

**North Pacific Fishery****Management Council**

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MINUTES OF THE SEVENTH PLENARY SESSION  
 North Pacific Fishery Management Council  
 May 26-27, 1977  
 Hill Building, 632 6th Avenue, Room 808-809  
 Anchorage, Alaska

The regular meeting of the North Pacific Fishery Management Council was held in Anchorage, Alaska at the Hill Building, 632 Sixth Avenue, Room 808-809, May 26-27, 1977. Those present are listed in Appendix A.

The Council meeting was called to order on Thursday, May 26, 1977 by Vice-Chairman Harold Lokken at approximately 8:40 a.m. The Council's Advisory Panel met concurrently with the Council and then broke to meet separately at 2:00 p.m. in the Council offices. The Scientific and Statistical Committee met in the Council office beginning at 8:30 a.m. and adjourning at 12:00 noon. A closed executive session was held during lunch to discuss personnel matters. A closed security session was held in the Hill Building, 632 Sixth Avenue, Room 808-809 from 1:30 to 3:30 p.m. Council members, Advisory Panel members, Scientific and Statistical Committee members, and others with security clearances were in attendance. The Council reconvened to hear public testimony from 3:30 p.m. to 6:30 p.m. at which time the Council recessed for the day.

The Council reconvened on Friday morning, May 27, 1977 by Vice-Chairman Lokken at 8:30 a.m. The meeting was adjourned at 3:30 p.m.

The provisional agenda for the Council meeting was approved and is included in Appendix B. The minutes of the April 26-27, 1977 Council meeting (which had been mailed out to all Council members) were deferred for comment and subsequently approved as written during the second day of the meeting (Appendix C).

#### EXECUTIVE DIRECTOR'S REPORT

The Executive Director, Jim Branson, presented his report which included the following (Appendix D):

- o The Council received formal notification from the NOAA Grant Officer of Council funding for Fiscal Year 1977;

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including \$557K for administration (\$110K already spent through the Federal system); \$376K for contractual obligations (\$176K designated for the development of management plans and \$200K designated for contract monies of which \$58.7K has already been allocated to the Alaska Department of Fish and Game (ADF&G) for a tag recovery research project). Additionally, \$12,000 had been allocated for direct aid to the ADF&G to defray additional costs attributable to the Council and extended jurisdiction activities. The total grant is for \$945K.

- o A \$60K contract proposal for the remainder of FY 77 has been developed with the Alaska Department of Fish and Game (ADF&G) for the development of Council management plans. The contract is for the development of eight management plans of which the ADF&G is lead agency for four: tanner crab, the high seas salmon troll fishery, king crab and shrimp. The ADF&G will also incur minor expenses in the other four plans, for which the National Marine Fishery Service is the lead agency: eastern Bering Sea clams, high seas salmon, the groundfish-trawl fisheries for the Gulf of Alaska and Bering Sea and Aleutian Islands. The contract covers expenses incurred for travel, per diem, incidental printing, supplies, small amounts of computer time, and temporary overtime or backup help. The Executive Director must be notified when \$40K has been obligated against the contract, at which time, he will review progress.

The proposed contract required Council approval and was therefore deferred for study until the second day. With no discussion and no objections, the Council unanimously approved a motion authorizing the contract be approved and presented, as written, to the Alaska Department of Fish and Game.

- o Another contract proposal with ADF&G for \$12,000 for the remainder of FY 77, was discussed. The proposal would channel \$12,000 to the Department of Fish and Game for increased costs related to the Council and extended jurisdiction activities. This contract proposal was unanimously approved, in principal, by the Council on the second day following review and study. It was noted that a similar contract for FY 78 would probably be for \$25,000.

- o Procurement standards for Council operations were submitted after having been reviewed and rewritten by the staff. The section on 'conflict of interest' was felt to be adequately covered under the Statement of Operating Practices and Procedures (SOPP) already accepted and published by the Council and was therefore omitted in the draft standards.

The standards were deferred for review and study until the second day at which time the Council unanimously approved a motion accepting the procurement standards.

- o Administrative Officer, Judy Willoughby attended a week of Federal Contracting School in Anchorage in May. It was also announced that a meeting of all Regional Councils' Administrative Officers is scheduled for the last week in June in Charleston, South Carolina. The Council unanimously approved a motion authorizing Ms. Willoughby to attend the meeting.
- o The first Council Newsletter was mailed in May at a cost for printing and postage of \$150 for 460 copies. Also a special Council supplement to the Alaska Seas & Coast Newsletter was reported to be on time for scheduled printing and distribution in mid-June.

Arrangements were announced for photographs to be taken of all Council members including SSC, Advisory Panel and staff. The photographs will be used for press releases and newsletters.

- o A television documentary on the 200 mile limit and the North Pacific Council produced by Ed Bennett, was aired by the Alaska Review program on May 19.
- o A letter was sent to Commerce Secretary Kreps relaying the Council's request that the research vessel OREGON be maintained until a suitable ship arrives on scene to replace it. Mr. Branson said that an answer had not been received but that Congressman Young had also written to Secretary Kreps urging retention of the OREGON.
- o The development of time and events schedules for Council management plans was presented. They are as follows:

The Groundfish Fishery for the Gulf of Alaska and the Alaska Tanner Crab Fishery will be reviewed by the Council during June and if approved are scheduled for public hearings during August, and could be published in effect by mid-January, 1978.

The High Seas Ocean Salmon Plan and the High Seas Ocean Salmon Troll Plan are scheduled to be submitted to the Council in July, reviewed in August and approved for general distribution by the Council on August 25th. The plans are scheduled for public hearings in October and could be published in effect by early April, 1978.

The Eastern Bering Sea Clam Plan and the Alaska King Crab Plan are scheduled for internal Council review in October and approval at the October Council meeting. The public hearings are scheduled for December and the published regulations could be in effect by late May, 1978.

The Bering Sea and Aleutian Island Groundfish Plan, if submitted at the December Council meeting, could be scheduled for public hearings in March and in effect by late August, 1978. Branson told the Council that because of this time delay the preliminary management plan would have to be amended to regulate fishing for 1978.

Recommendations for locations of public hearings were requested from the Council members, Scientific and Statistical Committee members and Advisory Panel members. Of immediate concern to the Council, Branson said, were the August meeting locations for the Tanner Crab Plan and the Gulf of Alaska Groundfish Plan. The selection of towns was deferred until the second day.

On the second day, the Advisory Panel recommended a public hearing be held in Anchorage, the day preceding the regularly scheduled August Council meeting. Because of further discussions setting the August Council meeting in Kodiak, the Advisory Panel reconsidered the matter and requested a public hearing in Kodiak the day preceding the August Council meeting; i.e. August 24. The Panel also discussed the possibility of having a public hearing outside Alaska, i.e., Seattle.

The Council thoroughly discussed potential public hearing sites. Councilmen Don McKernan and Bart Eaton also suggested Seattle as a site to hold a public hearing for the two plans.

The question of conducting a public hearing outside Alaska was raised and NOAA general counsel Kim White stated that public hearings could be held outside the State for Environmental Impact Statements.

Anchorage was chosen as the location for input from the Kenai Peninsula area, including Seward, Homer and Soldotna.

Currently public hearings are contemplated at Dutch Harbor, Sand Point, Kodiak, Anchorage, Cordova, Sitka, Petersburg and Seattle. A complete list of locations and potential dates will be submitted to the Council at the June meeting for consideration and approval.

#### COMMUNICATIONS

The Council reviewed a letter from Robert W. Schoning, Director, National Marine Fisheries Service dated May 3, 1977 (Appendix E). The letter informed the Council that changes were being made to the current tanner crab regulations published in the Federal Register in order to approve 28 applications from for independent Japanese tanner crab catcher/processor vessels which had previously been recommended for disapproval by the Council at the March and April meetings.

The letter indicated that the major problems of enforcement and surveillance and catch statistics guarantees had been satisfied and therefore the National Marine Fisheries Service felt the fishery could be adequately monitored. Councilman Bob McVey, Deputy Director of National Marine Fisheries Service, Alaska Region, provided some information to update Director Schoning's letter. He pointed out that the fleet had been reduced to 11 vessels, allowing much better coverage by the 6 U.S. observers, and that the fishing area for the independent fleet had been reduced by the Japanese through shifting its eastward boundary from 173° to 175° west longitude. These changes made NMFS even more confident of its monitoring system than indicated in the May 3 letter.

The letter received considerable attention. Councilman Don McKernan pointed out that the letter did not identify whether or not they had received the recommendations from the last two Council meetings, which in both instances, recommended disapproval of the applications. Councilman McVey felt the letter was written with the knowledge of both Council actions, but other Council members argued that it did not. Letters containing the Council's recommendations were sent immediately following the March and April Council meeting. Mr. McKernan and the Vice-Chairman also discussed another aspect of the letter which they were not in agreement with. They said that the letter was a notification that the Council's recommendations were "not followed" and that the letter was received without advance information explaining the action. The Council, in general, expressed displeasure with this action and so stated their feelings to the National Marine Fisheries Service.

A letter to Dr. White, Administrator of NOAA, dated May 10, 1977 was introduced. The letter concerned Council inter-relationships with the Marine Fisheries Advisory Committee (MAFAC) and (a) expressed the Council's appreciation for the invitation to designate a Council member as an advisor to MAFAC and (b) recommended that the Council be represented by an actual member of MAFAC.

The Council reviewed this letter and the need for input into MAFAC. With very little discussion, the Council unanimously approved a motion which requested Councilman Clement Tillion (a member of MAFAC) to represent the Council on MAFAC.

A letter was introduced from David Wallace, Associate Administrator for Marine Resources, NOAA, dated April 25th, 1977 regarding the relationship of the Regional Councils, the Department of Commerce and the Department of State in dealing with transboundary stocks. The letter contained a draft of the principals governing treaty negotiations regarding transboundary and boundary stocks. A related letter from the Western Pacific Regional Fishery Management Council regarding transboundary stocks was also discussed.

The discussion that followed highlighted the area of 'transboundary and boundary stocks' as being critically important to the Council. Councilmen McKernan, Tillion and Vice-Chairman Lokken discussed the concepts of transboundary stocks in reference to managing stocks of fish throughout their range. Mr. Tillion indicated that he wished to defer the matter for review and study. He said he hoped that a rigid formula could be developed which would define and classify transboundary and boundary stocks. He told the Council that all species should be defined in accordance with a single formula.

McKernan did not feel that a simplistic single formula could be attained and perhaps each species should be considered separately. Referenced were halibut, salmon and herring stocks. The matter was referred to the Scientific and Statistical Committee and the Advisory Panel for further consideration.

The Advisory Panel after deliberating the matter on the second day, told the Council that the concepts were so complex that they warranted further discussion.

The matter was also referred to the Scientific and Statistical Committee for their input and suggestions. Mr. Branson then introduced a letter that he had written on behalf of the Council and Chairman Rasmuson containing the comments of

this Council with regard to the policy and principals of transboundary and boundary stocks. The letter is contained in Appendix F.

Although not singularly identified, most Council members contributed to the general discussion.

The Council discussed a letter from Ambassador Ridgway dated May 9, 1977 expressing her plans to leave the post of Deputy Assistant Secretary for Ocean and Fisheries Affairs, Department of State to accept a Presidential appointment as Ambassador to Finland. The farewell letter was acknowledged by the Council and Mr. McKernan requested a letter be written on behalf of the Council expressing their appreciation for the work Ambassador Ridgway has done on behalf of fisheries negotiations and wishing her success at her new endeavor. A letter has been written and is included as Appendix G.

A letter was introduced into the record from Jay Gage (President of Peter Pan Seafoods Incorporation) dated May 24th, 1977 which discussed in general terms their position on domestic priorities in the commercial fishing industry, especially off Alaska.

A telegram (May 16th, 1977) from Alaska Governor Jay S. Hammond to Commerce Secretary Kreps was introduced. The telegram reconfirmed the State of Alaska's position regarding the development of fisheries which are currently under-utilized or non-utilized by U.S. citizens. The telegram proposed sale of non-utilized or under-utilized resources to foreign nations thru joint ventures and/or U.S. agents on an interim basis, should be permitted to the extent that domestic processing and marketing capabilities do not exist and in a manner designed to foster rather than inhibit such domestic capabilities.

A telegram sent the Council from the United Fishermen of Alaska (UFA) (May 20, 1977) was introduced. UFA represents 20 Alaskan fishermen's organizations and 4,000 fishermen. They requested the Council consider utilizing foreign purchase of domestic caught fisheries products in the absence of Alaskan or domestic shore based processors.

The Council reviewed a memorandum from NMFS Director Robert Schoning (May 6, 1977) regarding the status of foreign applications and permits issued. As of May 4th, the memorandum indicated that the following numbers of fishing vessels and support vessels had permits to fish off Alaska: 372 Japanese fishing vessels and 70 support vessels, 6 Polish fishing vessels and 2 support vessels, 27 South Korean fishing vessels, 4 Tiawanese fishing vessels, 74 U.S.S.R. fishing vessels and 56 support vessels. The memorandum indicated a substantial decrease in U.S.S.R. permits: from 387 to 226 concomitant with the payment of fees.



A memorandum (May 6, 1977) from John Harville, Councilman and Executive Director, Pacific Marine Fisheries Commission was introduced. The memorandum reviewed factors concerning joint venture fishing operations within the Fishery Conservation Zone. It discussed the joint Bellingham Cold Storage/Soviet venture and the Alaskan/KMIDC Korean venture with respect to (a) factors in common to both proposals, (b) some important differences between the two proposals and (c) Congressional concerns and actions.

The Council also reviewed the latest Council memorandum from NMFS dated May 1977 which dealt with (a) grant levels for FY 1977, (b) observers for the FCMA, (c) some policy guidance for Council operations, (d) the expiration of certain Council members' terms, (e) extended fisheries jurisdiction conferences scheduled, (f) amendments requested to the FCMA, (g) MAFAC designated consultants, (h) a status report of fishery management plan preparation, and (i) summaries of Regional Council meetings. It was noted that the North Pacific Council had received the largest funding allocation for FY 1977 of any Council and was scheduled for the development of 10 management plans.

Information was received and reviewed on the Optimum Yield Workshop to be held in Houston, Texas. A letter from Brian Rothschild, Director of the Office of Long Range Planning for NOAA and Optimum Yield Preliminary Program was introduced and contained formal acceptance of the Council's recommendations for Vice-Chairman Lokken, Executive Director Branson, SSC member Collinsworth and Advisory Panel member Jaeger to attend the workshop.

The Council considered a letter from the National Research Council requesting input for research to be considered by the International Decade of Ocean Exploration (IDOE) office of the National Science Foundation.

A letter from Commerce Secretary Kreps dated May 10, 1977 was introduced. It urged the formation of one general advisory panel by the Regional Councils to minimize duplication and obligatory legal requirements.

The Council also received a copy of the contractual arrangement made with New England Fish Company at Kodiak by the Alaska Department of Commerce to provide a State grant loan up to \$145,000 for an experimental bottomfish trawl fishery/processing trial. A similar report was discussed for Petersburg Fisheries Inc. at the March Council meeting.

## OLD BUSINESS

### Foreign Investment in the United States

Carl Price, Department of State representative on the Council presented a report on foreign investment in the United States. The report is included as Appendix H and covers the categories, sources, investment preferences, benefits, U.S. principals, U.S. safeguards and U.S. measures of foreign investment in the U.S. In summarizing the report, Price said that the U.S. Government was committed to an international system which provides a high degree of freedom in the movement of trade and investment flows.

Federal law, Price said, specifically restricts foreign participation in U.S. enterprises associated with atomic energy, hydroelectric power, communications, air transport, inland and coastal water shipping, fishing, and the development of federally owned lands and mineral resources.

### Report on Small Halibut Importation

Councilman Bob McVey, Deputy Director, NMFS, Alaskan Region, discussed the importation of small halibut as requested at the May Council meeting. In summary, McVey told the Council that a Japanese Company, Eastern Products Company, Ltd., of Tokyo, Japan was exporting small (sub-legal by U.S. law) halibut in frozen blocks to a brokerage in California; Amendi and Schultz, Inc. McVey said that a Certificate of Confirmation issued by the Japan Export Frozen Marine Products Association, specifically stated the halibut were caught in conformance with Japanese halibut fishing laws and were not illegal.

The matter is still under investigation and each subsequent shipment is now required to have (a) a Certification of Confirmation and (b) a Fish Importation Statement as required by the Marine Mammal Protection Act of 1972. The Council was advised that they would be kept informed of any further developments.

Council members discussed the importation of endangered or protected species. The Executive Director was asked to look into current regulations governing the importation of species which may be considered endangered. The Council wondered if halibut could be considered an endangered species?

### Federal Maritime Statutes Affecting Joint Ventures and Fisheries (Appendix I)

Kim White, regional attorney from the NOAA Office of General Counsel, Juneau, reported on the Federal maritime statute affecting fisheries joint ventures. White stated that

for an existing fishing vessel to enjoy treatment as a U.S. vessel, it must have been built in the United States, and (a) if owned by an individual or partnership, all owners must be U.S. citizens; or (b) if owned by a corporation, the corporation must be incorporated under the laws of the United States or any State thereof with its chief executive officer and chairman of the board of directors as citizens of the United States, and no more of its directors than a minority of the number necessary to constitute a quorum can be non-citizens."

The report states that if the amount of foreign ownership of the corporation is more than the controlling interest (which is usually 50 percent) the acquisition of existing fishing vessels would require approval of the Maritime Administration under the Shipping Act of 1916. Under present regulations acquisition does not require Maritime Administration approval if the fishing vessel is new and not previously registered.

#### NOAA Joint Venture Legal Analysis

An eight page letter was given the Council by Mr. White which dealt with a request by Chairman Rasmuson to the NOAA Office of General Counsel to provide an analysis of legal questions surrounding the Korean Marine Industry Development Corporation (KMIDC) contract proposal regarding pollock in the Gulf of Alaska. The letter (Appendix J) answered five basic questions. (1) Must a foreign flag processing vessel have a permit in order to process fish within the 200 mile zone? (2) Do fish caught by U.S. vessels in the FCZ and sold to foreign flag processing vessels in the FCZ count against that countries allocation? (3) If a permit is approved, what control does the U.S. have over the amount of fish processed by such foreign processing vessels? (4) Does Section 611.10(b) of the Foreign Fishing Regulations issued by the NMFS prevent the issuance of permits to the six KMIDC vessels? (5) Can the Secretary of Commerce amend Preliminary Management Plans and the interim regulations implementing them?

The answers to these questions were (1) that foreign flag processing vessels must have a permit in order to process fish within the 200 mile zone. (2) that fish caught by domestic fishermen would not count against the foreign allocation and (3) that restrictions may be placed upon a foreign processor to restrict the amount of fish processed by such vessels. (4) Section 611.10(b) of the Foreign Fishing Regulations does not prevent the issuance of permits to the KMIDC vessels. (5) the Secretary of Commerce could amend Preliminary Management Plans and the interim regulations.