

LEGAL SERVICES

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MEMORANDUM

December 22, 2003

SUBJECT: Draft bill relating to the authority of the Board of Fisheries to allocate salmon to salmon harvesting cooperatives (Work Order No. 23-LS1415(I))

TO: Representative Paul Seaton
Attn: Chris Knight

FROM: George Utermohle
Legislative Counsel

Enclosed is a new version of a draft bill relating to the authority of the Board of Fisheries to allocate salmon to salmon harvesting cooperatives.

The bill provides that the board may not allocate salmon to a salmon harvesting cooperative established on or after the effective date of the bill unless certain provisions regarding participation in the cooperative and equal access to membership in the cooperative are included in the bylaws of the cooperative. Before the board may take action to allocate salmon to one or more salmon harvesting cooperatives in a fishery, the request to establish a management plan that includes an allocation to the cooperatives must be signed by two-thirds of the entry holders in the fishery and an affidavit stating that a reasonable effort has been made to notify all permit holders of the request to establish the allocation, must be submitted to the board. These procedures would apply when one or more salmon harvesting cooperatives in a fishery seeks an allocation of salmon from the board.

The bill is unclear whether the foregoing procedures are required only for the initial allocation of salmon to a cooperative or they are to be repeated annually and whether the procedures would be required if subsequent cooperatives are established for the fishery.

A new provision (subsection (c)) has been added to the bill to provide that the board may not allocate more than 50 percent of the salmon harvest in a fishery to a single salmon harvesting cooperative unless the board determines that a larger allocation is practicable and appropriate. As a practical matter there does not appear to be a logical nexus between the requirement that two-thirds of the permit holders for a fishery must sign the request for a management plan to establish an allocation of salmon for a cooperative if the maximum allocation that can be given to a cooperative is 50 percent of the harvest. This is particularly evident if the size of the allocation of salmon to a cooperative is based on the proportion of permit holders who join the cooperative. However, allowing the

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board to exceed the 50 percent allocation level, if practical and appropriate, may provide an opportunity to make a larger allocation to a cooperative when more than 50 percent of the permit holders elect to join the cooperative.

If I may be of further assistance, please advise.

GU:mdr

03-239.mdr

Enclosure: