

North Pacific Fishery Management Council

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MINUTES
167th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
June 9-15, 2004
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FORMAT FOR COUNCIL MEETING MINUTES

Each agenda item will begin with a copy of the original “**Action Memo**” from the Council meeting notebook. This will provide an “historical” background leading up to the current action. This section will be set in a different style font than the actual minutes. Any attachments referred to in the Action Memo will **not** be attached to the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be the **reports** of the Scientific and Statistical Committee (SSC) and Advisory Panel (AP) on the subject. Last will be a section describing **Council Discussion and Action**, if any.

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Certified Stephanie D. Madsen
Stephanie Madsen, Chair

Date December 7, 2005

MINUTES

167th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
June 9-15, 2004
Benson Hotel
Portland, Oregon

The North Pacific Fishery Management Council met June 9-15, 2004 in the Mayfair Ballroom of the downtown Benson Hotel in Portland, Oregon. In addition, the Advisory Panel met June 7-12 in the Crystal Ballroom, the Scientific and Statistical Committee met June 7-9 in the Cambridge/Oxford Room, and the Enforcement Committee met June 8 from 1-5 pm in Parliament Rooms 3 and 4. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Stephanie Madsen, Chair
Dennis Austin, Vice Chair
Stosh Anderson
Jim Balsiger/Sue Salvesson
David Benson

John Bundy
Kevin Duffy/Earl Krygier
Arne Fuglvog
Dave Hanson
Roy Hyder for Lindsay Ball

Hazel Nelson
ADM James Olson/
CDR Greg Busch
Edward Rasmuson

NPFMC Staff

Chris Oliver, Executive Director
Gail Bendixen
Cathy Coon
Jane DiCosimo
Elaine Dinneford

Diana Evans
Mark Fina
Nicole Kimball
Peggy Kircher
Jon McCracken

Maria Shawback
Diana Stram
Bill Wilson
David Witherell

Support Staff

Lauren Smoker, NOAA-GC
Kirsten Mabry, NMFS
Jeff Passer, NOAA Enf.
Peter Munro, AFSC
Obren Davis, NMFS

Jon Kurland, NMFS
Steve Davis, NMFS
Ben Muse, NMFS
Greg Cashen, DCED
Scott Miller, NMFS

Steve Lewis, NMFS
Gretchen Harrington, NMFS
Herman Savikko, ADF&G
Rachel Baker, ADF&G

Scientific and Statistical Committee

Rich Marasco, Chair	Gordon Kruse, Vice Chair	Terry Quinn
Keith Criddle	Pat Livingston	David Sampson
Steven Hare	Seth Macinko	Farron Wallace
Sue Hills	Franz Mueter	Doug Woodby
George Hunt	Ken Pitcher	

Advisory Panel

Al Burch	Dave Fraser	Sandra Moller
Cora Crome	Jan Jacobs	Kris Norosz
Craig Cross	Bob Jacobson	Eric Olson
Tom Enlow	Teressa Kandianis	Jim Preston
Dan Falvey, Co-Vice Chair	Mitch Kilborn	Michelle Ridgway
Lance Farr	Kent Leslie	Jeff Stephan

Other Attendees

Below is a list of people who signed the attendance register. A list of those who provided public comment during the meeting is found in [Appendix 1](#) to these minutes.

Margaret Hall, Rondys Inc.	Eric Hollis, Fishing Company of Alaska
Frank Kelty, City of Unalaska	Chuck Tracy, PFMC
Jake Jacobsen, Alaska Marketing Assn.	Al Burch, Alaska Draggers Assn
Arni Thomson, Alaska Crab Coalition	Matthew Moir, Alaska Pacific Seafood
Brent Paine, United Catcher Boats	Susan Robinson, Fishermen's Finest
Joe Plesha, Trident Seafoods	Glenn Reed, Pacific Seafood Processors Assn
Bryce Morgan, RSM McGladrey	Michael Lake, Alaska Observers Inc.
Shari Gross Teeple, Hana	Whit Sheard, The Ocean Conservancy
Stephen R. Tuafen, Groundswell	Luci Roberts, APICDA
Martha Malavansky, The Aleut Corporation	Mike Szymanski, Fishing Co. of Alaska
Marcus Alden, Westward Fishing Co.	Sinclair Wilt, Alyeska Seafoods, Inc.
Alex Brindle, Wards Cove	Eric Hollis, Fishing Co. of Alaska
Joe Childers, Juneau	Matt Doherty, US Seafoods
Thorn Smith, North Pacific Longline Assn.	Udo Brossmann, US Seafoods
Heather McCarty, Juneau	Donna Parker, Arctic Storm
Leslie Smith, Alaska Jig Assn.	Tom Gemmell, Juneau

A. Call to Order, Approval of Agenda/Minutes of Previous Meeting(s)

Chairman Stephanie Madsen called the meeting to order at 8:05 am on Wednesday, June 9, 2004. Chairman Madsen announced there will be a reception this evening at 5:30 in the SSC room hosted by the Pacific States Marine Fisheries Commission for the Council and public. She also announced this would be Stosh Anderson's last meeting, as his term expires in August. Chair Madsen thanked Mr. Anderson for serving on the Council the past three years and for participating in the Council process through various committees. She reminded everyone that they would have an opportunity to say goodbye to Stosh this evening during the reception.

Also during the meeting, Chair Madsen acknowledged the presence of former Council member Bob Mace, who served on the Council through 2001 for the Oregon Dept of Fish and Wildlife.

Agenda: The agenda was approved with one minor modification; the D-4(e) report will follow the other D-4 reports later this morning.

Minutes of Previous Meetings: The minutes from the October 2003, December 2003, and February 2004 meetings were approved.

B. Reports

The Council received written reports from the Executive Director (B-1), NMFS Management (B-2), NMFS Enforcement (B-3), U.S. Coast Guard (B-4), ADF&G (B-5), and USFWS (B-6).

DISCUSSION RESULTING FROM REPORTS

Executive Director's Report

Executive Director Chris Oliver introduced U.S. Coast Guard Commander Greg Busch, who is sitting in at this meeting for Commander Mike Cerne, the new Coast Guard representative. The Coast Guard's new admiral is James Olson and he will be here Friday to provide the Council with the Coast Guard report. Chair Stephanie Madsen announced that she represented the Council at the Coast Guard's Change of Command and presented Admiral Underwood with a plaque and let him know that he would be missed.

Regarding the Regulatory Streamlining Process proposed by NOAA Fisheries Headquarters, Mr. Oliver stated that at the Chair/Executive Director's meeting it was agreed that each Council would commit to designating a pilot project where they would follow guidelines in a non-binding manner to see whether and where pitfalls occur. Subsequently, NPFMC staff and Chair Madsen met with NMFS Alaska Region to discuss an operating plan, and specifically using the GOA rockfish demonstration program as a pilot project for the RSP process. Dave Benson asked what criteria were used when the pilot program was chosen and Mr. Oliver replied they wanted to pick a project that was not too large or too simple. Kevin Duffy asked how this would streamline things and Mr. Oliver replied that overall it may avoid lawsuits. Dr. Jim Balsiger added that there is no shortening of the process; however, it sets it up so there are no surprises.

Chris Oliver also advised Council members to review the NOAA Research Review Team Draft Report [notebook item B-1(c)] because he believes the suggested 'separation of science and management' would be extremely detrimental to fisheries management. Chair Madsen also requested Council members to review the report and provide input by the end of the meeting, as she and Mr. Oliver would be drafting comments on behalf of the Council following the meeting in order to meet the June 25 deadline. Several members responded that they do not agree with the suggestions in the report and that they go against the recommendations of the U.S. Commission on Ocean Policy—that decisions need to be made from the bottom up and not the top down. They expressed concern that NOAA is in the process of creating a science authority in Washington, DC without the benefits of regional input or involvement from the fisheries perspective, which is inconsistent with the Council process. They believe it is necessary for regional administrators to be involved in order to direct research toward management needs and added that the strength of the Councils management is the foundation of knowledge through research. Kevin Duffy stated that he believes the appropriate direction within the agency should be centralization—where the Fishery Science Centers are actually under the authority of the Regional Directors—not decentralization as suggested in the report. Chair Madsen said the comments would reflect these points.

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With regard to the USFWS' proposed listing of sea otters as "threatened," Mr. Oliver stated that the deadline for comments is tomorrow (Thursday, June 10) should the Council choose to make a statement. Kevin Duffy said ADF&G is drafting their comments which do not support the listing. He believes the State's comments are coming from Governor's office, which gives a different perspective. Mr. Duffy said the department and Council staffs have discussed the serious implications an Endangered Species Act (ESA) listing could have on the industry under both State and Federal authority. They would be obligated to follow the ESA requirements and go through a Section 7 or Section 10 consultation process, whether or not there are human induced mortalities associated. Mr. Duffy added that from a biological standpoint there are extreme concerns with the decline in population; however, critical habitat must be identified under an ESA listing, which could be extremely costly and detrimental to the industry. Mr. Duffy stated that it is a difficult problem requiring a balance, which points to the need for reforms of the Endangered Species Act. Stephanie Madsen added that it is unclear as to what basis we would be making the Council's comments to not list them. Chair Madsen suggested the State and Council work together over lunch to draft formal comments.

NMFS Management

Sue Salvesson briefed Council members on the NMFS inseason management highlights.

NMFS Enforcement

Jeff Passer provided an oral report. Chair Madsen stated that she had visited Mr. Passer's offices and toured the facility and VMS program. She thanked Mr. Passer for this opportunity and encouraged other Council members to visit their offices when in Juneau. John Bundy requested that Council members receive a copy of the Administrative Law Judge's report on violations by the F/V REBECCA IRENE.

U.S. Coast Guard

Admiral James Olson and Commander Greg Busch provided the Coast Guard report and a PowerPoint presentation. A hard copy of the report was placed in the notebooks. The Admiral informed the Council that in addition to Commander Cerne, Commander Guillory would also be attending occasional meetings as an alternate.

ADF&G

Herman Savikko presented ADF&G's report to the Council and a hard copy was placed in the notebooks.

USFWS

No oral report was provided.

Public comments on B Reports were provided by Paul MacGregor (Mundt MacGregor) and Bill Orr (Iquique US, owners of F/V Rebecca Irene).

C. NEW OR CONTINUING BUSINESS

C-1 BSAI Crab Rationalization Environmental Impact Statement (EIS)

ACTION REQUIRED

Final Action on BSAI Crab Rationalization Environmental Impact Statement

BACKGROUND

In June 2002, in response to concern from participants and a Congressional directive, the Council completed an analysis of rationalization alternatives for the BSAI crab fisheries. At that meeting, the Council adopted for analysis in an Environmental Impact Statement a suite of alternatives, including a preliminary preferred alternative, to rationalize the Bering Sea and Aleutian Islands (BSAI) crab fisheries. At its meetings in October 2002, December 2002, February 2003, April 2003, and June 2003, the Council developed a series of trailing amendments for incorporation into that preliminary preferred alternative and refined and revised the other alternatives for EIS analysis. Council and NOAA Fisheries staff completed a preliminary draft of the EIS, which was released for public comment after Council initial review at its February 2004 meeting. NOAA Fisheries received 16 public comments on the draft during the 45-day public comment period from March 19, 2004 to May 3, 2004. NOAA Fisheries and Council staff completed a Draft Comment Analysis Report that contains copies of all comments received and responses to those comments.

The EIS examines three rationalization alternatives and the status quo. Because of unique problems in these fisheries, recognized by the Council and implicitly acknowledged in the Congressional directive, the preferred alternative is a management program that includes provisions that were beyond the scope of the Council's general authority under the Magnuson Stevens Act at the time the preliminary preferred alternative was identified. Since that time, the Council provided two reports advising Congress of its preliminary preferred alternative. In response to those reports, Congress included in its Omnibus Appropriations bill for fiscal 2004 (HR 2673) a provision directing the Secretary of Commerce to approve and implement the Council's preliminary preferred alternative. A copy of the language from the bill and the associated conference report are attached to this memo (Item C-1(a)).

Council Action at this Meeting

Although Congress mandated the Secretary to approve the Program, Congress provided the Council with discretion to approve amendments to the Program prior to January 1, 2005. Given this discretion, the Council may consider subsequent amendments to the Program at its June 2004 meeting. In considering amendments, the Council should consider public comments received on the DEIS to determine whether amendment of the Program is warranted. Because Congress mandated Secretarial approval of the Program, the potential Council action at the June 2004 meeting is not whether to identify the Program as the preferred alternative for the Final EIS, but whether amendment of the legislated Program should be made in light of the analysis in the DEIS and comments received.

The scope of permissible subsequent amendments adopted at the June meeting is dependent on whether the MSA, as amended by the Consolidated Appropriations Act, authorizes the changes and whether the DEIS analysis can support those changes. A firm list of provisions that may be amended cannot be enumerated because the totality of those amendments will determine whether the analysis and the MSA amendment can support those changes. Consequently, decisions concerning the authority to amend must be made on a case-by-case basis. Practical considerations also exist in that any changes either must be minor refinements that can be implemented by regulation or are FMP amendments that can be approved by the Secretary subsequent to approval of the Program and before January 1, 2005. A more detailed discussion of the status of the Program, Council authority to amend the program, and suggested changes to the arbitration program and the provisions affecting cooperatives are contained in the letter from the Regional Administrator to the Council (Item C-1(b)). Also attached (Item C-1(c)) is a letter from NOAA General Counsel that accompanied the legal opinion that forms the basis for the recommended changes in the arbitration program, along with the suggested 'mark-up' of the Council motion to make necessary changes.

AP REPORT (C-1)

The AP recommends the Council adopt Alternative 3 from the Crab EIS as the Crab Rationalization program for final action. *Motion passed 10/7.*

In the event the Council does not adopt Alternative 3, the AP would like to recommend the following from Alternative 2: *Motion carries 12/3/2.*

- Recommend accepting NOAA Fisheries' proposed changes to the binding arbitration system. *Motion passed 18/0.*
- Recommend accepting NOAA Fisheries' changes on sideboards to cod. *Motion passed 18/0.*

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- Recommend the Council delete the 90/10 A/B share split to C shares following three years of program implementation. *Motion passed 18/0.*
- Recommend the Council request NOAA Fisheries' develop regulations to consider possible circumstances of QS holders with limited processor affiliation and consider potential mechanisms to permit participation of these QS holders in the arbitration program, including the use of confidentially agreements and operating agreements to prevent potential antitrust violations. Notwithstanding this request, all participation must be in compliance with antitrust law. *Motion passed 18/0*
- Recommend for excessive shares, the Council set processor ownership cap of harvester shares equal to individual harvester caps. *Motion passed 15/3.*

SSC REPORT (C-1) The SSC did not address this agenda item.

COUNCIL DISCUSSION/ACTION (C-1)

Mark Fina, NPFMC, and Gretchen Harrington, NMFS-AKR, provided the staff report including an overview of the comment analysis report which was mailed to Council members in advance of the meeting.

Kevin Duffy moved to amend the legislated crab rationalization program EIS in order to concur with the agency's recommended changes, as follows:

1. **Amend the binding arbitration program as stated in the May 25, 2004 markup of the February 2003 Council motion prepared by NOAA Alaska Region General Counsel, Lisa Lindeman, which is attached to this motion in full; and**
2. **In Item 1.8.5 of the Council's crab motion, delete the provision dealing with the cod sideboard.**

The motion was seconded and carried without objection, and is included with these minutes as Appendix 4.

Stosh Anderson moved that the Council adopt the AP recommendation in bullet #3 to delete the 90/10 A/B share split and then insert "and regionalization to the C shares following the three years of program implementation." Mr. Anderson reminded the Council of the public testimony received on the appropriateness of putting restrictions on C shares. The motion was seconded by Dennis Austin.

Following discussion on Mr. Anderson's motion, it was clear many members were not in agreement, therefore, **Dave Benson offered a substitute motion to leave in the 90/10 A/B share split and regionalization of C shares following 18 months of program implementation."** Mr. Benson agreed it is a complex program and feels his motion helps to speed up the three-year program review. The motion was seconded and carried 6 to 5 (with Anderson, Austin, Bundy, Fuglvog, and Hyder voting against).

Arne Fuglvog moved that the Council recommend NMFS consider the use of product recovery rates as an alternative to flow scales on the crab catcher processors. During discussion on this issue, the Council acknowledged that this action would require further analysis and regulatory amendment, which could not be in place by 2005. The motion was seconded by Dave Benson and carried without objection.

C-2 Draft Programmatic Groundfish Supplemental EIS

ACTION REQUIRED

- (a) Develop workplan for addressing management policy actions

- (b) Initial/Final Review of Groundfish FMP Revisions (Amendments 83/75)

BACKGROUND

- (a) Develop workplan for addressing management policy actions

At this meeting, the Council will consider the groundfish programmatic management policy adopted in April 2003. The Council will assess its ongoing groundfish management in light of the new policy, and develop a workplan to in the short term, bring groundfish management in line with the policy (as necessary), and to advance the precautionary, forward-thinking precepts of the policy in management for the long-term. The workplan will be posted on the Council website. The Council has affirmed in its management policy that the policy objectives will be reviewed annually, and the workplan developed at this meeting will need to be revisited at least on the same schedule.

In order to assist the Council in crafting a workplan, staff has prepared two documents. The first, Item C-2(a)1, presents the Council's adopted groundfish management policy. Each of the 45 objectives is matched with its related bookend range. In order to assist the Council in assessing whether current groundfish management is in line with the programmatic policy, the status of each bookend action has been identified. A "✓" indicates that the bookend action is currently in the FMP or in regulations. "P" indicates those actions which are currently the practice of the Council, but which would need an amendment analysis to formalize in the FMP or in regulations. "O" indicates that an amendment analysis has been initiated, that the action is ongoing. "A" indicates that the action would require an amendment analysis to be initiated. "R" indicates that initiating action would require the Council to make a recommendation to NOAA Fisheries.

The second attachment, Item C-2(a)2, depicts ongoing groundfish actions that the Council has already initiated, along with the estimated duration of the analysis (note, this timeline does not include estimates of the time required for NMFS rulemaking).

In order to develop the workplan, the Council should consider all of the objectives in the groundfish management policy to determine whether there are areas in which the current management program does not accord with the policy. The Council may then wish to develop a priority list of policy objectives, indicating, perhaps by tiers, which objectives or their resulting amendment actions are the most pressing. Once a priority list has been determined, the Council should identify those actions which are to be undertaken (or continued) immediately. For those analyses which are to be addressed in a subsequent tier of amendments, the Council may wish to indicate, where possible, an estimate of when an amendment package may be initiated.

- (b) Initial/Final Review of Groundfish FMP Revisions (Amendments 83/75)

The FMP amendment will implement housekeeping changes to the FMPs to revise outdated information and improve readability. The revised FMPs were distributed to the Council family at the end of April. A description of the changes between the existing and revised versions of the FMPs is attached as Item C-2(b)1.

The FMP review process has highlighted several sections of the existing FMPs that are brought to the Council's attention in Item C-2(b)2 for the BSAI and Item C-2(b)3 for the GOA. Changes to these sections have not been included by staff in the revised FMPs. However, the Council may wish to include some or all of these changes as part of Amendments 83/75. Where possible, staff has drafted potential amendment language that the Council could incorporate into the revised FMPs as part of these amendments.

Some minor edits have been suggested for Section 2.2, the Council's groundfish management policy, in Item C-2(b)4, which will be folded into the amendments unless the Council directs otherwise. A new Section 6.2.1, Expected costs of groundfish management, is attached as Item C-2(b)5, and will be inserted into the BSAI and GOA revised FMPs. Additionally, there may be other minor changes between the version of the amendment that the Council approves and the version that is submitted to the Secretary of Commerce, which correct typographical errors and incorporate approved amendment language from amendments that are currently being reviewed by NMFS and the Secretary.

Relative to changes outlined in this action memo, the Council may determine that additional review time, and further public input, is warranted prior to final approval of the revised FMPs. In this case, staff would take whatever guidance the Council can provide at this meeting and compile another draft for final review in October.

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AP REPORT (C-2)

The Advisory Panel made numerous recommendations on this agenda item. Please see the AP Minutes, ([Appendix 2](#) to these minutes) for their full set of recommendations.

SSC REPORT (C-2)

The SSC provided extensive comments on this agenda item. Please see the SSC Minutes ([Appendix 3](#) to these minutes) for their detailed comments.

COUNCIL DISCUSSION/ACTION (C-2)

Steve Davis updated the Council on the status of the Programmatic Groundfish Supplemental EIS. At the April meeting the Council adopted a preferred alternative which would establish a new management policy framework. The associated programmatic and plan amendment documents were submitted to the Secretary of Commerce for approval. The final programmatic document is now in the cooling-off period and Secretarial review has begun on the implementation amendments. The comment period closes August 2, at which time the agency will review comments and then issue a Record of Decision on both the amendments and the programmatic by September 1. This action will be presented to the Council at the October meeting.

Diana Evans presented the items for Council action which are to develop a workplan for implementing the programmatic policy and to review changes to the FMPs.

Roy Hyder moved to adopt the Advisory Panel's recommended workplan of the Programmatic SEIS general and specific priorities (page 2, Draft AP Minutes, 6/9/04 5:17 pm). Mr. Hyder also moved to revise the groundfish FMPs according to the recommended staff changes noted in the Advisory Panel minutes (page 3, Draft AP Minutes, 6/10/04 9:26 am) and send them out for public review over the summer with final action to be taken in October 2004. The motion was seconded.

Arne Fuglvog moved to amend Mr. Hyder's motion to incorporate the SSC recommendations into the revised groundfish FMPs before they are sent out for public review. The SSC was mainly concerned with the definitions and specifications of OY, MSY, TAC, ABC, and overfishing. An SSC subcommittee will review the definitions and provide comments to Council staff in July, before the FMP documents are distributed for public review in August. The amendment was seconded and carried without objection.

Arne Fuglvog moved to amend Mr. Hyder's motion by adding the following new item to the list of specific priorities under the general priority heading titled, Bycatch Reduction: "E. Consider new management strategies to reduce incidental rockfish bycatch and discards." The amendment was seconded and carried without objection.

During discussion on the motion, the Council clarified that the list of general priorities is in no particular order of importance at this time. The Council may choose to prioritize them further in later meetings during staff tasking. The Council's final workplan follows. The motion as amended carried without objection.

1. Protection of Habitat

- A. Complete EFH action as scheduled
- B. Recommend to NOAA Fisheries increased mapping of benthic environment
- C. Develop and adopt definitions of MPA, marine reserves, etc.
- D. Review all existing closures to see if these areas qualify for MPAs under established criteria
- E. Evaluate effectiveness of existing closures

2. Bycatch Reduction

- A. Complete rationalization of GOA fisheries
- B. Complete rationalization of BSAI non-pollock fisheries
- C. Explore incentive-based bycatch reduction programs
- D. Explore mortality rate-based approach to setting PSC limits
- E. Consider new management strategies to reduce incidental rockfish bycatch and discards

3. Protection of Steller Sea Lions

- A. Continue to participate in development of mitigation measures to protect SSL including development of an EIS and participation in the ESA jeopardy consultation process
- B. Recommend to NOAA Fisheries and participate in reconsideration of SSL critical habitat

4. Prevent Overfishing

- A. Continue to participate in the development of “lumping and splitting” criteria
- B. Consider new harvest strategies for rockfish
- C. Set TAC at or < ABC

5. Ecosystem Management

- A. Revisit the calculation of OY caps
- B. Recommend to NOAA Fisheries and participate in the development and implementation of ecosystem indicators as part of stock assessment process

6. Improve Data Quality and Management

- A. Expand or modify observer coverage and sampling methods based on scientific data and compliance needs
- B. Develop programs for economic data collection that aggregate data
- C. Modify VMS to incorporate new technology and system providers

Arne Fuglvog moved to request staff to prepare a discussion paper that evaluates the Aleutian Islands for designation as a special management area, or separation from the Bering Sea area, as a separate FMP. The paper will include a discussion of current biological, social, economic, and management issues specific to the AI area, as well as an overview of ongoing research in the AI, and provide recommendations relative to potentially developing an ecosystem-based plan for this region. The paper would also examine the need to alter FMP provisions and regulations which apply to both areas. This paper would be reviewed by the Council in December or February, pending availability.

Mr. Fuglvog provided the following points for justification of this motion:

- The PGSEIS preferred alternative bookend calls for possible designation of the AI as a special management area.
- There are indications that ecosystem-based plans will be required as part of the MSA reauthorization, and the AI may lend itself to development as a pilot program.
- Interest in separation of some fish TACs (cod, for example) from BS area.
- Unique oceanographic features of this area, as well as importance of this area to certain fish populations (e.g. rockfish).
- Concentration of Steller sea lions, and associated critical habitat, in the AI.

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Ed Rasmuson seconded the motion which carried without objection.

C-3 Essential Fish Habitat (EFH) & Habitat Area Particular Concern (HAPC)

ACTION REQUIRED

- (a) Finalize HAPC alternatives for analysis.
- (b) Review comments on EFH EIS, and take action as necessary.

BACKGROUND

HAPC Alternatives

The Council, as part of the HAPC process outlined in the draft environmental impact statement (EIS) for EFH, has selected two priorities for HAPC designation during this cycle. These HAPC's include:

1. Seamounts in the EEZ, named on NOAA charts, that provide important habitat for managed species.
2. Largely undisturbed, high relief, long lived hard coral beds, with particular emphasis on those located in the Aleutian Islands, which provide habitat for life stages of rockfish, or other important managed species that include the following features: (a) sites must have likely or documented presence of FMP rockfish species; and (b) sites must be largely undisturbed and occur outside core fishing areas.

The joint stipulation requires that "final regulations implementing HAPC designations, if any, and any associated management measures that result from this process will be promulgated no later than August 13, 2006, and will be supported by appropriate NEPA analysis." To meet this schedule, the Council will need to select final HAPC alternatives during this Council meeting. In April, the Council adopted a draft purpose and needs section for the analysis, pared down the proposals to form several discrete alternatives, and directed staff to provide recommendations for 'hybrid' areas where proposals had overlapped one another (C-3(a)). To assist in the refinement of these alternatives, staff has provided a 'strawman' list of possible HAPC alternatives based on the public proposals, as well as modified hybrids for overlapping sites, sent out earlier in your Council mailing and included here as Item C-3(b). Note that the 'strawman' has not made any attempt to narrow down the areas proposed for HAPC designation. Staff has also provided a draft table of contents, draft significance criteria, and a draft RIR methodology as requested by the SSC (Item C-3(c)(i-iii)).

Essential Fish Habitat

The comment period on the Draft Environmental Impact Statement for Essential Fish Habitat Identification and Conservation in Alaska closed on April 15, 2004. NMFS received over 33,000 written public comments. The vast majority of the comments were form letters prompted by internet solicitations from the Ocean Conservancy and Oceana. Most of the form letters included personalized messages in favor of habitat protection in addition to the prepared text opposing the Council's preliminary preferred alternative (status quo management measures). NMFS also received a number of very detailed and substantive comments from the fishing industry, the environmental community, and non-fishing industries. NMFS staff and contractors have completed a preliminary review of the comments but have not yet begun drafting responses. NMFS will present a summary of the comments, and will seek guidance from the Council on a few policy issues stemming from the public comments so that staff can begin addressing those issues.

Comments directed to the Council, relative to possible actions at this meeting, are attached under C-3 Supplemental. Included is the letter from Oceana regarding a revised EFH Alternative 5B for the Aleutian Island area.

AP REPORT (C-3)

The Advisory Panel made numerous recommendations on this agenda item. Please see the AP Minutes ([Appendix 2](#) to these minutes) for their detailed recommendations.

SSC REPORT (C-3)

The SSC had a number of specific comments and recommendations on this agenda item. Please see the SSC Minutes ([Appendix 3](#) to these minutes) for their full set of comments.

COUNCIL DISCUSSION/ACTION (C-3)

Cathy Coon summarized the HAPC problem statement, purpose and need for action, and a proposed set of alternatives and management measures which the Council will need to choose from for further analysis. Chris Oliver provided the Enforcement Committee's recommendations on this item and provided a matrix handout. Jon Kurland gave an overview of public comments on the EFH EIS. The following handouts were distributed and placed in the notebook: NPFMC staff's PowerPoint presentation; HAPC Technical Subgroup Report dated May 5, 2004; 1-page matrix of HAPC Proposal Enforceability Concerns; and a brochure titled "Defining Fish Habitat: A Model-based Approach" by A.K. DeLong and J.S. Collie.

HAPC

Stosh Anderson moved to adopt a revised version of the AP's motion defining HAPC alternatives for analysis (a hard copy was distributed). The motion was seconded by Dave Benson. Several amendments to the motion were made and passed unanimously. The final amended motion carried without objection and follows:

ACTION 1: Seamounts. The Council forwards for review all three alternatives under Action 1 for analysis. Additionally, the Council tasks staff to evaluate the brown king crab effort on Patton and other GOA seamounts and add a suboption to exempt brown king crab fishing within the seamount HAPCs.

Alternative 1: No action

Alternative 2: Designate 5 named seamounts in the EEZ off Alaska as HAPCs (Dickens, Giacomini, Patton, Quinn, and Welker) and prohibit all Council-managed bottom contact fishing within these proposed HAPCs.

Alternative 3: Designate 16 named seamounts in the EEZ off Alaska as HAPCs (Bowers, Brown, Chirikof, Marchand, Dall, Denson, Derickson, Dickins, Giacomini, Kodiak, Odessey, Patton, Quinn, Sirius, Unimak, Welker) and prohibit all Council-managed bottom contact fishing within these proposed HAPCs.

ACTION 2: Gulf of Alaska Corals. The Council accepts the following alternatives for analysis.

Alternative 1: No action

Alternative 2: Designate three sites along the continental slope at Sanak Island, Albatross, and Middleton Island as HAPCs with two options as follows:

Option 1: Close sites to bottom contact with mobile gear (BCMG; defined as pelagic trawls that contact the bottom, bottom trawls, dredges, and troll gear that contacts the bottom which includes dinglebar gear) for five years. During the five years, these sites would be prioritized for undersea mapping to identify the portion of the three sites that are high-relief deep-water corals. The portion of these sites that are in fact high-relief coral sites should remain closed to BCMG after the five years and the portion of the areas that are not high relief coral sites should re-open to BCMG after the five years.

Option 2: Close sites to bottom trawling for five years. During the five years, these sites would be prioritized for undersea mapping to identify the portion of the three sites that are high-relief deep-water corals. The portion of these sites that are in fact high-relief coral sites should remain closed to bottom trawling after the five years and the portion of the areas that are not high relief coral sites should re-open to trawling after the five years.

Alternative 3: Designate four areas at Cape Ommaney, Fairweather grounds NW, Fairweather grounds SW and Dixon Entrance as HAPCs. Prohibit bottom contact gear within six smaller areas identified by the technical subcommittee inside these HAPCs. Increase the size of the two Fairweather Ground management areas by 1/10nm on each side to provide additional protection to the sites for potential gear drift.

Alternative 4: Combine Alternatives 2 & 3 as modified.

ACTION 3: Aleutian Island Corals. The Council accepts the four hybrid boundaries and management measures as modified for analysis.

Alternative 1: No action.

Alternative 2: Adopt the six coral garden sites within the Aleutian Islands as HAPC.

- 1. Adak Canyon:** Accept the bottom contact gear closure defined within staff's hybrid (two-tier approach), increase the designation only portion of the boundary to include the entire AMCC and MCA proposals.
- 2. Cape Moffett:** Modify the hybrid proposal boundaries for no bottom contact gear as follows: The square would be split into two triangles from SW to NE, the right (SE/S) side of the square would be open to fishing (with a HAPC designation), the other side (NW) would be closed to bottom contact gear. The designation-only areas of the hybrid would remain the same.
- 3. Bobrof Island:** Utilize the boundaries of the NMFS proposal, adjusted on the northern extent of the island (per public comment in notebooks) to define the no bottom contact gear areas. The designation only area of the hybrid would remain the same.
- 4. Semisopochnoi Island:** Utilize the original NMFS proposal and management measures of no bottom contact gear for analysis. The designation only area from the hybrid proposal would remain the same.
- 5. Great Sitkin:** Utilize the boundaries of the NMFS proposal and management measures of no bottom contact gear for analysis. The designation area would be from the hybrid proposal.
- 6. Ulak Island:** Utilize the boundaries of the NMFS proposal and management measures of no bottom contact gear for analysis. The designation area would be from the hybrid proposal.

Alternative 3: Adopt the hybrid area for Bowers Ridge with management measures of no bottom contact with mobile gear.

Alternative 4: Adopt 4 sites in the Aleutian Islands (South Adliia/Atka, Kanaga Volcano, Kanaga Island and Tanaga Islands) as HAPCs with two options as follows:

Option 1: Close sites to bottom contact with mobile gear (BCMG) for five years. During the five years, these sites would be prioritized for undersea mapping to identify the portion of the sites that are high relief deep-water corals. The portion of these sites that are in fact high-relief coral sites should remain closed to BCMG after the five years and the portion of the areas that are not high relief coral sites should re-open to BCMG after the five years.

Option 2: Close sites to bottom trawling for five years. During the five years, these sites would be prioritized for undersea mapping to identify the portion of the sites that are high-relief deep-water corals. The portion of these sites that are in fact high-relief coral sites should remain closed to bottom trawling after the five years and the portion of the areas that are not high relief coral sites should re-open to trawling after the five years.

Alternative 5: Adopt Alternatives 2, 3, and 4 in conjunction with the same boundaries, and management measures.

The environmental and economic effects of these alternatives will be analyzed for initial review at the October 2004 meeting.

EFH EIS

Dave Benson made the following motion which was seconded by Arne Fuglvog. The motion carried without objection.

The Council tasks staff to modify EFH Alternative 5B (Aleutian Islands) to have three options as follows:

- 1. Original Oceana 5b open area approach for bottom trawling that would include coral/sponge bycatch caps and TAC reductions.**
- 2. Oceana's proposed modifications to the open area approach based on their April 29th letter to NMFS with (a) the removal of the coral/sponge bycatch cap and all the groundfish TAC reductions, and (b) with the coral/sponge bycatch cap and the Atka mackerel/rockfish TAC reductions.**
- 3. A modified 5b core open area approach that would incorporate all areas where the cumulative bottom trawl groundfish catch is greater than or equal to 200 MT based on cumulative observer data from 1991-2003. The alternative will not have a coral/sponge bycatch cap or TAC reduction for any groundfish species.**

All three of these options for an open area approach will be plotted on nautical charts on a 1: 300,000 scale and be made available to the public.

Mr. Benson provided the following rationale for his motion: The suboptions for open areas encompass a range from the most restrictive option originally proposed by Oceana; Oceana's modified open area which was based on more recent data and which incorporated some of the larger HAPC areas proposed by MCA and industry; and the third suboption which employs a more transparent approach using explicit criteria to delineate the areas fished by bottom trawl fisheries in the Aleutian Islands in recent years. With this range of suboptions for open areas, the analysis will be better able to evaluate the merits of an open area approach to management of bottom trawl fisheries in the Aleutian Islands in terms of the potential benefits of preventing expansion of bottom trawl fishing to new areas and the potential impacts of reducing the area currently being used by bottom trawl fisheries.

In October, the Council will receive a scientific review from the Center for Independent Experts on the effects of the fishing analysis included in the EIS. Final action on the EFH EIS is scheduled for February 2005.

C-4 Aleutian Island Pollock

ACTION REQUIRED

Review revised draft EA/RIR and take final action on amending the BSAI FMP to allocate pollock quota to the Aleut Corporation for an Aleutian Islands fishery.

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BACKGROUND

During its February 2004 meeting, the Council reviewed recent Congressional action (2004 Consolidated Appropriations Act (CAA)), sponsored by Senator Stevens, that would require the Council to allocate TAC to the Aleut Corporation for a directed Aleutian Islands pollock fishery. The pollock allocation would be for economic development in Adak. The Council tasked staff with preparation of NEPA documentation for initial review at its April 2004 meeting. In April, the Council reviewed an initial draft EA/RIR for an FMP amendment to provide for an Aleut Corporation AI pollock fishery. After hearing comments from the SSC, AP, and public, the Council added a decision element and several alternatives, and asked that the EA/RIR be revised for final review and final action at its June 2004 meeting.

NMFS and Council staff have prepared a revised EA/RIR that responds to the specific elements in the Council's February and April motions. The EA/RIR was sent out for public review on May 20, 2004. At this meeting, the Council will receive additional comments from the SSC, AP, and public, and will select its preferred set of alternatives. This will allow sufficient time for the rulemaking and FMP amendment process so that the AI pollock fishery can be authorized for the 2005 fishing season.

There are six main decisions the Council will need to make in approving the AI pollock fishery. Each of the six decisions has several alternatives, each of which is based on the Council motions and the language in the CAA or in Senator Stevens' floor language. The decision elements and their alternatives are attached as Item C-4(a).

The EA/RIR provides an analysis of each of these elements and alternatives, a cumulative effects analysis, and a Regulatory Impact Review. The Executive Summary of the EA/RIR is attached as Item C-4(b). The analysts have determined that any of the alternatives selected under each decision element have either unknown or insignificant impacts on the quality of the human environment.

The Council also asked its Steller Sea Lion Mitigation Committee (SSLMC) to review options for changing SSL protection measures in the Aleutian Islands area so that small vessels might operate more safely and efficiently in the Aleut Corporation pollock fishery. In making this request, however, the Council informed the public that it does not intend to consider any actions on this issue that may trigger the need for formal Section 7 consultation under the Endangered Species Act. The SSLMC met April 26 to evaluate a proposal for changes in AI SSL protection measures, and discussed the proposal with NMFS Office of Protected Resources staff (the SSLMC meeting minutes are attached as Item C-4(c)). No conclusions or recommendations were reached, since the committee and NMFS have only had time to take an initial review of the elements in the proposal. The SSLMC and NMFS believe that further informal discussions on this issue should continue so that opportunity for evaluation of new data and discussion of options and alternatives might be possible. For example, there are new data being developed on SSL feeding habits in the AI region that may be available in the near future and may be helpful in understanding the role pollock and other species play in the diets of AI SSLs.

Finally, the Alaska Fisheries Science Center (AFSC) has developed a model that the SSLMC hopes to consider using in evaluating possible future proposals for changes in SSL protection measures. This model would be a new tool to compare how proposed changes in groundfish fishing practices might affect Steller sea lions. The AFSC and the SSLMC would like to have the SSC review the technical aspects of this model, and Lowell Fritz from the AFSC will present the conceptual approach to the SSC at this meeting. After hearing SSC comments, the AFSC plans to further develop the model and will present it to the Council at a future meeting.

NMFS and Council staff are available to answer questions. The full motion from the April meeting is below:

Aleut Corporation Pollock Fishery in the Aleutian Islands
Council's Revised Decision Elements and Alternatives
April 2004 Meeting

1.0 Allocation size

1.1 No action: Determine the appropriate Aleutian Islands pollock TAC each year during the annual specifications process.

1.2 For guidance in determining the allocation amount to the AI pollock fishery, the Council shall consider pollock allocations given to the various groups that participate in the CDQ program in order to recommend a "reasonable amount" of AI pollock to award to the Aleut Corporation and in no case should this amount exceed 40,000 mt.

1.3 The Council shall allocate a combined AI Incidental Catch Allowance and Directed Fishing Allowance equal to the lesser of the ABC or 40,000 mt. This allocation shall be subject to the 40% A season and 60 % B season apportionment required by the Steller sea lion protection measures.

1.4 Beginning in 2005, and until changed, the annual AI pollock TAC shall be the lesser of 15,000 mt or 40% of the AI pollock ABC. One hundred percent of the Directed Fishing Allowance shall be available for harvest in the pollock A season.

2.0 Allocation mechanism

2.1 No action: no regulatory changes

2.2 The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock TAC if necessary to remain under the 2 million mt OY cap. Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year.

2.3 The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TAC amounts from each of the existing groundfish fisheries in the BSAI, without regard to species if necessary to remain under the 2 million mt cap. Any unused TAC amount, surplus to the needs of the AI pollock fishery, will be rolled back to the fisheries from which it originated in the same proportions (and species). This should occur at the earliest time in the calendar year.

2.4 The pollock allocation to the AI fishery will be funded as described above in Alternative 2.3 but exempting the BSAI sablefish IFQ fishery from the proportional reduction.

2.5 If possible, the AI Directed Fishing Allowance (DFA) is to be funded from the difference between the sum of the BSAI groundfish fishery TACs and the BSAI OY cap. No allocation to the AI DFA shall be made from a groundfish fishery TAC unless the difference between the sum of the groundfish fishery TACs and the OY cap is not large enough to fund the AI DFA. If this difference is not large enough to fund the AI DFA, 10% of the allocation to the AI pollock DFA shall be taken from the BSAI rock sole ITAC, 10% from the BSAI yellowfin sole ITAC, and 80% from the Eastern Bering Sea (EBS) pollock ITAC. No later than June 10 (start of the B season), unused AI A season pollock DFA, and the entire AI B season DFA, shall be rolled back to the EBS pollock fishery.

3.0 Monitoring vessel activity

3.1 Status quo (this option imposes only those monitoring and enforcement requirements that would be required if there were no change in regulations).

3.2 "Increased monitoring" alternative. This alternative would have several components (not options). These include:

1. Aleut Corporation must let the NMFS Alaska Region know which vessels are authorized by it to fish in the Aleutians, and these vessels must carry documentation showing they have such permission;
2. If a catcher vessel authorized by the Aleut Corporation fishes in the Aleutians at any time during a trip, all pollock landed by that vessel when the trip ends will be deemed to be Aleutian Islands pollock and debited against the Aleut Corporation quota;
3. AFA requirements extend to catcher-processors and motherships (this extends AFA level observer and scale requirements to CPs under 60 feet and to unlisted AFA vessels);
4. AI pollock may only be delivered to a shore plant with a Catch Monitoring Control Plan;
5. The Aleut Corporation will be responsible for keeping its harvests and its agents' harvests within the AI pollock directed fishing allowance.

3.3 "Observer" alternative. All the requirements of Alternative 3.2 would apply and would require all catcher vessels to have 100% observer coverage.

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4.0 Small vessels

- 4.1 No action. Take no steps to delay ability of Aleut Corporation to introduce to the fishery vessels under 60 feet LOA.
- 4.2 Defer small vessel participation until a later date 2 (2006) or 5 (2007) years from 2004 to allow for development of a management program.

5.0 Economic development report mandate

- 5.1 No action: do not require an annual report to the Council.
- 5.2 Require an annual report to the Council.
- 5.3 Require an annual report comparable to CDQ reports.
- 5.4 At its June 2006 meeting, the Council shall review the AI pollock fishery performance, including information on harvest success, development of a small vessel fleet, and progress toward completion of pollock processing capacity to determine if further adjustments to the AI pollock TAC may be appropriate, in light of Section 803 of the Consolidated Appropriations Act, 2004 and Senator Stevens' floor language.

(Alternative 5.4 could be combined with 5.1, 5.2, or 5.3.)

6.0 Chinook salmon bycatch

- 6.1 No action: AI pollock fishery Chinook salmon bycatch would count against the BSAI Chinook salmon bycatch caps.
- 6.2 Chinook salmon bycatch in the AI pollock fishery would not count against the BSAI Chinook salmon bycatch caps.

AP REPORT (C-4)

The Advisory Panel made numerous recommendations on this agenda item. Please see the AP Minutes, ([Appendix 2](#) to these minutes) for more specific comments.

SSC REPORT (C-4)

Please refer to the SSC minutes ([Appendix 3](#) to these minutes) for their detailed comments on this item.

COUNCIL DISCUSSION/ACTION (C-4)

Bill Wilson and Ben Muse gave a detailed report on the draft EA/RIR that would establish an allocation of the Aleutian Islands pollock TAC to the Adak Corporation. The following handouts were distributed and a copy placed in the notebook: (1) PowerPoint presentation by staff; (2) Supplement to Revised Draft EA/RIR for Am 82 to BSAI FMP; (3) the AI Pollock alternatives; (4) Diagram–BSAI Pollock TAC & CDQ Allocation; and (5) Table–Comparison of Elements of CDQ Program, Adak crab allocation & AI pollock allocation.

After lengthy discussion, including an initial motion with amendments and later a substitute motion which was amended, **the Council voted to approve the following management program for the Aleutian Islands pollock allocation to Adak.** The motion carried without objection.

1.0 Allocation Size

Starting in 2005:

1. Annual ITAC

- (a) When the AI ABC is equal to or more than 19,000 mt, the AI ITAC shall equal 19,000 mt.**
- (b) When the AI ABC is less than 19,000 mt, the AI ITAC shall be no more than the ABC.**

2. The ICA shall be deducted from the annual ITAC.
3. Seasonal Apportionments
 - The A season apportionment of the directed pollock fishery (DPF) shall be the lesser of
 - (a) no more than 40% of the ABC, or
 - (b) the annual ITAC after subtraction of the incidental catch allowance (ICA)
 - The total harvest in the A season (DPF and ICA) shall not exceed 40% of the ABC.
 - The B season apportionment will be equal to the annual ITAC minus the ICA and minus A season DPF.
 - The B season apportionment may be further adjusted by rollover of unharvested A season pollock.

2.0 Allocation Mechanism

- 2.2 The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock ITAC. Any unused pollock ITAC from the AI fishery will be rolled back to the EBS pollock ITAC. This will occur at the earliest time possible in the calendar year. Before making the apportionment as described here, the AI pollock DPF is to be funded from the difference between the sum of all BSAI groundfish fishery TACS and the BSAI 2 million mt OY cap, unless the difference is not large enough to do so.

3.0 Monitoring Vessel Activity

- 3.2 “Increased monitoring” alternative. This alternative would have several components (not options). These include:
 1. The Aleut Corporation must notify the NMFS Alaska Region with a list of which vessels are authorized by it to fish in the Aleutians; notification must be at least 14 days prior to the anticipated start of fishing. The NMFS RAM Division will verify each vessel’s eligibility (FFP, ADF&G number, USCG fishery endorsement, length, or AFA status) and provide to the Aleut Corporation a list of qualified vessels and the date fishing may commence. These vessels must carry documentation showing they have RAM approval and Aleut Corporation permission;
 2. Catcher vessels are prohibited from fishing for pollock in the Aleutian Islands if pollock harvested in the Bering Sea or GOA are on board. Also, catcher vessels are prohibited from fishing for pollock in the Bering Sea or GOA if Aleutian Islands pollock are on board;
 3. AFA requirements extend to catcher-processors and motherships (this extends AFA level observer and scale requirements to CPs under 60 feet and to unlisted AFA vessels);
 4. AI pollock may only be delivered to a shoreside processor or stationary processor which has an approved Catch Monitoring Control Plan or to one or more AFA qualified vessels, as permitted by legislation.
 5. The Aleut Corporation will be responsible for keeping its harvests and its agents’ harvests within the AI pollock directed fishing allowance. The Aleut Corporation shall be responsible for designating a person as a quota manager for pollock catch accounting; this person shall report to NMFS Sustainable Fisheries Division with weekly pollock catch summaries.
 6. Vessels <60 feet shall take a Cadre observer if provided by NMFS. The <60-foot vessel observer cadre restriction is waived under this program. Vessels <60 feet that take an observer must comply with the safety provisions in 50 CFR 679.50(g)(1)(ii).

4.0 Small Vessels

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4.1 No action. Take no steps to delay ability of Aleut Corporation to introduce to the fishery vessels under 60 feet LOA.

The Council will review the observer issue associated with vessels <60 feet concurrent with the June 2006 economic report review.

5.0 Economic Development Report

5.2 Require the Aleut Corporation to submit an annual economic development report to the Council, similar to the AFA coop reports. A draft report will be due in December and a final report will be due in February.

5.3 Require the Aleut Corporation to submit a report to the Council prior to its June 2006 meeting. At its June 2006 meeting, the Council shall review the AI pollock fishery performance, including how the money was spent, information on harvest success, Chinook salmon bycatch, development of a small vessel fleet, and progress toward completion of pollock processing capacity, to determine if further adjustments to the AI pollock ITAC may be appropriate, in light of Section 803 of the Consolidated Appropriations Act, 2004 and Senator Stevens' floor language.

6.0 Chinook Salmon Savings

6.2 Chinook salmon bycatch in the AI pollock fishery would not count against the BSAI Chinook salmon bycatch caps.

6.3 The chinook salmon bycatch cap of 700 fish applies to the AI Chinook Salmon Savings Area closure only.

The Council also requested staff to prepare a discussion paper for their review at the October meeting. The paper would examine Pollock bycatch in the Pacific cod, Atka mackerel, and rockfish fisheries in the Aleutian Islands, including retention and discards. It would also look at potential effects of ICA on revised pollock maximum retainable allowance (MRA) in the Aleutian Islands trawl Pacific cod fishery.

C-5 Central GOA Rockfish Pilot Program

ACTION REQUIRED

Finalize alternatives and elements for analysis.

BACKGROUND

Section 802 of Title VIII of the Consolidated Appropriations Act of 2004 directed the Secretary of Commerce to develop a rockfish demonstration program for the Central Gulf of Alaska rockfish fisheries in consultation with the Council. At its April meeting, the Council responded to the directive of the legislation, a discussion paper from NOAA Fisheries staff, public testimony, and an industry stakeholder proposal, by adopting for analysis a set of alternatives and elements that could be used to select an alternative to establish the demonstration program. The Council included in its motion from its April meeting a request that staff provide the following information concerning activity of participants eligible for the rockfish program:

- 1) Vessels (by name) that made landings in the CGOA target rockfish fishery from 1996-2002 with current endorsement status;
- 2) Estimates of TH and RE/SR incidental catch requirements in the sablefish, halibut and pcod LL fisheries. The Council recommends using observer and IPHC data;
- 3) Natural divisions in the level of history awarded within each sector (i.e. between vessels with minimal, moderate and high participation);
- 4) For the following fisheries: GOA flatfish (all), AI POP, BSAI other flatfish, BSAI yellowfin sole, BSAI pacific cod, WGOA rockfish, WYAK rockfish; Participation patterns in these fisheries during the month of July by LLP holders who will receive allocations;
- 5) Percentage of total catch, by species complex, in the month of July for each year 96-02 by sector

- GOA: Deep complex=rex sole, deep water flatfish, arrowtooth flounder; Shallow complex=shallow water flatfish, flathead sole
- BSAI: Other flatfish=rocksole, flathead sole, arrowtooth flounder, Alaska plaice, other flatfish.

In response to this request, staff has provided the attached Report on Sideboards (Item C-5(a)). Time limitations did not allow staff to provide all of the information requested by the Council. The report contains all of the information requested in 1), 3), and 4) and the percentage of retained catch by eligible vessels in response to 5).

Staff has also reviewed the Council's motion identifying alternatives, elements, and options for analysis with NOAA Fisheries staff. Comments from this review and proposed clarifications to the motion are provided for Council consideration in the annotated copy of the motion attached (Item C-5(b)).

At this meeting, the Council will finalize alternatives and elements, so that staff can begin the analytical process.

As noted in the Executive Director's report, this project is being used as a pilot for the regulatory streamlining process that is intended to develop procedures and review processes to ensure the preparation of adequate and complete analyses of proposed management actions in a timely manner. Attached is an Action Plan (Item C-5(c)) that has been developed by Council and NOAA Fisheries staff for this project. The Action Plan is considered a planning document which reflects the problem, alternatives, and initial determination on appropriate NEPA document, as well as time lines and resources. Also attached is a letter reflecting the Regional Administrator's review of the Action Plan for this project (Item C-5(d)).

AP REPORT (C-5)

The Advisory Panel made numerous recommendations on this agenda item. Please see the AP Minutes, ([Appendix 2](#) to these minutes) for more specific comments.

SSC REPORT (C-5) The SSC did not address this agenda item.

COUNCIL DISCUSSION/ACTION (C-5)

Mark Fina gave an overview of staff's suggested changes to the alternatives for analysis and provided an addendum to the report on sideboards, which was placed in the notebooks.

Arne Fuglvog moved to adopt the AP recommendations with minor editorial changes. Ed Rasmuson seconded the motion. **The Council made several other changes to the elements and options of the alternatives through amendments to the motion.** The more substantive changes included options that would:

- limit the years of history recognized for processing to those specifically identified in the legislation,
- provide an option to include eligible fixed gear vessels in the primary program (in addition to the inclusion of ineligible fixed gear vessels in the entry level program), and
- reduce the incidental catch allocation of Pacific cod under the program to as little as 70% of the average historic incidental catch of Pacific cod by eligible participants.

The following is the list of changes the Council adopted (new language underlined; old language italicized):

- 1.2 *(Revise 1st bullet)* Allocations shall be apportioned between trawl and non-trawl gear *(instead of fixed and mobile)*
(Add 3rd option to 1st bullet) Option 3. proportional to the number of applications received taking into account the harvest capability of the different gear types.
(Add suboption to 2nd bullet) Rollover from non-trawl to trawl will occur at the end of the third quarter.

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(Revise 3rd bullet) Prosecution of the entry level fishery *(instead of allocation)* will be supported by general allocations of PSC to the gear type not allocated under 3.3.1.3 and the general allocations of secondary *(instead of incidental catch)* species not allocated under 3.3.1.2.

2.4 *(Add suboption to 2nd bullet)* Limited access competitive fishery

3.1 *(Add option 3)* Option 3. Non-trawl catcher vessel

3.3.1.1 History will be allocated to each sector for POP, Northern rockfish and PSR caught in CGOA based on retained catch during the open season.

3.3.1.2 Allocations of Pacific cod as a secondary species will be at the following rate of harvest history:

Option 1. 100 percent

Option 2. 90 percent

Option 3. 80 percent

Option 4. 70 percent

5.4 Alternative 2 and Alternative 3

(Add an Option): When owner and operator are not affiliated, the license will be issued to the owner and operator, but the operator will receive the right to vessel co-op linkages.

5.4 *(5th Bullet under Alternative 3)* Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery. Those LLPs that opt out of the cooperative portion of the pilot program will be penalized 0%-20% of their historical share (annual allocation). The penalty share will be left with the LLP's associated cooperative. The LLP's remaining share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a co-op and must be delivered to one of the qualified processors. *(additional language underlined)*

5.6 Change word "right" to "privilege"

(Added to 3.3) The eligibility for entry into the program is one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period by any gear type.

(Added to 3.3) The CP catch history will be based on WPR data.

(Added to 9 Sideboards) The Council encourages the CP fleet to work with NMFS and NPFMC staff to develop a data format using confidentiality waivers to analyze sideboards. Additionally, include participation data broken out by the three rockfish species based on WPR.

(Added to 9 Sideboards) Sideboard provisions will apply to all gear types under all alternatives.

The full list of alternatives, elements, and options for analysis is included as Appendix 5 to these minutes. The Council will review a preliminary analysis at the October 2004 meeting. At that time, the Council could consider revisions to the alternatives, including the development of specific sideboard provisions that would limit participants in the rockfish demonstration program to their historic catch in other fisheries.

C-6 IR/IU

ACTION REQUIRED

- (a) Receive staff discussion papers on Pacific cod area split, groundfish retention pools, and a multiple cooperative option for Amendment 80b.
- (b) Receive Committee report on refining Component 10 (underutilized species threshold) of Amendment 80a and take action as necessary.

BACKGROUND

In April 2004, the Council made several modifications to the components and options for Amendment 80. Primary among these changes was clarifying that Amendment 80 is intended to create a license-based program for both sector allocations and the cooperative structure for the non-AFA trawl catcher processor sector. Some other modifications included new options for the <60' pot and H&L, expanded the PSC reduction option so that it could apply to any PSC allocation option included in Amendment 80a, and clarifying the language for the excessive share option (Component 7 of Amendment 80b). A copy of the most recent version of the components and options is attached as Item C-6(a).

In addition, the Council directed staff to prepare three discussion papers for the June meeting. The first paper examines splitting BSAI Pacific cod by subarea. The second paper examines groundfish retention pools as a management tool for the non-AFA trawl catcher processor sector to bridge the implementation gap between Amendment 79 and Amendment 80. The final paper examines multiple cooperatives as an option for Amendment 80b. A copy of these discussion papers are attached as Item C-6(b).

Finally, the Council reconstituted the IR/IU Technical Committee and tasked them with preparing recommendations for revising Component 10 (underutilized species threshold) of Amendment 80a in time for the June 2004 meeting. The IR/IU Committee met in May, and the minutes from the meeting are attached as Item C-6(c).

AP REPORT (C-6)

The Advisory Panel made numerous recommendations on this agenda item. Please see the AP Minutes, ([Appendix 2](#) to these minutes) for more specific comments.

SSC REPORT (C-6) The SSC did not address this agenda item.

COUNCIL DISCUSSION/ACTION (C-6)

Jon McCracken briefed the Council on the various discussion papers and Chris Oliver read the Enforcement Committee's report on this agenda item. The Council made some minor modifications to the components and options for Amendment 80a and 80b. They broadened all of the eligibility years for the <60' H&L/Pot catcher vessel sector to include 2003 and 2004 up to June 15, 2004. Options were added to exempt jig vessels and <60' H&L/Pot catcher vessels from eligibility requirements. A new Option 4.1 was added to Amendment 80b requiring at least 30% of eligible license to join a cooperative before it is allowed to operate (i.e., allow multiple cooperative). Finally, the Council added the IR/IU Technical Committee's recommendations for revising the underutilized species threshold as additional options in Component 10. The Council scheduled Amendment 80 for initial review in February 2005 and final action in April 2005. The full list of revised components and options which the Council adopted is included as [Appendix 6](#) to these minutes.

The Council also requested staff to broaden the Pacific cod area split discussion paper to include the following year combinations for analysis of the historical harvest option (Option 1 of the discussion paper):

- 1995-1997
- 1995-2002
- 1995-2003
- 1998-2002
- 1998-2003
- 2000-2003
- 2002-2003

C-7 Observer Program

ACTION REQUIRED

Receive update on analysis/action as necessary

BACKGROUND

At its April 2004 meeting, the Council reviewed the Observer Advisory Committee (OAC) report and approved the addition of three new alternatives to the draft analysis for an FMP amendment to restructure the funding and deployment mechanism in the North Pacific Groundfish Observer Program (Observer Program). Under the proposed amendment, NMFS would contract directly (or through a third party) with observer providers for observer services, and the program would be funded by a user fee assessed on all vessels and processors included in the new program, and/or direct Federal funding. Vessels and processors that are not covered under the new program would continue to operate under the existing program, whereby vessels contract directly with observer providers.

The problem statement, adopted by the Council in February 2003, identifies data quality and disproportionate cost issues resulting from the current program structure. Concerns with the existing program arise from the inability of NMFS to determine when and where observers should be deployed, inflexible coverage levels established in regulation, disproportionate cost issues among the various fishing fleets, and the difficulty in responding to evolving data and management needs in individual fisheries. The new program would employ a contract between NMFS (or a third party) and observer providers, eliminate the existing coverage categories based on vessel length, and allow NMFS to control when and where to deploy observers.

To date, discussion of the alternatives for the restructuring of the Observer Program has focused primarily on scope, i.e., which industry components and fleets would be included in the new fee-based program. Prior to the April meeting, the Council was considering a suite of alternatives that focused primarily on vessels and processors operating in the Gulf of Alaska, with the intent that the alternatives applied the fee-based program to the fleets with less than 100% observer coverage that represent the most acute data quality and disproportionate cost concerns. Through discussions with the OAC and by approval of the Council, it was determined that a uniform fee based on a percentage of ex-vessel value of retained catch was the most viable approach to fund the program and address the concerns identified in the problem statement. In effect, all vessels and processors included under the new fee system would pay an ex-vessel value fee on their groundfish and/or halibut landings, regardless of whether the individual vessel was required to carry an observer. The intent was to apply this approach to all of the original (Gulf) alternatives under consideration.

In April 2004, however, the Council expanded the suite of alternatives to include the major fisheries of the BSAI. Two new alternatives were recommended by the OAC, in an effort to include specific sectors of the BSAI that may also experience disproportionately high observer costs or have modes of operation that would make it difficult to retain observer services under two different programs in the BSAI and GOA.¹ In addition, NMFS requested a program-wide alternative, based on concerns that observer accountability and compensation would differ in the GOA and the BSAI if the direct contract system was only implemented in the GOA. NMFS' concerns stem from the potential effect on data quality if there are not consistent and effective procedures for addressing observer performance and conduct problems in both the GOA and the BSAI, contending that these procedures can only be put in place through a service delivery model that provides direct contractual arrangements between NMFS and observer providers.

The new alternatives for analysis focus on the scope of the program (i.e., which vessels and processors will be covered under the new fee-based program for observer coverage), and do not specify how the fee should be determined or collected. The Council's motion in April 2004 provided for a very broad range of potential observer fee programs to support a program-wide alternative, including the use of a daily observer fee based on coverage costs. With the expansion of the alternatives to include the major fisheries of the BSAI, it may be appropriate to consider alternative types of fees for analysis, other than a fee based on ex-vessel value. Many of the BSAI fisheries require individual vessel or cooperative

¹Prior to April, the Council had approved five alternatives for analysis. At its April meeting, the Council approved three new alternatives, for a total of eight. However, because the Council's previous Alternative 5 is virtually identical to the Alternative 7 adopted in April 2004, staff consolidated those two alternatives into a single alternative (now Alt. 6). The only practical difference between the two alternatives was whether to include longline CVs >125' in the BSAI, a vessel class in which there are few to no vessels operating. For this reason, staff consolidated the two alternatives. As a result, the new Alternatives 6-8 adopted by the Council in April 2004 are now identified as Alternatives 5-7.

level monitoring, and thus require 100% or greater observer coverage as mandated by law or by the provisions of a specific management program. For these fisheries, it may be appropriate to analyze a type of fee which can exactly match the costs of observer coverage, and thus avoid the potential for reducing coverage levels to respond to revenue shortfalls.

Staff has provided a discussion paper (Attachment C-7(a)) to outline these issues and suggest suboptions that specify the fee collection mechanisms to be analyzed under Alternatives 6 and 7 – the two alternatives that include the major BSAI fisheries with coverage levels of 100% or greater. The following suboptions are suggested for consideration under Alternatives 6 and 7:

Suboption 1: Establish a uniform ex-vessel value fee for all vessels and processors covered by the program

Suboption 2: Establish two separate programs that are differentiated by fee type and coverage level: (1) Vessels and processors in fisheries that generally have less than 100% coverage requirements would pay a uniform ex-vessel value fee and carry observers when requested to do so by NMFS; (2) Vessels and processors in fisheries with mandatory coverage requirements of 100% or greater would pay a daily observer fee based on their required levels of coverage.

These suboptions are intended to serve as a starting point for the analysis, relative to the fee program under Alternatives 6 and 7. Because the fee concept was only discussed by the Council in a broad sense in April, staff was reluctant to introduce it into the larger analysis without an indication from the Council that this constitutes a reasonable starting point to defining the two fee programs.

Council review of the initial draft analysis is scheduled for October 2004. Note that the costs of observer coverage under the various alternatives cannot be fully developed until additional guidance is provided regarding observer compensation issues and related agency litigation.

AP REPORT (C-7)

The AP recommends the Council endorse the 2 fee collection and appeals suboptions. *Motion passed 15/0.*

Additionally, the AP endorses suboption 1 and 2 of the proposed fee collection system, with the addition to suboption 2 a provision allowing the Council to apply the daily fee provision to select sectors with less than 100% coverage. The AP further endorses the addition of suboption 1 and 2 to alternative 6. *Motion passed 16/0.*

SSC REPORT (C-7) The SSC did not address this agenda item.

COUNCIL DISCUSSION/ACTION (C-7)

Nicole Kimball presented the discussion paper on alternative approaches to fee collection for a restructured observer program. Chris Oliver read the Enforcement Committee's report on this item. **The Council reviewed the discussion paper and approved the following suboptions to Alternatives 6 and 7 for inclusion in the analysis to restructure the observer deployment and funding mechanism in the North Pacific Groundfish Observer Program:**

Suboption 1: Establish a uniform ex-vessel value fee for all vessels and processors covered by the program.

Suboption 2: Establish two separate programs that are differentiated by fee type and coverage level: (1) Vessels and processors in fisheries that generally have less than 100% coverage requirements would pay a uniform ex-vessel value fee and carry observers when requested to do so by NMFS; (2) Vessels and processors in fisheries with mandatory coverage requirements of 100% or greater would pay a daily observer fee based on their required levels of coverage.

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Stosh Anderson moved that the analysis explore the concept of assessing a different fee in fisheries that have a mix of vessels with <100% and ≥100% coverage requirements. The fee would include a daily observer fee component and an ex-vessel value fee component, and both components would be assessed on all vessels in the specified fishery. Jim Balsiger seconded the motion, which carried with two objections (Madsen and Hyder).

The Council also reviewed a letter sent recently from Dr. Hogarth (supplemental handout placed in notebooks), in response to questions posed by the Council regarding NOAA Fisheries' policies on observer compensation and eligibility for overtime pay. The letter notes that a comprehensive review is being undertaken to address these issues and a response will be provided as soon as the review is completed. Initial review of the draft analysis is tentatively scheduled for October 2004, pending this review and resolution of the associated cost implications.

C-8 CDQ Program

ACTION REQUIRED

Initial review of an EA/RIR for a regulatory amendment to modify the management of the CDQ groundfish reserves

BACKGROUND

At its April 2004 meeting, the Council scheduled initial review of an analysis for a regulatory amendment to address Community Development Quota (CDQ) fisheries management issues. NMFS prepared a draft EA/RIR that is meant to offer the Council the means to modify management of groundfish CDQ reserves and to clarify how NMFS should address changes between annual TAC categories and previously approved, multi-year CDQ allocation percentages.

The original program design and implementation of the multispecies CDQ Program instituted a system of strict quota accountability for both CDQ target and non-target species. This amendment proposes to amend the management of groundfish CDQ reserves to distinguish between CDQ target and non-target species, and differentiate between how allocated and non-allocated CDQ reserves are managed. Such changes could provide a means for CDQ groups to catch a higher percentage of allocated CDQ target species by relaxing accountability standards for non-target species. Modifying the management of CDQ reserves also could provide enhanced flexibility to address issues associated with changes to BSAI species categorization.

The analysis includes three alternatives and an option to integrate squid back into the CDQ Program. Alternative 1 is the no action alternative. Alternative 2 would modify harvest specifications regulations to require that the Council annually identify which CDQ reserves should be allocated among CDQ groups. Alternative 3 would require the Council to permanently identify which CDQ reserves should be allocated among CDQ groups. CDQ regulations would then be amended to list such reserves. Under both Alternatives 2 and 3, CDQ groups would continue to be prohibited from exceeding any CDQ allocations made to them. NMFS would manage non-allocated CDQ reserves with existing fisheries management measures. Additionally, both Alternative 2 and Alternative 3 would amend regulations to clarify how NMFS would manage CDQ reserves derived from new TAC categories that could be created by joining existing TAC categories by area or species.

The stand alone option proposes to resume creating an annual squid CDQ reserve, in order to treat squid consistently with other BSAI species categories allocated to the CDQ Program. Squid was removed from the program in 1999, due to concerns that squid catch in the pollock CDQ fishery could limit CDQ groups from catching their entire pollock CDQ allocations. If either Alternatives 2 or 3 were selected in combination with this option, the Council could consider whether the squid CDQ reserve should be allocated among CDQ groups or not. While selection of Alternatives 2 or 3 alone would require a regulatory amendment, selection of the squid option would require an FMP amendment, since squid is now specifically excluded from being allocated to the CDQ Program in the BSAI FMP.

Both Alternatives 2 and 3 could modify the Council's original multispecies CDQ fisheries management objectives for strict quota accountability for all species allocated to the CDQ Program. This action, in part, addresses CDQ fisheries management items previously identified for consideration and analysis. These include allowing groups to pool some CDQ allocations, increasing the percentage amount of non-target species allocated to the CDQ Program, and not allocating each CDQ reserve among CDQ groups. Two BSAI TAC species categories, squid and "other species," are already

managed differently from other groundfish species categories. Squid is discussed above. In 2003, the Council recommended that "other species" be managed at the CDQ reserve level. This species category is no longer allocated among CDQ groups, and the catch of "other species" in the CDQ fisheries is now being managed by NMFS in combination with the catch of "other species" in the non-CDQ fisheries.

Alternatives for Consideration

Alternative 1: No action. Continue to establish CDQ reserves for every annual TAC category except squid. All CDQ reserves would be allocated among CDQ groups, with the exception of "other species." The CDQ groups would continue to be prohibited from exceeding any of these CDQ allocations.

Alternative 2: Amend regulations to: (1) allow the Council to recommend which CDQ reserves would be allocated among the CDQ groups each year as part of the annual BSAI groundfish specifications, and (2) clarify how NMFS would manage CDQ reserves based on new TAC categories created by joining existing TAC categories by species or area.

Alternative 3: Amend regulations to specify which TAC categories and associated CDQ reserves would be allocated among the CDQ groups. Any changes to this set of allocated CDQ reserves would have to be made by subsequent regulatory amendments. Regulations also would be amended to clarify how to manage CDQ reserves derived from new TAC categories created by joining existing TAC categories by species or area.

Stand Alone Option for Squid

This option would add squid to the suite of species allocated to the CDQ Program. Selection of this option could make the management of squid more consistent with the management of other BSAI species categories and the BSAI Fishery Management Plan (FMP). Under this option, squid would be integrated back into the CDQ Program and a portion of the annual BSAI squid TAC would be allocated to the program as a squid CDQ reserve. If squid was not included in the suite of CDQ reserves that the Council identified to be allocated among CDQ groups, then squid would be managed by NMFS at the CDQ reserve level. Integrating squid back into the CDQ Program would require an amendment to the BSAI FMP.

Initial review of the draft analysis, including the problem statement, is scheduled for this meeting. The draft EA/RIR was mailed to the Council on May 20 and the executive summary is attached as Item C-8(a). Upon review, the Council may determine the schedule for final action.

AP REPORT (C-8)

The AP recommends the Council release the regulatory amendment to modify the management of the CDQ groundfish reserves with the following changes:

Add an alternative 2A that would allow the Council to define the species that are allocated to the CDQ program. Once established, this list will stand until the Council is petitioned (through the normal spec process) to make a change in allocations. It is the intent that this determination will not be done through a regulatory amendment. *Motion passed 17/0.*

SSC REPORT (C-8)

The SSC suggested that the draft EA/RIR be revised to address a number of deficiencies before it is released for public review. Please refer to the SSC Minutes ([Appendix 3](#) to these minutes) for their detailed recommendations.

COUNCIL DISCUSSION/ACTION (C-8)

Obren Davis (NMFS-AKR Sustainable Fisheries) introduced the draft analysis for a regulatory amendment to change the management of the CDQ groundfish reserves in the BSAI. **Kevin Duffy moved that the Council recommend further analysis prior to releasing the document for public review, in order to address issues raised by the Council and the SSC. Mr. Duffy also added that the Council request review of a revised document in**

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October 2004, at which time it will decide whether to release the document for public review. Ed Rasmuson seconded the motion.

Hazel Nelson moved to amend the motion to add the following as both separate alternatives and as options to Alternatives 2 and 3 for further review in the EA/RIR:

- **Allow after-the-fact CDQ transfers between CDQ groups during the year, thus allowing a CDQ group to cover an overage of its allocated quota.**

The amendment was seconded and carried without objection. Ms. Nelson noted that the analysis should include a comparison of these options with current CDQ management, AFA co-op management, and GOA rationalization alternatives being considered. Ms. Nelson also provided the following points of justification for her motion:

- Current rules prohibit CDQ groups from after-the-fact transfers following an overage, despite there being sufficient quota available from other CDQ groups. In practice, whenever a CDQ has an overage they have secured enough quota from other groups to cover it—but they still get a notice of violation.
- The alternative provides groups the flexibility to manage their quotas collectively, as is done in the AFA co-ops, but does not eliminate the CDQ group's accountability to manage within the combined quotas. A group would still be in violation if they could not secure enough quota to cover an overage.
- This change would allow the program to more fully meet its social, economic, and community development objectives.

John Bundy moved to add a second bullet to Ms. Nelson's list above which would read:

- **Allow the CDQ groups to manage the harvest of their respective allocations of target species among themselves in a cooperative manner, pursuant to a contract that is filed with the Council, NMFS, and the State of Alaska. This approach will be modeled on the harvest cooperatives that have developed under the American Fisheries Act.**

The amendment was seconded and carried without objection. Mr. Duffy's final motion, as amended, also carried without objection.

C-9 SSL Mitigation Measures

ACTION REQUIRED

Review EA/RIR and take final action to change Steller sea lion protection measures in the GOA pollock trawl and Pacific cod pot fisheries.

BACKGROUND

During its April 2003 meeting, the Council asked the Steller Sea Lion Mitigation Committee (SSLMC) to review the current Steller sea lion protection measures in the Gulf of Alaska and develop proposed regulatory changes that would provide some economic relief to Gulf communities. The SSLMC met several times in 2003 and developed a package of proposed regulatory changes that was reviewed by the Council at its December 2003 meeting. In January 2004, NMFS completed an informal review of the possible effects of the proposed measures on the endangered western Distinct Population Segment of Steller sea lion (wSSL), and concluded that five of the alternatives would not cause jeopardy to the wSSL nor adversely modify wSSL critical habitat. The SSLMC reviewed the NMFS findings, agreed to forward only those alternatives that would not cause jeopardy or adverse modification, and presented a recommended package to the

Council during its February 2004 meeting. At that meeting, the Council tasked staff with preparing a NEPA analysis of possible environmental effects of these five alternatives and indicated its intent to make an initial review and take final action in June.

The draft EA/RIR was developed primarily by staff from the NMFS Analytical Team, and sent out for public review on May 20, 2004. The Executive Summary of that document is attached as Item C-9(a). The proposed action before the Council at this meeting is to review the analysis contained in that EA/RIR and take final action to approve the proposed changes in SSL protection measures. The proposed measures in this proposed action are:

1. Open the closed area around the Puale Bay wSSL haulout to 3 n mi for pollock trawl fishing during January 20 through May 31. All other fishing restrictions around Puale Bay would remain as is. As a compensatory action, close the area around the Cape Douglas/Shaw Island wSSL haulout to 20 n mi to pollock trawling during January 20 through May 31.
2. Open the closed area around the Kak Island wSSL haulout to 3 n mi for Pacific cod pot fishing. All other fishing restrictions around Kak Island would remain as is.
3. Open an area around the Castle Rock wSSL haulout to the shoreline for Pacific cod pot fishing.
4. Remove the two-week stand-down periods between the A and B seasons and between the C and D seasons in the GOA pollock trawl fishery. Allow continuous fishing from the A season into the B season (and from the C season into the D season) until either the quarterly TAC is reached in the A season (and C season) or the B season (and D season) ends.
5. Change the method for rolling over unharvested pollock TAC in the Western/Central Regulatory Areas in the GOA pollock trawl fishery. Roll over any unharvested TAC within the same region and up to the 20 percent limit of the seasonal apportionment so that any unharvested TAC apportioned to an area may be further rolled over into the remaining open areas in proportion to the projected pollock biomass in those areas (as estimated by the Plan Team at the beginning of each year).

A map showing the GOA areas affected by measures 1, 2, and 3 above is Item C-9(b).

The analysts have concluded that the options listed above would neither individually nor collectively have significant adverse impacts on the quality of the human environment.

Once the Council selects its preferred alternative, the rulemaking process will proceed. The schedule should provide sufficient time so that the selected measures will be effective for the 2005 fishing season.

NMFS and Council staff will present information in the EA/RIR and will be available for questions.

AP REPORT (C-9)

The AP recommends the Council approve for final action Alternative 2 including options 2-1, 2-2, 2-3, 2-4, and 2-5. *Motion passed 15/1.* Additionally, the AP recommends the Council encourage the SSL Committee to continue its work, and specifically they be tasked with working on problems identified with VMS regulations. *Motion passed 16/0.*

SSC REPORT (C-9)

The SSC finds it difficult to advise the Council on these proposals, due to the lack of data and the uncertainty associated with how both the SSLs and fishery will be affected by the proposed changes. The SSC recommends that any changes in SSL protection measures be used as an opportunity to examine how changing fishery effort and distribution may affect SSLs. The study should include surveys of pollock and Pacific cod before and after the fishery to determine if prey depletion occurred. Additionally, effort should be made to determine if the change in fishing effort is accompanied by changes in the number of SSLs present during summer and winter, and if possible if there are detectable changes in SSL diet.

See the SSC Minutes ([Appendix 3](#) to these minutes) for more specific comments on this agenda item.

COUNCIL DISCUSSION/ACTION (C-9)

Bill Wilson reviewed the action required by the Council at this meeting. The NMFS analytical team summarized the analysis for proposed changes to the SSL Protection Measures and provided a hardcopy of their PowerPoint presentation, which was placed in the notebook. Members of the analytical team were Scott Miller, Kristin Mabry, and Steve Lewis.

Roy Hyder moved to approve for final action Alternative 2, including options 2-1 through 2-5, which will change certain Steller sea lion protection measures in the Gulf of Alaska pollock trawl fishery and Pacific cod pot fishery. Dennis Austin seconded the motion.

Stosh Anderson moved to amend the motion to edit the language in Option 2-5 by inserting the words “during the fishing year” after the words “further rolled over into subsequent seasons.” John Bundy seconded the motion which carried without objection.

Following is the Council’s revised preferred alternative:

Alternative 2. Open certain areas to groundfish fishing around three GOA SSL haulouts and close to pollock trawl fishing an area around another GOA SSL haulout; eliminate certain pollock season stand-down periods and change procedures for pollock TAC rollover.

Option 2-1. Open the closed area around the Puale Bay SSL haulout seaward of 3 nm for pollock trawl fishing during January 20 through May 31. All other existing fishing restrictions around Puale Bay remain unchanged. Close the area around the Cape Douglas/Shaw Island SSL haulout to 20 nm to pollock trawling from January 20 through May 31.

Option 2-2. Open the closed area around the Kak Island SSL haulout seaward of 3 nm for Pacific cod pot fishing.

Option 2-3. Open an area around the Castle Rock SSL haulout to the shoreline for Pacific cod pot fishing.

Option 2-4. Remove the two-week stand-down periods between the A and B seasons and between the C and D seasons in the GOA pollock trawl fishery. Allow continuous fishing from the A season into the B season (and from the C season into the D season) until the quarterly TAC is reached or the season ends.

Option 2-5. Change the method for rolling over unharvested pollock TAC in the Western and Central Regulatory Areas in the GOA pollock trawl fishery. Allow management to roll over any unharvested TAC within the same region and up to the 20% limit of the seasonal apportionment so that any unharvested TAC apportioned to an area may be further rolled over into subsequent seasons during the fishing year in proportion to the projected pollock biomass in those areas (as estimated by the Plan Teams and detailed annually in the November Stock Assessment and Fishery Evaluation reports).

NMFS will prepare the notices and regulatory language so that these measures can be effective for the 2005 fishing season.

Mr. Hyder provided the following justification for the motion:

“The Council initiated this process at the April and June 2003 meeting, asking the Steller Sea Lion Mitigation Committee (SSLMC) to review the current Steller sea lion protections measures in the

Gulf of Alaska and develop proposed regulatory changes that would provide some economic relief to Gulf communities. The Committee reviewed 17 proposals, reduced the number of proposals through a lengthy public process that involved two Council, AP, and SSC meetings. As a result of this extensive review, a smaller number of proposed regulatory changes were submitted to NMFS.

NMFS has completed an informal review of the possible effects of the proposed changes in measures on the endangered western SSL and concluded that the five options included in Alternative 2 would not cause jeopardy to Sea lions nor adversely modify SSL critical habitat. The EA concludes that all five proposals have net benefits for the fishing industry.

For these modifications to be available to the GOA fishing fleets, the Council needs to take final action at this meeting so that they can go into effect and benefit the fishing fleets by January 1, 2005. We have heard from the GOA fishing communities that the SSL protection measures were too restrictive and some modifications were needed that would offer some economic relief yet no jeopardize SSL. This action does exactly that.

With regard to comments from the SSC, they recognize that these proposals involved a small number of haulout sites occupied by a relatively small number of SSLs and any effect on the overall western population would likely be impossible to measure. Additionally, the SSC noted that both the change in rollovers for pollock remaining quota and removing the stand-downs between pollock seasons are unlikely to be significant.”

D-1 Scallop FMP

ACTION REQUIRED

Initial review of analysis to modify the license limitation program and update the FMP

BACKGROUND

At the April 2004 meeting, the Council approved a problem statement and draft alternatives to evaluate potentially modifying the gear restriction endorsement on the federal scallop license limitation program (LLP). The Council initiated this analysis in response to public comment received from a fishery participant at the February 2004 Council meeting, indicating that the 6-ft dredge gear endorsement may have disproportionate economic impacts. There are 9 vessel owners with federal LLP licenses, two of which contain an specific gear endorsement limiting them to fish with a single 6-ft dredge in federal waters. An EA/RIR/IRFA evaluating modifying the LLP was mailed to you on May 21st. The executive summary of this analysis is attached as Item D-1(1). Public commentary on this analysis is attached as Item D-1(2).

Three alternatives were considered in this EA/RIR/IRFA. These alternatives are: Alternative 1, Status Quo, maintain the current 6ft dredge restriction endorsement; Alternative 2, modify the dredge restriction to allow those vessels to fish in federal waters outside of Cook Inlet with a maximum of two ten-foot dredges; and Alternative 3, eliminate the 6ft dredge gear restriction. Initial review of this analysis is scheduled for this meeting.

In conjunction with this EA/RIR/IRFA, staff will be updating the FMP to better reflect the biology and current management of scallops. A draft of the revised FMP was distributed at the February meeting. An outline of the revised FMP is attached as Item D-1(3). The revised FMP will be available for review at the October 2004 meeting.

The State of Alaska Commercial Fisheries Entry Commission is currently holding an application period for permanent vessel entry permits in the state waters scallop fishery from May 15th to September 1st. The current vessel moratorium which expires in June issues separate permits for state waters inside and outside of Cook Inlet. Under the new permit system, a single permit will be issued to qualified vessels for fishing in all state waters. The news release of this announcement is attached as Item D-1(4).

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AP REPORT (D-1)

The AP recommends the Council release the EA/RIR/IRFA for Amendment 10 to the Scallop FMP for public review with the following additions:

- Update break-even analysis from the 1998 analysis included in that amendment
- Include a table showing harvests and GHJ for the scallop fishery from the beginning of the fishery to the most current year.
- Include a discussion of sea scallop price trends during the recent fishery period
- Update Tables 1-10 to include the 2003/2004 season
- Include history of license transfers and its effects on consolidation
- Review the definition of small entity, particularly as it relates to coops, for consistency with other analyses.
- Include summary tables that show total number of vessels

Motion passes 18/0.

SSC REPORT (D-1)

Diana Stram (NPFMC staff) provided a discussion on the initial review draft EA/RIR/IRFA for Amendment 10 to the FMP for the scallop fishery off Alaska. Public testimony was provided by Teresa Kandianis (North Pacific Scallop Co-op). The SSC recommends that the document be augmented to address the following issues before it is released for public review:

- Include data and a discussion of historic and recent trends in the inflation-adjusted exvessel and first-wholesale prices of scallops.
- Include data and a discussion of the full history of landings from the Alaska fishery, and a corresponding time series of US and World landings.
- Include a discussion of where catches have been off-loaded, the relative importance of scallop landings to regional economic activities in those ports, and how off-loading patterns might change under the proposed alternatives.
- Revise the document to eliminate confusing references to “statewide waters” and instead use terms such as “State waters”, “Federal waters inside Cook Inlet”, “Federal waters outside Cook Inlet”, etc.
- If possible, include a breakeven analysis of the current fishery and a projection of changes that could be anticipated under the alternatives.

COUNCIL DISCUSSION/ACTION (D-1)

Diana Stram provided a brief overview of the analysis which evaluates modifying the gear restriction endorsement on two licenses under the federal scallop LLP.

In consideration of the recommendations of the SSC and AP, the Council moved to incorporate some additional information into the analysis prior to sending it out for public review. The Council also added an additional alternative (#2) to the analysis that would include a maximum of two 8-ft dredges.

The motion was made by Kevin Duffy, seconded by Ed Rasmuson, and carried without objection.

The suite of alternatives are:

Alternative 1: Status Quo. Maintain the current 6-ft dredge restriction endorsement.

Alternative 2: Modify the current 6-ft dredge restriction to allow vessels with the current endorsement to fish in federal waters outside of Cook Inlet with a maximum of two 8-foot dredges (or two dredges with a combined width of no more than 16 feet).

Alternative 3: Modify the current 6-ft dredge restriction to allow vessels with the current endorsement to fish in federal waters outside of Cook Inlet with a maximum of two 10-foot dredges (or two dredges with a combined width of no more than 20 feet).

Alternative 4: Eliminate the current 6-ft dredge restriction such that there are no gear restrictions on any Scallop LLP for fishing in federal waters outside of Cook Inlet.

Additional items to be included in the analysis prior to public review include:

- An update on the break-even analysis from the 1998 analysis (amendment 4 to the FMP);
- A table of harvests and GHRs for the entire history of the fishery;
- A discussion of sea scallop price trends (including both US and world market trends);
- A history of license transfers and the effect on consolidation in the fishery;
- Summary tables showing the overall number of vessels currently operating in the fishery; and
- An overview of landings and ports to evaluate the impact on communities

This issue is scheduled for final action at the October 2004 meeting.

D-2 Groundfish FMP

ACTION REQUIRED

Receive report from Non-Target Species Committee.

BACKGROUND

The Council has explored new management approaches for non-target species since 1998. The Council reviewed numerous draft analyses to revise management of the other species complex, but reached an impasse when its Scientific and Statistical Committee advised that information on many of these groups was insufficient to estimate allowable biological catches. In response, an ad hoc committee of SSC members and Bering Sea/Aleutian Islands and Gulf of Alaska Groundfish Plan Team members convened a series of meetings to develop a new approach to managing all non-targets species in 2002 and 2003. In June 2003, the Council appointed a committee to address some of the policy questions that its scientific advisors posed. The Non-target Species Committee, in turn, has reported to the Council that it is not able to begin developing its recommendations without the Council's identification of specific policy goals and approaches. The Council has not focused on the policy and legal issues due to the press of other business.

To assist the Council, staff has prepared a discussion paper (Item D-2) that addresses the status of the initiative to revise management of non-target species and the interplay among the Council, its Non-target Species Committee, and ad hoc technical working group. The committee and group will convene together on June 3-4, 2004 to attempt to further refine the decisions needed by the Council before analysis may begin. These decisions are necessary before an analysis can be prepared. These decision points are listed below.

- Adopt terms of reference for the committee
- Adopt one of two choices for a process to amend the BSAI and GOA FMPs:
 - (1) one comprehensive analysis to revise management of all non-target species or
 - (2) separate analyses for: (a) other rockfishes; (b) other flatfishes; and (c) other species
- Adopt a timeline for Council action
- Adopt a problem statement
- Identify FMU(s), component species, and management objectives
- Address the following policy questions/issues identified by the ad hoc working group:

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- Define role of (target and non-target) groundfish species in the ecosystem
- What are the potential losses and gains from the proposed system?
- Outline a process for monitoring and identifying species of conservation concern (e.g., ecological sensitivity) to ensure the protection of these stocks at current or an increased level. Bycatch reduction (National Standard 9) is one way to achieve the goal of protection from negative fishery effects. A prioritization matrix (see USFWS model) could be used to identify high priority species currently managed within a complex. Would using this matrix to identify candidates for separation from target species complexes enhance their conservation beyond status quo management?
- Develop criteria or a process for determining the extent to which it is practicable to decrease the bycatch of non-target species.
- Is it acceptable for non-target (including "non-specified") species to fall into an overfished status as long as they are not threatened or endangered?
- What are the criteria for establishing retention limits or time area closures for non-target species?
- How would non-target species be ensured to be sustainable if these criteria are not or can not be defined (e.g., so they would not become endangered)?
- What non-target indicators trigger an action, and when is it no longer needed? Can it be addressed reasonably (acceptable cost)?
- How to define the non-target complexes? How to assess appropriate MRA level for each species/complex as a minimum measure. MRAs should be constraining enough to ensure fisheries develop under control but not so restrictive that fishery/market exploration can't happen. How to identify whether MRA is sufficient protection?
- Expand in-season authority (prohibited species status, hotspot closures) to protect non-target species?
- How to manage the remaining species?
- Revise the overfishing level tier system to eliminate tier 6 for target species, because a target fishery would not occur if the biomass is unknown under the proposed system.
- Define the threshold between target and non-target (tells you when to move between categories). Is it a target fishery if one harvester is catching it and selling it? A rapid increase in catch or retained catch, or a change in average fish size over time are possible indicators.
- How to transition target species to non-targets (e.g., GOA Atka mackerel)? Would action require a plan amendment or could it be part of the specification process?
- Define the role of the groundfish plan teams. Proposed schedule for consideration:
 - a) The September Groundfish Plan Teams focus on non-target species by reviewing AFSC (and ADF&G) staff reports at their September meetings. Plan teams examine trends, picks from management options depending on category of species and severity of problems. Teams forward their recommendations either for additional targeted data collection or possible management action to the SSC and Council.
 - b) The November Plan Team meetings focus on reviewing stock assessments and recommending OFLs and ABCs for target species (and other duties) at their November meetings.

At this meeting, the Council will receive the Non-Target Species Committee report, and provide additional direction on how to proceed.

AP REPORT (D-2)

The AP recommends the Council draft a letter to the NMFS Alaska region supporting a request from the AFSC to the Region regarding estimation of groundfish catch. The AFSC is requesting estimates of: (1) catch for multiple categories of non-target species, (2) total catch [for target and non-target species] from both CDQ and non-CDQ fisheries combined, and (3) methods for catch estimate calculations. *Motion passed 16/0.*

SSC REPORT (D-2) The Scientific and Statistical Committee did not address this agenda item.

COUNCIL DISCUSSION/ACTION (D-2)

Jane DiCosimo gave a brief report on behalf of the Non-Target Species Committee. The Committee plans to develop a problem statement and alternatives for Council consideration in October.

The Council requested staff prepare a discussion paper addressing rockfish management alternatives in order to guide the Council in future actions. This request is in conjunction with the Council's action on the Groundfish Programmatic Environmental Impact Statement when it added language to consider new management strategies to reduce incidental rockfish bycatch and discards. The paper would address harvest rates, spatial management, and habitat considerations. The Council will receive an update on the preparation of the new paper in October. (Moved, seconded and carried without objection).

D-3 Staff Tasking

ACTION REQUIRED

Review tasking and provide direction.

BACKGROUND

Committees

The list of Council Committees is attached under Item D-3(a).

Overview of Projects

Item D-3(b) is a three-meeting outlook, and Item D-3(c) is a summary of current staff tasking. As we discussed in February and April, a few projects were delayed or put on hold while the NMFS and Council staff focused on analyzing and implementing Congressionally mandated programs (BSAI crab rationalization, and AI pollock allocation), and other major issues (GOA rationalization, IRIU, Observer Program, HAPC). As staff time is becoming available, we will have time to begin work on some of the other projects on the list, such as: administrative changes to the halibut subsistence program, repeal of the vessel incentive program, non-target species, SR/RE retention, and IFQ program changes. Additional projects may be added to the tasking list, based on the Programmatic Groundfish SEIS timeline discussions. The Council may want to provide guidance on prioritizing projects for tasking.

Halibut Subsistence and IFQ Amendments

In late 2003, the Council identified six proposed regulatory amendments to implement changes to the subsistence halibut program and eight regulatory and groundfish plan amendments to implement changes to the commercial halibut and sablefish IFQ program (including one change to the CDQ program) it wished to schedule for final action in 2004. In April 2004, the Council scheduled a discussion under this agenda item to prioritize the 14 proposed actions. Council staff anticipates that both analytical packages could be prepared over the summer and scheduled for initial review in October. To meet the deadline, staff requests the identification or clarification of the problem in the fishery for each of the proposed actions and has some additional clarification requests to meet the timeline. Staff has prepared a summary of each of the subsistence and commercial IFQ actions in two discussion papers. Item D-3(d) reviews the proposed subsistence halibut actions (including adding eligible communities per the Board of Fisheries recommendation) and Item D-3(e) reviews the proposed IFQ/CDQ actions.

AP REPORT (D-3)

The Advisory Panel made several recommendations on this agenda item (see AP Minutes, [Appendix 2](#) to these minutes, for more specific comments).

SSC REPORT (D-3) The Scientific and Statistical Committee did not address this agenda item.

COUNCIL DISCUSSION/ACTION (D-3)

Subsistence Halibut Regulations

The Council reviewed a discussion paper presented by Jane DiCosimo which addressed six proposed changes to subsistence halibut regulations. These include: (1) implementing a possession limit; (2) revising the

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definition of a charter vessel; (3) revising the customary trade limit; (4) allow fishing in non-subsistence areas; (5) add Naukati and Port Tongass village to the list of eligible communities; and (6) revise gear and annual limits in Kodiak road zone and Chiniak Bay, Prince William Sound, Cook Inlet, and Sitka local area management plan.

The Council requested staff move forward with the subsistence halibut package, including the AP's recommendations with the exception of adding the option of 15 hooks in Action 6 in Prince William Sound and Cook Inlet. (This portion of the motion carried with one objection—Hazel Nelson). **The Council also recommended holding Action 7 and 8 for further discussion in December.** The full list adopted by the Council is included as Appendix 7 to these minutes.

Halibut and Sablefish IFQ Program

The Council reviewed a discussion paper prepared by Council staff on eight proposed amendments to the halibut and sablefish individual fishing quota (IFQ) program. **The Council requested staff move forward with the AP's recommendations by grouping the eight actions into three packages:**

- 1. (Action 5) The highest priority was given to amending IFQ and CDQ regulations to allow Area 4C fishermen to harvest Area 4C IFQ and CDQ in Area 4D. [*The Council dropped the AP's option to allow 4D IFQ to be taken in 4E, and the alternative to combine 4C, D, and E areas.*]**
- 2. (Actions 1–4) This package would address amending regulations to: (1) allow the use of medical transfers; (2) tighten criteria to hire skippers; (3) amend check-in/check-out or vessel monitoring system requirements in the Bering Sea and Aleutian Islands sablefish fisheries [*the Council added Atka to Option 1*]; and (4) change the product recovery rate for bled sablefish.**
- 3. (Actions 6–8) This suite of amendments address changes to the halibut block program.**

The full list of proposed amendment packages adopted by the Council is included as Appendix 8 to these minutes.

The Council specified that the halibut subsistence package take priority over the IFQ package. All analyses are scheduled for initial review in October and final action in December 2004.

D-4 OTHER BUSINESS

D-4(a) National Standard 1 Proposed Rule

Prior to the start of the June meeting, this agenda item was delayed until the October 2004 meeting.

D-4(b) Crab Overfishing Definition/Plan Team Report

ACTION REQUIRED

Receive update from the crab workgroup on revising the crab FMP overfishing definitions;
Receive Crab Plan Team report.

BACKGROUND

At their October 2003 meeting, the Crab Plan Team reviewed the current overfishing definitions in the FMP for BSAI king and Tanner crab stocks. The current overfishing definitions were adopted by the Council under Amendment 7 in 1998. At

that time, the plan team recommended that the overfishing definitions be reviewed five years after the adoption of Amendment 7. A working group, comprised of analysts from state and federal agencies, has been working on evaluating the necessity of revising these overfishing definitions in the Crab FMP and the scope of work involved in doing so. A work plan prepared by the working group, detailing the scope of their task and those elements of the current definitions in the FMP that merit revision, was presented to the SSC at their February 2004 meeting. At that time, the SSC requested that the workgroup next present a draft tier system for BSAI king and Tanner crab stocks. This draft tier system is attached as Item D-4(b)(1). Dr. Jack Turnock (NMFS) will provide an overview of the working group's draft tier system and an update on the working group's progress to date.

The Crab Plan Team met in Anchorage May 18-19th, 2004. The purpose of this additional meeting was to review fishery and stock information prior to the fall plan team meeting as per Council direction in October 2003. The minutes from the Crab Plan Team meeting are attached as Item D-4(b)(2). Mr. Doug Pengilly (ADFG), the chairman of the Crab Plan Team, will provide an overview of the items discussed at the meeting, and review the utility of having an additional spring Crab Plan Team meeting on an annual basis.

AP REPORT (D-4b) The Advisory Panel did not address this agenda item.

SSC REPORT (D-4b)

The SSC received a report on the Crab Plan Team (CPT) meeting of May 18-19 by Diana Stram and Doug Pengilly (ADF&G, CPT Chair). Jack Turnock (NMFS) gave a presentation on progress by a NMFS-ADF&G working group toward development of revised overfishing definitions for BS/AI crab. Gary Painter (Bering Sea Fisheries Research Foundation) provided public testimony.

Principal topics discussed at the CPT meeting included implications of the data quality act on the Crab Plan Team, survey catchability studies for snow crab, industry-funded augmentation to the NMFS annual trawl survey, updates on crab rationalization, and a report on overfishing working group progress. The CPT seeks guidance from the Council as to whether the CPT should continue their spring meeting in the future in addition to their usual fall meeting. CPT members felt that the spring meeting was a useful venue to discuss important crab issues, because there is often insufficient time to do so at their fall meeting that tends to focus on stock assessments and fishery management. The SSC continues to support the CPT meeting in spring, as long as there are sufficient issues to justify this meeting.

Original consideration of crab overfishing definitions occurred in April and June 1998. The SSC had several concerns about the overfishing definitions at that time. First, numerical values were used, instead of frameworking a general procedure. Second, there was not always more conservatism with less information. Third, there were differences between definitions between the groundfish and the crab FMPs that did not seem to be necessary. Because the CPT was planning to review the crab definitions every five years, the SSC accepted the proposed definitions.

At the February 2004 Council meeting, the SSC heard a report on the progress of the NMFS-ADF&G working group. At that time, the SSC requested that the working group focus on a careful evaluation of crab overfishing definitions, including a more formalized procedure for setting overfishing levels, such as the tier system used for groundfish. At the present meeting, an outline of such a tier system for crab was presented. The plan for further analysis, including simulation modeling, appears reasonable to the SSC and resolves many of the issues raised in 1998.

The SSC offers the following comments to the crab working group:

- Under tier 2, the scalar $F_{\text{target}}/F_{\text{pmsy}}$ is used to buffer the difference between ABC and OFL. The SSC was confused by the use of the proxy F_{pmsy} when an estimate of this value F_{msy} is available. Part of the SSC's concern may be semantic. Perhaps it would be better to define the scalar in terms of a limit

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reference point (F_{lim}), as in the National Standard Guidelines, and then to assign F_{pmsy} as the available reference point for F_{lim} .

- Consider whether there is evidence for density dependence in biological parameters, such as growth and maturity. If so, consider including these in the analysis.
- The SSC supports the three alternatives presented (status quo, numerical values for overfishing definitions fixed in the FMP, and overfishing definitions frameworked in the FMP). These alternatives will foster an analysis of the timing and review process for stock assessment relative to overfishing on an annual basis. The SSC notes that the timing of decision-making and the overall process differ between crab and groundfish, so that there may be reasons for having fixed numerical values instead of a framework in the crab FMP.
- One weakness of constant harvest control rules for rapidly fluctuating stocks is that they may not efficiently adapt to changing conditions. The SSC would like to see an evaluation of a harvest control rule that recognizes fluctuations between different periods of productivity and the possibility of implementing a switching rule between overfishing reference points. This evaluation could consider the prospects of both higher reference points during periods of greater productivity, as well as the need to constrain harvest to avoid potential stock depletion during the next phase of low productivity.
- The working group should explicitly consider whether parameter β , the biomass below which fishing is curtailed, is also defined to be the MSST. If it is also the MSST, then the National Standard Guidelines require that a rebuilding plan be established within one year. However, a crab stock could be classified as overfished and in need of rebuilding one year, but be totally rebuilt one or two years later, independent of any management measures. This volatility in crab populations could thus create a chaotic management environment requiring continual attention to revising rebuilding plans. The SSC has learned that MSST may be of lesser importance in new National Standard Guidelines, so defining an explicit MSST may not be necessary.
- The SSC recognizes a pressing time frame for completion of this overfishing analysis, and encourages the working group to work efficiently and to provide routine updates on progress to the CPT and SSC.

COUNCIL DISCUSSION/ACTION (D-4b)

The Council concurred with the SSC to continue with the spring Crab Plan Team meeting in addition to meeting in the fall, as long as there are sufficient issues to justify these meetings.

D-4(c) Salmon EFP

ACTION REQUIRED

Review results of salmon excluder EFP.

BACKGROUND

In June 2003, the Council reviewed a request from United Catcher Boats, seeking an Exempted Fishing Permit to test a salmon excluder device on pelagic trawls used in the BSAI pollock fishery. The permit would allow the cost recovery sale of pollock captured in the process of testing the effectiveness of the salmon excluder for chum salmon (fall 2003) and chinook salmon (winter 2004). The Council recommended that NMFS approve the permit request, noting that it may lead to improved salmon bycatch mitigation in the future. In April 2004 the Council received a preliminary report. The results of the study are attached as Item D-4(c)(1).

AP REPORT (D-4c) The Advisory Panel did not address this agenda item.

SSC REPORT (D-4c)

John Gauvin (Pollock Industry Contractor) and Craig Rose (NMFS AFSC) provided the SSC with an overview of their work to develop a salmon excluder device for the pollock trawl fishery and evaluate its effectiveness. Field trials with two versions of the device, conducted during fall 2003 and winter 2004, were somewhat successful at releasing chum and chinook salmon (about 12% escapement) without simultaneously releasing large quantities of pollock (about 2-4% escapement). The SSC commends the investigators for their hard work at developing a new technology for reducing salmon bycatch.

COUNCIL DISCUSSION/ACTION (D-4c)

John Gauvin (pollock industry contractor and principal investigator for the salmon excluder device) and Dr. Craig Rose (NMFS AFSC) gave an overview of their work to develop a salmon excluder device for the pollock trawl fishery and evaluate its effectiveness. Their presentation included a video of the salmon excluder device at work. No action was taken by the Council.

D-4(d) Steller Sea Lion/Pacific Cod Interaction Study

ACTION REQUIRED

Receive a report from the Alaska Fisheries Science Center on the status of the Pacific cod fishery depletion study.

BACKGROUND

The Fisheries Interaction Team (FIT) of the Alaska Fisheries Science Center is conducting a study of Pacific cod localized depletion in the Bering Sea near Unimak Pass. This study is part of an overall effort to address concerns over localized depletion of Steller sea lion prey as a result of spatially and/or temporally intensive commercial fishing. NMFS' FIT has developed an experimental approach that uses pot catch of cod as a measure of local abundance, both in an intensively fished area and in an adjacent "control" (unfished) area. The goal is to compare the rate of seasonal change in abundance between sites in the treatment (fished) and control sites and test for presence or absence of a fishing effect. The study was initiated in 2003.

The FIT successfully completed the winter 2004 field season, and will present to the Council a progress report on the study design, methods, and preliminary results.

Attached (Item D-4(d)(1)) is a brief overview of the study approach and a map of the study area. Members of the FIT will present this status report and will be available to answer questions.

AP REPORT (D-4d) The Advisory Panel did not address this agenda item.

SSC REPORT (D-4d)

The SSC received a report on a study conducted by the NMFS Fishery Interactions Team in the Bering Sea near Unimak Pass designed to evaluate whether the trawl fishery in this area resulted in localized depletion of Pacific cod. The logical extension of this research would be that findings of localized depletion by the fishery could have adverse effects on SSLs if the population was nutritionally limited during this time of year. Pacific cod are an important prey of SSLs during winter in many areas.

The study used pot gear in an experimental area where a Pacific cod trawl fishery occurred and in a control area (SSL protection area) where trawling was prohibited. The study plan included a pre-fishery pot index survey in both the experimental and control areas and a second survey in both areas that occurred immediately

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after the fishery. Comparisons were then made of the rates of change (slope) of the index between the experimental and the control areas during the sampling periods. The localized depletion hypothesis would be supported by findings that rate of change (slope) between the two time periods in the experimental and control were significantly different (either greater rate of decline or lower rate of increase in the experimental area). High variability in catch rates by the pot gear limited the study's ability to detect small changes in catch rates but power analyses suggested that the study could detect catch rate differences of about 20% or greater.

This study was conducted during both 2003 and 2004. Weather and equipment limited the effectiveness of the surveys in 2003. Index values were lower in both the control and experimental area during the late fishery surveys. The study was repeated in 2004 and the field operation was much smoother. In 2004 index values were higher in both the control and experimental areas during the late fishery surveys. Rates of change were similar (although in opposite directions) between control and experimental areas during both years. These results did not detect localized depletion due to the trawl fishery.

Ancillary data including tag returns, size compositions of catches, and reproductive status of catches suggested substantial movement of Pacific cod occurred throughout the study period. This finding complicated interpretation of the study results in relation to localized depletion. It may be that there is substantial turnover of Pacific cod in the study region during the fishing season which would largely mask short-term localized depletion. It may also be that the cod population is large enough that localized depletion could not be detected on the time scale of the experimental design.

The SSC was favorably impressed with the design and execution of the study. There was substantial support for continuation of the work. There was also support for relocating the research to another location where Pacific cod movements would likely be less dynamic thus allowing more definitive interpretation of the results.

COUNCIL DISCUSSION/ACTION (D-4d)

Dr. Peter Munro, Alaska Fisheries Science Center, provided a report on a study conducted by the NMFS REFM Fishery Interactions Team in the Bering Sea near Unimak Pass designed to evaluate whether the trawl fishery in this area resulted in localized depletion of Pacific cod.

Stosh Anderson felt the Council should address the SSC's recommendation on relocating the research to another area. John Bundy stated that the Fisheries Interaction Team has two more years left on this experiment and, from Dr. Munro's report, he understands the team has several things they wish to continue to test and, in the course of doing so, they may find it appropriate to recommend experiments in other places. Dr. Munro agreed with Mr. Bundy's statement. Given those points made, Mr. Anderson did not feel it necessary to take any action and stated that the public should be on notice of what the process would be and that the Council is taking the SSC's recommendations seriously.

D-4(e) Seabird EFP

ACTION REQUIRED

Received a request from the Washington Sea Grant Program for an Exempted Fishing Permit (EFP) to test weighted groundlines as a seabird avoidance measure, and provide comments to NMFS as appropriate.

BACKGROUND

NMFS has received an application from the Washington Sea Grant Program for an EFP to test the effectiveness of integrated weight groundlines as a seabird avoidance measure. NMFS in turn has notified the Council of this application,

and seeks Council comments (see Item D-4(e)(1)). The notice of receipt of this application for an EFP has recently been published in the Federal Register (Item D-4(e)(2)).

The proposed research would use freezer-longline vessels fishing for Pacific cod in the BSAI. The experimental approach is to test several different weights of groundlines and to compare their performance (fish catch rates, seabird behavior, sinking rate, etc.) against unweighted conventional longline gear, with and without paired streamers. Streamers are required while fishing with longline gear on vessels larger than 55 feet LOA, and thus an EFP is required to waive this requirement during the proposed tests. NMFS-certified observers or NMFS observer personnel will be on board all vessels testing this gear.

Representatives from Washington Sea Grant Program will present additional information and will be available to answer questions.

AP REPORT (D-4e)

The AP recommends the Council approve the request from the Washington Sea Grant program for an Exempted Fishing Permit to test weighted groundlines as seabird avoidance measures and provide comments to NMFS as appropriate. *Motion passed 17/0.*

SSC REPORT (D-4e)

Kim Dietrich (Washington Sea Grant) and Thorn Smith (North Pacific Longline Association) provided the SSC with an overview of the request from the Washington Sea Grant Program for an exempted fishing permit (EFP) to evaluate the effectiveness of using weighted groundlines to reduce seabird bycatch in the longline fishery. There was no public testimony. The EFP is needed to waive the requirement for streamers while setting longline gear. The new experiment, which builds on previous work that evaluated the use of streamers and weighted groundlines, will compare the performance of three gear configurations: (1) gear with an un-weighted groundline without paired streamer lines, as the control; (2) gear with an un-weighted groundline and paired streamer lines; and (3) gear with an integrated-weight groundline without paired streamer lines. The SSC commends this collaborative work between Washington Sea Grant and the industry to develop technologies to reduce seabird bycatch. The SSC recommends that the Council grant the EFP. The experiment seems well designed and should provide sufficient information to gauge whether the integrated-weight groundline or the paired streamer lines provide greater reductions in seabird bycatch. If time and resources permit, the investigators should consider testing a treatment that has both the integrated-weight groundline and the paired streamer lines to explore possible added benefits from combining the two seabird avoidance measures.

COUNCIL DISCUSSION/ACTION (D-4e)

The Council received an overview from Kim Dietrich (Washington Sea Grant) and Thorn Smith (North Pacific Longline Association) of the request from the Washington Sea Grant Program for an exempted fishing permit to evaluate the effectiveness of using weighted groundlines to reduce seabird bycatch in the longline fishery. Mr. Smith thanked Dave Hanson and the Pacific States Marine Fisheries Commission for their help in the project. Dennis Austin commended the group for their initiative to research problems and identify aggressive ways to alleviate them.

Arne Fuglvog moved to recommend to NMFS that they approve the Exempted Fishing Permit to test the integrated weighted groundlines for seabird avoidance measures. The Council also suggested that the SSC's recommendation be considered. The motion was seconded and carried without objection.

In light of Dennis Austin's commendation of the seabird avoidance research group, Chair Stephanie Madsen also wished to extend appreciation to the other groups involved in studies on the salmon excluder device and

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Steller sea lion/Pacific cod interactions (specifically, Drs. Peter Munro and Craig Rose, and John Gauvin). The Council applauds their efforts and encourages the industry's active participation in such research.

E. CHAIR'S REMARKS AND ADJOURNMENT

The Council discussed the feasibility of changing the location of the June 2005 meeting from Dutch Harbor to Southcentral Alaska. They will make a decision at their next meeting in October.

Chair Stephanie Madsen adjourned the meeting at 10:40 am on Monday, June 14, 2004.