

LEGISLATIVE MATTERS

The Legislative Committee will meet Monday, November 1 to review federal legislative issues.

Several congressional bills related to national ocean policy and fishery management were introduced during the latter half of 2004. Much of this legislation responds to recommendations made by the U.S. Commission on Ocean Policy. These bills were discussed by the Council in September and information about the bills was provided in the September Briefing Book.

Currently, Congress is in recess until after the November 2, 2004 elections. The Senate is scheduled to return November 16, 2004.

On September 30, the House of Representatives, Subcommittee on Fisheries Conservation, Wildlife, and Oceans held a hearing on HR 4368 – *Weather and Oceans Resources Realignment Act*. Selections of testimony from the hearing are provided in the briefing book, including Timothy Keeney, National Oceanic and Atmospheric Administration, and Rod Moore, West Coast Seafood Processors Association (Agenda Item B.4.a, Hearing Testimony).

The Legislative Committee will provide a summary report to the Council.

Council Action:

1. Consider recommendations of the Legislative Committee.

Reference Materials:

1. Agendum B.4.a, Hearing Testimony.

Agenda Order:

- a. Agenda Item Overview
- b. Legislative Committee Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Consider Recommendations of the Legislative Committee

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10/14/04

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**WRITTEN TESTIMONY OF
TIMOTHY R.E. KEENEY
DEPUTY ASSISTANT SECRETARY FOR
OCEANS AND ATMOSPHERE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

BEFORE THE
SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

September 30, 2004

Good morning, Chairman Gilchrest and Members of the Subcommittee. I am Timothy Keene, Deputy Assistant Secretary for Oceans and Atmosphere at the National Oceanic and Atmospheric Administration (NOAA). I appreciate the opportunity to present NOAA's perspective on the Weather and Oceans Resources Realignment Act, H.R. 4368.

H.R. 4368 proposes to transfer both the administration and functions of NOAA, in their entirety, to the Department of the Interior, where NOAA would be maintained as a distinct entity. No time line is provided for the transfer.

I would like to preface my remarks by thanking the bill's author, Representative Jim Saxton, for his dedication to conserving America's precious ocean resources. For the last twenty years, he has worked tirelessly and effectively for his constituents, and he has also been a supporter of NOAA while serving with distinction as both the Chairman, Vice Chairman and as Member of this Subcommittee.

In commenting on this legislation, I wanted to focus on two issues: First, has NOAA performed its mission successfully as part of the Department of Commerce and through cooperation with other Executive Branch agencies, and have the American people benefited from NOAA being housed in the Department of Commerce? Second, what are the anticipated costs of moving NOAA to the Department of the Interior?

NOAA AS AN INTEGRAL PART OF THE DEPARTMENT OF COMMERCE

On October 3, 2005, NOAA will celebrate its 35th anniversary as part of the Department of Commerce. In a July 1970 statement to Congress, President Nixon proposed creating NOAA to serve a national need "...for better protection of life and property from natural hazards...for a better understanding of the total environment...[and] for exploration and development leading to the intelligent use of our marine resources..."

By every objective measure, NOAA has met or exceeded these expectations. As events of the past month have shown, the United States is the most severe-weather prone country on Earth. Approximately 90 percent of all Presidentially-declared disasters are weather related. The modernization of the National Weather Service and dedication of our employees has resulted in the average warning lead time for tornadoes increasing to 13 minutes from less than two minutes when NOAA was created.

When President Bush visited the National Hurricane Center in Miami earlier this month he personally thanked our employees for the accuracy of their forecasts and warnings which helped to save lives and property when Hurricanes Charley and Frances swept through the southeastern US and the Caribbean. This success was truly a NOAA-wide effort, with virtually every line office in NOAA contributing in some way to the more

accurate forecasts.

We also point with pride to NOAA's response to the increasing migration of the US population to our coasts. Currently, more than half our population, approximately 141 million people, resides within 50 miles of the coasts and Great Lakes. New programs have been created to manage this historical migration to the coasts, such as the Coastal Zone Management program, which now encompasses virtually every coastal and Great Lakes state.

It should be stressed that during the time-frame being referenced, NOAA has been an integral part of the Department of Commerce. Due to its strategic impact on the economic and environmental welfare of the Nation, NOAA commands a central place within the Department of Commerce. As Secretary Evans noted when he announced the transmittal of the Administration's proposed NOAA organic act to Congress, NOAA's products and services touch 30 percent of the Nation's GDP and supports jobs for more than 13 million citizens. The commercial fishing industry adds approximately \$28.5 billion, and marine recreational fishing activities add approximately \$25 billion to the national economy on a yearly basis. In fact, important economic decisions are made every day based upon science and services that NOAA provides, including weather and climate forecasting, sustainable fisheries, coastal zone management, and navigational safety. With NOAA as an integral element of this agency, the Commerce Department is the only Federal department that integrates economics, technology, trade, and the environment as part of a formula to expand the economy; it is a synergy that exists nowhere else.

Let me provide a few examples:

-- The Economic Development Administration (EDA) and NOAA have collaborated closely in the development and implementation of the NOAA-led Portfields Initiative. As sister Commerce agencies, EDA and NOAA have been close collaborators on brownfields redevelopment, coastal development, and marine transportation system development issues; which come together nicely within the Portfields framework. The Portfields Initiative, a spin-off from the larger Brownfields Interagency Working Group (IWG), is a federal interagency project that will focus on the redevelopment and reuse of brownfields in or around ports, harbors, and marine transportation hubs with emphasis on development of environmentally sound port facilities.

-- The economic value of the commercial fishing industry is \$28.5 billion annually. In 2002, the seafood processing and wholesale sectors alone employed 72,000 people. NOAA is working with the Economic Development Administration (EDA) to provide economic assistance to fishermen and fishing communities that have been affected by NOAA National Marine Fisheries Service fisheries restrictions.

-- The value of the marine recreational fishing industry is approximately \$25 billion annually. NOAA aims to protect the value of fish stocks to the economy by promoting healthy marine recreational fisheries.

-- Last month, NOAA Fisheries released a draft of an options paper for the economically distressed U.S. shrimp industry. The paper provides guidance to shrimpers on how to remain competitive. Within the Department of Commerce, the International Trade Administration provided input in order to ensure that the paper accurately reflected the current global commercial shrimp market.

-- Aquaculture is the world's most rapidly growing sector of food production. Within the Department of Commerce, NOAA and NIST are both working to develop technology could help restore depleted salmon species, manage many wild fish stocks, and benefit the growing world aquaculture industry. By the year 2010, it is estimated that nearly 1 billion hatchery fish will need to be processed worldwide. Current vaccination practices in hatcheries are not fully reliable and add stress to the young fish. The NIST Advanced Technology Program is funding a three year project for \$2 million for the development of a faster, cheaper, and more reliable mobile vaccination technology to vaccinate up to

2 fish per minute in a hatchery with traceable tags. This research could greatly enhance NOAA's vision for sustainable aquaculture for food production and stock enhancement.

-- Waterborne cargo contributes more than \$742 billion to Gross Domestic Product and sustains more than 13 million jobs. Promoting safe navigation is a critical contribution of NOAA to the nation's economy. Ninety-five percent of all goods in US foreign trade enter and leave this country by ship. On June 30th, NOAA announced it would provide operational forecasts for ship traffic in Galveston Bay, the second largest port in North America. This system provides mariners, port managers and emergency response teams with present and future conditions of water levels, currents, temperature and salinity. All of this results in savings to shippers and the American exporter and consumer.

-- Geomagnetic storms can wreak havoc on our Nation's electrical grid, commercial aviation, and telecommunications. In 1997, a solar storm partially destroyed a communications satellite. NOAA helps provide early warnings allowing industry to take measures to prepare for these storms. The net economic value to industry of these forecasts has been estimated at over \$350 million over a period of three years, far in excess of the \$100 million cost of the system.

-- The National Institute of Standards and Technology (NIST) works closely with NOAA in developing hurricane-resistant structures. For example, in 2001, NIST used propeller blasts from Hercules C-130s turboprop aircraft to subject instrument-laden test homes to sustained wind levels comparable to those of a hurricane. The wind resistance of houses cannot be tested in traditional wind tunnels, which are too small. Data analysis yielded computer models that can tell home-builders and manufacturers the actual wind resistance of different types of residential buildings and materials under realistic wind conditions.

-- Travel and tourism is the nation's largest employer, and second largest contributor to the Nation's Gross Domestic Product, generating \$700 billion annually. Beaches are the largest tourist destination, with coastal states earning 85 percent of all tourist revenues. Through its National Marine Sanctuaries; National Estuarine Research Reserves; Coastal Zone Management activities; coral conservation programs; and partnerships with states to manage access to coastal areas on a sustainable basis and provide recreational opportunities, NOAA helps contribute to the vitality of this industry.

-- NOS and the Office of Coast Survey have worked well with the Bureau of Industry and Security (BIS) on Marine Transportation System issues as co-leads for Commerce on the Interagency Committee for the Marine Transportation System (ICMTS). NOS and BIS look forward to further interagency cooperation in support of marine transportation improvements for economic, safety and security reasons.

In addition to these examples of cooperation with other agencies within the Department of Commerce, there are numerous examples of interagency cooperation between NOAA and the Department of Interior (DOI), which provide evidence that merging NOAA with Interior is not necessary to ensure effective cooperation.

Just a few of these examples are:

-- NOAA and DOI, as co-chairs of the U.S. Coral Reef Task Force, participate in many joint efforts in the area of coral reef conservation, preservation and restoration. These include over \$2 million annually in state and territory management grants, and mapping and monitoring of coral reefs. Also, NOAA works with the National Park Service in siting and supporting NOAA's Coral Reef Early Warning Stations in the U.S. Virgin Islands and elsewhere.

-- NOAA and the National Park Service, U.S. Geological Survey (USGS) and the Fish and Wildlife Service (FWS) cooperate in implementing the South Florida Ecosystem Restoration, and in supporting the Comprehensive Everglades Restoration Plan.

-- The Department of Commerce is the co-chair, together with the Department of

Agriculture and the Department of the Interior, of the National Invasive Species Council. NOAA and the FWS are co-chairs of the Aquatic Nuisance Species Task Force. Among the many cooperative efforts in this area is the development of new ballast water management technologies.

-- DOI and NOAA are partners in implementing Executive Order 13158 on Marine Protected Areas. NOAA and the National Park Service (NPS), the Fish and Wildlife Service (FWS), and the Minerals Management Service (MMS) are working together on developing an inventory of Marine Managed Areas, maintaining the MPA Website, and coordinating with the Marine Protected Areas Federal Advisory Committee chartered under the Federal Advisory Committee Act.

-- NOAA, through the National Marine Fisheries Service, works with DOI on many protected species and hydropower issues. The agencies share jurisdiction for the conservation of marine turtles; FWS focusing on nesting beach conservation activities, and NOAA working on conservation and recovery of these species in their marine habitats. NOAA provides scientific expertise and management advice on marine species listed under the Convention on the International Trade in Endangered Species (CITES), which DOI is the lead agency for the United States government. The agencies have multiple joint policies and guidelines related to implementation of the Endangered Species Act. Also, NOAA and DOI share authority under Section 18 of the Federal Power Act to prescribe fishways to ensure safe fish passage at non-Federal hydropower facilities licensed by the Federal Energy Regulatory Commission.

-- NOAA, through the National Weather Service, supports the interagency fire program efforts by providing targeted weather forecasts to support DOI's fire pre-suppression and suppression activities. Also, NWS and the U.S. Geological Survey (USGS) cooperate on the Federal Hydrology Infrastructure, which provides river and flood forecasting.

-- NOAA works closely with and in support of DOI's Federal Geographic Data Committee (FGDC), National Spatial Data Infrastructure (NSDI), and Geospatial One-Stop (GOS) activities. The benefits of this cooperation include enhanced access to marine and coastal data utilizing metadata and the FGDC clearinghouse system and Geospatial One-Stop; increased quality of marine and coastal geospatial data through standardization and training; and, improvements in data and systems interoperability.

The U.S. Commission on Ocean Policy, after three years of studying the United States government's ocean policies, how agencies are structured, and how they function, did not see any need to remove NOAA from the Commerce Department at this time. In answer to my second question, the Administration strongly believes that the American people benefit from the strong integration of economic and environmental issues which results from NOAA being part of the Commerce Department.

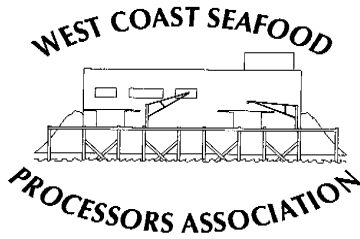
ANTICIPATED COSTS OF TRANSFERRING NOAA TO THE DEPARTMENT OF INTERIOR

It is clear from other major government reorganizations that the cost to the taxpayers of such moves can be very high. First, there is the loss of productivity that can be expected with such a large move of personnel. Second, the change of corporate culture can adversely affect morale. The University of Virginia, in a study on Federal Executive Reorganization, found that federal agency reorganizations result in unforeseen difficulties. The study noted, "The practical task of merging a large number of different programs with their disparate organizational structures, cultures, and procedures would take time and meant that reorganization of the executive department would take many years." Furthermore, we do not believe that transferring NOAA from one Department to another would realize any benefit. A transfer that houses NOAA as a distinct agency within Interior, as it now exists within Commerce, will not provide for better integration of ocean policy or coordination of ocean and coastal activities. There are still many other agencies with significant roles in ocean and coastal policy, and their roles would not be affected by this legislation.

Conclusion

The statement of introduction for H.R. 4368 highlighted the need to make improvements in the way we manage marine fisheries and the unique opportunity provided to us by the release of the report by the U.S. Commission on Ocean Policy. The Administration shares the Committee's dedication to advancing the next generation of ocean policy. We are firmly committed to sound management and effective conservation of our ocean and coastal resources to meet our nation's environmental, economic, and social goals and our nation's legacy of ocean stewardship. Indeed, demonstrating the President's commitment to NOAA's mission, President Bush has personally visited NOAA facilities on several occasions, including our principal offices in Silver Spring, Maryland.

However, the Administration cannot support the types of changes made in H.R. 4368 without having been afforded the opportunity to fully review the final report of the Ocean Commission. We ask you to allow the Administration to have the 90 days Congress authorized in Public Law 106-256, as amended, to review the final report and discuss with you and with other critical stakeholders how best to achieve our common goals. We believe that the Administration and Congress have a unique opportunity to work together to achieve meaningful improvements in ocean policy, science, and management. Thank you again for your time. I will be happy to take any questions from the Committee.



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*Serving the shore based seafood processing industry in
California, Oregon and Washington*

**STATEMENT OF ROD MOORE
EXECUTIVE DIRECTOR, WEST COAST SEAFOOD PROCESSORS ASSOCIATION
BEFORE THE HOUSE SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE, AND OCEANS
ON H.R. 4368
SEPTEMBER 30, 2004**

Mr. Chairman, members of the Subcommittee, my name is Rod Moore and I serve as the Executive Director of the West Coast Seafood Processors Association. We are a non-profit business trade association headquartered in Portland, OR, that represents shore-based seafood processors and associated businesses in Oregon, Washington, and California. Some of our members also have facilities and operations in Alaska, Texas, Utah, and British Columbia.

I am also the Chairman of the Pacific Fishery Management Council's Groundfish Advisory Subpanel; President of Pacific Groundfish Conservation Trust, Inc. (PGCT), which is a non-profit science and education corporation; and from 1996 until this year have been a member of the U.S. Department of Commerce's Marine Fisheries Advisory Committee (MAFAC). Let me make clear that I am not representing the Council, PGCT, or MAFAC today; I include this information only to demonstrate that I have extensive interactions with the National Oceanic and Atmospheric Administration (NOAA) and especially the National Marine Fisheries Service (NMFS).

I have also dealt with 9 Directors of NMFS, plus a couple of acting directors; at least an equal number of Administrators of NOAA; and probably the same number of Directors of the U.S. Fish and Wildlife Service. I have lost count of how many Secretaries of the Interior and of Commerce have served during the years I have been involved with fisheries policy and management.

Your hearing on this bill comes at an appropriate time. Last week, the U.S. Commission on Ocean Policy transmitted its final report which, among other things, calls for changes in ocean governance including creating an organic act for NOAA and eventually establishing a cabinet-level Department of Natural Resources. Also last week, the Senate Commerce Committee marked up S. 2647, which would establish an organic act for NOAA but retain it within the Department of Commerce. Your committee has pending before it H.R. 984, which would again provide an organic act for NOAA while retaining the agency within the Department of Commerce. So I think we see a trend starting here; there appears to be agreement that - at a minimum - we need to codify NOAA.

But once we make NOAA a “real” federal agency, what do we do with it? In the past 27 years that I have been dealing with this agency, I have heard a lot of suggestions, some of which are best not shared in polite company. Here’s a brief tour through the history of “Where’s NOAA?” as best as I can remember it:

- * 1969, the Stratton Commission recommends establishing an ocean agency, sort of the “wet” version of a Department of Natural Resources. The result was Reorganization Plan #4 of 1970, which transferred various functions to NOAA in the Department of Commerce. Several later Secretaries of the Interior made bids to at least return NMFS to the U.S. Fish and Wildlife Service, but were unsuccessful.
- * 1977, President Carter advocated a new Department of Natural Resources, similar to the suggestion made yet again in the Commission on Ocean Policy report, which would include NOAA’s functions along with those of the Department of the Interior and the U.S. Forest Service. Upon its arrival in Congress, the proposal sank faster than a half-ounce lure in a salmon stream.
- * 1980's, and periodically thereafter, members of the commercial fishing industry advocated moving NOAA to the Department of Agriculture on the grounds that fish are harvested for food and thus should be combined into the nation’s food agency. In the

early 1990's, staff from the House Committee on Merchant Marine and Fisheries and the House Committee on Agriculture met informally to explore combining elements of NOAA into the Department of Agriculture; no formal action ever occurred.

There was also a suggestion that NOAA be moved into the Department of Defense to take advantage of funding possibilities and I once suggested that - given the number of lawsuits that were then pending against NOAA - we move the agency to the Department of Justice.

Perhaps the best thing to do at this point is to look at the alternatives and their costs and benefits. In each of these cases, I am taking as a given that an organic act for NOAA will be enacted so that we are dealing with a complete federal agency.

Status quo, NOAA stays in Commerce - Obviously, this is the simplest and most straightforward. We have no costs to the taxpayer that are inherent in moving any federal agency around. We have an existing chain of command, budget structure, and lines of jurisdiction within the Congress. No statutes would have to be amended to clarify that "Secretary" means something other than the Secretary of Commerce.

The disadvantage is that whatever problems people perceive to exist with NOAA remaining in the Department of Commerce will continue. I have never gotten a clear understanding of what those problems are, other than a feeling that the Secretary of Commerce ignores fisheries issues. I suggest that this can be a non-problem, depending on the Secretary of Commerce. I know several instances, in both Republican and Democratic administrations, where the Secretary was very supportive of NOAA. I know similar instances where the opposite was true.

NOAA becomes an independent agency - Under this proposal, NOAA is left to float alone, similar to the Environmental Protection Agency. There are some costs for changing stationery and logos. The budget structure within the Office of Management and Budget might have to be modified. There is no need to change Congressional jurisdiction. Several statutes would have to be amended. NOAA would lose the protections inherent in being part of a larger bureaucracy,

but could suffer less bureaucratic interference. Presumably, NOAA would be more accountable for its actions, because the chain of command would end at the Administrator of NOAA.

NOAA is moved to the Department of the Interior - Again, there would be costs to the taxpayers for the transfer. Numerous statutory changes would have to be made to change responsibilities for such things as all marine fisheries management and the National Marine Sanctuary Program to either the Secretary of the Interior or the Administrator of NOAA. Given the relative size of the Department of the Interior as compared to the Department of Commerce, NOAA would become even more of a non-entity in the bureaucratic maze. And to be fair, these same problems would apply if NOAA were transferred to the Department of Agriculture, as some commercial fishermen have advocated.

Speaking as a representative of the seafood industry on the Pacific Coast, the thought of the Secretary of the Interior managing marine resources terrifies me. While the U.S. Fish and Wildlife Service is relatively friendly towards hunters and recreational fishermen, the National Park Service isn't. I know that Congressman Young can relate to what happens if the National Park Service gets involved in fisheries - there's a 20 year history of conflict in Glacier Bay National Park that serves as a prime example.

I have heard recreational fishermen grumble that NOAA - somehow by virtue of being in the Department of Commerce - gives no attention to recreational fisheries needs. Anyone who says that has spent no time at all on the Pacific Coast, where recreational fishing is given the same amount of attention as commercial fishing, if not more. NMFS has embarked on a recreational fisheries strategic plan and is going to great pains to solicit recreational fishermen's ideas. There is a recreational fisheries office in the NMFS hierarchy, reporting to the Director; nothing similar exists for the commercial fisheries. Quite honestly, I have trouble understanding this argument.

Mr. Chairman, in looking at the costs and benefits, I am hard pressed to find any reason why you should abandon the status quo. Further, any decision to make changes, other than codifying NOAA through an organic act, should be considered in a holistic fashion, looking at the recommendations of the Commission on Ocean Policy report, and the President's responses which will be forthcoming. Given the complex nature of our government, simply picking up NOAA and moving it to another department of government is not a simple, easy, or cheap task.

Finally, let me make clear that just because I advocate the status quo does not mean that I think NOAA is an agency free of problems. On the Pacific coast, we have a National Marine Sanctuary program that is running wild and trying to take over fisheries jurisdiction along most of the California coast, including establishing marine reserves without much real input from recreational and commercial fishermen. We have a recent proposal - now being seriously considered in NOAA - to consolidate marine research, which could make it even harder to conduct the research we need in support of fisheries management. We have data-hungry fisheries management systems that are being operated with virtually no data. We have to borrow research vessels from Canada because there are no U.S. vessels available to conduct hydro-acoustic surveys.

These and similar problems are not a function of which Secretary the Administrator of NOAA reports to; they are a matter of funding, of agency priorities, and of the statutes under which NOAA operates. My recommendation to this subcommittee is that you spend some time in thoughtful deliberation on where NOAA best fits, but spend even more time on oversight of NOAA itself and most time on examining - and fixing - the statutory problems that bedevil all of us.

Again, Mr. Chairman, thank you for giving me the opportunity to present these views. I would be happy to answer any questions.