

LEGISLATIVE COMMITTEE REPORT

The Legislative Committee (LC) met June 12, 2006. The LC reviewed their April 2006 report (Agenda Item B.3.a, Attachment 7), the resulting letters to key Congressional contacts (Agenda Item B.3.a, Attachment 3 and Attachment 4), an amended version of H.R. 5018, the *American Fisheries Management and Marine Life Enhancement Act* (Agenda Item B.3.a, Supplemental Attachment 5), and Council staff notes on H.R. 5018 as amended (Agenda Item B.3.a, Supplemental Attachment 6). Additionally, the LC briefly discussed S. 2012, the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005* (MSA) and previous Council recommendations on potential amendments to the American Fisheries Act (AFA).

Magnuson-Stevens Fishery Conservation and Management Act Reauthorization

H.R. 5018, the American Fisheries Management and Marine Life Enhancement Act

The LC reviewed recommendations and comments developed in April 2006. These recommendations were conveyed by Dr. Donald McIsaac at a May 3, 2006 hearing on the bill and in the letter sent to Congressman Richard Pombo (R-California), the cosponsors of H.R. 5018, and other key members of Congress working on MSA reauthorization in advance of a May 17, 2006 work session of the U.S. House Committee on Resources to review and revise the bill. One result of the May 17 work session was an amended version of HR 5018 dated May 26, 2006 (Agenda Item B.3.a, Supplemental Attachment 5). The schedule of the hearing and the work session precluded full Council review of the LC recommendations.

The amended version of HR 5018 no longer contains language regarding the competing statutes of MSA and the National Marine Sanctuaries Act (NMSA). Under Section 10 of the bill as introduced, fishing regulations promulgated under the NMSA would be required to meet provisions of the MSA, including national standards under MSA Section 301(a). The portion of Section 10 pertaining to the NMSA has been removed from HR 5018 as amended.

The LC expressed discontent over the removal of the NMSA provisions from HR 5018. The LC recommends reiterating the original Council comments on the competing statutes of MSA and NMSA. The LC added that if legislation to reauthorize the MSA does not address these competing statutes, the LC recommends Congress address the issue through reauthorization of the NMSA by the end of 2006. The current positions of the Council and the Regional Council Chairs and Executive Directors includes recommended changes to the NMSA.

The LC noted that many of the recommendations included in the letter to Congressman Pombo were not addressed in H.R. 5018 when amended in May. Mr. Rod Moore reported the May 17, 2006 meeting of the U.S. House Committee on Resources was focused solely on broad issues rather than the detailed, section specific, recommendations provided by the LC. H.R. 5018 is likely to be amended again when the bill comes before the full U.S. House of Representatives and again when provisions in the bill are considered in conference between the U.S. House and the U.S. Senate. The LC recommends H.R. 5018 comments be resubmitted to Congressman Pombo and the contacts on the original distribution list. Additionally, the LC requests the Council provide the Council Chairman and the Executive Director the latitude to revise and

submit these comments to any U.S. Senate/U.S. House conference Committee should one be formed prior to the September Council meeting.

H.R 5051, Magnuson-Stevens Fishery Conservation and Management Amendments Act of 2006

H.R. 5051 has not been the subject of recent Congressional activity in recent months. The LC did not spend time at this meeting discussing the bill but directed staff to track the bill as the U.S. House prepares to consider final legislation on MSA reauthorization legislation in the coming months.

S.2012, Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005

Dr. McIsaac informed the LC that LC language in the May 15, 2006 letters to Congressman Pombo and Senator Ted Stevens (R-Alaska) regarding U.S. representation under the Western and Central Pacific Fisheries Convention (WCPFC) (Agenda Item B.3.a, Attachment 3 and Attachment 4) was not received well by representatives of the Western Pacific Fishery Management Council (WPFMC), and it was not clear that the language in question best described the intent of the LC. The LC's strongest intent was to ensure Pacific Council and WPFMC interests in the region were equally represented under the WCPFC. The LC regrets any misunderstanding and recommends the following amended language be included in future Council correspondence on the matter:

The Pacific Council is concerned with those provisions in S. 2012 , the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005*, Title V, the *Western and Central Pacific Fisheries Convention Implementation Act* which add a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner but, not a Pacific Council member. The Pacific Council notes significant West Coast interest in the WCPFC because of, 1) the fish stocks caught under Pacific Council jurisdiction also migrate into WCPFC waters and 2) many of the vessel owners, fisherman, and processors who participate in these fisheries or who maintain fishery support facilities in the Western Pacific are based on the West Coast. The Pacific Council recommends legislative language making it clear there is equitable Commission-level representation for both the Pacific and Western Pacific Fishery Management Councils.

Additionally, the LC discussed the inequitable burdens frequently placed on U.S. fisheries to rebuild depleted stocks harvested at the international level. The LC is encouraged by language in S. 2012 regarding this manner and recommends similar language be included in final legislation to reauthorize MSA.

Other Legislative Matters

American Fisheries Act

In March, the Council requested development of an amendment stating “all American Fisheries Act qualified vessels (original or replacement) - not just catcher/processor vessels - without West Coast landing history prior to June 29, 2000 be prohibited from participating in the Pacific

whiting fishery.” In response to public comments at the LC meeting, as well as written materials submitted to the Council under Open Public Comments, the LC reexamined this issue.

During public testimony, Mr. David Jincks requested the LC and the Council revise its recommendations in a March 17, 2006 letter to Ms. Margaret Spring, staff member of the U.S. Senate Committee on Commerce, Science, and Transportation, specify sector-specific landing histories in order to participate in a given sector of future Pacific whiting fisheries. As written, the Council recommendation would provide insufficient protection for the shore-based sector of the West Coast Pacific whiting fishery from the West Coast permitted AFA-qualified vessels because such vessels participated in other sectors of the Pacific whiting fishery prior to the control date.

Ms. Spring, recently informed Council staff that Council recommendations to expand protection of West Coast fisheries beyond the catcher/processor sector are unlikely and that legislative efforts to amend the AFA are currently progressing in the U.S. House. Based in part on this update, the LC recommends the Council consider revisiting Amendment 15 to the Pacific Coast Groundfish Fishery Management Plan as an alternate method of protecting West Coast fisheries from the entry of new AFA-qualified vessels.

LC Recommendations:

- 1. Adopt LC summary minutes and recommendations on H.R. 5018, S. 2012, and H.R. 1431 from the April 28, 2006 LC meeting.**
- 2. Approve proposed language changes to the April LC recommendations relative to U.S. representation to the WCPFC and rebuilding internationally managed stocks.**
- 3. Direct Council staff to draft a letter to appropriate Congressional contacts to reiterate Council comments on H.R. 5018.**
- 4. Direct Council Executive Director and Council Chairman to submit Council recommendations on MSA reauthorization to a future Congressional Conference Committee on MSA reauthorization should such a Conference Committee convene before the September Council meeting.**
- 5. Include in Council correspondence with Congressional contacts, a strong recommendation that clarification on fishery regulatory authority within national marine sanctuaries occur through reauthorization of the MSA and/or the NMSA in the near future.**
- 6. Consider revisiting Amendment 15 to the Pacific Coast Groundfish Fishery Management Plan as a means of protecting West Coast fisheries from the entry of new AFA-qualified vessels.**

PFMC
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