

**North Pacific Fishery Management Council  
Steller Sea Lion Mitigation Committee  
June 24-26, 2003 Meeting**

**Minutes**

The Steller Sea Lion Mitigation Committee (SSLMC) convened at the NMFS Alaska Fisheries Science Center in Seattle June 24-26, 2003. Chairman Larry Cotter reviewed the agenda and the schedule for the three-day meeting, and confirmed the committee membership. Council Chairman Dave Benton has invited four additional members of the public to join this committee: Dustan Dickerson, Chuck McCallum, Whit Sheard, and Dorothy Childers. Chuck McCallum has accepted, Whit Sheard is considering the appointment, Dorothy Childers has declined, and we await word from Dustan Dickerson.

Members attending this meeting were: Chairman Larry Cotter and members Dave Benson, Jerry Bongen, Julie Bonney, Shane Capron, Tony DeGange, Doug DeMaster, Wayne Donaldson, Steve Drage, John Gauvin, Sue Hills, Terry Leitzell, Chuck McCallum, Matt Moir, Jack Tagart, and John Winther. Bill Wilson attended as NPFMC staff.

Chairman Cotter noted the lack of environmental organization representation on this committee. Whit Sheard may join, but Cotter suggested additional members from this community would be welcomed. Chairman Cotter asked that names of potential committee members should be submitted to Cotter and/or to Council Chairman Benton.

The Council's charge to this committee was reviewed. The SSLMC has been tasked with reviewing the report from the National Research Council's Committee on the decline of Steller sea lions in Alaska and determine if some of the recommendations in this report can be implemented in the Gulf of Alaska. The SSLMC also has been asked to consider changes regarding western Steller sea lion protection measures in the Gulf of Alaska to provide some economic relief for Gulf communities. The SSLMC has been instructed to focus its efforts in the Gulf of Alaska. Unless otherwise stated, the western population of Steller sea lions is the subject of this committee's work.

Discussion ensued about whether relaxing SSL protection measures in the Gulf also requires increasing such measures in other parts of the Gulf to compensate. Also, could the SSLMC look to the Bering Sea as a location for compensatory increasing of SSL protection measures if locations cannot be found in the Gulf? Council Chairman Benton has instructed this committee to restrict its deliberations to the Gulf.

The committee's agenda included a review of SSL telemetry, food habits and prey fields, and a review of the recently-completed 2001 BiOp Supplement, which was prepared by NMFS in response to Judge Zilly's remand order. Also on the agenda were presentations on legal issues and ESA standards, the NRC committee report, and NMFS SSL research priorities for future years.

Legal Issues

NOAA General Counsel attorney Jon Pollard presented information on legal issues associated with modifying SSL protection measures or changing fishing regimes in the Alaskan EEZ. The SSLMC was provided a copy of Lauren Smoker's February 7, 2001 memo on legal issues concerning standards under and interactions between the Endangered Species Act and the Magnuson-Stevens Act. Under the ESA, changes in fishing regimes that might jeopardize SSLs or adversely modify SSL critical habitat would trigger

consultation and require mitigation measures to remove jeopardy or adverse modification (JAM) (see Smoker memo, p. 2 - four items that would trigger re-consultation). Pollard noted that we now have an FMP-level BiOp that is the working policy document on how groundfish fisheries affect the western stock of SSLs and their critical habitat.

Discussion continued on what the SSLMC can recommend that would avoid re-consultation. Pollard and Shane Capron suggested limiting proposals to small changes balanced by similar balancing changes in other areas (e.g. relaxing a fishing closure at one haulout while also increasing the zone of protection around another haulout). It would be more difficult to relax protection measures near sites with small or declining SSL numbers. While avoiding consultation may seem like an important goal, Capron advised that consultation isn't a process to be avoided at all costs; the current regulatory regime isn't a wall the committee can't look beyond; Capron encouraged the committee to consider reasonable alternatives, and let the subsequent analysis proceed, including consultation if necessary. Terry Leitzell agreed – let's find some good answers to the issue we're looking at regardless what further ESA issues may arise. Capron also reminded the committee that other issues the Council is considering may require consultation (e.g. EFH, GOA Rationalization, the Programmatic EIS).

New information on SSLs has become available in the years since the 2001 BiOp was completed; this new information may support changing SSL protection measures and should be considered by the SSLMC. This new information includes recent SSL telemetry data, prey field information, killer whale abundance and population characteristics, and fishery effects information. Some of this information may help the committee decide what factors most affect SSLs and the degree to which fishing currently affects SSLs and their prey. Pollard suggested using reasonableness in the committee's deliberations.

Chairman Cotter asked about the legal aspects of the NRC Committee's recommendation for an experiment that would involve opening to fishing large areas around two or more rookeries. Pollard cautioned that we cannot "experiment SSLs into jeopardy", but that having an increased effect on SSLs does not necessarily mean JAM. Capron noted that the BiOp does permit take of SSLs, but not intentional take. Also, JAM is considered at the population level; thus changes at the rookery or haulout level would not necessarily result in a JAM determination for the SSL population as a whole.

Regarding NEPA, Pollard recommended the SSLMC consider a broad range of alternatives to any proposed actions, and to consider "reasonable" alternatives. What kind of action would require an EIS? Significance of impact is one determination in whether an EA or an EIS might be required. NEPA requires that the effects of an action on the environment as a whole also be considered. Pollard will look into how the committee's work will fit into the programmatic EIS; i.e. ensure that an action that modifies the current SSL protection measures fits entirely beneath the psEIS umbrella.

### Analytical Tools

The committee needs some tools with which they might judge the effects of alternative proposals for relaxing SSL protection measures. Doug DeMaster recounted that the BUMP analysis used by the previous RPA Committee would not be used in this committee's work; the SSC felt the assumptions in the BUMP model were not sufficiently robust for evaluating SSL protection measure alternatives. Some of the tools available for evaluating alternatives include:

- New dive-filtered telemetry data that show the relative importance of zones around SSL rookeries/haulouts
- Information on fishery performance under the current protection measures

- Updated SSL diet information
- A modified BUMP analysis could be developed that weights proposed area-specific changes in fishery removal levels by the number of sea lions in a given area

### NRC Committee Report

Gordon Kruse presented an overview of the National Research Council committee's work and the recommendations in their report. Kruse emphasized the committee's belief that top-down factors are more important risk factors regarding recovery of the western stock of the SSL than are bottom-up risk factors. However, the NRC committee could not rule out the importance of other hypotheses, including competitive interactions with fisheries. Therefore, they suggested an adaptive management experiment to determine if fishing could be a factor. Kruse answered a variety of questions from the SSLMC about how it might be applied; he noted that the NRC committee did not attempt to design the experiment, just present some considerations that might be included in the experiment. Kruse mentioned that the NMFS research in Barnabas and Chiniak off Kodiak is needed work and is similar to the experimental approach recommended by the NRC committee. He encouraged the committee to consider ways to continue this work (NMFS budget cuts have postponed work on this project in 2003). Kruse also recommended that the committee look at several experimental design papers published in scientific journals (references will be provided at a later date).

Kruse's presentation stimulated discussion of related issues on Steller sea lions including need for information on SSL reproduction rates, seasonal migrations, and interannual movement patterns. Is disturbance by sightseeing vessels a concern? How might new SSL genetic stock identification results be integrated into the recovery process and management of commercial fisheries near SSL critical habitat? Is there a differential predation rate by killer whales on SSLs from the east and west population units and how does this relate to SSL population trends in these areas?

Kruse answered questions and facilitated additional Committee discussion of how an adaptive experiment might be conducted in the Gulf. Issues discussed include size of experimental units, proximity of these units to coastal ports (and the need to involve industry in the experimental design), how to account for external activities that might affect SSLs or their prey within the experimental units, and what level of response in the SSL population would be a convincing signal that the experiment is having the desired effect.

### SSL Recovery Team

The committee briefly discussed the activities of the Steller Sea Lion Recovery Team. The Recovery Team plans to have a draft recovery plan assembled by next spring; some sections have already been drafted and may be of interest to the SSLMC. The SSLMC plans to coordinate with the Recovery Team. The SSLMC is particularly interested in the criteria the Recovery Team will use to judge SSL "recovery". An exchange of meeting minutes was suggested.

Question: If the Court finally determines that we're not now in JAM, but the SSL Recovery Team suggests more fishing restrictions are required, what are the legal aspects of the Recovery Team's suggestions? Does that mean we're back in a JAM situation? Jon Pollard will be contacted for more information on delisting criteria and the process for SSL recovery. The SSLMC plans to further discuss these issues with NOAA GC.

### Experimental Design

Doug DeMaster discussed experimental design considerations in conducting a sea lion/fishery interaction study (the committee received a discussion paper developed by NMFS). The NRC committee report suggested an experiment involving open and closed areas around rookeries; NMFS suggests that these eight issues should be addressed prior to implementing a specific adaptive management experiment:

- What response variables would be measured?
- What level of change in response variables will be detectable between treatment and control areas?
- How will treatment be measured?
- How will other factors be accounted for, such as climate change, predation or subsistence hunting?
- What will be the experimental unit?
- How many replicates of the treatment and control units should there be?
- What will be the size of the experimental units?
- How long should the experiment last?

DeMaster suggested the committee consider suggesting an RFP be issued to determine if someone can develop an experimental design that would accomplish the recommendations in the NRC committee report and address the eight issues listed above.

### Gulf of Alaska Rationalization

At several times during the meeting, the SSLMC discussed the Council's plans for Gulf Rationalization; would a "rationalized" fishery change fishing patterns, fishing intensity, and other factors in very different ways than occur now? And if so, how would any proposals this committee develops mesh with the rationalization process?

### Western Stock of SSL Trend Counts

Brian Fadely provided the committee with updated survey data on pup and non-pup counts at rookeries and haulouts. Non-pup (juveniles and adults) counts at trend sites (locations where SSLs are counted during each survey) vary greatly depending on what survey years are averaged: 2000-2002, increasing at a rate of 5.5% per year; 1998-2002, decreasing at a rate of 5.4% per year; 1991-2002, decreasing at a rate of 34.2% per year. Pup counts for 1990-2002 are decreasing at a rate of 5% per year. The SSLMC was provided with a NMFS report summarizing SSL counts at all trend sites through 2002.

### Recap of Committee's Charge

At about the mid-point in the meeting, the committee re-reviewed the Council's charge. Some believed that the committee ought to table further discussion of the sea lion/fishery interaction experiment recommended by the NRC committee; much of what the committee heard suggests that such an experiment would be difficult to design, costly to implement, negatively influenced by such uncontrollable factors as climate change and ocean variability, and contrary to the mandates of the ESA. Another large concern is funding; how could continuous funding, over a multi-year period of time, be ensured? Some suggested that the Council might seek experimental design ideas from scientists who could suggest ways of avoiding these problems.

As a whole, the committee felt it important that NMFS continue the smaller scale “experiment” started in the Chiniak and Barnabas gullies off Kodiak, as well as the other two fishery interactions studies (i.e. on Pacific cod and Atka mackerel). This type of work could generate useful information on fishing effects on SSL prey fields – i.e. information on fishery-related local depletion, how quickly fish “replenish” after fishing, etc. The down side of such work includes the high variability in data collected, the difficulty in tying results directly to SSLs, and the influence of factors that cannot be controlled such as weather, predators, etc.

### 2001 BiOp Supplement

Shane Capron walked the committee through the recently completed supplement to the 2001 BiOp. Copies were provided to the SSLMC. The supplement was prepared by NMFS in response to the remand order from Judge Zilly. Capron presented new SSL telemetry data, including accuracy of SSL locations and how the data were dive filtered. Capron also presented how the P. cod, pollock, and Atka mackerel fisheries performed in 2002 under the 2001 protection measures described in the 2001 BiOp. While some fisheries occurred as anticipated, Capron noted that larger than expected harvests of pollock occurred within 10 n mi of St. George Island in the Pribilofs.

The “red light/green light table” in the Supplement showed NMFS’ view of what worked and what didn’t work; i.e. what SSL protection measures accomplished their intended objectives (spreading out the harvest in time and space, moving effort and catch out of critical habitat, etc.). The SSLMC discussed some concerns over NMFS’ rankings in the table; Capron noted that the table presents NMFS subjective view of these issues based on the weight of evidence.

### Economic Data

Joe Terry presented data on fishery performance over the period 1992-2002 to give the SSLMC a sense of how the P. cod, pollock, and Atka mackerel fisheries changed under the SSL protection measures. Data included:

- BSAI and GOA P. cod, pollock, and Atka mackerel catch vs TAC
- BSAI and GOA P. cod, pollock, and Atka mackerel catch by year, gear, season, and vessel type
- Catcher vessel catch by year, gear, delivery type, and vessel class
- Shoreside processor payments for, and revenue from, BSAI and GOA pollock and P. cod fisheries by year and processor sector

Terry pointed out several issues that confound interpretation and comparisons of the data including implementation of the American Fisheries Act.

### Current and Future SSL Research

Doug DeMaster provided the SSLMC an overview of current research by NMFS, the North Pacific Universities Marine Mammal Research Consortium, the University of Alaska, the Alaska Sea Life Center, and the Alaska Dept. of Fish & Game. Many of these studies were described in the abstracts of the January 2003 Marine Science symposium, including particularly those presentations that emphasized SSL decline issues such as predation, human-caused mortality, contaminants, diseases and parasites, and nutritional stress. DeMaster also reviewed the NMFS proposed budget for SSL work in FY 04 to FY 07. NMFS’ budget for SSL studies in FY 03 was cut significantly (77%), sidelining many studies.

The committee asked whether NMFS could obtain funds for SSL research through a cost recovery program (sale of fish from scientific research). Melanie Brown provided the committee copies of a July 1998 memorandum from Rollie Schmitt on “Procedures for implementation of the rule defining scientific research, exempted fishing, and exempted educational activities” in which cost recovery through sale of fish is permitted.

### Proposals for Relaxing SSL Protection Measures in the GOA

Several Gulf communities are concerned over the economic effects of the SSL protection measures. The SSLMC was presented with several proposals to reduce the current level of SSL protection; there were no proposals to offset the reductions in the current level of SSL protection. In the Kodiak area, these include changing the P. cod TAC split back to 80/20, allowing fishing near Chiniak (to 3 n mi) and Puale Bay (to 3 n mi), allowing fishing to 10 n mi at Marmot Island, and eliminating the two-week stand downs between the pollock A and B and the C and D seasons. In the Chignik area, proposals include allowing pot and jig fishing near Kak Island (to 3 n mi) and near Sutwik Island and Lighthouse Rocks (to 3 n mi or to 10 n mi). The committee believes it will likely be necessary to submit recommendations for fishing restrictions as well as relaxed fishing measures; changing SSL protection measures will likely be a zero sum process. The SSLMC asked that fleshed-out proposals from the public include a problem statement and specific regulatory changes. These proposals will be discussed at the committee’s next meeting. The Chair advised members that were preparing “relief proposals” to also consider offsetting measures, if possible.

Chairman Cotter said that all proposals must be submitted in writing. Proposal forms are available from the Council (see attachment) and are on the Council’s web site.

In addition to the industry proposals, the SSLMC heard presentations from NMFS on recommended regulatory changes in the P. cod and pollock fisheries in the Gulf. To comply with the SSL protection measures, NMFS requires the P. cod harvest in the A season to be 60% of the TAC, but as regulations are currently written the harvest ended up being closer to 75% or greater in the A season in 2002. Part of this is due to the application of incidental catch to the B season TAC such that too much is taken before June 10 and little TAC is left for the B season directed fishery; part is due to not closing the A season soon enough. Also, NMFS recommends a regulatory change in the measure for pollock TAC rollovers in the Central and Western GOA to allow industry to harvest the full quota in each season and to ensure harvests are in proportion to seasonal biomass estimates. There were questions raised about the seasonal and area pollock biomass estimates used by NMFS to apportion the TAC and that maybe we shouldn’t be using these estimates to control fishing activities. The SSLMC made no specific recommendations on either of these proposals.

### Next Meeting – Receive Proposals

The SSLMC will convene again July 28 and 29 at the Alaska Fisheries Science Center in Seattle. These are the two days immediately before the SSL Recovery Team meeting, also at the Center. SSLMC Chairman Cotter has asked communities and fishermen to bring to the July 28-29 meeting proposals for SSL protection measure changes in the Gulf of Alaska, or mail/fax/e-mail proposals (must arrive no later than July 25) to Bill Wilson at the Council offices. Contact information: ([bill.wilson@noaa.gov](mailto:bill.wilson@noaa.gov)) (NPFMC, 605 West 4<sup>th</sup> Ave, Suite 306, Anchorage, AK 99501. PHONE: 907-271-2809; FAX: 907-271-2817).

## CALL FOR PROPOSALS

The North Pacific Fishery Management Council and its Steller Sea Lion Mitigation Committee invites proposals to amend the Steller sea lion protection measures in the Gulf of Alaska groundfish fishery management plan to address pertinent fishery management problems and concerns. The Council has an amendment process and has formulated criteria for determination of completeness of proposals. To be eligible for Council consideration, proposals must satisfy the criteria outlined below.

**PLEASE BE CERTAIN TO COMPLETE ALL PORTIONS OF THIS FORM. SUBMIT THE FORM AND SUPPORTING MATERIALS TO THE COUNCIL OFFICES BY JULY 25 2003. LATE PROPOSALS MAY NOT BE REVIEWED. ADDITIONAL SHEETS SHOULD BE ADDED TO THIS FORM AS NECESSARY.**

Instructions: Although some requirements may be self-evident, the following summarizes Council expectations for each.

Brief Statement of Proposal - Provide a single, brief paragraph concisely describing the action to be taken. Details should be specified on additional sheets.

Objectives of Proposal - Begin with a concise statement of the problem to be solved by the proposal. Attach sheets as necessary to fully describe the problem and the implementation to American fisheries if the problem is not resolved.

Justification for Council Action - Briefly explain why action by the Council is necessary to address and solve the problem. Is there any other way the problem can be resolved?

Foreseeable Impacts of Proposal - Briefly outline the effects you think the proposed amendment will have, not only in solving the problem but also to other sectors of the fishery.

Possible Alternative Solutions - Even if Council action is required, there is probably more than one solution to the problem you have identified. Briefly list possible alternatives to the proposed action that the Council could consider.

Supportive Data and Other Information - Please provide any relevant data or other information available to you.

Off-setting Proposals – Please provide alternative actions that might be taken to increase SSL protection measures in other areas to off-set the proposed action.

The North Pacific Fishery Management Council welcomes recommendations that will improve the management procedures used to regulate fisheries in the EEZ. Submission of a completed amendment proposal will enhance our ability to respond in a rapid and equitable fashion. Groundfish proposals may be reviewed by the Plan Teams at their September meeting. The Steller Sea Lion Mitigation Committee intends to review these proposals at their July 28-29 meeting.

For further information contact Bill Wilson at (907) 271-2809.

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**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Name of Proposer:**

**Date:**

**Address:**

**Telephone:**

**Fishery Management Plan:**

**Brief Statement of Proposal:**

**Objectives of Proposal: (What is the problem?)**

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)**

**Foreseeable Impacts of Proposal: (Who wins, who loses?)**

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

**Supportive Data & Other Information: What data are available and where can they be found?**

**Offsetting Measures. What protection measures might be increased in the region to offset the proposed action?**

**Signature**

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