

FISHERIES LISTENING TOUR
Water, Oceans, and Wildlife Subcommittee
Hosted by Congressman Ed Case
Friday, February 21, 2020, 10am-noon
Bishop Museum Atherton Hālau
Comments by Suzanne Case, Chair, Hawai‘i Department of Land and Natural Resources

Aloha Chair Huffman and Congressman Case. Mahalo for this opportunity to comment on federal management of our ocean and fisheries resources to inform reauthorization of the Magnuson-Stevens Act.

I'm Suzanne Case, Director of the State of Hawai‘i, Department of Land and Natural Resources, or DLNR. With me here today are Brian Neilson, Administrator for the DLNR Division of Aquatic Resources, and DAR's Program Managers, David Sakoda for Fisheries and Ryan Okano for Ecosystems.

DLNR's jurisdiction covers all State near-shore reefs and waters out to three miles. Also the State's forestry and wildlife management, conservation district regulation of our forests and coasts, State lands including submerged lands out to three miles, invasive species management, and enforcement. We host and co-chair the State Climate Mitigation and Adaptation Commission. We sit on the Western Pacific Fisheries Management Council. In short, we are the primary State agency for engagement with NOAA and Wespac on management of fisheries that have significant overlap in federal and State waters – primarily the Deep 7 Bottomfish, and pelagic fish.

The most significant issue now facing our planet is global warming and climate change, with the resulting ocean warming, ocean acidification, and coral bleaching, compounded by overfishing from unsustainable fishing practices, , marine debris in the form of plastic pollution and derelict fishing gear, and by spread of invasive marine species through hull fouling and ballast water. We urge you to tackle these issues head-on in reauthorization.

Based on our experience with NOAA and Wespac, we highlight three needs in MSA reauthorization.

First, **consultation**. We propose the MSA require a formal consultation process for federal plans, actions and expenditures affecting State waters. Potentially affected State agencies must receive written notification of proposed actions with request for comment, at least 30 days prior to placement on any agenda for decision-making.

- For example: the Pacific Remote Island Areas and Hawai‘i Marine Conservation Plan, on the March Wespac agenda for reauthorization – there has been no consultation with DLNR.
- As another example, NOAA fish stock assessments can be welcome federal assistance to Hawai‘i. Priorities are set by NOAA without formal consultation.

Second, **clarification of jurisdiction**. The MSA should give clear guidance as to what matters NOAA, and in particular Wespac, may appropriately engage in with States, and what is not an appropriate claim of jurisdiction.

- Under the MSA, Wespac has authority over fisheries seaward of state waters, three miles out.¹
- The State of Hawaii, DLNR-DAR has management authority over fisheries in State waters, from the shoreline out to three miles.
- For co-managed fisheries, such as the deep-7 bottomfish and small-boat pelagic fisheries, the State would like to establish better communication and collaboration with the NOAA/NMFS and Wespac on management efforts.
- For example, while the MSA's fishery management strategy of setting Annual Catch Limits (ACLs) and Accountability Measures (AMs) based on Maximum Sustainable Yield (MSY) may work well for offshore commercial fisheries, such as the longline fishery, it is not necessarily the best model for nearshore fisheries where greater consideration must be given to ecosystem services, as well as the non-commercial fishing sector.
- For fisheries solely under state jurisdiction, the State welcomes federal support for research that informs management, as long as it aligns with State priorities.
- However, we have significant concerns about Wespac improperly attempting to influence management of State fisheries through its work with communities.
- The Council has historically inserted itself into management of State fisheries by claiming jurisdiction, pursuant to the MSA's National Standard 8,² which directs that conservation and management plans take into account the importance of fishery resources to fishing communities in order to provide for sustained participation and minimize adverse economic impacts, and National Standard 3 for managing fish stocks as a unit. At best this is a very thin thread of a nexus. At worst it is a serious overreach.

Community engagement is great, if done in collaboration with the State. The problem is that Wespac is using this to justify actions that for all intents and purposes have nothing to do with federally-managed fisheries, and everything to do with State jurisdiction. Examples include:

- the Pacific Remote Island Areas and Hawai'i Marine Conservation Plan, which targets support for community-based fisheries. But in Hawai'i these are near-shore fisheries, which are under State, not Federal, jurisdiction
- support for the State Aha Moku Councils, but which are active on State matters, not Federal fisheries
- Wespac is putting a Hawaii aquarium fishing report on their March agenda, over our objections. Aquarium fishing is entirely a State matter.

Third, **transparency**, with particular attention to avoidance of **conflicts of interest**.

- Selection of Council members is non-transparent.

¹ <http://www.wpcouncil.org/>

² <https://www.fisheries.noaa.gov/national/laws-and-policies/national-standard-guidelines>

- The Council lacks representation by indigenous Hawaiian community members and conservation focus.
- The Sustainable Fisheries Fund expenditures are not public information. Wespac has refused to provide detail on its spending on Hawai‘i matters despite repeated requests for amounts, purpose, recipients and sources.
- Reports indicate Council members benefit from the Sustainable Fisheries Fund - a troublesome appearance of conflict of interest.
- Territories selling quotas is a concern for sustainable catch limits.
- Council meetings are days long, agendas are set without consultation or agreement, and documents are not always provided or maintained online or to Council members or the public.

I offer for your review correspondence between DLNR and NOAA and DLNR and Wespac concerning these matters.

We urge you then to clarify jurisdiction, consultation, transparency and conflict of interest requirements in the MSA reauthorization, for true sustainability of our fisheries.

Thank you for this opportunity to provide input.