

Administrative/Budget Committee

August 15, 2016

Agenda Item VII. Discussion of SSC Members also being a State Designee

The Council earlier asked the SSC to comment on the consideration of adopting a policy to let an SSC member also serve as a State designee. The verbatim minutes of the June SSC discussion are below.

To summarize, the SSC did not make a motion on this issue but some on the SSC felt strongly that allowing a SSC member to also represent a state would be a conflict of interest (see highlighted section below). It was noted by one SSC member that he had served as both a Council member and an SSC member without feeling that it involved any conflict of interest, but he was not a State designee.

Excerpt of SSC Meeting Discussion of “SSC Members Serving as Council State Designees

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL
STANDING, REEF FISH, SOCIOECONOMIC, SHRIMP, AND SPINY LOBSTER
SCIENTIFIC AND STATISTICAL COMMITTEES
Tampa, Florida June 1-2, 2016

Agenda Item XI -- SSC members serving as Council state designees – Atran

MR. ATRAN: Thank you, Mr. Chairman. There is no handout on this. This is just for discussion. We've been made aware that one of the states is considering appointing as a secondary designee to the council a person who is currently serving on the SSC.

The question has come up of can somebody who is on the SSC simultaneously be a state designee? This person, if they do get the appointment, I don't believe they would be the primary representative. They would be the substitute if the primary representative can't make it.

In the past, for people who are not state representatives, just university folks or whatnot who get appointed, they have resigned from the SSC when they get appointed to the council. Greg Stunz was the most recent example of that, I believe two years ago, but this is a little bit of a different case, where we've got a position where they can be designees.

We asked NOAA General Counsel if there is any legal basis for allowing or disallowing this, and her response was that she could not find any legal basis for saying that a designee cannot also serve on the SSC, and she suggested that the council discuss this issue and make a policy decision.

We wanted to get some input from the SSC itself of do we have a conflict of interest in a situation like this? Are there any concerns that we need to be aware of? Do you agree or disagree with somebody simultaneously serving on the SSC and being a state designee? I will throw it open to discussion.

CHAIRMAN BARBIERI: By state designee, you mean serving as a council member as well?

MR. ATRAN: That's correct. On the council, each state fishery management agency has a voting member on the council. Officially, it's the head of the agency, but he can appoint one or more designees to serve in his place or her place.

CHAIRMAN BARBIERI: I have Bob Shipp and then Bob Gill.

DR. SHIPP: I think Bob Gill may be about to say the same thing that I am, but I have found myself in a similar situation, being on the council and now on the SSC, and I would find it very uncomfortable to serve in both roles. I do think that not only a conflict of interest, but there are various pressures that are inappropriate for SSC members that council members do entertain, and so, again, this is the first I've heard of it, but my knee-jerk reaction would be to oppose it.

CHAIRMAN BARBIERI: Thank you for that. Bob Gill and then Jim.

MR. GILL: Thank you, Mr. Chairman, and I echo Dr. Shipp's comments, but I would also add that I think it would put the council sensitive to the comment that that person could be voting twice on exactly the same issue, and, if it's a close vote in either one, be a deciding factor as to which way it goes, and my suggestion is the council shouldn't get anywhere near that. That just opens the door to all sorts of issues.

CHAIRMAN BARBIERI: Thank you, Bob. Jim.

DR. TOLAN: Thank you, Mr. Chairman. As a state employee, I will give you my perspective on this. My upper management tells me to come here to represent the state, but do so by providing the best available science advice that I can give. Now, that may be very different than if I'm sitting in front of the council providing state issues, and so I would be very much against this move.

CHAIRMAN BARBIERI: Thank you, Jim. Any other comments from other SSC members? Lee.

DR. ANDERSON: Well, I have a semi-different opinion. First, I am a current member of the Mid-Atlantic Council, serving as an SSC member here, and there are some differences, because there is not the conflict. Also, our council had a policy before the change in the rules where the SSC set the ABCs that we had -- I served as a member on both, and I think Dr. Nancy Targett also served on both, and so we did it, and I didn't find much of an issue, but if you guys are feeling very strongly about it -- I am just telling you what I think.

Sometimes, you try to make an artificial separation between science and policy. Since I'm a social scientist, I think they're pretty close, and so I wouldn't find a big objection to it, but I certainly wouldn't fall on my sword to have this guy remain on the SSC if he becomes an alternate.

CHAIRMAN BARBIERI: Thank you, Lee. Paul.

DR. MICKLE: I know I'm new and this is kind of an interesting conversation, but, just thinking of scenarios in my mind, I can see myself, as a scientist, voting one way here and on the council voting another, because of the constituents that I'm representing. I would probably end up not liking myself very much and feeling very uncomfortable, and so I oppose it.

CHAIRMAN BARBIERI: Thank you, Paul. Walter.

DR. KEITHLY: I think this is an issue that the council should take up and make a decision. I just don't see any scientific basis for the SSC being involved in this decision at all.

CHAIRMAN BARBIERI: Okay. Thank you, Walter. Any other comments? I mean I don't see a consensus from the committee going forward, but I see a leaning towards recommending against this person serving on both the SSC and the council. I don't know if there are any SSC members willing to make a more explicit, perhaps, statement to that effect or to make a specific recommendation. I mean our comments have been captured on the record and are there to inform the council. Do you, Steven, feel that you have enough information to get back with the council on this?

MR. ATRAN: Well, Walter Keithly is absolutely right that this is a policy decision for the council to make, but, since it does involve SSC members, I thought it was useful to get the feedback from the SSC, and what I'm getting of the folks who did respond -- We had six people talk.

Four were definitely opposed, one person was not opposed, but didn't really have a strong feeling, and then one person thought that this is not an SSC issue, and so, basically, you said you didn't see a consensus, and we haven't had any motions, but what I am hearing is that, generally, most SSC members who spoke are opposed to this. They feel there's a conflict of interest.

CHAIRMAN BARBIERI: That's my impression as well. Director Gregory.

MR. GREGORY: It's a minor point, but it wasn't staff that wanted to bring this to the SSC. We talked about this at the council meeting, and the council wanted the SSC's input before they made a decision. I just wanted to clarify that. Thanks.

CHAIRMAN BARBIERI: Thank you for that, and we appreciate the council actually requesting our opinion, for us to weigh in on this, and we will make our comments noted. Bob.

DR. SHIPP: I just wanted to say that I don't disagree with Walter at all. It definitely is a council decision, but I was glad to hear Doug tell us that the council had requested this, and I think it legitimizes our conversation.

CHAIRMAN BARBIERI: Thank you, everybody, for this discussion. I think we have enough guidance for the council on how the committee feels about this topic, and that moves us into our next, last, but definitely least, item for today, which is a Discussion of Methods to Address Recreational Red Snapper ACL Underharvest. I think Mr. Atran has a presentation for us or a discussion.