

SUMMARY MINUTES

Regional Fishery Management Council Chairmen's Meeting July 10-12, 1995 Homer, Alaska

Council Chairmen, Vice Chairmen, and Executive Directors met July 10-12, 1995, in Homer, Alaska. The meeting was called to order by Rick Lauber, Chairman of the North Pacific Fishery Management Council, at 10:30 a.m. on Monday, July 10. Representatives of NMFS, NOAA, U.S. State Department, U.S. Coast Guard, and staff for the U.S. Senate and House of Representatives joined the meeting on Tuesday and Wednesday, July 11-12, 1995. The meeting was adjourned on Wednesday, July 12, at approximately 3:15 p.m.

Attendees:

New England Council

Joseph Brancaleone, Chair
Eric Smith, Vice-Chair
Doug Marshall, Executive Director

Mid-Atlantic Council

Lee Anderson, Chair
Tony DiLernia, Vice-Chair
David Keifer, Executive Director

South Atlantic Council

David Cupka, Vice-Chair
Bob Mahood, Executive Director

Caribbean Council

Patricia Skov, Chair
Jose Campos, Vice-Chair
Miguel A. Rolon, Executive Director

Gulf Council

Julius Collins, Chair
Ken Roberts, Vice-Chair
Wayne Swingle, Executive Director

Pacific Council

Frank Warrens, Chair
Pete Leipzig, Vice-Chair
Larry Six, Executive Director

North Pacific Council

Richard Lauber, Chair
Wally Pereyra, Vice-Chair
Clarence Pautzke, Executive Director
Staff: Chris Oliver, Deputy Director
Helen Allen, Secretary
Gretchen Harrington, Intern

Western Pacific

Ed Ebisui, Jr., Chair
Kitty Simonds, Executive Director

Invited Guests:

Dr. William Aron, Alaska Fisheries Science Center
Ronald J. Berg, NMFS-Alaska Region
Ambassador David Colson, State Department
Terry Garcia, General Counsel for NOAA
Gary Matlock, NMFS-DC
Tom Melius, Congressional Staff-Senate
John Oliver, NMFS-DC
CAPT Vince O'Shea, USCG
RADM Norman Saunders, USCG
Richard Schaefer, NMFS-DC
Rolland Schmitt, Asst. Adm. for Fisheries
Dave Whaley, Congressional Staff-House

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MEMORANDUM FOR THE DIRECTOR, FBI
SUBJECT: [Illegible]

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Agenda

The Chairmen discussed Magnuson Act amendments proposed in H.R. 39 and S. 39 and received reports on international fisheries issues, Coast Guard activities, enforcement and penalty issues, NMFS reorganization and the possible disbanding of the Commerce Department, as well as reports and discussions of several other administrative matters. Brief summaries of the discussions follow.

Summary of Presentations/Discussions of Agenda Items

Magnuson Act Amendments

Tom Melius, staff for the U.S. Senate Subcommittee on Oceans & Fisheries, and Dave Whaley, staff for the House Committee on Resources, were available to give clarifications and answer questions regarding the two current proposed amendments, S. 39 and H.R. 39. H.R. 39 has already been passed out of the Committee and been through mark-up; however S. 39 has not yet been addressed by the Subcommittee. A summary of the Chairmen's discussions and recommendations on the proposed amendments is in Appendix I (which is a letter dated July 18, 1995 to Tom Melius and Dave Whaley on the congressional staffs. It has been reviewed by all Councils).

International Fisheries

Ambassador David Colson, Deputy Assistant Secretary of State for Oceans, provided an overview of international fisheries issues. He noted that a regional management system is needed for pelagic stocks in the Pacific. There are now 600 Chinese longliners operating in the Marshall Islands, and several other countries are also fishing pelagics for which there is little reliable biological and catch information available. He stressed the need to expand data collection and establish a regulatory management program for the Pacific Ocean. He also noted that international tuna agreements may be in jeopardy because of the continuing embargo on Latin American country tuna products related to the bycatch of dolphins. These countries have reduced their dolphin bycatch from 400,000 animals per year to 4,000, and yet this is not sufficient to relax the embargos. As a result, some of these countries may withdraw from international conventions for tuna management.

On the issue of reflagging, Mr. Colson indicated that the recent "reflagging amendment," if approved by Congress, will help to address the recurrent problem of commercial fishing companies from a high seas fishing nation that is party to an international convention, reflagging their vessels to small countries outside the convention to avoid management measures and restrictions imposed by the convention. Such vessels often fish with little or no chance of retribution if the terms of international treaties or agreements are violated. The reflagging amendments will resolve that problem by making those reflagged vessels fully responsible for their activities under international and domestic law.

Mr. Colson reported that the moratorium on high seas driftnets seems to be working and there are few participants in the fishery. Nevertheless, enforcement needs to remain vigilant as there will be increased pressure to extract ocean resources as world populations grow and resources become overutilized. He noted other stresses on the ocean environment including coastal pollution, ocean dumping of radioactive wastes by the Russians, and agricultural pollution. All these activities will harm or stress ocean resources at a time of growing populations, coastal use, and the need for sustained harvests of living resources.

Dick Schaefer noted that Western Atlantic shark populations range from areas off New England to Brazil and that international management will be required. Mr. Colson advised that the State Department does not normally initiate action until NMFS and the Councils bring forward proposed solutions. He mentioned that a constituent panel may be advantageous in advising the Department of State.

Coast Guard Activities

RADM Saunders, Chief of Law Enforcement and Defense Operations for the U.S. Coast Guard, briefed the Chairmen on Coast Guard fisheries enforcement activities. He noted that statistics show that the Commercial Fishing Safety Act has made a tremendous impact on safety in the fishing industry, with a significant reduction in sinkings and fatalities. Also Coast Guard training centers established to familiarize boarding officers with regional fisheries activities are making boardings more efficient and less cumbersome for vessel owners and skippers. Admiral Saunders indicated that reductions in budget and personnel mandated by the President will require prioritizing activities and in some cases lower priority activities will not be covered as thoroughly as in the past.

NOAA General Counsel Priorities for Enforcement

The South Atlantic Council had asked that NOAA General Counsel review current enforcement priorities and suggested that Councils should have input when priorities are developed. Terry Garcia, NOAA General Counsel, reported that they are responding to the President's directive to review regulations and eliminate those that are obsolete or that might better be carried out by states. Agencies with enforcement authority will focus on results, and emphasis will be on encouraging compliance. A review of current cases showed a significant number of violations of an extremely technical nature and many resulted from ignorance of regulations. Pursuing those types of cases takes extremely limited resources away from prosecuting more serious violations. General Counsel is emphasizing oral and written warnings for these lower-priority infractions and a less confrontational position for first-time and minor violations.

Budget Outlook

John Oliver reported on current and future NMFS budget issues. He noted that the extra appropriation in 1995 allowed them to avoid reprogramming and helped to solve some operational problems. However, for 1996 and beyond the budget outlook is not as promising. The current House version of the budget resolution would cut NMFS by 8 to 11% of the current level and by 24% of the Department's requested budget. The Senate has not yet passed a budget resolution. Responding to the President's directive, NMFS has already reduced staff by a little over 200 FTEs and anticipates additional reductions of up to 345 in 1996.

Pacific Pelagics

Ed Ebisui, Chairman of the Western Pacific Council, reviewed efforts to initiate a coordinated data gathering program for pelagics throughout the entire Pacific EEZ, and the Western Pacific Council's effort to become the lead Council for management of these species throughout the Pacific EEZ. Neither the Pacific Council nor the North Pacific Council have found it necessary to implement fishery management plans for these species although small amounts are taken in their areas of responsibility. The Pacific Council has received a great deal of industry opposition to the designation of the Western Pacific Council as the management authority for pelagics throughout the entire Pacific EEZ, and the Council has requested that existing data be compiled, along with a list of identified data needs, before making any decision on the issue.

Any Proposed Changes to CFR

Gary Matlock reported that NMFS is responding to the President's mandate to reduce regulations by identifying those regulations that no longer have implementing authority and those that can be incorporated into permit and contract provisions. Next, they will review those measures that can be incorporated into other regulations, or changed or repealed with little effort or effect, and then they will review those regulations that will require more attention and discussion. NMFS will not eliminate a rule if such action could jeopardize the resource. Councils

will be included in discussions on any proposed changes. Clarence Pautzke, NPFMC, brought up the issue of sharing confidential information with contractors on Council projects. NMFS now can share such information and was asked to consider giving that authority to Councils also. It does not seem to be prohibited by the Magnuson Act.

Locality Pay

Several Councils asked NMFS to clarify whether Council staff members are eligible for locality pay. A memo from Rollie Schmitten to Council Executive Directors, dated July 26, 1994, indicated that they are not eligible for locality pay because they are not federal employees. This can result in a pay disparity between those Council Executive Directors at GS-15, step 10, and federal employees at the same grade/step level that have locality pay. Rollie Schmitten said that they have researched the issue thoroughly and that it is a policy call that has to be resolved by the Department of Commerce, not NOAA or NMFS. Dick Schaefer said they would continue to follow up on the issue and will keep the Councils informed.

Reorganization of NMFS

Rollie Schmitten reviewed the major aspects of the ongoing NMFS reorganization. One goal is to emphasize regional decision making. The thrust of the reorganization is to accomplish the mission of the agency more efficiently by emphasizing a team-oriented approach. Areas they are working on include agency image, planning and priorities, communication, teamwork, and accountability. There is a proposal to have NMFS Regional Directors use designees on the Councils, but no final decision has been made yet. The Councils argued that the Regional Directors should continue to participate in Council decision making.

Implementation of Marine Mammal Amendments

Gary Matlock reported on progress in implementing last year's amendments to the Marine Mammal Protection Act. He noted that on June 16, 1995, NMFS-proposed regulations were published to implement many of the amendments. Comments on proposed regulations and interactions between commercial fisheries and ESA-listed species must be received by July 31, 1995. Comments on the proposed list of fisheries must be received by September 14, 1995.

Transmit Dates for FMPs/Amendments

Some Councils have experienced delays in review and approval of FMPs and amendments because of the NMFS policy of not beginning the review period until they have determined whether the package is structurally complete. Concern was expressed that with the proposed shortened review period and the inclusion of regulatory amendments in changes to the Magnuson Act, delays might become even more frequent. Clarence Pautzke pointed out that the current Magnuson Act amendment package evidently has dropped the required automatic approval of an amendment after 95 days if the SOC has not disapproved it.

Implications of Growth in Recreational Fisheries

The Gulf of Mexico was looking for input from other Councils on management of fisheries that have both commercial and recreational allocations or quotas where the commercial effort is controlled by a quota and fishing ceases when that quota is taken. Ken Roberts of the Gulf Council stressed that most participants in recreational fisheries are not aware of stock dynamics and the interaction of the various fisheries, bycatch implications, and other management issues. He stressed that because recreational fisheries are becoming a larger part of the management picture, it is important to mount an education program so that recreational fishermen understand those interactions and the necessity for responsible actions. Dick Schaefer is working with the Department of

Interior and U.S. Fish & Wildlife Service to develop a national recreational plan that would generate a broad federal policy on issues such as angling ethics, prevention of waste, and controlling access. They hope to have the policy completed within a year.

Risk Aversion

The Gulf Council asked for clarification of a NMFS policy with regard to risk aversion. The issue arose when one of their decisions was disapproved because the Secretary determined that there was an "unacceptable risk of allowing overfishing." The Gulf Council was unaware of such a policy. Dick Schaefer said that although NMFS has not issued a formal policy statement on risk aversion, they have referred to it in several published documents, including the 1991 NMFS Strategic Plan.

Next Council Chairmen's Meeting

The Pacific Council volunteered to host the next Chairmen's meeting, in either May or July of 1996, on the West Coast. They will solicit input from Executive Directors on the location and exact dates. The Caribbean Council said they will host the meeting in 1997.