

LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (LC) met on Thursday, June 11, 2015. The meeting was attended by committee members Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dale Myer, Mr. Buzz Brizendine, and Mr. Dan Wolford; Council Executive Director Dr. Donald McIsaac, and Council staff Ms. Jennifer Gilden, Mr. Chuck Tracy, Mr. Mike Burner, and Mr. Don Hansen.

The LC first heard a staff review of recent Federal legislation (Agenda Item F.1, Supplemental Attachment 1). A few bills of note include:

- HR 564, the Endangered Salmon and Fisheries Predation Prevention Act (discussed below)
- HR 1140, the Federal Water Quality Protection Act, which redefines “waters of the United States” to roll back recent changes made by the Environmental Protection Agency and Army Corps of Engineers
- HR 1335, the House Magnuson-Stevens Fishery Conservation and Management Act (MSA) reauthorization bill (as passed by the House)
- HR 1987, the Coast Guard Reauthorization Act, which, among many other things, restores funding for the Newport, Oregon Coast Guard helicopter
- HR 2168 and S 1143, West Coast Dungeness Crab Management Act (discussed below);
- S 1403, an MSA reauthorization bill introduced by Senator Marco Rubio
- S 1334, the Senate version of the Illegal, Unreported, and Unregulated Fishing Enforcement Act
- A suite of hydropower bills aimed at streamlining the FERC process and making it easier to license and relicense hydropower projects, often with less environmental review and less ability for state intervention
- An amendment to HR 2028 (the Energy and Water Development and Related Agencies Appropriations Act) prohibiting the use of funds to deliver water to the Trinity River above the minimum requirements of the Trinity Record of Decision or to supplement flows in the Klamath River; and
- An amendment to the National Defense Authorization Act put forward by Senator Rubio extending the current vessel discharge exemption from National Pollutant Discharge Elimination System rules indefinitely, but also making it more difficult for states to regulate ballast water in the interest of preventing aquatic invasive species. This amendment was dropped from the National Defense Authorization Act, but the original Vessel Incidental Discharge Act (S 373) is still in play.

The Council has not received any requests to comment on these bills, although the LC was informed that a written request for review and comment was imminent for the West Coast Dungeness Crab Management Act.

HR 564, the Endangered Salmon and Fisheries Predation Prevention Act

This bill, a reintroduction of a previous Hastings bill that the Council commented on, allows for take of up to 92 sea lions in the Columbia River (1 percent of potential biological removals) in order to protect salmon listed under the Endangered Species Act and other non-listed species. Currently the Columbia River population of sea lions is estimated at 1,000 or more. The Salmon Advisory Subpanel has prepared a letter (Agenda Item F.1, Supplemental Attachment 11) in support of the bill; the Legislative Committee recommends that the Council finalize the letter and authorize staff to send it if the Council receives a request to review and comment on the bill.

S 1334, the Illegal, Unreported, and Unregulated Fishing Enforcement Act

The Council sent a letter on the House version of this bill (HR 774) on March 24, 2015 subsequent to a Congressional request. The LC recommends that if there is a Congressional request for review, the Council send a similar letter on the Senate bill.

Dungeness Crab Management Bills

The West Coast Dungeness Crab Management Act (S 1143 and HR 2168), introduced by Senator Maria Cantwell (WA) and Congresswoman Jaime Herrera-Beutler, extends indefinitely the current delegation of authority of Dungeness crab fishery management to the States of California, Oregon and Washington. This provision is not included in either current MSA reauthorization bill. The Council has commented on this issue in the context of MSA reauthorization, and the LC was informed that a Congressional request would soon be made for a Pacific Council statement on the content of the bill. The LC recommends the Council authorize finalizing and sending the attached letter on this issue in the event the Council is asked for an opinion on the bills.

Observer Harassment

The LC discussed whether or not to recommend to the Council to add to its existing position on change in a reauthorized MSA on the topic of requirements for observers in Federal fisheries. The LC discussed the question of whether the word “forcibly” should be removed from the MSA section on observer harassment (the MSA currently reads, “It is unlawful for any person to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel...or any data collector...”). Recently a deck boss was accused of assaulting, impeding and interfering with an observer, and a judge ruled that his actions did not rise to the force sufficient under the MSA. Observer Program staff have indicated that removing the word “forcibly” from MSA language in the next reauthorization would eliminate this case from being a precedent in future harassment cases. The LC felt that they need more details about this particular case before making such a recommendation, and requested a briefing on this issue at their next meeting.

Future Meetings

The LC proposes to meet in conjunction with the September Council meeting.

PFMC
06/13/15



Pacific Fishery Management Council

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Dorothy M. Lowman, Chair | Donald O. McIsaac, Executive Director

June Draft, 2015

The Honorable Rob Bishop
Chairman
House Committee on Natural
Resources
1324 Longworth Bldg.
Washington, D.C. 20515

The Honorable Raul Grijalva
Ranking Member
House Committee on Natural
Resources
1324 Longworth Bldg.
Washington, D.C. 20515

The Honorable John Thune
Chairman
Senate Committee on Commerce,
Science, and Transportation
512 Dirksen Bldg.
Washington, D.C. 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Commerce,
Science and Transportation
512 Dirksen Bldg.
Washington, D.C. 20510

Subject: Requested Pacific Fishery Management Council (Pacific Council) Comments on the West Coast Dungeness Crab Management Act (S. 1143 and H.R. 2168)

Dear Chairman Bishop, Chairman Thune, Ranking Member Grijalva and Ranking member Nelson:

Thank you for your request for Pacific Fishery Management Council (Pacific Council) review and comment on the West Coast Dungeness Crab Management Act introduced by Senator Maria Cantwell (S. 1143) and Representative Jaime Herrera Beutler (H.R. 2168). At its June 2015 meeting, the Pacific Council and its Legislative Committee reviewed the matter and the Pacific Council directed me to convey the following comments and strong support for the West Coast Dungeness Crab Management Act.

The Pacific Council was established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA), and has voting members from these the States of California, Oregon, Washington, and California, as well as the National Marine Fisheries Service and West Coast Tribes. The MSA requires the Pacific Council to develop conservation and management measures for the fisheries off the coast of Washington, Oregon, and California. The Dungeness crab fishery is one of the region's most valuable commercial fisheries. However, for over twenty years, Section 112(d) of Public Law 104-297 (16 USC 1856) has delegated authority over the West Coast Dungeness crab fishery to the States of Washington, Oregon, and California. This very successful collaborative effort has resolved many complex fishery management issues, including over-capacity, and has efficiently developed regulations governing legal retention and

season structure. The existing management regime has resulted in a healthy resource and an economically important and sustainable fishery.

The existing delegation of state authority for the West Coast Dungeness crab fishery will sunset on September 30, 2016 in the absence of new legislation. The Pacific Council notes the considerable success of the West Coast States in their management of the Dungeness crab fishery, and is supportive of the West Coast Dungeness Crab Management Act and its continuance of the delegation of management authority indefinitely. The loss of the statutory delegation to the West Coast States for Dungeness crab would put the Council in a position to embark on a multi-year process to develop a fishery management plan (FMP) for Dungeness crab and shift resources away from ongoing fishery management issues. This fishery could become somewhat chaotic during the gap period between the current State authority and full Federal authority under the MSA, as occurred in a similar situation off the State of Alaska during the 1990s.

The Pacific Council believes the existing Dungeness crab fishery would be properly managed under the West Coast Dungeness Crab Management Act and urges Congress to move forward with H.R. 2168 and S. 1143.

Thank you again for your request Pacific Council review and comment on the West Coast Dungeness Crab Management Act. Should you or your staff have any questions about this letter, please contact me or Ms. Jennifer Gilden, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

D. O. McIsaac, Ph.D.
Executive Director

JDG:

c: Council Members
The Honorable Maria Cantwell
The Honorable Jaime Herrera Beutler
The Honorable Ron Wyden
The Honorable Rick Larsen
The Honorable Derek Kilmer
The Honorable Peter DeFazio
The Honorable Kurt Schrader