

# North Pacific Fishery Management Council

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## MINUTES

201th Plenary Session  
North Pacific Fishery Management Council  
December 8-14, 2010  
Anchorage Hilton Hotel, Anchorage, Alaska

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MINUTES

201th Plenary Session  
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APPROVED: \_\_\_\_\_

DATE: December 14, 2010

MINUTES

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The North Pacific Fishery Management Council met December 8-14 at the Anchorage Hilton Hotel, Anchorage, Alaska. The Scientific and Statistical Committee met December 6-8, and the Advisory Panel met December 6-10 at the same location. The following Council, SSC and AP members, and NPFMC staff attended the meetings.

Council Members

Eric Olson, Chair  
Dave Benson, Vice Chair  
Denny Lassuy  
Sam Cotten  
Duncan Fields  
Dave Hanson  
John Henderschedt

Roy Hyder  
Dan Hull  
Cora Campbell/Stefanie Moreland  
Jim Balsiger  
Bill Tweit  
ADM CC Colvin/Capt. Mike Cerne

NPFMC Staff

Gail Bendixen  
Jane DiCosimo  
Diana Evans  
Mark Fina  
Jeannie Heltzel  
Nicole Kimball  
Peggy Kircher

Jon McCracken  
Sarah Melton  
Chris Oliver  
Maria Shawback  
Diana Stram  
Dave Witherell

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Scientific and Statistical Committee

Pat Livingston, Chair  
Farron Wallace, Vice Chair  
Robert Clark  
Keith Criddle  
Susan Hilber

Sue Hills  
Anne Hollowed  
George Hunt  
Gordon Kruse  
Kathy Kuletz

Lew Queirola  
Terry Quinn  
Doug Woodby

\* Absent: Seth Macinko, Ray Webster

Advisory Panel

Joe Childers  
Mark Cooper  
Craig Cross  
John Crowley  
Julianne Curry  
Jerry Downing  
Tom Enlow

Tim Evers  
Jeff Farvour  
Becca Robbins Gisclair  
Jan Jacobs  
Bob Jacobson  
Simon Kinneen  
Chuck McCallum

Matt Moir  
Ed Poulsen  
Beth Stewart  
Lori Swanson  
Anne Vanderhoeven

Appendix I contains the public sign in register and a time log of Council proceedings, including those providing reports and public comment during the meeting.

## **A. CALL TO ORDER**

Chairman Eric Olson called the meeting to order at approximately 8:07 am on Wednesday, December 8, 2010.

Mr. Bill Tweit participated in the entire meeting in place of Phil Anderson, WDF Director.

AGENDA: The agenda was approved as published.

## **B. REPORTS**

The Council received the following reports: Executive Director's Report (B-1); NMFS Management Report (B-2); ADF&G Report (B-3); NOAA Enforcement Report (B-4); USCG Report (B-5); USF&W Report (B-6); and Protected Species Report (B-7).

### Executive Director's Report:

Chris Oliver, Executive Director, briefly reviewed his written report, noting that the SOPPS will be revised to a more nationally uniform format. He also noted that the USCG recently enacted legislation which will potentially affect the North Pacific and is lengthy and complicated. He highlighted areas of the bill for further discussion. He has been discussing these provisions with NOAA fisheries staff and General Counsel, to determine which areas of the bill need further review, and will keep the Council updated. Mr. Oliver briefly discussed Regional Ocean Partnerships (ROPs) and Marine Spatial planning, and it was generally agreed that the Council should participate in any panel/task force that may be formed.

Mr. Oliver introduced Kenny Down and Dave Little, who gave a brief presentation on the collaborative efforts in the freezer longline industry. His presentation was on the newly formed Freezer Longline Conservation Cooperative.

### NMFS Management Report

Melanie Brown highlighted the status of various FMP amendments. Ms. Smoker gave a brief update on legal issues, and Mary Furness gave a report on NMFS inseason management. They distributed written reports to include in the briefing books.

### ADF&G Report

Karla Bush gave the ADF&G report, and briefly reviewed each of the species and answered questions from the Council members. Dr. Jim Fall reviewed halibut subsistence data and answered questions related to subsistence halibut, and specifically SHARC holders.

### NOAA/Office of Litigation and Enforcement

Sherrie Meyers gave a brief report and presentation on NOAA enforcement issues and answered questions from the Council. She noted that there's an opportunity for the Council to make comments regarding National and Regional priority setting for the Office of Law Enforcement.

### USCG Report

Capt. Mike Cerne briefly thanked communities which helped in the recovery of the Golden Sea, and gave kudos to the freezer longline coalition for their cooperative efforts in working with all the agencies. He introduced Lt. Conor Sullivan, the new Commanding Officer of the Fisheries Training Center in Kodiak. Lt. Kenne gave the presentation for the USCG and answered questions from the Council.

U.S. Fish and Wildlife Report

Denny Lassuy provided a report on USFW items that are of importance to the Council, including Northern Sea Otters, Walrus, and commented on Salmon bycatch. He also distributed a paper on an invasive species of sea coral/sponge.

Protected Species Report

Jeannie Heltzel gave a brief report on protected resources. She noted that further detail on various items can be found through links on NMFS' website. She updated the Council on SSL listing deadlines, and it was generally agreed that any Council action on SSL issues would be addressed under the Staff Tasking agenda item.

There was no public comment on any B items.

**FORMAT FOR COUNCIL MEETING MINUTES FOR 'C' AND 'D' AGENDA ITEMS**

Each agenda item will begin a brief background from part of the "Action Memo" from the Council meeting notebook. This section will be set in a different typeface and size than the actual minutes. Expanded portions and background of any agenda item are available in the Council notebooks and upon request. Following the Action Memo will be a very brief summary of the Staff, Advisory Panel, and Scientific and Statistical Committee Reports. Last will be a section describing Council **Discussion and Action**, if any.

**C. MAJOR ISSUES/FINAL ACTION ITEMS**

**C-1 SSL Biological Opinion**

*BACKGROUND*

*At this meeting, the Council is scheduled to receive a report from NMFS on the Steller Sea Lion Biological Opinion and the final Reasonable and Prudent Alternative (RPA). The draft Biological Opinion (BiOp) was released by NMFS on August 2, 2010, and concluded that the status quo BSAI and GOA groundfish fisheries jeopardize the continued existence of the endangered western Distinct Population Segment (DPS) of Steller sea lions and adversely modify its designated critical habitat. In the draft BiOp, NMFS outlined an RPA that would close the Atka mackerel and Pacific cod fisheries in the Western Aleutian Islands (Area 543), restrict the Atka mackerel and Pacific cod fisheries in the Central Aleutian Islands (Area 542), and restrict the Pacific cod fishery in the Eastern Aleutian Islands (Area 541).*

*At the August 2010 meeting, the Council unanimously passed a motion recommending that NMFS consider another RPA with less restrictive fishery closures in the Aleutian Islands. The Council also recommended a 2-year sunset provision for the mitigation measures, which would give the Council the opportunity to recommend an alternative set of management measures that would take effect in two years. NMFS accepted public comments on the draft BiOp until September 3, 2010, and considered comments provided by the Council and the public in determining whether changes could be made to the draft RPA that are consistent with the principles and objectives of the draft BiOp.*

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Jeannie Heltzel gave a brief outline on this agenda item, and Dr. Doug DeMaster, Brandee Gerkee, and Bill Wilson gave the staff report on this issue. They fielded questions from the Council, and public comment was taken.

COUNCIL DISCUSSION/ACTION

There was lengthy discussion on timelines, and NMFS noted that it will implement the management measures in the final RPA in January 1, 2011 as an interim final rule. There is a 30-day public comment period that opened when the interim final rule was published on December 13, 2010. NMFS indicated that the comment period could potentially be extended, and inquiries have been made regarding the possibility of an extension (the Council will be requesting a 45 day extension). There is no specific timeline to replace the interim rule with a final rule, and no sunset date for the interim rule, but NMFS indicated that the agency intends to implement a final rule after public comments have been received. The EA/RIR has been updated to reflect the recent changes to the RPA, and attempts to evaluate the environmental, social, and economic effects of alternative Steller sea lion mitigation measures.

It was generally agreed that the Council is not interested in a scientific review of the BiOp by the Center for Independent Experts (CIE) at this time because the Terms of Reference have not been modified in response to Council comments and have not been made available to the Council, and no action was taken.

**C-2 Crab management**

**C-2 (a) BSAI regional exemption; Emergency Relief**

*BACKGROUND*

*Based on public testimony from stakeholders concerning the potential need to address circumstances that might prevent compliance with regional landing requirements, the Council has developed alternatives to create a exemption from regional landing requirements under the BSAI crab rationalization program. The exemption would be established through contractual arrangements among stakeholders (including IFQ holders, IPQ holders, and community or regional representatives). At its April meeting, the Council adopted for analysis alternatives defining the exemption. In considering this action, the Council should note the description of alternatives in the analysis. At the end of that section, staff has reformatted the alternatives with one section devoted to the regulatory action proposed and another section providing a statement of Council intent. This reformatting is suggested to clarify the specific regulatory changes directed by the action. While the Council intent remains an important part of this action, the blending of intent statements with the regulatory action could create uncertainty concerning the scope of regulatory changes intended by this action. The reformatted alternatives are intended to avoid any potential uncertainties.*

Mark Fina gave the staff report on this issue; Lori Swanson gave the AP report, and public comment was heard.

COUNCIL DISCUSSION/ACTION

**Mr. Henderschedt moved, which was seconded, to adopt the AP motion on C2a in its entirety. (The motion is attached as APPENDIX 3)**

Mr. Henderschedt spoke to his motion, noting the statement of Council intent is a basis for framing future negotiations for emergency relief, and that the program is used for the way it had been intended.

Language included to establish stakeholders is appropriate, and that adequate reporting requirements have been outlined. There was brief discussion, and **Mr. Tweit moved to amend the motion, which was seconded stating: the Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions.** Mr. Tweit spoke to his motion, reviewing the two ways the Council can address final action and the regulations that follow from any Council action. With this motion, the Council members are allowing the Executive Director and Chairman to review the final regulations. **Amendment passed without objection. Amended main motion passed unanimously by roll call vote.**

### **C-2 (b) BSAI Crab Right of First Refusal Modifications**

#### *BACKGROUND*

*At its February 2010 meeting, the Council revised alternatives for three actions that would modify community rights of first refusal on processing shares in the BSAI crab fisheries.*

*The first action would extend the time to exercise the right from 60 days to 90 days and the time to perform under the contract from 120 days to 150 days.*

*The second action would limit circumstances under which the rights would lapse. Currently, rights of first refusal lapse, if the community fails to exercise the right on a processor quota share (PQS) transfer or if the yielded IPQ are used outside the community of the right holder for three consecutive years. The action considers three options to the status quo. Under the first option, the provision under which rights lapse after three years of IPQ use outside of the community of the right holder would be removed. The second option would provide that the right lapses, if the right holder fails to exercise the right on a transfer of PQS that triggers the right. In addition, this second option would provide for the shifting of the right to the community in which the IPQ are used either immediately, after 3 years, or after 5 years. Under the third option, any holder of PQS that is subject to a right of first refusal on implementation of the program would be required to maintain a contract providing for a right of first refusal.*

*The third action would limit the assets to which the right applies. Currently, the right applies to any assets included in a contract that also includes PQS to which the right applies. The proposed action would apply the right to either: 1) PQS only (and no other assets) or PQS and any community-based assets included in the transaction. The proposed actions also include provisions for determining community-based assets to which the right applies and defining the price of the PQS (and any other assets to which the right may apply). To further the development of this action, the Council has also requested staff to examine a proposed structure defining the administration of the right.*

*The analysis identifies aspects of the second and third actions that will need further definition prior to Council action.*

Mark Fina gave the staff report on this issue. The AP report was given by Lori Swanson, and public comment was taken.

### **COUNCIL DISCUSSION/ACTION**

**Mr. Cotten moved, which was seconded, the following written motion.**

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*The Council requests staff prepare the analysis for public review with the following changes to the elements and options:*

*Add to the end of the problem statement: "However, even with the proposed changes, the ROFR feature of the program may not offer adequate protection for crab dependent communities; therefore, stronger measures must be considered."*

*Action 1: Increase a right holding entity's time to exercise the right and perform as required.*

*Alternative 1 – status quo*

- 1) Maintain current period for exercising the right of first refusal at 60 days from receipt of the contract.*
- 2) Maintain current period for performing under the right of first refusal contract at 120 days from receipt of the contract.*

*Alternative 2: Increase an entity's time to exercise the right and perform.*

- 1) Require parties to rights of first refusal contracts to extend the period for exercising the right of first refusal from 60 days from receipt of the contract to 90 days from receipt of the contract.*
- 2) Require parties to rights of first refusal contracts to extend the period for performing under the contract after exercising the right from 120 days from receipt of the contract to 150 days from receipt of the contract.*

*Action 2: Increase community protections by removing the ROFR lapse provisions.*

*Alternative 1 – status quo*

- 1) Maintain current provision under which the right lapses, if IPQ are used outside the community of the entity holding the right for three consecutive years.*
- 2) Maintain current provision, which allows rights to lapse, if the PQS is sold in a sale subject to the right (and the entity holding the right fails to exercise the right).*

*Alternative 2 – Strengthen community protections under circumstances where ROFR may lapse.*

*Require parties to rights of first refusal contracts to remove the provision that rights lapse, if the IPQ are used outside the community for a period of three consecutive years.*

*Require that any person holding PQS that met landing thresholds qualifying a community entity for a right of first refusal on program implementation to maintain a contract providing that right at all times*

*Action 3: Apply the right to only PQS or PQS and assets in the subject community.*

*Alternative 1 – status quo*

*The right of first refusal applies to all assets included in a sale of PQS subject to the right, with the price determined by the sale contract.*

*Alternative 2: Apply the right to only PQS.*

*Require parties to rights of first refusal contracts to provide that the right shall apply only to the PQS subject to the right of first refusal. In the event other assets are included in the proposed sale, the price of the PQS to which the price applies shall be determined by a) agreement of the parties or b) if the parties are unable to agree, an appraiser jointly selected by the PQS holder and the entity holding the right of first refusal*

*Applicable to Alternative 2:*

*- For any transaction that includes only PQS, the community entity may request that an appraiser value the PQS. If the appraiser's valuation differs from that of the contract, the right of first refusal shall be at the price determined by the appraiser.*

*-The appraiser shall establish a price that represents the fair market value of the PQS, but may adjust the price to address any diminishment in value of other assets included in the PQS transaction subject to the right.*

*-Timeline for assessment and performance (from receipt of the sale contract by the community entity):*

*Within:*

*10 days: community may request an assessor*

*20 days: jointly selected assessor chosen, or if the parties do not agree on a single assessor, then each party chooses an assessor*

*40 days: if no single assessor is chosen, the two assessors will choose a third assessor*

*60 days after assessor is chosen (by either method): assessor(s) establish a price*

*120 days after assessor is chosen: notification of community entity of intent to exercise the ROFR*

*180 days after assessor is chosen: community representative must perform under the contract*

*-The cost of the assessor will be paid equally by the PQS holder and community entity. If a third assessor is chosen, the PQS holder and community entity will pay their chosen assessor and divide equally the cost of the third assessor.*

*Action 4: Require community approval for IPQ subject to the right to be processed outside the subject community.*

*Alternative 1- Status Quo*

*Intra-company transfers of PQS and IPQ outside the subject community are permitted without requiring the PQS holder to notify the community entity that holds the right.*

*Alternative 2- Require community consent to move IPQ outside the community*

*Require the PQS holder to obtain written approval from the community prior to processing IPQ subject to the right (or formerly subject to the right), at a facility outside the subject community.*

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Mr. Cotten spoke to his motion noting that this is a simplified version, and can use these actions as bookends. Mr. Cotten noted that Action 1 and Action 3 provide the greatest protections, and gave specific cases for examples.

There were questions of clarification, and general discussion. Discussion on Mr. Cotten's proposed changes to the problem statement led to **Mr. Fields moving to amend to strike Cotton's language, and add at the end of the problem statement: "Therefore, stronger community protections may be needed."** There was brief discussion, and the motion passed with **Mr. Henderschedt objecting.**

**Mr. Henderschedt moved to strike action 4, which was seconded.** He noted concerns regarding attempts to create community protections, and measures such as action 4 may undermine intended outcomes. There was discussion. Mr. Fields disagreed, and stated that it is necessary to put protections in place early on in analysis. Mr. Tweit stated that the present situation encourages cooperative, voluntary, relationships. Mr. Hull voiced his opposition, and sees Action 4 as a bookend, and should be included for analysis. **Motion failed 4/7 by roll call vote, with Henderschedt, Benson, Tweit and Hyder voting in favor.**

**The main motion passed 9/2, with Benson and Hyder voting in opposition.**

## **C-2 (c) BSAI crab program 5 year review**

### *BACKGROUND*

*In the development of the crab rationalization program, the Council requested a review of the program five years after its implementation. In response to this request, staff prepared a paper reviewing several aspects of the performance of the program to date. The paper was included in a mailing to the Council in mid-November. The paper reviews the distribution of allocations to both harvesters and processors under the program and examines changes in those distributions. The paper goes on to examine the participation patterns and distribution of activities of both sectors and changes in their operations. The paper also examines the effects of the program on crews in both sectors. Changes in ex vessel pricing brought on by the share structure and arbitration system of the program are also examined. Entry opportunities for both sectors are examined. Changes in management arising as a result of the change in allocations created by the program, as well as changes in management costs, are examined. The effects of the program on biological condition of crab stocks are also briefly discussed. The paper also includes two appendices; the first discusses social effects of the program; the second discusses the effects of the program on safety in the fisheries.*

Mark Fina gave the staff report on this issue. Dr. Mike Downs gave the report on the social effects of the program, and Commander Woodley, USCG and Jennifer Lincoln, National Institute of Occupational Health gave the report on the safety effects in the fisheries as a result of the program.

Lori Swanson gave the AP report; Pat Livingston gave the SSC report, and public comment was taken.

### COUNCIL DISCUSSION/ACTION

**Mr. Fields moved, which was seconded, the following motion:**

**The Council appreciates the work of Council and Agency staff as well as that of Mike Downs, AECOM, Inc., Commander Woodley, USCG and Jennifer Lincoln, National Institute of Occupational Health in preparing the five year review of the Crab Rationalization Management Program for Bering Sea and Aleutians Crab Fisheries. The five year review demonstrates that many aspects of the Bering Sea and Aleutians Crab Rationalization Management Program seem to be working well for the stakeholders. For example, participants have adapted to the complications of the “three pie” system, safety goals, continue to be achieved and overcapitalization has been reduced. However, the review also indicates that there are some aspects of the program that may merit further Council consideration. Program stakeholders, as well as the Advisory Panel have identified several problem areas including issues of equitable crew compensation, quota lease rates, and active participation as related to program participation opportunities and next generation ownership. Nevertheless, it will take some additional time for Council members to more fully evaluate the five year review and assess oral and written public testimony to determine whether or not additional Council action is needed. In the meantime, the Council strongly encourages Crab Rationalization stakeholders to work together within the industry to craft solutions to the concerns identified. Stakeholder solutions will be considered by the Council should a formalized 5 year review amendment package be developed.**

**Consequently, the Council should limit its action on the 5 year review package to the following single issue, and that, at a subsequent meeting, the Council consider whether or not concerns associated with the 5 year review merit additional Council action.**

**INSERT A HEADING: Application Deadline for Cooperative and Individual Annual Allocations**  
**Prepare an analysis of an amendment that would move the application deadline for annual allocations of cooperative IFQ and IPQ from August 1-June 15.**

**Purpose and Need Statement:**

Under the crab rationalization program, QS holders and PQS holders must annually apply for allocations of IFQ and IPQ respectively. In some instances, filing of these applications has been disputed creating uncertainties concerning the one-to-one relationship between Class A IFQ and IPQ, which is critical to parties' use of those shares. Moving the application deadline to an earlier date for IFQ and IPQ could allow for additional time to resolve any disputes concerning the timeliness and adequacy of applications by NOAA fisheries; and thereby, prevent some potential mismatches of the issued Class A IFQ pool and IPQ pools.

**Alternative 1**

**Status Quo**

**Retain the current August 1<sup>st</sup> deadline for IFQ and IPQ applications.**

**Alternative 2**

**Move the cooperative IFQ and IPQ application deadlines to June 15.**

Mr. Fields spoke to his motion noting that the industry has been dedicated to crafting solutions, and has worked out compromises in a sometimes complex program. He encourages the industry to work together on other issues, and noted that they can sometimes be more creative. He encouraged the Council to be diligent, and come back and address issues at a later date. Mr. Fields noted that the deadline for annual allocations was primarily a housekeeping adjustment to improve program and not controversial.

There were general questions regarding the motion, and questions of clarification. Mr. Fields noted that his list of issues is not meant to be exhaustive, just illustrative. The proposed stakeholder group would be able to address problems in the industry, in every way deferring to the Chairman regarding the makeup of the committee. Mr. Balsiger noted there has been good experience with emergency relief group. However in this instance, both sides have been negatively impacted. Stakeholders don't equally hold stake in these issue, and he noted his concern with the group having little structure and direction.

Mr. Fields responded with concern that providing concrete elements and options at this time would limit discussions and negotiations at this time within the group.

Mr. Tweit noted he is not interested in having it be a Council directed committee, and strongly supports a Council review in October in Dutch Harbor. He noted his interest in assessment on Code of Conduct, and what can be done with C shares. Mr. Tweit expects the Committee to come back with a report of significant progress, and if not, why?

**Mr. Henderschedt moved to add to the end of the list of problem areas "...and certain aspects of the binding arbitration system."**

Mr. Henderschedt noted that items listed take on a group feel, but is concerned with aspects of the current binding arbitration system, notably disincentives that may arise that may affect the overall value of the fishery. Mr. Henderschedt noted that structure or direction is not needed at this time for these initial meetings with the stakeholders. **The amendment passed with Mr. Hyder objecting.**

Mr. Hull briefly discussed the timeline, and it was generally agreed that timing/committee tasking would be taken up during staff tasking.

Mr. Tweit thanked Mr. Fields for picking up additions from public comment.

Ms. Campbell noted her appreciation for the motion and time, and noted she expects to be hearing from affected stakeholders to be sure that adequate progress is being made.

**Amended motion passed without objection.**

### **C-2 (d) Initial review of Pribilof Island blue king crab rebuilding plan.**

#### *BACKGROUND*

*The Council took preliminary review of this analysis in October 2010. The analysis has been revised per Council modifications and suggested changes. The SSC last reviewed the analysis in April 2010. The full EA and RIR/IRFA were mailed to you on November 19<sup>th</sup>. This analysis evaluates five proposed alternative rebuilding measures for the Pribilof Islands blue king crab (*Paralithodes platypus*) stock. The Pribilof Islands blue king crab stock remains overfished and the current rebuilding plan has not achieved adequate progress towards rebuilding the stock by 2014. This revised rebuilding plan considers five alternatives. Four of the alternatives are different non-triggered closure configurations to restrict groundfish fisheries in the areas of the stock distribution. The fifth alternative considers trigger caps and associated area closures in all groundfish fisheries. The impacts of these alternatives on rebuilding the Pribilof Island blue king crab stock as well as the environmental and social/economic impacts of these measures are considered in this analysis. Analysis of the impacts of these closure configurations on the rebuilding potential for the PIBKC stock shows limited effect on rebuilding between the ranges of alternative closures.*

Diana Stram gave the staff report on this issue. Scott Miller gave the report on the RIR/IRFA. Lori Swanson gave the AP report; the SSC report had been given earlier, and public comment was taken.

#### COUNCIL DISCUSSION/ACTION

**Mr. Henderschedt moved to send out for public review for final action in April the analysis with the following revisions:**

- 1. Add an alternative 4C and option 5E under alt 5 using a closure area based on recent catch and survey distribution.**
- 2. Revise the suboptions under alt 5 as follows: suboption 1. 90% of ABC, suboption 2. 75% of ABC**
- 3. To add an option under alts 3, 4, 5 to exempt any fishery that has taken**
  - (1) less than 5%**
  - (2) less than 10%****of the ABC in each year from 2003-2010**
- 4. to add options under alt 5 to add the trigger as either number of crab, or pounds of crab**
- 5. to provide versions of the tables 4, 5, 8 and 9 as lbs of crab, rather than number of crab**

Mr. Henderschedt noted that although he stated that final action should be in April, as always, it is not required. He also noted that there is something of a disconnect between survey results and catch results.

Mr. Henderschedt noted that by using “less than” amounts, then the analysis can get around some confidentiality restraints. He also noted that the Council has always looked at crab in numbers of crab, and having both numbers of crab and lbs can help the Council match up numbers elsewhere in the document.

Mr. Henderschedt fielded questions from the Council members, and there was brief discussion. **The motion passed without objection.**

### **C-3 Salmon FMP Discussion Paper**

#### *BACKGROUND*

*Staff has prepared a discussion paper on the status of the Council’s FMP for the Salmon Fisheries in the United States Exclusive Economic Zone (EEZ) off the Coast of Alaska with extensive input from the National Marine Fisheries Service and the Alaska Department of Fish & Game. Though the Salmon FMP has been amended nine times, a comprehensive consideration of the management strategy, scope of coverage, or subsequent fisheries data has not occurred since 1990. In addition, State fisheries policies and Federal and international laws affecting Alaska salmon have since changed, and these changes are not reflected in the current Salmon FMP. For example, the reauthorized Magnuson-Stevens Act (MSA) and the National Standard 1 guidelines (NS1) now require, in most instances, Annual Catch Limits (ACL) and accountability measures (AM) for target species managed under an FMP.*

Chris Oliver and Sarah Melton gave the staff report on this issue. The AP gave their report, the SSC did not address this issue, and public comment was heard.

#### COUNCIL DISCUSSION / ACTION

**Ms. Campbell moved the following, which was seconded:**

---

**The Council directs staff to initiate analysis of updates to the Salmon FMP based on the following draft problem statement, alternatives, and options**

#### **Draft problem statement:**

**Although the North Pacific Fishery Management Council’s *Fishery Management Plan for the Salmon Fisheries in the United States Exclusive Economic Zone off the Coast of Alaska* (Salmon FMP) has been amended nine times in the last two decades, no comprehensive consideration of management strategy or scope of coverage has occurred since 1990. State fisheries regulations and Federal and international laws affecting Alaska salmon have changed since 1990 and the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) expanded the requirements for FMPs. The Council recognizes that the Salmon FMP is vague with respect to management authority for the three directed commercial salmon fisheries that occur in the EEZ west of Cape Suckling. The Salmon FMP must be updated in order to comply with the current MSA requirements, and it should be amended to more clearly reflect the Council’s desires with regard to the State of Alaska continued management authority over commercial fisheries in the West Area EEZ, the Southeast Alaska (SEAK) commercial troll fishery, and the sport fishery.**

**Updating the Salmon FMP in the West Area EEZ to include pre-season stock status determination criteria and exploitation rate based annual catch limits through the Council process as described in NS-1 guidelines would not be appropriate for Alaska salmon fisheries given the unique characteristics of salmon biology, the state’s escapement-based management strategy for salmon, and current state abundance-based inseason management approaches which have been applied for many years and historically have sustained high yields. The same concerns would apply in establishing annual catch limits in SEAK. The distinction between the East and West Area EEZ’s needs to be retained due to Pacific Salmon Treaty and Endangered Species Act issues associated with the SEAK salmon fisheries.**

**Alternatives: Area of application**

- Alternative 1:** No action, no changes to the FMP.
- Alternative 2:** Maintain the existing geographic scope of the FMP and update the FMP.
- Alternative 3:** Modify the FMP to specifically exclude three historical net commercial salmon fishing areas in West Area EEZ from the FMP and update the FMP.
- Alternative 4:** Maintain the FMP in the East Area EEZ only and update the FMP.

**Applicable to Alternatives 2-4:** In areas where the Salmon FMP applies, management under any alternative would be deferred to the State of Alaska.

**Component: FMP updates**

Develop options to update the Salmon FMP to meet the MSA required provisions in section 303(a) for an FMP, using existing state salmon management to the extent possible.

**ACL/AM options (not mutually exclusive):**

- Option 1:** Use the NS-1 exception for stocks managed under an international fishery agreement with regard to ACL/AM requirements for Chinook salmon harvests under the Pacific Salmon Treaty.
- Option 2:** Use the State's salmon management program as an alternative approach to satisfy MSA requirements.

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Mr. Fields noted his concern with Magnuson-Stevens Act supplanting the State of Alaska existing management, and is supportive of this motion which outlines existing state management regimes. Mr. Tweit noted his appreciation for State management and supports its track record of working with native organizations and tribes.

Ms. Smoker requested the Council speak to its rationale for not including the option of "Repeal FMP." Ms. Campbell noted that keeping the FMP is valuable, and serves important purposes in the east area.

**Motion passed without objection.**

## **C-4 Halibut Sablefish IFQ Program**

### **(a) Initial review of CQE Area 3A purchase of Area 3A D category halibut quota**

**BACKGROUND**

*The Council approved the Community Quota Entity (CQE) Program as an amendment to the halibut and sablefish IFQ Program in 2002 (GOA Amendment 66), and the program was implemented in 2004. Halibut quota share is designated under four vessel categories: freezer (catcher processor) category (A share); catcher vessels greater than 60' LOA (B share); catcher vessels 36' to 60' LOA (C share); and catcher vessels 35' LOA or less (D share). Under the original IFQ Program, only persons who were originally issued catcher vessel quota share (B, C, and D category QS) or who qualify as IFQ crew members were allowed to hold or purchase catcher vessel quota share. Thus, only individuals and initial recipients could hold catcher vessel quota share. The CQE Program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase halibut and sablefish catcher vessel quota share, in order to maintain access to these fisheries.*

*In order to participate, eligible communities must form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the IFQ resulting from the QS is leased to community*

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*residents annually. In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit the community and its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity.*

*The existing CQE Program prohibits CQEs representing communities in IPHC regulatory Area 2C and Area 3A from purchasing D category halibut quota share; only B and C category are allowed to be purchased. Generally, D shares are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel. Category D quota shares are often used by smaller operations, or new entrants, and there is a relatively small amount of D share quota designated in each area. One of the primary reasons the Council established a prohibition on the CQE purchase of D shares was to help ensure that D shares would continue to be available to new entrants and crew members that wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for D shares, and result in more expensive, and fewer available, shares for individuals. CQEs, like any new entrant, have had difficulty in funding the purchase of QS, and very little QS has been purchased through the program to-date. Allowing CQEs to purchase the least costly category of QS may help facilitate the purchase of QS and participation in the program. In addition, D category QS corresponds to the type of vessel that most residents use in these smaller communities.*

*The proposed action would amend Federal regulations to allow CQEs representing communities in Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The prohibition on purchasing D category QS in Area 2C would remain. There are fourteen eligible CQE communities in Area 3A, eight of which have formed CQEs approved by NMFS to-date.*

Nicole Kimball gave the staff report on this issue. Lori Swanson gave the AP report, and the SSC did not address this issue. Public comment was heard.

#### COUNCIL DISCUSSION/ACTION

**Mr. Fields moved a written motion as follows:**

**The analysis regarding the purchase of Area 3A D category halibut quota shares be sent out for public review after the following revisions:**

- 1. Add alternative 2 subpart (c)
  - c. Area 3A CQE may purchase any size block of D class quota****
- 2. Inclusion of a breakdown of the Area 3A quota share that is held by residents of eligible Area 3A CQE communities, by block size**
- 3. Amplified discussion on whether or not CQE communities have financial advantages when purchasing "D" class quota shares**

**Further, that the Council adopts the following purpose and needs statement:**

**Area 3A CQE communities were created approximately 10 years after the halibut and sablefish IFQ program was implemented in an attempt to provide for the sustained participation of these communities in the halibut and sablefish fisheries and to mitigate adverse economic impacts on these communities caused by the program. Most CQE communities had experienced the substantial loss or migration of locally owned quota shares. The CQE program allowed these communities to purchase limited amounts of B and C class halibut and sablefish quota to hold in trust for use by community residents. However, because CQE community entities were new organizations without assets, it has been difficult for them to access Area 3A B and C class quota.**

**One potential source of quota shares for CQEs is quota held by residents of the CQE communities. Residents of CQE communities are more likely to be willing to “self finance” of CQE purchase of their quota shares. However, much of the quota currently held by residents of Area 3A CQE communities is D class quota and therefore not available for CQE purchase. In addition, D class quota held by non-CQE community residents generally sells for a slightly lower purchase price and is therefore more accessible to first time quota purchasers like the CQEs. Allowing Area 3A CQE community entities to purchase D class quota will enhance CQE quota acquisition possibilities and further the goals of the Council to enable CQE communities to sustain community participation in the fishery as well as mitigate economic impact.**

Mr. Fields spoke to his motion noting that there is a relatively small amount of D class quota in excess of 5000 lbs available, and without this motion, it is very difficult for CQE communities to purchase D shares. Public testimony also amplified the request to examine the financial advantages or disadvantages to CQE community purchases. He noted it is his intent to involve the communities in the local purchase/sale of quota. He answered questions and made clarifications for the Council.

There was brief discussion, and Mr. Fields noted that the long term goal is for young people in these remote communities to be able to purchase quota share of their own by building equity through the CQE program. CQEs currently have difficulty accessing the market, but could buy D class quota to enter the market under the proposed action.

**Mr. Henderschedt moved under #3, add: “...and whether or not individual fishermen in CQE communities are disadvantaged by allowing CQE communities to acquire D class shares.”** Mr. Henderschedt noted that the language in the problem statement could potentially cause competition between fishermen in the community and the CQEs, and noted that that should be examined. **Amendment passed unanimously. Amended main motion passed without objection.**

#### **C-4 (b) Review discussion paper on a new CQE Program in Area 4B**

##### *BACKGROUND*

*The CQE Program was developed in order to allow a specified set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase halibut and sablefish catcher vessel quota share, in order to maintain community access to these fisheries. In order to participate, eligible communities must form non-profit corporations called Community Quota Entities to purchase catcher vessel QS, and the IFQ resulting from the QS is leased to community residents annually. The existing program is limited to IPHC regulatory Area 2C, Area 3A, and Area 3B.*

*In February 2010, the Council reviewed an IFQ proposal from the Adak Community Development Corporation (ACDC), to create a CQE Program in the Aleutian Islands in Area 4B. Given the proposed problem statement and criteria for eligibility, the intent is to allow ACDC to become a CQE representing the community of Adak for the purpose of purchasing Area 4B halibut and AI sablefish catcher vessel QS, for lease to individual fishermen to deliver within the Area 4B region. Adak is the only community that would be eligible for the program. This proposal was reviewed and recommended for analysis by the IFQ Implementation Committee at its February 2010 meeting. Upon review of the committee report and public testimony, the Council tasked staff to develop a discussion paper on this issue, using the proposal as a starting point.*

Nicole Kimball gave the staff report on this issue; Lori Swanson gave the AP report; the SSC did not address this issue, and public comment was heard.

COUNCIL DISCUSSION/ACTION

**Mr. Fields moved, and it was seconded, that the Council adopt the following problem statement: Non-CDQ Area 4B communities are experiencing reduced participation and adverse economic impacts from the halibut and sablefish IFQ program in ways similar to GOA communities that have been included in the CQE program. The CQE program allows qualifying communities to form a non-profit entity that is then qualified by NMFS to purchase halibut and sablefish quota shares. The acquisition and use of the IFQ by qualifying area 4 B community residents, over time, will help mitigate adverse economic impacts experienced by these communities and it will increase the sustained participation by residents of qualifying communities in the halibut and sablefish IFQ program.**

**Further, the Council undertake an analysis to include area 4B communities in the CQE program with the same qualifying criteria and under the same operational limits as existing CQE communities in areas 3B and 3A with the following differences:**

- 1. A pre-existing non-profit entity, the ACDC Corporation, will be recognized as the CQE entity for the community of Adak.**
- 2. Qualifying area 4B communities would be restricted to purchasing area 4B halibut and AI sablefish.**
- 3. A qualifying community CQE use cap of area 4B quota of**
  - i. An amount equal to the individual acquisition cap for 4B quota**
  - ii. 5%, 10%, or 15% of area 4B quota**
- 4. A cumulative qualifying community CQE use cap of area 4B quota of**
  - i. An amount equal to the individual acquisition cap for 4B quota**
  - ii. 5%, 10%, or 15% of area 4B quota**
- 5. No more than 50,000 pounds of any IFQs leased by an eligible community may be taken on any one vessel, inclusive of any IFQ owned by the individual leasing the IFQs. However, the CQE lessee may fish up to 50,000 lbs of leased CQE quota, inclusive of individual quota held, on a vessel that has fished non-CQE quota so long as the total quota fished on the vessel does not exceed the individual vessel cap.**
- 6. Should existing area 3A CQE communities be allowed to purchase D class quota, area 4B communities that qualify for the CQE program may acquire and fish area 4B D class quota under the same rules.**
- 7. No limit on size of halibut B and C class blocks or sablefish blocks, purchased by area 4B CQEs.**

Mr. Fields spoke to his motion, and noted that the requirement that Adak residents fish the CQEs tracks existing CQE rules. He also noted that individual limits in Adak should be examined, and also discussed reviewing the existing 50,000 lbs vessel cap. There was brief discussion regarding the different provisions related to Adak.

**Mr. Tweit moved the AP motion as a substitute motion, which was seconded.** He spoke to his motion noting that all the members of the public who testified endorsed the AP motion, with a few suggestions that they would like to see included. He was concerned that the prior motion was significantly trimmed from the broad range of options that were included in the discussion paper.

Mr. Fields noted his motion highlighted differences between the Gulf CQE program, but tracked the same operational limits as the Gulf. He is concerned that the AP motion will set the process back a few meetings. Mr. Fields noted that a policy step has been taken, saying that if an Adak community, or any of

the other 4B communities want to participate in the CQE program, their participation should conform as much as practicable, to Gulf communities in the CQE program.

Mr. Henderschedt noted it would be remiss of the Council to not examine how Adak differs from other communities in CQE program. Who should be eligible to fish CQE-held quota in Adak is an important question that needs to be answered, before the Council makes a decision.

**The substitute motion failed, 4/7, with Henderschedt, Tweit, Hyder and Benson voting in favor.**

**Mr. Hull moved to amend, which was seconded by Ms. Campbell, to replace the problem statement with the one in the discussion paper with two changes:**

**“...Allowing this non-CDQ community to purchase area 4B halibut (add the following) and AI Sablefish QS for lease, (strike) “for delivery in the region” and replace with “to residents of Adak,” will help minimize adverse impacts...”** Mr. Hull noted that it more closely represents the intention of the analysis. **The amendment passed without objection.**

**Mr. Cotton moved to amend the motion by adding an option 8:**

**CQE may lease to non-residents for a limited period up to 5 years after implementation of the program.**

Mr. Cotton noted that this may attract other people to the area, and it has been heard in public comment that this option would be valuable. **Motion passed without objection**

**Amended main motion passed without objection.**

### **(c) Initial review/Final action to add up to four new eligible CQE communities**

#### *BACKGROUND*

*The Council approved the Community Quota Entity (CQE) Program as an amendment to the halibut and sablefish IFQ Program in 2002 (GOA Amendment 66), and the program was implemented in 2004. Since implementation, 42 communities located in IPHC Areas 2C, 3A, and 3B in the Gulf of Alaska are listed in Table 21 to 50 CFR Part 679 as eligible to participate in the CQE Program. The Council included this list of communities in its original motion approving the CQE Program. This action considers amending Federal regulations to add up to four new communities to the list of communities eligible to participate, based on the same criteria used to determine eligibility in the original program. If determined eligible, these new communities would be subject to the same provisions and restrictions as all other eligible communities. The communities evaluated for eligibility in this analysis are Game Creek, Naukati Bay, Kupreanof, and Cold Bay.*

Nicole Kimball gave the staff report on this issue and Glen Merrill was available to answer questions related to potential regulations on this issue. Lori Swanson gave the AP report; the SSC did not address the issue, and public comment was heard.

#### COUNCIL DISCUSSION/ACTION

**Mr. Fields moved, which was seconded, to recommend a revision to Table 21 to 50 CFR part 679 to add the communities of Game Creek, Naukati Bay, and Cold Bay as eligible to participate in the CQE program. In addition, the Council confirms that the communities of Naukati Bay and Game Creek are eligible to participate as CQE communities in the halibut charter permit program. And**

**the community of Cold Bay is eligible to participate as a CQE community to request fixed gear Pacific cod LLPs under the AM86 GOA cod sector split amendment.**

Mr. Fields spoke to his motion, noting that although there is concern regarding including these communities into the program, after careful consideration and review, they meet the criteria in regulation and should not be excluded from the CQE program. There should be no further staff time taken on this analysis, and it is ready for final action at this meeting.

**Mr. Tweit moved to amend, which was seconded, that the Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions.** Mr. Tweit spoke to his motion, noting that the Agency will revise table 21 and other necessary regulations, which can be handled through our normal deeming process. **Amendment passed without objection.**

**Vote on main motion passed 8/3 with Dersham, Hull and Tweit, objecting.**

Mr. Henderschedt noted that there had been very compelling testimony regarding issues related to CQEs, and was interested in future CQE reviews. Ms. Kimball noted a formal review occurred in February 2010, and there is no further review scheduled at this time. However, the information is available, and the Council can request a review at any time.

**Mr. Hull moved to take C4 (d): allowing Area 4B-D shares to be fished on C vessels, off the December agenda. It was seconded by Mr. Fields, notably because the Council is running behind schedule, and recognizing that the AP recommended final action run concurrently with action on the CQE program in area 4B .**

**Motion passed without objection.**

### **C-5 GOA Chinook salmon bycatch**

#### *BACKGROUND*

*An updated discussion paper on Chinook salmon bycatch in the GOA groundfish fisheries occurring in the central and western GOA was last reviewed in April 2010, and has been updated to address the Council's main requests: information on Chinook salmon bycatch levels and rates in the groundfish fisheries through November 2010, disaggregated spatial mapping of Chinook bycatch by year, and a discussion of what would be entailed in requiring full retention of salmon in the GOA groundfish fisheries.*

*The Council also requested that to the extent possible, additional background should be provided on GOA Chinook salmon abundance, fisheries, and factors affecting the stocks. The items requested for additional background have not yet been addressed in the discussion paper, but will be updated for a future draft. The paper also includes other elements from previous iterations of the discussion paper, including a discussion of management measures and strawman closures, but these have not been updated since October 2009 (developed in December 2008).*

*The level of GOA Chinook salmon bycatch in 2010 has exceeded the incidental take amount authorized in the Biological Opinion for endangered Chinook salmon stocks, and consequently consultation has been*

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reinitiated between NMFS Alaska Region and the Northwest Region office. A letter reporting on information about the Chinook salmon incidental catch in 2010 has been sent by NMFS to the Northwest Region.

In April 2010, the Council wrote a letter to NMFS to request that the agency accelerate the establishment of protocols to identify stock of origin of GOA Chinook salmon bycatch, including analysis of existing GOA Chinook salmon bycatch samples. The agency has responded to the Council's letter concerning development of a sampling protocol.

Diana Evans gave the staff report on this issue and Martin Lloeflad was available to answer questions related to observer issues. Melanie Brown also reported on reporting requirements. Lori Swanson gave the AP report; the SSC did not comment on this issue, and public comment was heard.

COUNCIL DISCUSSION/ACTION

Cora Campbell moved, which was seconded, the following:

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**The Council adopts the following problem statement and moves the following alternatives for initial review.**

**Problem statement:**

*Chinook salmon bycatch taken incidentally in GOA groundfish fisheries is a concern, and no salmon bycatch control measures have been implemented to date. Current observer coverage levels and protocols in some GOA groundfish trawl fisheries raise concerns about bycatch estimates and may limit sampling opportunities. Limited information is available on the origin of Chinook salmon taken as bycatch in the GOA; it is thought that the harvests include stocks from Asia, Alaska, British Columbia, and lower-48 origin. Despite management actions by the State of Alaska to reduce Chinook salmon mortality in sport, commercial, and subsistence fisheries, minimum Chinook salmon escapement goals in some river systems have not been achieved in recent years. In addition, the level of GOA Chinook salmon bycatch in 2010 has exceeded the incidental take amount in the Biological Opinion for endangered Chinook salmon stocks. The sharp increase in 2010 Chinook bycatch levels in the GOA fisheries require implementing short-term and long-term management measures to reduce salmon bycatch to the extent practicable under National Standard 9 of the Magnuson-Stevens Act. In the short term, measures focused on the GOA pollock fisheries are expected to provide the greatest savings. In the long term, comprehensive salmon bycatch management in the GOA is needed.*

**Alternatives for expedited review and rule making:**

**The below alternatives apply to directed pollock trawl fisheries in the Central and Western GOA.**

**Alternative 1: Status quo.**

**Alternative 2: Chinook salmon PSC limit and increased monitoring.**

**Component 1: 30,000 Chinook salmon PSC limit (hard cap).**

**Option: Apportion limit between Central and Western GOA**

- a) proportional to the pollock TAC.
- b) proportional to historic average bycatch rate of Chinook salmon (5 or 10-year average).
- c) proportional to historic average bycatch number of Chinook salmon (5 or 10-year average).

**Component 2: Expanded observer coverage.**

**Extend existing 30% observer coverage requirements for vessels 60'-125' to trawl vessels less than 60' directed fishing for pollock in the Central or Western GOA.**

**Alternative 3: Mandatory salmon bycatch control cooperative membership.**

In order to fish in the Central or Western GOA pollock fisheries a vessel must be a member of a salmon bycatch control cooperative for the area where they are participating. Cooperative formation will be annual with a minimum threshold (number of licenses).

Cooperative contractual agreements would include a requirement for vessels to retain all salmon bycatch until vessel or plant observers have an opportunity to determine the number of salmon and collect any scientific data or biological samples. Cooperative contractual agreements would also include measures to control Chinook salmon bycatch, ensure compliance with the contractual full retention requirement, promote gear innovation, salmon hotspot reporting, and monitoring individual vessel bycatch performance.

Annual cooperative reports to the Council would include the contractual agreements and successes and failures for salmon bycatch controls by season and calendar year.

The Council requests staff explore options related to the following aspects of mandatory cooperative formation:

- Minimum number of licenses required to promote meaningful exchange of information and cooperation to avoid bycatch under the current directed fishery management structure. (Minimum threshold for cooperative formation should be set to ensure all eligible licenses have a reasonable opportunity to participate).
- Options to ensure participants outside of a bycatch control cooperative would be subject to regulatory bycatch controls if it is determined mandatory cooperative membership is not possible.
- Appropriate contract elements and reporting requirements.

**Alternatives for regular review and rule making track:**

The below alternatives apply to non-pollock trawl fisheries in the Central and Western GOA.

**Alternative 1: Status quo.**

**Alternative 2: 10,000 Chinook salmon PSC limit (hard cap).**

Option 1: Apportion limit between Central and Western GOA.

Option 2: Apportion limit by directed fishery.

Applies to both options: Apportion proportional to historic average bycatch of Chinook salmon (5 or 10-year average).

**Alternative 3: Mandatory salmon bycatch control cooperative membership.**

In order to fish in the Central or Western GOA trawl fisheries a vessel must be a member of a salmon bycatch control cooperative for the area where they are participating. Cooperative formation will be annual with a minimum threshold (number of licenses).

Cooperative contractual agreements would include measures to control Chinook salmon bycatch, promote gear innovation, salmon hotspot reporting, and monitoring individual vessel bycatch performance. Annual cooperative reports to the Council would include the contractual agreements and successes and failures for salmon bycatch controls by season and calendar year.

The below alternatives applies to all trawl fisheries in the Central and Western GOA.

**Alternative 4: Full retention of salmon.**

Vessels will retain all salmon bycatch until the number of salmon has been determined by the vessel or plant observer and the observer's collection of any scientific data or biological samples from the salmon has been completed.

Option: Deploy electronic monitoring or observers to monitor for discards in order to validate salmon census data for use in catch accounting.

The Council also requests staff to provide the following:

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- **Chinook salmon bycatch rate data for each GOA groundfish fishery by month and area.**
  - **Correlation between bycatch rates and time of day (based on observer data or anecdotal information).**
  - **Correlation between bycatch rates and time of year (based on observer data or anecdotal information).**
  - **Information on the flexibility under Steller sea lion measures to adjust season dates.**
  - **Current trip limit management and implications of lowering GOA pollock trip limits.**
  - **Information on current excluder use, effectiveness of salmon excluders, and deployment of excluders on smaller trawl vessels.**
  - **A discussion of potential benefits, with respect to available bycatch measures and salmon savings, of a cooperative management structure for the GOA pollock fisheries. The discussion should assume a cooperative program for the Central and Western GOA directed pollock catcher vessels. Licenses qualifying for the program would annually form cooperatives that would receive allocations based on the catch histories of members. Catcher vessel cooperatives would be required to associate with a shore-based processor in the GOA, but members may change cooperatives and cooperatives may change processor associations annually without penalty.**
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Ms. Campbell spoke to her motion. She outlined the structure of the motion, and noted that the high priority information will be taken care of in “fast track” Council action as opposed to an emergency rule and that most of the “fast track” items are related to the pollock trawl fisheries.

Mr. Oliver confirmed that many of the additional requests of staff may be available for the first, or fast track, rulemaking package, but are intended for the regularly scheduled review.

There were questions of clarification from the Council members. Ms. Campbell indicated she hoped the “fast track” amendment could be in place for January 2012. There was brief discussion regarding intent of potential expanded observer coverage data, and the potential of increasing actual observers on vessels and at plants, and the impacts. Ms. Campbell noted that the impacts of the three apportionment options should give a range of potential allocations, and the Council would be free to choose something in the range that has been analyzed.

In response to Mr. Fields concerns, Ms. Campbell noted that that a PSC cap of 30,000 Chinook salmon is 75% of the ESA incidental take threshold, and only applies to the directed Pollock fishery, and the number will be apportioned across areas, not just Gulf-wide. This way people will not be shut down by activity not taking place in their fishery. Additionally, this data will more accurately reflect each area. She noted also that choosing one number is an attempt to keep the analysis simple and focused.

Mr. Olson and Mr. Oliver noted that adding more caps to analyze may take additional time, but would take even more time if they were added at a later date. Mr. Olson cited his agreement with the expedited package, and there was brief discussion regarding the ability to complete the package with additional analytical requirements.

Ms. Lindeman noted that the Council should review a range of numbers. There was discussion regarding cap numbers, ESA trigger numbers, and historical numbers.

**Mr. Fields moved to amend the motion in Alternative 2 Component 1, to review a range of caps of 15,000, 22,500 or 30,000.** He spoke to his motion noting that even in an expedited review, a range is

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important and appropriate. He noted the range is approximately 75% of 20,000 total bycatch, to 75% of 40,000 total bycatch threshold.

Mr. Olson spoke in favor stating that a varying range is important, and Mr. Cotton noted that the average from 2003-2010 is 18,000.

Mr. Henderschedt noted that although there should be a range, he is concerned that there may be a tradeoff in expedition and implementation.

Mr. Hyder appreciated the simplicity of one number with expedited implementation and noted he would not support the motion and prefers to follow advice of the AP.

**The motion passed by roll call vote 6/5, with Hull, Hyder, Tweit, Benson, Dersham in opposition.**

There was discussion regarding the bullet points in Alternative 3, and specifically cooperative formation and mandatory requirements and licenses.

**Mr. Henderschedt moved, which was seconded, to include a bullet point that would evaluate the costs and benefits of establishing a minimum threshold for cooperative membership that would allow for the formation of no more than one or two cooperatives per area.** He spoke to his motion noting that in order to have real and effective benefits, he would like to highlight that end range of cooperatives. **The motion passed without objection.**

There was discussion regarding observer coverage requirements, and it was noted that the intent is for the Council to develop priorities for observers.

Mr. Benson noted his concern about area spillovers when one area reaches cap, vessels may choose to fish in other areas.

**Mr. Fields moved to amend, which was seconded, in Alternative 2 non-pollock fishery to provide a range of caps which would read, 5000, 7500, and 10,000 PSC cap.** Mr. Fields spoke to his motion noting a total PSC cap in the Pollock and non-pollock fishery of 20,000, 30,000 and 40,000 PSC cap. **Motion passed 7/4, with Dersham, Hyder, Tweit, and Benson objecting.**

**Mr. Tweit moved to amend the problem statement: Strike “endangered” and replace with “ESA listed.”** He spoke to his motion noting that the BiOp covers two threatened and one endangered stocks, so the easier way to refer to them collectively is ESA listed. **Amendment passed without objection.**

**Mr. Lassuy moved to add to the motion an additional bullet that would include analysis of potential impacts on subsistence users.** He applauded the range and language in motion, but noted the attention to subsistence users is necessary, and would be a part of the later package. **Motion passed without objection.**

Mr. Tweit noted that hard caps are a crude way of managing bycatch and are best combined with other management measures. He stated the Council must continue to work with industry to develop other management measures, and the motion is a well-crafted first step.

Ms. Lindeman noted that there is usually an opt-out option for co-ops, and that NOAA GC will be working on the legal authority for mandatory coops.

Mr. Fields restated that his intent is for this issue to take the highest priority and will re-address this in staff tasking. The Council members generally agreed.

**Motion passed without objection.**

### **C-6 Remove the retention standard from the GRS program.**

#### *BACKGROUND*

*At its June 2010 meeting, the Council reviewed a NMFS report on the status of monitoring, enforcing, and prosecuting the GRS program. In that report, NMFS identified two issues with the current GRS program. First, implementation of the GRS calculation requires groundfish retention above what was considered by the Council. Second, NMFS enforcement has significant concerns with the cost of enforcing a GRS violation, which may hinder their ability to enforce the current GRS program.*

*After reviewing the NMFS status report and listening to public comment, the Council, in June 2010, recommended an emergency action to temporarily suspend the GRS regulations. Additionally, the Council initiated an FMP amendment to explore revising the current GRS program by considering two approaches.*

*Since the June meeting, NMFS and Council staff have completed the analysis for the emergency action to temporarily exempt the Amendment 80 sector from the GRS. That action is expected to be implemented prior to the 2011 fishing season. In addition, staff has prepared the initial review draft analysis to permanently remove the retention requirement from the GRS program. The initial review draft was mailed to the Council in early November.*

Jon McCracken presented the staff report on this issue. The AP gave its report; the SSC did not address this issue, and public comment was taken.

#### COUNCIL DISCUSSION/ACTION

**Mr. Henderschedt moved, which was seconded, to adopt the problem statement recommended from by the AP, select Alternative 2 as preferred Alternative, and send out the document for review in February.** Mr. Henderschedt spoke to his motion noting that the Amendment 80 Retention Compliance Standard Agreement document addresses in its two parts addresses the two issues that were the most concern to the Council. In the appendix of the submitted agreement, shows the issue that the Council would need to address if it were intent on amending the groundfish retention standard so the calculation process matched the retention calculation used in the Amendment 79 analysis. The submitted contract addresses the Council's concern of retention in efficient and straight forward manner the agency's inability to enforce the groundfish standard due to it being prohibitively costly and challenging. The Council and stakeholders have worked together well, and have made progress and achievements that can continue.

Captain Mike Cerne noted that the amount of penalties and size of violations referenced in the Compliance Standard Agreement document were appropriate with those noted in the Draft Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions prepared by NOAA Office of General Counsel- Enforcement and Litigation.

**Motion passed without objection.**

## **C-7 (a) BSAI Groundfish Harvest Specifications and SAFE Report**

### *BACKGROUND*

*At this meeting, the Council will adopt the BSAI SAFE Report and final recommendations on groundfish harvest specifications and PSC limits to manage the 2011 and 2012 Bering Sea/Aleutian Islands (BSAI) groundfish fisheries. Upon publication in the Federal Register, these specifications will replace those that will start the groundfish fisheries on January 1, 2011.*

*BSAI SAFE Report. The BSAI Groundfish Plan Team met in Seattle on November 15-19, 2010, to prepare the BSAI Groundfish SAFE report. The SAFE report forms the basis for BSAI groundfish harvest specifications for the next two fishing years. The introduction to the BSAI SAFE report was mailed to the Council and Advisory Panel on November 24, 2010. The full report, including the Economic SAFE report and Ecosystems Considerations chapter, was mailed to the SSC and is available through the Council website. The Council will review and adopt the full report at this meeting.*

Drs. Diana Stram, Jim Ianelli, and Loh Lee Low, and Jane DiCosimo gave the staff presentations on both the BSAI and GOA issues. The AP report was given by Lori Swanson, and the SSC Chair had given its report earlier. Public comment was taken.

### COUNCIL DISCUSSION/ACTION

**Mr. Henderschedt moved to adopt the SAFE report, and the Advisory Panel recommendations for TACs, with the following changes: Bogoslof pollock TAC be changed to 150T from 50T and Arrowtooth flounder be changed to 25,900 MT from 26,000MT. The motion was seconded by Mr. Benson.**

He spoke to his motion, noting that the fisheries in the North Pacific have high management certainty, and can set TAC equal to ABC in confidence that the fishery will not exceed ABCs. Further, he noted there are no apparent environmental factors that indicate the need to set the TAC below the ABCs.

The sum of the ABCs for 2011/12 exceed the 2million MT OY by more than 500,000 MT, therefore the Council is obligated to lower the TAC of several species below the recommended ABCs, in order to bring the sum within the 2million MT OY.

Based on the recommendation of the AP, with a broad range of industry input, this motion contains TAC specifications that are fair and equitable between stakeholders, and represents the Council's best attempt to achieve OY. The recommended pollock TAC (Eastern BS) is set below the ABC, can anticipate a rollover. In Pacific cod, the increase represents an increase over the 2010 harvests, however under the cooperative fishing agreements they will be able to increase the fishing efficiency in their operations. Yellowfin sole has an increase over the catch, but can anticipate more fishing from other areas as a result of Steller sea lion restrictions. NMFS may have to move fish from limited access split and AM 80 sectors if it is necessary to achieve OY.

He continued, noting that in regard to Atka mackerel, 1500 T is considered to be efficient to support Pacific ocean perch directed fishery in that area. For other species, all the TACs are set close to or slightly above the catches for 2010. Generally, the Council should set TACs for non-target species that closely approximates the expected catch.

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Mr. Fields noted his support of the motion, but remains skeptical about the increase in EBS pollock and noted the fishery will be under scrutiny the next year. Mr. Hyder also noted his concern about the increase in pollock, and briefly expressed commendation to industry for working together and with the Council.

Mr. Benson noted his concern, but preferred to not second guess the scientists.

Mr. Henderschedt emphasized that concerns have been vetted by the SSC and the Alaska Fisheries Science Center and that location and concentration of the Pollock stocks are in line with what one would expect with that age class of that stock. He appreciated the concerns, but remains confident that the specifications are conservative while still allowing for an effective fishery.

Dr. Balsiger noted he is confident in the Council process and in the Council's ability to adjust the TAC either way. He also marked the concern noted by Council members regarding EBS pollock, and verified that the stock will get the attention, and is confident the stock is capable of 1.2 MT.

**Mr. Tweit moved to amend the main motion, and was seconded, to note that the Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions.** Mr. Tweit noted that the specification process is generally captured exactly in line with Council intent in the regulations. **The amendment passed without objection. Roll call vote on the main motion passed unanimously.**

Mr. Hendershedt commented briefly on Bogoslof pollock, and that the lower pollock ABC is constraining. He would like the SSC to re-examine its policy for setting Bogoslof pollock ABC.

He also noted that the squid, shark, skates, sculpins, and octopus, do not necessarily warrant directed fishing TACs, and suggested that next September when the Council does preliminary specs, that NMFS provide guidance on various fisheries bycatch needs, and information on relationships between harvest levels and bycatch levels.

Mr. Henderschedt gave kudos to industry in working within the OY and the Council needs to be prepared for a clear and transparent process for the TAC-setting process for the next year.

Mr. Tweit suggested we watch for tools that the Council can use to help industry in time for the next TAC setting process.

### **C-7 (b) GOA Groundfish Specifications and SAFE Report**

#### *BACKGROUND*

*At this meeting, the Council makes final recommendations on groundfish and bycatch specifications as listed above to manage the 2011 and 2012 Gulf of Alaska (GOA) groundfish fisheries.*

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GOA SAFE Document

*The groundfish Plan Teams met in Seattle November 15-19, 2010 to prepare the final SAFE reports and to review the status of groundfish stocks. The GOA SAFE report forms the basis for the recommended GOA groundfish specifications for the 2011 and 2012 fishing years. Note that there are three volumes to the SAFE report: a stock assessment volume, a fishery evaluation volume ("economic SAFE"), and an ecosystems considerations volume. The introduction to the GOA SAFE report was mailed to the Council and Advisory Panel in late November 2010. The full GOA SAFE report, the economic SAFE report and the ecosystem considerations volume were mailed to the SSC and are available as reference materials in the back of the Council, SSC and AP meeting rooms. The Joint Plan Team minutes are included under the C-7(a) agenda item. An overview of the GOA SAFE report and ecosystem considerations volume will be provided to you at the meeting.*

Two year OFL and ABC Determinations

*Amendment 48/48 to the GOA and BSAI Groundfish FMPs, implemented in 2005, made two significant changes with respect to the stock assessment process. First, annual assessments are no longer required for rockfishes, flatfish, and Atka mackerel since new data during years when no groundfish surveys are conducted are limited. For example, since 2010 was an off-year for the NMFS GOA groundfish trawl survey, only summaries for these species are produced.*

*The second significant change is that the proposed and final specifications are to be specified for a period of up to two years. This requires providing ABC and OFL levels for 2011 and 2012. In the case of stocks managed under Tier 3, 2011 and 2012 ABC and OFL projections are typically based on the output for Scenarios 1 or 2 from the standard projection model using assumed (best estimates) of actual catch levels. In off years (even years) in the case of stocks managed under Tiers 4-6, projections are set equal to the Plan Team's recommended values for the last full assessment presented.*

*The 2012 ABC and OFL values recommended in next year's SAFE report are likely to differ from this year's projections for 2012, for the same reasons that the 2011 projections in this SAFE report differ from the projected values from last year's SAFE report.*

ACL amendments

*Effective for the 2011 fisheries, management categories under the groundfish FMPs have been revised in Amendments 96 and 87 to the FMPs for Groundfish of the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA), respectively. This action was necessary to comply with requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to prevent overfishing, achieve optimum yield, and to comply with statutory requirements for annual catch limits (ACLs) and accountability measures (AMs). Species and species groups must be identified "in the fishery" for which ACLs and AMs are required.*

Drs. Diana Stram, Jim Ianelli, and Loh Lee Low, and Jane DiCosimo gave the staff presentations on these issues. The AP report was given by Lori Swanson, and the SSC Chair had given its report earlier. Public comment was taken.

COUNCIL DISCUSSION/ACTION

**Mr. Benson moved to adopt, which was seconded, the AP recommendations for GOA TACs for 2011 and 2012 and the ABCs from the SSC with following exceptions:**

- **Pcod TAC is reduced to accommodate state fishery**

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- **Rollover the 2010 TACs for 2011 and 2012 for Shallowater flatfish and Flathead sole in the C and W GOA, and in ATF all areas; Slope rockfish in EYAK SEO; and GOA Atka mackerel**
- **Sharks, skates and octopus put on bycatch only status for the year**
- **Recommend GOA Halibut PSC apportionments annually and seasonally, as indicated in the action memo, and to approve GOA SAFE report.**

Mr. Benson spoke to his motion noting that in the GOA have OY range, and that sharks and octopus could be constraining to fisheries, so the recommendation is to have them put on bycatch only. The halibut PSCs are reflective of past, seasonal, and annual apportionments.

Mr. Fields noted that he had questions in staff report and public comment relative to skates and is interested in seeing some population being available for a directed fishery. He also noted he will be in opposition to this motion because of concern about halibut bycatch PSC in GOA.

**Mr. Tweit moved to amend the main motion, and was seconded, to note that the Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions. Amendment passed unanimously.**

**Roll call vote on the main motion passed 10/1, with Mr. Fields objecting.**

**D-1 (a) Review discussion paper on GOA Pacific cod jig fishery.**

*BACKGROUND*

*At the December 2009 meeting, as part of its final motion on GOA Pacific cod sector allocations, the Council requested a discussion paper on options for revising management of the GOA Pacific cod jig fishery. The Council has recently taken two actions that potentially increase opportunities for jig vessels in the GOA Pacific cod fishery by 1) exempting jig gear from the LLP requirement in the Western and Central GOA, and 2) allocating a percentage of the Western and Central GOA Pacific cod TACs to jig gear that is higher than the sector's historical catch levels, with a stairstep provision to increase the allocations if they are fully harvested. The purpose of considering alternative management measures for the jig fishery is to maximize access to the Pacific cod resource by jig participants and other sectors.*

*The Council may choose to 1) take no action; 2) initiate an amendment to the GOA Groundfish FMP to revise management measures for the GOA Pacific cod jig fishery, or 3) request additional information prior to initiating an analysis. Should the Council choose to move ahead with this issue it should identify a purpose and need statement for the proposed action, goals and objectives for addressing the problem, and a reasonable range of alternatives for analysis.*

Jeannie Heltzel gave the staff report on this issue. Glenn Merrill updated the Council on regulatory actions related to this agenda item, and the AP report was given by Lori Swanson. The SSC did not address this issue. Public comment was heard.

COUNCIL DISCUSSION/ACTION

Stefanie Moreland made the following motion, which was seconded by:

*The Council adopts the following problem statement and moves the following alternatives for initial review:*

**Problem Statement:**

*The Council has taken two recent actions that will potentially increase opportunities for jig vessels. The GOA Fixed Gear LLP Recency action exempts jig vessels, subject to gear limits, from the LLP requirement in the Western and Central GOA. The GOA Pacific Cod Sector Allocation action allocated a percentage of the Western and Central GOA Pacific cod TACs that is higher than the sector's historical catch levels with a stairstep provision to increase the allocations if they are fully harvested.*

*A number of factors have contributed to limiting jig harvests in both state and federally managed fisheries. The timing of the Pacific cod A and B seasons may have limited the participation of jig vessels in the parallel and Federal fisheries of the GOA. Additionally, the State waters jig allocation has gone uncaught in some years, potentially due to the lack of availability of Pacific cod inside three miles.*

*The jig fishery provides entry level opportunity into GOA fisheries and contributes to a diversified fishing portfolio for combination fishing vessels throughout coastal Alaskan communities. Restructuring management of the jig fishery could ensure that the jig fleet has access to fully harvest both state and federal fisheries allocations.*

**Alternative 1: Status quo.**

**Distinct Parallel/Federal and State waters fisheries will continue to exist and the two fisheries will be managed as follows when the GOA Pacific cod sector allocations action is implemented:**

**The Federal TAC will be divided into an A/B season of 60%/40%. The A season will open on Jan 1 and close when the TAC is reached or on March 15. The State jig fishery will open either when the Federal season closes due to TAC or on March 15. The Federal B season will open on June 10.**

**Alternative 2: Reverse parallel fishery.**

**Federal openings of the Pacific cod jig fisheries in the EEZ will be concurrent with State of Alaska seasons when the State GHF fishery is opened. Catch in Federal waters during the State GHF season will be deducted from the State GHF allocation. Catch in Federal waters or State waters when the State GHF is not open will be deducted from the Federal jig TAC.**

Ms. Moreland spoke to her motion noting that the intent of this motion is to move this agenda item forward. While the previous Alternative 2 would have provided jig vessels year-round opportunity from 0-200 miles, it relied on BOF action to relinquish all or a portion of the state waters jig allocation. State waters Pacific cod fisheries in the GOA are prosecuted in five distinct management areas/districts (Prince William Sound, Cook Inlet, Kodiak, Chignik, and South Alaska Peninsula). Management plans and objectives, fleet participation, and allocations are not aligned between these fisheries. In many of these areas the jig allocation is not fully harvested and is rolled over to the pot fleet. Coordination with the BOF and both the jig and pot fleets in these management areas would be difficult and disruptive. Representatives of the jig fleets have indicated in public testimony that the above two alternatives are the favored approaches.

Mr. Benson noted discomfort with eliminating Alternative 2, and that the analysis should have a range of alternatives. Ms. Moreland noted this discussion is supplemental to the previous Council action on sector splits. The dropped alternative would have the Council make recommendations to the BOF, and after evaluating the previous Alternative 2, it is not a viable option.

Ms. Lindeman noted that the action should be consistent with the Magnuson Act, and that analysts will work with legal department.

**Motion passed without objection.**

**D-1 (b) Review discussion paper on GOA Halibut PSC Limits.**

**BACKGROUND**

*At its December 2009 meeting, the Council requested a discussion paper on the process for changing the halibut Prohibited Species Catch (PSC) limits in the Gulf of Alaska (GOA) and the BSAI. In February 2010, the Council reviewed a NMFS discussion paper that described how halibut PSC limits are established and may be revised in both areas. The Council requested separate discussion papers for each area, and set a discussion paper for GOA halibut PSC limits as its first priority; it has not set a timeline for a BSAI halibut PSC limit discussion paper.*

*In June 2010, the Council briefly reviewed a preliminary discussion paper that provided 1) information identified in the GOA Groundfish FMP as necessary to change the halibut PSC limits and 2) preliminary data summaries. The Council identified additional issues to clarify.*

*The Council identified its intent to bifurcate potential Council action for determining whether and how to revise GOA halibut PSC limit(s). These actions include: 1) simple measures to reduce halibut bycatch in near term and; 2) an action list of industry approaches to reduce halibut bycatch in the long term.*

*The Council may choose to 1) take no action; 2) initiate an amendment (EA) to the GOA Groundfish FMP to revise the PSC setting process to mirror the regulatory process as in the BSAI, as needed and include alternatives to the status quo halibut PSC limits in the analysis (RIR/IRFA); 3) initiate a separate analysis of halibut PSC limits to support the harvest specifications EA for 2012/2013; or 4) include an analysis of halibut PSC limits in the next harvest specifications EA. The earliest that GOA halibut PSC limits could be revised is for the 2012 fishing year, if so desired.*

*Should the Council wish to move ahead with this issue, it should identify: 1) a problem in the fishery, 2) goals and objectives for addressing the problem, and 3) a reasonable range of management alternatives for analysis. If the Council chooses to take no action to initiate a separate analysis, it always has the option to incorporate halibut PSC limit reductions in other proposed actions, as it did with BSAI Amendment 80 (150 mt) and the GOA rockfish program (24 mt). Even under no action, more widespread (mandatory or voluntary) use of halibut excluder devices could result in fewer halibut taken as bycatch in groundfish fisheries, thus leading to 1) potential increases in halibut abundance if not reallocated and commercial longline fishery catch limits and/or 2) increased GOA groundfish target harvests.*

Jane DiCosimo gave a brief presentation, and Marcus Hartley from Northern Economics gave a report on GOA Halibut Mortality. The AP gave its report; the SSC did not address this issue, and public comment was heard.

**COUNCIL DISCUSSION/ACTION**

**Mr. Hull moved, which was seconded, the following:**

**In recent years, the directed halibut catch limits in the GOA regulatory areas 2C, 3A and 3B have declined steadily, and the recommended catch limits for 2011 are almost 30% lower than in 2010. Growth rates of halibut remain very low and size at age has been declining; much of the total biomass is made up of smaller fish that are more vulnerable than larger fish to trawl gear. In addition, evidence of west to east migration of halibut within a coast wide stock may have implications for the impacts of halibut bycatch on stock assessment, and directed fishing opportunities. These factors raise**

**concerns about the current halibut PSC limits in the GOA, and the effect this bycatch has on the directed fishing opportunities, as well as the productivity of the stock.**

**At this time the Council has not selected a specific process for considering changes to the GOA halibut PSC limits. Although the Council believes that an evaluation of the current halibut PSC limits is warranted, additional information about the condition of halibut stocks, the effects of bycatch reduction, and other fishery factors is necessary. Therefore, the Council directs staff to provide information on the following topics:**

- 1. The effect of reducing bycatch limits in the GOA on the exploitable biomass available to the directed halibut fisheries, over an appropriate time period; this includes the effects of migration on downstream users. (i.e. what is the effect of a 100mt reduction in bycatch over a 5 year period?).**
- 2. The recent changes in IPHC stock assessment methods, harvest policies, and catch limit setting on directed halibut fisheries.**
- 3. Changes to Federal fishery management programs and halibut PSC apportionments that begin in 2012 that are relevant to the use of halibut PSC.**
- 4. Possible causes of low growth rates and the effects on future exploitable biomass and spawning biomass.**

**The Council further requests the IPHC to provide the appropriate scientific expertise and information to assist the Council.**

Mr. Hull spoke to his motion noting that the PSC limit has remained unchanged, however there have been significant changes in the fishery and related industries. He would like the information in the discussion paper to be available to the Council during the April meeting, in time to make adjustments/changes for the TAC setting process. He noted it was important to involve the IPHC in discussions.

There was discussion regarding using the TAC setting process to address adjustments the GOA halibut PSC numbers. Mr. Oliver noted that unless an amendment package is put in place, the TAC setting process is the only way to adjust the numbers in 2012.

There was lengthy discussion regarding the timeline, and ability for the Council to have sufficient information and an action in place for the 2012 specifications process. There was general support in the intent of the motion, but concern for the ability to get the necessary information in time to make a decision.

Ms. Lindeman noted that the in season management authority cannot be used to set TAC annually, but it can be used to correct a number, unless the regulatory authority is amended.

Mr. Fields noted that the motion provides additional information to get to a place where there will be tools for the Council to adjust PSCs; some more appropriate to regulation amendment, some more to TAC setting process.

Ms. Moreland noted that the intent is to have elements and options to choose from. She encourages the Council to request additional information, because the Council is not ready to make a list of elements and options. How bycatch affects status of the stock, and access to the resource in near term and long term.

Mr. Hyder is concerned about splitting processes, and shares concerns about direction.

Mr. Hull emphasized he is aware of concerns as the Council moves through the specification process, and the intent is for more information; more tools, and more research.

**The motion passed with Henderschedt objecting.**

### **D-1 (c) Hagemeister Island in northern Bristol Bay.**

#### *BACKGROUND*

*At the April 2009 meeting, the Council passed a motion based on a request from the U.S. Fish & Wildlife Service (USFWS) to describe the process for designating a walrus protection zone around a new, emerging walrus haulout on the southwest side of Hagemeister Island. The USFWS expressed concern over potential disturbance to walrus using this haulout from groundfish fishing activities in the northern Bristol Bay region. Hagemeister Island is part of the Togiak National Wildlife Refuge, which is administered by the USFWS.*

*The Council received a staff discussion paper in December 2009 that provided information on the new Hagemeister Island walrus haulout and options for designating a protection zone around this haulout. After considering the options outlined in the paper, and public comment, the Council requested that staff prepare an analysis of alternative closure areas around the Hagemeister Island haulout, and referred this issue to the Joint Protocol Committee. The Joint Protocol Committee reviewed the alternatives in October 2010, and noted that while the Board of Fisheries can regulate fishing activity in State waters, it cannot regulate vessel transit or other human activities in State waters. The Council noted that most disturbances to walrus are likely from activities not related to Council-managed fisheries, and requested that the USFWS engage in discussions with the Alaska Board of Fisheries and other entities in northern Bristol Bay that may be sources of disturbances to walrus in this area.*

Jeannie Heltzel and Jonathan Snyder, USFWS, gave the staff report on this issue. The AP gave their report; the SSC had given their report earlier, and public comment was heard. Mr. Hyder gave a brief report from the enforcement committee on this issue.

#### COUNCIL DISCUSSION/ACTION

**John Henderschedt moves the AP motion with the following changes:**

**Strike “area closures to the area fishing vessels” and substitute “a transit area should be developed....” And insert “by vessels operating in the vicinity of Hagemeister haulout while maintaining safe access...”**

**And add a third point:**

**The analysis should describe in detail the requirements, process and compliance issues relating to the establishment of a transit corridor by USFW working directly with NOAA.**

The motion was seconded, and Mr. Henderschedt spoke to his motion, stating that the purpose and need statement should address a broader objective of addressing potential disturbances; refer to a transit zone rather than area closures, and that this analysis is applied to all vessels, not just a fishing fleet.

There was general discussion regarding regulations that effect fishing vessels vs. all other vessels, and discussion regarding jurisdiction.

**Mr. Fields moved to amend the motion, which was seconded, by adding a 4<sup>th</sup> bullet describing the Togiak herring fishery, with specificity regarding where the fishery occurs, number of tender**

**vessels involved in the fishery and any other information this fishery may have with the proposed area. Amendment passes without objection.**

**Ms. Campbell moved to amend the main motion by moving the Council not release the analysis for public review, or scheduled for further analysis at this time. The amendment passes with no objection.**

**Mr. Fields proposed a substitute motion, which was seconded, to take no further action at this time. There was general discussion and the motion passed unanimously by roll call vote.**

### **D-2 Staff Tasking**

Chris Oliver reviewed a list of items from the meeting marked for discussion during staff tasking. Jane DiCosimo reviewed a discussion paper compiled from all the involved agencies on the Charter Halibut Leasing Provisions and answered questions from the Council.

Chairman Eric Olson reviewed the various Council Committees, and noted that the Fur Seal Committee, the VMS Committee, and the Gulf Rationalization Committee are being discontinued. If there are issues that need to be addressed by a committee similar to these, they will be re-commissioned or have those duties taken up by a similar existing committee. The Crab Industry Advisory Group will be formed on their own, however the Council staff will attend and continued to be involved and informed. Mr. Olson noted he will make new committee appointments to the Observer Committee at a later date, and that the IFQ Implementation Committee would be renamed to the IFQ Committee.

Lori Swanson gave the AP report, the SSC comments were heard earlier, and public comment was taken.

### **COUNCIL DISCUSSION/ACTION**

Dan Hull motion to approve October minutes motion passed w/o objection

**Enforcement Committee:** Mr. Hyder reported on the Enforcement Committee meeting that met earlier in the week. He spoke briefly on the proposed NOAA GCEL Draft Policy Schedule. As stated in the Enforcement Committees minutes, he noted the Committee recommends the Council draft a letter which states the proposed penalty schedule may restrict regional flexibility in enforcement of the North Pacific Fishery related regulations. There was brief discussion, and it was generally agreed the letter would be drafted, and an update would be given at the February meeting.

### **SSL BiOP**

Mr. Tweit noted that the brief discussion the Council had on the BIOP, and processes that have been used to date was not long enough, and the 30 day comment period is too short, especially over the holidays.

Mr. Balsiger reassured the Council he would advocate for a longer public comment period.

There was lengthy discussion regarding comments, timelines, and potential for re-initiating consultation, the administrative process, and the administrative process for public comment.

Discussion continued regarding the Terms of Reference and the CIE review.

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There was general agreement that the Council should draft a letter to NMFS expressing concerns with the truncated comment period, Area 541 Pcod management measures, and the disconnect between the analysis in the Biop and changes in the prey field and biomass. The letter should also reflect all other concerns that the Council has been discussing. It was generally agreed that the Executive Director and Council Chair will draft a letter for Council review.

**Regional Coastal Partnership and Planning**

Mr. Oliver reviewed issues related to regional ocean partnerships, and suggests not forming another group, but to request involvement in existing groups, assimilate tools, and weigh in on fishery issues affecting the North Pacific.

Mr. Henderschedt noted that there are significant benefits from partnering with AOOS, and the Council should support that partnership in and the collection of regional data.

**Crab Rationalization Committee Industry Committee**

The Council generally agreed that industry can appoint its own members. Council staff will be available as needed, and it would be up to the Committee as to whether or not PNCIAC will be included.

There was discussion regarding timing, and whether or not to request a progress report. It was generally agreed that an update would be scheduled on the October 2011 agenda; before that, informal updates/progress reports can be given.

**Agenda item C-4 (d) Fish D class on C vessels**

It was generally agreed the interest in this agenda item was low, and that it would be indefinitely postponed.

**GOA Chinook bycatch**

Mr. Fields requested to move forward as highest priority. It was generally agreed, and the Chairman noted that he would work with staff to ensure it would stay within the expedited timeline the Council outlined.

**Effects of Hard Caps of AM80 Allocations**

Mr. Hendershedt noted that public comment had been heard relative to the AM80 flatfish allocations and how it drives the spec process in the need to create buffers. **Mr. Henderschedt moved, which was seconded, to initiate a discussion paper that examines the potential of using an unspecified reserve of flatfish species allocated to the AM 80 sector to address these management challenges brought by the hard cap nature of AM80 allocations, and the paper should also address the regulatory mechanisms that could be employed to establish such a reserve.**

He requested as part of the B reports, NMFS could report in April on the feasibility of implementing a mechanism in the specification process. This would serve as a report to the council relative to timing.

**Motion passes without objection.**

Mr. Cotton noted that the AP had a motion he would like to recommend to the Council: He moved, and was seconded by Mr. Fields, that the Council initiate a discussion paper for changing the trawl A season opening date for the Western GOA Pacific cod fishery to a later date. There was brief discussion, with Mr. Cotton noting there have been many changes with the trawlers in that area, and they have collectively asked for a later start date. **The motion passed without objection.**

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Mr. Fields noted he was responding to a letter in public comment regarding vessel caps for use of CQE quota. **He moved, which was seconded, to have the Council initiate an amendment package regarding vessel caps for fishing CQE quota with the following options:**

1. **status quo**
2. **vessels limited to 50,000lbs of CQE quota but otherwise subject to programmatic vessel caps**
3. **vessels fishing CQE quota would be limited to programmatic vessel caps**

Mr. Fields spoke to his motion noting that the intent of the original Council motion was to limit CQE quota to 50,000 lbs of halibut and 50,000 lbs of sablefish per vessel but it was implemented more restrictively. Thus, Mr. Fields views it more as a technical correction to the original regulations. There was brief discussion, **and the motion passed without objection.**

Mr. Hull mentioned there had been public testimony from the independent trawlers, and would like the concerns to be addressed. Mr. Oliver noted that there has been a discussion paper done on this issue, and staff can update it, however the information would not be very informative until confidentiality waivers can be obtained from the participants. There was general discussion regarding issues of confidentiality. Mr. Tweit noted there may be a fairly large effort shift effective Jan 1, due to the BIOP, and by mid-year a good sense of what is happening in the fishery will be apparent.

**Mr. Cotton moved the Council initiate discussion paper which can capture participation on vessels that have been involved and other relevant information that can be reviewed at this time.** Mr. Cotton is interested in knowing more about this issue, and the background information will help the Councilmembers make decisions. There was brief discussion, **and the motion passed 9/2, with Benson and Henderschedt objecting.**

Mr. Fields noted earlier in the meeting there had been discussion regarding halibut charter permit leasing. **He moved, which was seconded, to have staff draft a discussion paper including:**

1. **Require name of permit holder match the business owners listed on the ADFG business license**
2. **Review definition leasing: “leasing of Halibut Charter Permit is a temporary transfer of the permit from the permit owner for monetary compensation or other value to an individual or business as the transferee that does not also pay monetary compensation or other value for use of a vessel that is registered to fish in the halibut charter fishery in the year the permit was transferred an or for the permit owners services as an active halibut charter guide during the year the permit was transferred”**
3. **Non-transferrable permits, alternative review, extinguished in 5, 10, or 15 years after the implementation of the halibut moratorium program**
4. **implementation of leasing permissions will not be permitted before 2015**

Mr. Fields spoke to his motion, noting that staff have outlined some of the permits are currently non-transferrable, however there is concern how long they last, and will they be permitted to lease after another date. The reasons for waiting until 2015 would be to see how the program unfolds.

There was discussion regarding the specificity of the motion before the program has been implemented. Mr. Benson noted that the Council had heard in public testimony that the participants need maximum flexibility as this program is implemented.

**The motion failed 4/7, with Hyder, Fields, Balsiger, and Cotton voting in favor.**

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Mr. Hull referred to the APs minutes regarding uninspected vessels and had concerns. Mr. Cerne noted information will be requested and that they will be getting the necessary data from USCG to NMFS which will address the APs concern.

Capt. Cerne also noted that the USCG will be hosting a workshop in conjunction with the February meeting in response to the recent Coast Guard bill which imposes new requirements on the industry.

Ms. Campbell noted that during the Salmon FMP agenda item, she had dropped from analysis the issue of regulatory relief. She is requesting the Council draft a letter to NMFS that issue guidelines that the Alaska salmon fisheries should not be subjected to NS1 guidelines. There was general agreement.

Chairman Olson made appointments to the various committees:

**PNCIAC**

Keith Colburn, Lance Farr, Kevin Kaldestad, Gary Loncon, Steve Minor, Gary Painter, Rob Rogers, Vic Scheiberg, Tom Suryan, Arni Thompson, Elizabeth Wiley, Kirk Peterson

**SSC**

Robert Clark, Susan Hilber, Anne Hollowed, George Hunt, Gordon Kruse, Kathy Kuletz, Pat Livingston, Franz Mueter, Jim Murphy, Seth Macinko, Terry Quinn, Lou Queirolo, Ray Webster, Doug Woodby, Farron Wallace, Katherine Reedy-Maschner, Jennifer Burns

**AP**

Craig Cross, John Crowley, Julianne Curry, Jerry Downing, Tom Enlow, Tim Evers, Jeff Farvor, Jan Jacobs, Bob Jacobson, Becca Robbins-Gisclair, Chuck McCallum, Matt Moir, Ed Poulsen, Teresa Peterson, Beth Stewart, Lori Swanson, Anne Vanderhoeven, Alexis Kwachka, Kurt Cochran, and Neil Rodriguez

Mr. Olson thanked all the outgoing members, and is looking forward to working with the new members. He thanked the staff, and reflected briefly on the past year and wished everyone a Merry Christmas.

The meeting adjourned at 12:04pm.