



Pacific Fishery Management Council

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Philip Anderson, Chair | Charles A. Tracy, Executive Director

DRAFT

September X, 2019

The Honorable Maria Cantwell
511 Hart Senate Office Building
Washington, DC 20510

Dear Ms. Cantwell:

Thank you for your September 11 request for comments by the Pacific Fishery Management Council on S. 2346, Senator Wicker's bill on disaster relief. The Council and its Legislative Committee reviewed the bills and have the following remarks.

First, we support efforts to expedite the dissemination of disaster relief funding. It is notable that funds have yet to be allocated for the 2016 California salmon disaster. Given the feedback received from our constituents, we are concerned about the lag between a disaster declaration and the subsequent monetary relief. We support legislation and other measures to address this issue so that relief can be provided to those who are affected by these disasters in a timely manner. S. 2346 takes a good approach by setting up defined time limits for application, Secretarial approval, and disbursement of funds; however, some modifications that could further the intent of the bill should be considered. For example, the requirements for an application to be submitted within one year along with a 12 month revenue loss estimate may be problematic if the 12 month revenue loss could not be calculated before the application deadline is reached. Extending the deadline for applications to 16 months could help address such situations.

We would also note that some of the information required in the application is now the responsibility of the applicant to provide rather than the National Marine Fisheries Service (NMFS). Some of that information such as landing data is not readily available outside of NMFS or possibly some state or tribal agencies, and may be subject to confidentiality requirements that may restrict access. The bill could be improved by establishing a mechanism for applicants to get assistance from NMFS as necessary.

Section 2(e)(3) of the Wicker bill states that "a fishery subject to overfishing in any of the 3 years preceding the date of a determination under this section is not eligible for a determination of whether a fishery resource disaster has occurred unless the Secretary determines that

overfishing was not a contributing factor to the fishery resource disaster.” We support the intent of this Section; however, there may be circumstances where the involved Council is using best available science and implementing management plans that they believe will result in sustainable fishing, only to later learn that later updates of science, assessment or unexpected conditions would have guided lower exploitation rates. To recognize this possible circumstance, we suggest alternative language regarding the Secretary’s determination. For example, “... unless the Secretary determines that the involved Council is implementing a plan to prevent overfishing and that factors other than fishing are the primary cause and rationale for a disaster declaration.” Currently, the Secretary has discretion to overcome the presumption of overfishing if a number of criteria are met: the regional council in question is taking action to address overfishing; the requester has a plan to use the funding to address the underlying causes of overfishing; and the requester has submitted a plan that doesn’t reward or exacerbate overfishing. The discretion allows the Secretary to use the disaster assistance process as a positive incentive for addressing overfishing. We are concerned that the S 2346 could deprive the Secretary of this discretion.

IFA Section 308(d) restricts eligibility to any person that has less than \$2 million in net revenues annually from commercial fishing. Section 308(d) applies to fisheries disasters caused by such events as hurricanes, earthquakes, flooding, and tsunamis. It does not apply to commercial fishery failures. The MSA does not contain a \$2 million net revenue limitation for commercial fishery failures, and NMFS has never imposed this restriction as a condition on eligibility. The Wicker bill would expand the \$2 million net revenue limitation to all fishery disaster assistance spend plans, including fishery failures, which is not currently the case. That would likely exclude large West Coast trawl and longline vessel owners from all future disaster assistance plans. Moreover, “revenues derived from commercial fishing” could be interpreted to exclude large processing companies from participation in the fishery disaster assistance process.

Overall, S.2346 appears to be a well-intentioned bill that could greatly improve the process for getting disaster relief funds into those in need. We will continue to review this bill and may have more comments in the near future. Please do not hesitate to contact us if you have any questions.

Sincerely,

Philip Anderson
etc.

JDG:xxx

cc: