathan Pollard recently retired from NOAA GC in September. Lisa worked for 27 years as the Alaska Region Chief Attorney. She provided legal advice at council meetings, and legal review for many of the complex issues associated with developing our rationalization programs. Jonathan retired after 32 years with NOAA GC Alaska Region working on domestic issues, such as the halibut and sablefish IFQ program, as well as international issues with the IPHC, the US-Russia Intergovernmental Consultative Committee, and the North Pacific Fisheries Commission. For their retirement party, we sent Jonathan and Lisa a Council plaque to recognize them for their contributions to sustainable fisheries.

Following the retirement of Lisa and Jonathan, Ms. Maura Sullivan has been selected as the next Chief of the Alaska Section, and Mr. Demian Schane has been selected as the next Deputy Chief. Congratulations to Maura and Demian!

#### Staff News

Following my formal appointment as Executive Director in late June, I advertised for the Deputy Director position, interviewed the top candidates, and selected Ms. Diana Evans for the position. Diana has been an extremely competent fishery analyst for the North Pacific Council over the last 15 years, and worked on a wide variety of projects and fishery management actions. With her new job duties and responsibilities, Diana will continue to work on the initial draft of the Bering Sea FEP, but most of her other analytical responsibilities will

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## Agenda Date 10/2/2017

### Agenda Number: B1

---

be farmed out to other staff. We have posted an advertisement for a fishery analyst to backfill Diana's position. See <https://www.npfmc.org/analystvacancy2017/> Applications are due October 6.

Mr. Jon McCracken (council staff) retired this month after 30 years of service in the military. You may recall that Jon was promoted to Chief Master Sergeant in the Alaska Air National Guard three years ago. Jon has spent the last 18 years as a member of the Alaska Air National Guard, nearly all while working for the Council. During that period, he deployed three times on active duty, twice to Afghanistan for 6 months (2003 and 2005), and to Djibouti, Africa for four months in 2007. He began his military career with 4 years of active duty with the Navy, and was in the Alaska Naval Reserve as an Intelligence Specialist for 8 years after that, before switching to the Air National Guard. Congratulations Jon!

### SSC and Plan Team nominations

Dr. Dan Lew (**letter and resume attached**) has been nominated by the Alaska Fisheries Science Center to replace Dr. Mike Dalton on the GOA Groundfish Plan Team. Dr. Lew has been an economist with the AFSC for the last 14 years, and was a BSAI Groundfish Plan Team member from 2005 to 2007.

Dr. Amy Bishop (**resume attached**) has been requested by the SSC Chairman Farron Wallace to fill in for Dr. Jennifer Burns while she is on 'sabbatical' in Washington D.C. (for the remainder of 2017 and all of 2018). Dr. Bishop is a Postdoctoral Researcher at the Alaska SeaLife Center studying spatial ecology of marine mammals, habitat use and behavior, predator-prey interactions, telemetry and remote sensing. The SSC will review these Plan Team and SSC nominations and provide recommendations to the Council during this meeting. The Council will discuss the nominations in Executive Session on Friday.

Additionally, we will announce the application period for 2018 AP and SSC membership appointments in the October newsletter.

### CCC News and Meeting Planning

In September, the CCC sent a letter (**attached**) to NOAA Fisheries AA Chris Oliver congratulating him on his new position, inviting him to attend each council over the coming year, and highlighting the importance of providing adequate funding for Council operations.

The CCC's Council Communication Group has developed a handout to provide Congressional staff and others with a short primer on the U.S. regional fishery management councils. A copy is **attached**, and will be posted on the [www.fisherycouncils.org](http://www.fisherycouncils.org) website. Kudos to Maria Shawback for her work on this.

On January 1 2018, chairmanship of the Council Coordination Committee transfers to the North Pacific Council. This brings several new responsibilities for the Council, including preparing CCC correspondence, developing meeting agendas, and hosting the annual meeting, which is set for May 22-24 in Sitka, Alaska. The interim CCC meeting, hosted by NMFS, will be held in Washington DC on February 27-28. These are public meetings, and the agenda and all meeting materials will be posted on the NMFS website <http://www.nmfs.noaa.gov/sfa/management/councils/ccc/ccc.htm> and the Regional Fishery Management Council's website <http://www.fisherycouncils.org/ccc-meetings/>

### Future meeting schedule

I was contacted by the PFMC staff noting the overlap of the NPFMC and PFMC meetings that occur in June, and requesting that we coordinate efforts between our Councils to avoid schedule conflicts when feasible. Holding both meetings during the same week can cause conflicts for some Council members (e.g., Dave Hanson), as well as for the public who are involved in fisheries managed by each council (e.g., participants in both the pollock and hake fisheries).

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## Agenda Date 10/2/2017

### Agenda Number: B1

---

The PFMC is looking at long-term scheduling so that the meetings are done before or start after Father's Day, assuming that everyone wants to avoid a meeting over that weekend (June 18 in 2017). In considering the typical June Council topics, the PFMC tends to build the agendas around their biennial groundfish fishery management cycle, which is time-sensitive. Thus, the PFMC needs to schedule their June session in early-June (pre-Father's Day) on even years. The PFMC staff has suggested something like the following rotation:

<u>Year</u>	<u>PFMC</u>	<u>NPFMC</u>
<u>2017</u>	<u>June 7-14</u>	<u>June 5-13</u>
<u>2018</u>	<u>June 6-14</u>	<b><u>June 4-12</u></b>
<u>2019</u>	<u>~June 18-25</u>	<b><u>June 2-11</u></b>
<u>2020</u>	<u>~June 11-18</u>	<u>Late-June? or Pre June 11?</u>
<u>2021</u>	<u>Late-June?</u>	<u>Early-June?</u>
<u>2022</u>	<u>Early-June?</u>	<u>Late-June?</u>
<u>2023</u>	<u>Late-June?</u>	<u>Early-June?</u>

*Early-June = Meeting concludes prior to Father's Day. Late-June = Meeting starts after Father's Day.*

Although we have already signed contracts for June 2018 (Kodiak) and 2019 (Sitka), you could consider making changes to the schedule for 2020 and beyond. In past considerations of the June schedule, you have weighed concerns with meeting too early in June (particularly in years when this falls right after the Memorial Day holiday), or too late in June (due to conflicts with fishing seasons for Council and AP members). I have **attached** the May/June calendars for years 2020 through 2023 for reference. I would note that we could hold our June 2020 meeting June 1-9, the June 2021 meeting June 7-15, and meet the PFMC recommendations. We may have a bigger challenge in avoiding overlap in 2022, as the first full week in June begins June 6 (and May 31 is Memorial Day). While we don't necessarily need a decision on this today, I did want to bring this issue to your attention.

### **IPHC Meetings**

The IPHC Interim Meeting will be held 28-29 November 2017 at the Grand Hyatt Seattle in Seattle, Washington, USA. New this year, the meeting will require attendees to pre-register. The Interim Meeting registration link is here: ([<https://iphcim093.eventbrite.com/>](https://iphcim093.eventbrite.com/)).

The IPHC Annual Meeting will be held 22-26 January 2018 at the Hilton Portland Downtown in Portland, Oregon, USA. As with the interim meeting, attendees are required to pre-register. The Annual Meeting registration link is here: ([<https://iphcam094.eventbrite.com/>](https://iphcam094.eventbrite.com/)).

Chairman Hull and I will attend and represent the Council at these meetings. Mr. Cross will be representing the Council at the IPHC's Management Strategy Advisory Board meeting on October 22-26.

### **Council Training**

Training for new Council members is scheduled for October 31-November 2 in Silver Spring, MD. While we did not have any Council members who required training, they did have a few slots available for interested Council members, staff and AP members. I will be attending this year's Council training along with Buck Laukitis, Angel Drobica (AP Vice-chair), and Sam Cunningham.

### **Allocation Review Schedule**

At the June meeting, the Council decided on a policy for triggering a review of a fishery allocation, per the requirements set forth in the NMFS Fisheries Allocation Review Policy. The Council's policy was as follows.

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## Agenda Date 10/2/2017

### Agenda Number: B1

*The Council identifies three non-LAPP allocations (the Halibut Catch Sharing Plan and the GOA and BSAI Cod Allocations), and LAPPs as subject to the allocation policy directive. The CDQ allocation is not subject to this review. The Council adopts the LAPP review process for meeting the allocation review policy with the necessary modifications to the LAPP review recommended by staff. The Council adopts the 10-year timeframe as the primary trigger criteria for review for non-LAPP allocations, and the existing Council public input process as the secondary trigger criteria for review. The Council will specify its approach to allocation review at final action for any future allocation decisions.*

<b>Allocation</b>	<b>Last Review</b>	<b>Next Scheduled Review</b>
American Fisheries Act	2017	2024
Aleutian Islands Pollock	2017	2024
BSAI Crab Rationalization	2016	2023
Community Development Quota	2012 (State)	2022
Amendment 80	2015	2022
Halibut / Sablefish IFQ	2016	2023
Central Gulf of Alaska Rockfish	2017	2024
GOA Pacific Cod Sector Allocation	Am 83 Implemented in 2012	<b>2020</b>
BSAI Pacific Cod Sector Allocation	Am 85 Implemented in 2008	<b>2019</b>
Halibut Catch Sharing Plan	Implemented in 2014	<b>2021</b>

The first fishery allocation review for our region, pursuant to the NMFS Fishery Allocation Review policy, was prepared as part of the Central Gulf of Alaska Rockfish Program LAPP review. Details are provided under C7.

The Council noted that it would work closely with the Alaska Region to determine the schedule for the three non-LAPP reviews. Based on my discussions with Mr. Merrill and Ms. Baker, we would suggest that the Council schedule a review of the BSAI cod allocation in 2019 (with analysis initiated in 2018), the GOA cod allocation in 2020, and the Halibut Catch Sharing Plan in 2021. This schedule would eliminate overlap with the next scheduled LAPP reviews. Note that if we put off the GOA cod allocation and the Halibut CSP allocation reviews until the full 10 years since implementation, we end up with major staffing challenges in 2022 and 2024 with 3 to 4 reviews per year.

### **Alaska SeaLife Center Marine Gala and Ocean Leadership Awards**

The Alaska SeaLife Center will be holding their annual gala on February 3, 2018 at the Dena'ina Center in Anchorage. This year, the SeaLife Center is celebrating 20 years of research and public education on Alaska marine ecosystems. Their special guest speaker will be actor and comedian Jack Black. I have reserved a table for Council members; please let me know if you are interested in attending.

Nominations are now open for the 2018 Alaska Ocean Leadership Awards, that were established by the Alaska SeaLife Center to give recognition to those who have made significant contributions to ocean sciences, education, and resource management in Alaska. Nominations for the 2018 awards are open now through December 1, 2017. The five award categories are: Lifetime Achievement, Stewardship and Sustainability, Ocean Youth, Marine Research, and Marine Science Outreach. Details on each award, past recipients, and a

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## Agenda Date 10/2/2017

### Agenda Number: B1

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nomination form are **attached**.

#### Committee Meetings

Several Council Committees have been active since the June Council meeting:

- The Executive Committee met on June 21 to review qualifications and appoint a new Executive Director.
- The EM Working Group, chaired by Bill Tweit, met on September 18, to discuss EM implementation in 2017 and 2018, and to review the EM component of the observer contract draft Statement of Work. The meeting minutes will be reviewed by the Council under Agenda item C6.
- The Observer Advisory Committee, also chaired by Bill Tweit, met on September 19-20 to discuss the draft 2018 Annual Deployment Plan, a scoping paper on tendering data concerns and solutions, a draft Statement of Work for the renewal of the partial coverage observer contract, and progress on and priorities for various observer analytical tasks. The OAC report is attached under Agenda Item C6, and OAC recommendations with respect to tendering and low sample rates will be addressed under Agenda Item C5.
- The Ecosystem Committee, co-chaired by Bill Tweit and Theresa Peterson, met on September 22 to review progress on the Bering Sea Fishery Ecosystem Plan. A report of the meeting will be provided under the Staff Tasking agenda item E-1.
- The IFQ Committee, chaired by Buck Laukitis, met on Monday this week to review the halibut retention discussion paper (Agenda Item D3), a NMFS report on IFQ cost recovery, a summary of activity and observer data from the first year of sablefish longline pot fishing in the GOA, data reports on unfished quota blocks and quota migration, and to review a stakeholder proposal on a crew quota program. The IFQ Committee will devote time to a broader discussion about rural participation in the IFQ fisheries as part of its discussion on the quota migration data report. The Committee's meeting minutes will be reviewed by the Council under Agenda Item D2.
- The Enforcement Committee, chaired by Captain White, met on Tuesday to review the analysis of mixing guided and unguided halibut. The committee will report on their deliberations under Agenda item C2.
- The Legislative Committee also met on Tuesday to review recent draft MSA legislation and other fishery related legislation. I'll have more information on this topic later in my report.
- The Charter Halibut Management Committee, chaired by Andy Mezirow, will meet on Tuesday, October 10 from 12-4 pm to identify a suite of potential management measures for analysis by ADF&G to keep the sector catch within allocations established under the Halibut Catch Sharing Plan. Recommendations for 2018 management measures will be made at the December 2017 committee meeting.

#### Other recent Staff/Council activities

On June 22, several staff (me, Diana Evans, Diana Stram, Jim Armstrong) met with a group of independent contractors who are preparing the certification assessment of the Alaska pollock and Pacific cod fisheries under the Alaska Responsible Fisheries Management Program. This program is the fisheries certification program run by ASMI, which is somewhat similar to the Marine Stewardship Council certification. As part of the process, the assessment team makes a "site visit" to consult with stakeholders and fishery managers. We spent well over an hour with the group answering questions, and provided the contractors with various reports to assist them with their assessment.

From June 23-June 26, Vice Chair Bill Tweit and several staff members (Steve MacLean, Diana Stram, Jim Armstrong, Sarah Marrinan, and Sam Cunningham) took an outreach trip to St Paul. A written report of the outreach and a summary of the meetings is **attached**. Steve MacLean will be available to provide additional

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## Agenda Date 10/2/2017

### Agenda Number: B1

---

details.

From July 13<sup>th</sup> through 15<sup>th</sup>, Chairman Hull attended the North Pacific Fisheries Commission (NPFC) meeting in Sapporo, Japan. Mr. Merrill also attended, along with other members from the United States, Canada, China, Japan, the Republic of Korea, the Russian Federation, Chinese Taipei, and the Republic of Vanuatu. Mr. Merrill will be providing additional details of the meeting under the B2 report.

From July 17<sup>th</sup> through 20<sup>th</sup>, the Alaska Fisheries Science Center (AFSC) hosted a peer review of its programs in economics and human dimensions science this year at AFSC in Seattle. The objective of this review was to examine and evaluate its science programs conducting research on the impacts of management actions and providing science advice that informs policies to maximize societal benefits from ocean and coastal ecosystems. To conduct the reviews, a panel of experts in the topic area who are not associated with the AFSC were selected. NMFS staff (Rachel Baker) and Council staff (Sarah Marrinan) contributed to the review with a discussion of regional management needs and information gaps. This discussion highlighted strengths of the AFSC, for example, its research efforts that have supported fisheries management in ways that provide for a better understanding the status quo of fisheries, participants, and communities, the basic dynamics of the fisheries, and effects of previous management actions. Areas in which we could strive for continued improvement include strengthening communication between agencies and finding the proper pathways for integration of research efforts into the development and implementation of fisheries management actions. The Review Panel Summary Report and AFSC Review Summary Response will be posted at:

[https://www.afsc.noaa.gov/program\\_reviews/2017/default.htm](https://www.afsc.noaa.gov/program_reviews/2017/default.htm)

On July 31, while I was out on pre-planned leave, Diana Evans, with assistance from other Council staff (Sam, Sarah, Jon and Jim), met with a delegation from the Chinese government at the Council office. The delegation included two division heads from the Bureau of Fisheries, two representatives from the provincial governments, and three marine fisheries advisors/professors. The delegation spent a week in Alaska, meeting with the Council, ADFG, NMFS, and various industry representatives, and spent time in Anchorage, Kodiak, and Seward. The trip was organized jointly by the National Resource Defense Council and the NMFS Office of International Affairs, for the purpose of enhancing the exchange of management experience in marine fisheries resource conservation between China and the United States, with fisheries in Alaska as an example. Many of the questions during the meeting with Council staff focused on the Council process, and delegation of authority between the Council and the Secretary of Commerce; the observer program, and how to ensure that observers are providing honest catch reports; the 2 million metric ton cap for groundfish in the BSAI, and implications for TAC setting; and permits for individuals and vessels.

On August 21-24, Diana Evans attended the American Fisheries Society national meeting in Tampa Florida, and gave a presentation on North Pacific fisheries management in a session on "Ten Years of Science-Based Management in U.S. Fisheries: Progress and the Road Ahead."

On August 29-30 we held a Council staff 'retreat' (at the NPRB conference room) to discuss general administrative and operational issues, as well as foster and strengthen staff collaboration and teambuilding. As part of that 'retreat' we received reports from NPRB staff on approaches to outreach and collaboration on research priorities. We also discussed some modifications to improve our Council meetings, including posting a schedule of when documents will be available, modifying our testimony signup sheet to indicate if testifiers have written comments or a powerpoint presentation, and using social media to alert the public of schedule changes. You can follow us on twitter [@NorthPacificFMC](https://twitter.com/NorthPacificFMC). This twitter account will only post meeting scheduling changes and status, and is not meant to be interactive, at least for our initial trial period.

On September 1, Sarah Marrinan assisted Marycia Symkowiak of the Alaska Fisheries Science Center, with hosting a workshop in Homer on fishing families and changing regulations, environments, and socioeconomic

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## Agenda Date 10/2/2017

### Agenda Number: B1

---

conditions in Alaska's fisheries and fishing communities. This workshop was a continuation of a series of scoping meetings, the first of which was conducted in Juneau during the June Council meeting. The purpose of the workshops is to gather information to inform and direct an area of future research investigating family dynamics and fisheries management impacts on fishing families in Alaska fisheries. The perspectives that have emerged from these (and a few more planned), workshops will be summarized in a report that will be produced next year and will directly inform how this research may be expanded into specific areas using quantitative tools.

On September 5, Steve MacLean and Chris Rooper (NMFS AFSC) presented the results of the Pribilof Canyons coral work by WebEx at the OneNOAA science seminar series, based on the paper they published in *Frontiers in Marine Science* "Corals, Canyons, and Conservation paper: Science Based Fisheries Management Decisions in the Eastern Bering Sea:

[https://www.npfmc.org/wp-content/PDFdocuments/resources/EBS\\_ConMgmt717.pdf](https://www.npfmc.org/wp-content/PDFdocuments/resources/EBS_ConMgmt717.pdf)

On September 18-20, Chairman Hull chaired the North Pacific Research Board meeting in Cordova. The fall meeting is when the Board finalizes its request for proposals for research funding in the coming year. In August, Diana Stram participated at a meeting of the NPRB Science Panel, which provides scientific advice to the Board. The 2018 request for proposals can be found on the NPRB website: [www.nprb.org](http://www.nprb.org)

<http://www.nprb.org>

On September 21, Steve MacLean attended the NOAA Fisheries Alaska Groundfish and Halibut Seabird Working Group meeting in Juneau. This group was originally formed to review the bycatch of Short-tailed albatross and the limit that would require ESA Section 7 consultation.

On September 26-27, the 28<sup>th</sup> session of the U.S./Russia bilateral Intergovernmental Consultative Committee on Fisheries (ICC) was held in La Jolla, California. Bill Tweit attended the meeting as the Council's representative, along with Glenn Merrill and other members of the Bering Sea Fisheries Advisory Board (BSFAB). The 'Protocol', or meeting summary, is **attached**. Mr. Tweit or Mr. Merrill may wish to provide additional comment.

### **Events this week**

On Tuesday evening, October 3, Dr. Craig Rose will give a presentation on halibut mortality and viability estimates. A flyer with more details is **attached**.

Also on Tuesday evening, October 3, we are hosting an informal gathering/reception at the Hilton bar ("Bruin's") from 6 - 7:30 pm to honor recently retired Council member Roy Hyder. There will be a cash bar, and light appetizers will be served. This will be a great opportunity to unwind and reminisce about the good times with Roy and friends.

On Wednesday evening, October 4, Dr. George Hunt will present results from his research funded by the North Pacific Research Board - 'From sea ice to seabirds: Bottom-up control of Bering Sea energy flows'. This presentation will begin at 5:30 pm. An abstract of the research is **attached**.

Also on Wednesday evening from 5:30-6:30, staff from the Acquisition and Grants Office (AGO) are holding an evening public comment session to solicit input on the Draft Performance Work Statement for Observer Services and Electronic Monitoring. Kate Steff and Crystina Jubie from AGO will also hold office hours on Tuesday and Wednesday in the Portage Room. For more information see: <https://www.fbo.gov/spg/DOC/NOAA/WASC/ALASKAOBSERVER/listing.html>.

On Thursday evening, October 5, from 5:30-7:00, NMFS staff and ADF&G staff are holding an outreach meeting to receive input on the formation of a stakeholder workgroup that would provide input into the

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## Agenda Date 10/2/2017

### Agenda Number: B1

---

development of a Salmon FMP amendment that addresses the salmon fisheries in the Federal waters of Cook Inlet, Prince William Sound, and the Alaska Peninsula. A flyer with more details is **attached**. For those who cannot attend the salmon outreach meeting but would like to listen in, the meeting will be broadcast over the internet via Adobe Connect, the same application that we use for the Council meeting itself. The link to the outreach meeting is different from the link to the Council meeting and can be found on the Council website at the top of the Salmon FMP webpage.

On Friday at 12:30, the Council will meet in Executive Session to receive a report from KPMG, the accounting firm who recently completed our required, biennial financial audit. This audit covered the time period when Joy Stein was our finance officer, and she will be joining us for the report, along with our current finance officer Nicole Schmidt. The Council will also review nominations for SSC and Plan Team members and discuss several administrative issues during the Executive Session.

On Saturday evening, October 7 from 5:30-6:30, representatives from St. Paul will make a presentation on the outreach trip taken by Council and staff to St. Paul this past summer. The presentation will focus on fur seal abundance and conservation, Pribilof blue king crab management, and the local halibut fishery.

### Legislative Update

On August 1, the Senate Commerce, Science, and Transportation Committee held a hearing in Soldotna Alaska titled "Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act: NOAA and Council Perspectives". NOAA Fisheries Assistant Administrator Chris Oliver provided testimony, along with NEFMC Chairman Dr. John Quinn. Dr. Quinn provided testimony on behalf of the Council Coordinating Committee (CCC), based mainly on the CCC's consensus positions on various issues as detailed in the CCC's MSA Reauthorization working paper (latest draft of the working paper is **attached**). The working paper also captures individual Council positions on these various issues where relevant. Both Mr. Oliver's and Dr. Quinn's testimony are **attached**.

On August 23, the Senate Commerce, Science, and Transportation Committee held a hearing in Soldotna Alaska titled "Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act: Oversight of Fisheries Management Successes and Challenges". Council Chairman Dan Hull provided testimony on behalf of the Council, based primarily on the Council's draft letter regarding HB 200 (draft letter **attached**). Chairman Hull's written testimony is **attached**. Also testifying at the hearing was Commissioner Sam Cotton, AP members Shannon Carroll and Ben Stevens, and several fishing industry representatives from the North Pacific. A summary of the hearing, prepared by Dan Hull, is **attached**. Written testimony for panelists can be found here:

<https://www.commerce.senate.gov/public/index.cfm/hearings?ID=B41AA74D-2FE6-4945-AAFF-4B43AD0ACCF7>

On September 12, the Senate Committee held another hearing on MSA Reauthorization: Oversight of Fisheries Management Successes and Challenges in Washington D.C. Written testimony can be found here:

<https://www.commerce.senate.gov/public/index.cfm/hearings?ID=FA788A8C-2F71-4B09-AFC6-1FE2B120B828>

On September 26, the House Natural Resources Committee's Subcommittee on Water, Power and Oceans held a legislative hearing on four bills related to the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. Written testimony can be found here:

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=402850>

For further reference, I have also **attached** the most recent Congressional Activities reports for August and September from the CCC's legislative liaison Dave Whaley.

**Agenda Number:**B1

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Several new pieces of relevant legislation have been introduced since the last Council meeting including **attached** S.1520 (the Senate version of H.R. 2023 Modernizing Recreational Fisheries Management Act), and **attached** S.1322 (The American Fisheries Advisory Committee) and **attached** S. 1323 and H.R. 2079 (the Senate and House versions of the “Young Fishermen’s Development Act of 2017”, respectively), which were mentioned at the Senate hearing in Soldotna. I have also **attached** another bill put forth by Representative Jared Huffman as a discussion draft for the House Resources Committee (“Strengthening Fishing Communities Through Improving Science, Increasing Flexibility, and Modernizing Fisheries Management Act”). In the following sections, I provide a summary of the major components of each of these bills, as well as highlighting issues potentially important to the North Pacific.

Senator Sullivan, per email from his staff Erik Elam, has requested Council comment, analysis, and views on the legislation as a whole and specific sections on the following legislation: S. 1520, S. 1322, H.R. 200, Huffman draft legislation, and S. 1323. The Legislative Committee and Council may wish to provide formal comment to the Senator on these bills. Per the legal guidance from NMFS region and NOAA about providing review and comment to Congress, any comments the Council submits should be tied to the Council’s performance of its grant as specifically as possible. Therefore, comments should explain how the Council believes specific provisions of the bills could have harmful or beneficial impacts on the Council’s ability to fulfill its responsibilities under the MSA, or affect the Council’s ability to conserve and manage marine resources and resource users. Comments should not express general support or disfavor with the bill or with a particular provision without a description of the impairment.

S. 1520 Modernizing Recreational Fisheries Management Act

Senator Roger Wicker (R-Mississippi) introduced S. 1520 (Modernizing Recreational Fisheries Management Act of 2017) in July. It is somewhat similar to the House version of the draft legislation with the same title (H.R. 2023), which the Council saw in June and also **attached**. I have summarized S. 1520 by section, as follows:

*Sec. 101 Process for Allocation review* - This section requires the National Academy of Sciences (NAS) to conduct a study of South Atlantic and Gulf of Mexico mixed-use fisheries to understand the criteria, data, and procedures for allocation reviews, and requires these two councils to perform reviews of allocations to commercial and recreational fishing sectors within 2 years and every 5 years thereafter. [H.R.2023 requires reviews every 3 years]

*Sec. 102 Alternative Fishery Management* - This section would allow all councils to use alternative fishery management measures in a recreational fishery, including extraction rates, fishing mortality targets, harvest control rules, or traditional or cultural practices of native communities.

*Sec. 103 Study of LAPPs for mixed-use fisheries* - This section requires the NAS to study the use of Limited Access Privilege Programs (LAPPs) for mixed use fisheries for possible inequities and policies to address inequities (referenda, auctions, limited duration, mandatory analysis, compensated reallocation), and identifying factors to consider when establishing a LAPP to mitigate any inequities. A mixed-use fishery means a Federal fishery in which two or more occur (recreational, charter, and commercial fishing). There is a moratorium on all new LAPPs for mixed use fisheries until the NSA report is finalized (report is due 1 year after enactment). For any LAPP under development, the Councils are required to review and revise the program to be consistent with the NAS report recommendations. [H.R. 2023 only includes the moratorium on LAPPs for mixed fisheries (only commercial and recreational), and only for the GMFMC and SAFMC]

*Sec. 104 Rebuilding Overfished Fisheries* - This section requires rebuilding be as short as possible, with the time period not to exceed 10 years or the time required for the stock to reach Bmsy in the absence of fishing plus 1 mean generation time. [H.R. 2023 revises the rebuilding time to be as short as ‘*practicable*’, with the same time-period extensions as S. 1520].

*Sec. 105 Modifications to the ACL requirement* - This section allows a council to maintain an existing ACL for stocks that are more than 25% below the overfishing limits, have not been subject to a peer reviewed stock assessment or survey in the past 5 years, and not subject to overfishing. Further, the Secretary must complete a peer-reviewed survey and stock assessment within 2 years of notification of a data poor stock meeting the above requirements. This section also allows Councils to set ACLs for a stock complex, and ACLs for each year up to a period of 3 years. [H.R. 2023 exempts stocks from ACLs if it is an ecosystem component species, or lives less than 1 year, or has fishing mortality that is below target and a survey and assessment hasn't been completed in the past 5 years, or overfishing is not occurring]

*Sec. 106 Exempted Fishing Permits* - This section requires that before an EFP is issued, the Secretary must direct a joint peer review by the regional fisheries science center and State marine fisheries commission, and certify that the Council or Federal agency has determined that 1) the fishing activity will not negatively impact any measures of conservation objectives, 2) the social and economic cost - in both dollar amounts and lost fishing opportunities - are minimized, 3) the information collected under the EFP will have positive impacts to conservation or management, and 4) the Governor of each coastal State potentially impacted has been consulted. This section also mandates that EFPs expire 12 months after the permit is issued.

*Sec. 201 Cooperative Data Collection* - This section requires the Secretary to prepare a report on facilitating greater incorporation of data, analysis, stock assessments and surveys from State agencies and non-governmental sources (fishermen, fishing communities, universities, and other institutions). The Secretary is also instructed to implement to the extent feasible, the recommendations from the NAS on Marine Recreational Information Program (MRIP).

*Sec 202 Recreational Data Collection* - The MSA requires a registration program for recreational fishermen who fish in the EEZ, for anadromous fisheries, or outside the EEZ. The Secretary can exempt from the Federal registration program fishermen from a given State, but only if the Secretary determines the State registration and data collection program is suitable for use in conservation and management. [*Note - Alaska has been exempt from the registration program because the State requires a license for fishing in marine waters, and has a mail out survey to collect catch data*]. Under S. 1520, the Secretary must develop guidance, in cooperation with the States that detail best practices for State programs, so that the information from State programs can be determined to meet the threshold for use in conservation and management of recreational fisheries. The proposed language would basically require that the Secretary and States come to agreement on the threshold for what is suitable information. This section also includes a requirement that the Secretary also provide biennial reports on the information used and improvements that could be made, grants to States using S-K funding to improve State data collection programs. Lastly, the NAS is required to evaluate and report on the MRIP and the appropriateness of using in-season management of ACLs for recreational fisheries.

*Notes on S. 1520: As we noted in our draft comments on HR200, alternative management measures could provide additional flexibility for managing recreational fisheries. However, we also noted that it is unclear whether such alternative measures are in lieu of ACL requirement, or in some other context. Also, note that unlike H.R. 2023, the Senate version of the bill does not introduce the term 'depleted' to describe those stocks that meet the 'overfished' status despite being in that condition due to factors other than fishing. The Council has supported the use of the term 'depleted' to describe those stocks. The Senate version also maintains the rebuilding time to be as short as possible, rather than the H.R. 2023 term of "practicable". S. 1520 includes 3 criteria that must all be met to be exempted from ACL requirements, whereas H.R.2023 exempts stocks if they meet any one criteria, including exempting all stocks from the ACL requirement if overfishing is not occurring. Since overfishing is not occurring on any of our managed stocks, the Council may not be required to set ACLs for any stock under the*

*House language. Lastly, the Council has previously highlighted concerns with limiting EFPs to 12 months and requiring a determination (analysis) that the EFP will not impact other fisheries. The NPFMC's perspective on these issues is described in the CCC Working Paper.*

H.R. Draft Legislation - Strengthening Fishing Communities

Representative Jared Huffman (D-California) recently put forth a discussion draft of a bill to amend and reauthorize MSA (discussion draft **attached**). The bill contains portions of other introduced MSA legislation, and provides language on several new issues. A section-by-section analysis prepared by the Council Coordination Committee's legislative liaison Dave Whaley, is also **attached**. I will highlight a few of these new issues that are relevant to our region below.

*Notes on H.R. Discussion Draft:* The draft bill contains new language and several new issues not previously discussed, as well as language on issues that the Council has raised concerns about in other legislation. What got my attention was that the bill:

- Defines HAPC to include the importance of its ecological function in maintaining and restoring spatial and genetic characteristics of fish populations. *This greatly broadens the definition of HAPC currently found in the EFH guidelines.*
- Revises the term overfished to "overfished or otherwise depleted". *This is consistent with previous Council recommendation to use the term depleted, and this language may address the concerns about the term which has prevented a lack of consensus by the CCC on this issue.*
- Requires audio, video, or written transcripts of Council and SSC meetings to be posted on our website; *The Council has previously noted the added costs of this requirement.*
- Requires recorded votes on all nonprocedural matters. *It is unclear if this means a roll call vote on every motion, but I suspect that was the intention. This requirement may disrupt the ability of the Council to build a consensus on issues. If an individual Council wants to require a roll call vote on all actions, it can do so by simply amending its Statement of Organization, Practices, and Procedures (SOPP).*
- Adds subsistence fishing as a qualification to be considered for Council membership, and requires the Governor of Alaska to consult with subsistence fishing interests when submitting nominations for the Council. *This is consistent with previous Council note that this is a useful clarification.*
- Requires that, to the extent possible, councils shall minimize the amount and cost of member and staff travel by use of electronic means for remote participation during meetings, including voting. *Since this type of meeting is always possible to do (note they didn't use the term practicable, which implies tradeoffs), and 'shall' is interpreted as mandatory, I conclude this means that Council meetings would no longer be conducted in person.*
- Requires fishery councils to develop and implement plans to 1) protect and recover essential fish habitat and 2) reduce bycatch, each with quantitative and measurable milestones and goals. *This would require considerable time and resources to develop and monitor, and implies that the existing MSA phrase 'to the extent practicable' has not been met.*
- Requires a report from the U.S. Comptroller General on a full accounting of all grant money received and distributed by the Councils, and an assessment of interactions of the Councils and staff with Congress for the past 10 years, and an assessment of conflicts of interest. *I'm not sure what problem this provision is trying to address, or the meaning of 'grant money received and distributed', but it may take considerable staff time to dig through our records if necessary.*
- Adds a new required provision for FMPs: identify habitat areas of particular concern (HAPC), prevent adverse effects on such habitat caused by fishing, monitor efficacy to prevent adverse effect and identify other actions to conserve habitat. *The language "to prevent adverse effects" suggests that regulations must prevent any amount of impact due to fishing. Our approach with HAPC has been that we monitor and minimize adverse impacts but do not prevent all adverse impacts. Under the proposed*

*language, we may be required to prohibit all fishing activity at sites designated as HAPC such as Bering Sea skate egg deposition sites and the GOA Fairweather Grounds coral areas.*

- Prohibits development of a new fishery until the Secretary determines the fishery ecosystem impacts are analyzed. *This is much like the Council's precautionary approach to the Arctic into MSA. The revised list of approved fisheries needs to specify an associated geographic range, so that ecosystem impacts must first be evaluated before fishing can occur outside of the specified range if fish distribution shifts.*
- Removes the August 1, 1996 date for an FMP to allow delegation of fishery management authority to the State. *This is consistent with previous Council comments.*

#### S.1322 The American Fisheries Advisory Committee Act

Alaska Senator Dan Sullivan (with Senators Cantwell and Murkowski) introduced S. 1322 to assist in the awarding of fisheries research and development grants. This bill would amend the Saltonstall-Kennedy Act to direct the Secretary of Commerce to establish the American Fisheries Advisory Committee, with representatives from six regions on the committee. Alaska is in a region together with Hawaii, the Northern Mariana Islands, Guam, and American Samoa. The Committee will consist of 3 members chosen from each region and another 7 members across all sectors of the U.S. fishing industry (i.e., 25 members total). All members are appointed by the Secretary and serve 3-year staggered terms. Members are subject to the same conflict of interest and recusal provisions as the regional fishery management councils. The Committee is tasked with identifying the needs of the fishing industry, developing the request for proposals, reviewing grant applications, and recommending applications for approval by the Secretary. Proposals can be funded only if they meet a set of criteria established in the legislation and other criteria established by the Secretary. Committee meetings will rotate among the six regions. An individual awarded a grant under this bill must publicize the title and abstract of the project.

*Notes on S. 1322: The S-K proposal review process has been subject to criticism over who does the reviews, the criteria used to evaluate reviews, the timing of the notification and time for review comments, and transparency of the process. This draft legislation addresses some of these concerns by establishing a formal committee process for decision-making, and making the evaluation criteria more explicit. I note that under the legislation, representation of Alaska fisheries on the Committee may be very limited (possibly only one or two members). Additionally, it appears that only 2 of the 25 members of the Committee represent fisheries research expertise, even though the criteria for funding establishes that applicants must have the requisite technical capabilities to carry out the project, and that projects have sound design and a methodology for evaluating the success of project. It seems to me that it will be very challenging for the committee to evaluate the scientific design and methodology of these proposals. I would note that the NPRB utilizes a separate Science Panel to review all proposals for scientific adequacy prior to Board decision making.*

#### S. 1323 and H.R. 2079 Young Fishermen's Development Act of 2017

Alaska Congressman Don Young (with Representative Moulton) introduced H.R. 2079 in April, followed by the introduction of a nearly identical bill, S.1323, in June by Senator Dan Sullivan (along with Senators Murkowski, Markey, and Cantwell) with the purpose of preserving the U.S. fishing heritage through a national program dedicated to training and assisting the next generation of commercial. The Secretary of Commerce, acting through the National Sea Grant Office, shall establish a program to provide training education, outreach, and technical assistance initiatives for young fishermen. The "Young Fishermen's Development Grant Program" will be implemented through grants to partnerships and collaborations led by non-governmental community-based organizations and school-based educational fisheries organizations (first priority), as well as to other collaborative State, Tribal, local, or regionally based partnerships (lower priority). Grants to these groups are limited to 3 years, and shall be up to \$200,000, with a required cash or in-kind match of at least 25 percent. A young fisherman is defined as an individual who has participated in the fisheries for less than 10 years - or

desires to participate in the commercial fisheries of the U.S. - and is less than 35 years old. In establishing criteria for evaluating grant applications, the Secretary shall cooperate with organizations, universities and colleges, and State and Federal agencies (including the regional fishery management councils). The legislation specifies that the Secretary shall use \$2,000,000 from the monies collected from fines, penalties, and forfeitures of property for violations of the MSA or other resource law (i.e., collected under MSA Section 311(e)). This amount would be proportionally allocated across regions by how much money was collected in each region (for that fiscal year).

*Notes on S. 1323 and H.R. 2079: The two bills are identical with the exception that the House bill includes a section on findings and purposes. It is not clear how the funding for this grant program falls in the priorities of other activities funded through Section 311 (e). In other words, does the \$2 million come off the top before the other uses of the money specified in the MSA (e.g., costs incurred in storage of seized property, rewards to whistleblowers, enforcement costs, liens on forfeited property and other claims, reimbursement to any Federal or State agency for services) are spent? In a 2014 comment letter on MSA legislation to Congressman Doc Hastings, the Council noted the tradeoffs inherent in the diversion of Asset Forfeiture funds. The Council noted that funds from this source are critical to various enforcement and investigative activities of the NOAA Office of Law Enforcement, and reductions in these activities could be detrimental to the Council's overall management objectives. The letter also recommended any amount of funds diverted from the Asset Forfeiture Fund for other purposes only be used in the region in which they were collected. The proposed language of proportionality appears to have addressed the Council's concern on this issue.*

The Legislative Committee met on Tuesday to review these bills and develop some comments for Council consideration. An agenda for the Committee meeting is **attached**. I will prepare and distribute a summary of the committee meeting when I get it completed sometime this week.