

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 19, 2023

Walker B. Smith
General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Herbert Hoover Building
1401 Constitution Avenue, NW
Washington, DC 20230

Dear General Counsel Walker B. Smith:

We write to follow up on our previous letter sent to Administrator Spinrad on May 10, 2023, reiterating our deep concern with the pattern of mismanagement of Federal resources by the Western Pacific Regional Fishery Management Council (WPRFMC) and its staff and the lack of oversight and accountability by the National Oceanic and Atmospheric Administration (NOAA). Oversight and accountability are critical, particularly as NOAA continues work on the proposed National Marine Sanctuary in the Pacific Remote Islands area. Though we appreciate the briefings NOAA has held on this subject, we are still awaiting a formal response from your agency and thus have requests that are outlined below.

First, WPRFMC recently submitted proposed repayment actions in response to NOAA's Final Determination on Appeal to Audit Resolution Determination Letter (FDAL) for Collection of Funds dated December 15, 2022. When NOAA's Acquisition and Grants Office issued the FDAL, it concluded that WPRFMC failed to account for \$837,355.59 of taxpayer money properly and directed WPRFMC to repay these funds within 30 days of receiving the letter. This finding followed a scathing U.S. Department of Commerce Office of Inspector General Report dated November 10, 2021, which concluded that WPRFMC "did not retain adequate support for claimed costs, obtain required approvals from the awarding agency, or properly allocate costs to grant awards..."

We understand that WPRFMC has not yet repaid these funds and has since submitted two proposed actions to meet repayment requirements. These are: 1) use additional federal funding to deliver on a repayment schedule, or 2) seek debt forgiveness through the Department of Justice. These actions make taxpayers pay twice for WPRFMC's transgressions. Redirecting new federal funds to repayment or simply forgiving the misspent funds without any accountability for those who oversaw or approved such mishandling of Federal dollars will further erode the public's trust in our government's ability to fulfill its duties responsibly.

While we understand that WPRFMC receives the totality of its funding through the federal government, NOAA must not allow the Council to conduct business as usual without accountability for those responsible.

WPRFMC staff have worked to oppose marine protections and designations for years, providing behind-the-scenes lobbying services to opponents of such designations and organizing rallies in opposition.¹ These and other actions may amount to improper lobbying with Federal funds. While WPRFMC has an important role in the potential designation of marine sanctuaries in the Western Pacific under the National Marine Sanctuary Act, their actions should be limited to direct interaction between the Council itself and NOAA and not through improper lobbying. These actions must be based solely on the merits of the matter and within the scope of WPRFMC's expertise.

To assist with the Committee's oversight of WPRFMC, please provide an assessment of the NOAA's authority to:

- 1) Seek reimbursement of the improperly awarded grants from the grant recipients;
- 2) Hold the grant administrator responsible for paying back the misused funds by a specified date, with defined consequences that include but are not limited to termination if they fail to repay the funds;
- 3) Exercise direct oversight of WPRFMC's expenditures from the Western Pacific Sustainable Fisheries Fund or indirectly through a neutral third party;
- 4) Enforce spending caps on travel budgets, hotel allowances, and other related costs;
- 5) Prohibit WPRFMC council members from receiving grants from the Western Pacific Sustainable Fisheries Fund; and
- 6) Require documentation and justifications from WPRFMC sufficient to ensure that lobbying activities are not carried out with taxpayer dollars, require WPRFMC to maintain adequate records, and to provide such records promptly upon request by NOAA.

We look forward to your prompt response and thank you for your attention to this matter. If you have any questions about this request, please contact Rachel Gentile with the Water, Wildlife and Fisheries Subcommittee at Rachel.Gentile@mail.house.gov.

Sincerely,

¹ Eagle, N., Nov. 5, 2021, *Wespac's Fight Against Marine Monuments Is All About Protecting The Fishing Industry*, <https://www.civilbeat.org/2021/11/wespacs-fight-against-marine-monuments-is-all-about-protecting-the-fishing-industry/>.



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