

North Pacific Fishery Management Council

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Certified _____
David Benton, Chairman

Date _____

MINUTES

145th Plenary Session NORTH PACIFIC FISHERY MANAGEMENT COUNCIL SEPTEMBER 8-11, 2000 Anchorage, Alaska

The North Pacific Fishery Management Council met September 8-11, 2000 at the Sheraton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee and Advisory Panel met September 6-8, at the same location. This meeting was called specifically to receive preliminary reports from the National Marine Fisheries Service on interactions between Steller sea lions and the Pacific cod fisheries, although several other issues were added to the agenda. The following members of the Council, staff, SSC and AP attended the meetings.

Council

David Benton, Chairman
Dennis Austin for Jeff Koenings
Jim Balsiger
RADM T. Barrett/CAPT V. O'Shea
Linda Behnken
John Bundy
Anthony DeGange for David Allen

Bob Mace (Vice Chair) for J. Greer
Kevin Duffy for Frank Rue
David Fluharty
Dave Hanson
Kevin O'Leary
Robert Penney
H. Robin Samuelson, Jr.

NPFMC Staff

Clarence Pautzke, Executive Director
Cathy Coon
Jane DiCosimo
Elaine Dinneford
Chuck Hamel
Nicole Kimball

Chris Oliver, Deputy Director
Diane Provost
David Witherell
Helen Allen
Gail Bendixen
Maria Shawback

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Support Staff

Lisa Lindeman, NOAA-GCAK
Jon Pollard, NOAA-GCAK
Sue Salvesson, NMFS-AKR
Earl Krygier, ADFG
John Lepore, NMFS-AKR
Michael Payne, NMFS-AKR

Kristen Mabry, ADFG
Ben Muse, NMFS-AKR
Dan Ito, NMFS-Observer Program
Wayne Donaldson, ADFG
Bill Bechtol, ADFG

Scientific and Statistical Committee

Richard Marasco, Chair
Steve Berkeley
Keith Criddle
Doug Eggers
Jeff Hartman

Jack Tagart, Vice Chair
Sue Hills
Dan Kimura
Terry Quinn
Al Tyler

Advisory Panel

John Bruce Chairman
Ragnar Alstrom
Dave Benson
Dave Boisseau
Al Burch
Craig Cross
Dan Falvey

Stephanie Madsen, Vice Chair
Kris Fanning
Arne Fuglvog
Dave Fraser
Spike Jones
Melody Jordan
Teresa Kandiannis

Hazel Nelson
Doug Ogden
Michelle Ridgway
Jeff Steele
Jeff Stephan
Lyle Yeck

Other Attendees

The following people signed the attendance register:

Thorn Smith
John Iani
Chris Blackburn
Joe Plesha
Steve Toomey
Greg Baker
Frank Kelty
Arni Thomson
Shari Gross
Jim Paulin
Bill Atkinson
Agafon Krukoff
Denby Lloyd
Ed Glotfelty
Perfenia Pletnikoff

Phillip Lestenkof
Jon Zuck
Joe Childs
John DeGroen
Gordon Blue
Liann Jack
Rick Willis
Beth Stewart
Paula Brodgon
Heather McCarty
Patience Mercurief
Robert Mikol
Joe Sillivan
Margie Bauman
Marcus Alden

John Burns
Linda Kozak
Jay Stinson
Simeon Swetozof, Jr.
Michael Sticman
John Mercurief
Michael Mayo
Mike Szymanski
Brent Paine
Ken Tippet
Neal Forde
Steve Hughes
Keld Andersen
Karen Wood DiBari
Jody Seitz

A list of those who provided public comment during the meeting is found in Appendix I to these minutes.

A. CALL TO ORDER/APPROVAL OF AGENDA/MINUTES OF PREVIOUS MEETING(S)

Acting Chairman Bob Mace called the meeting to order at 8:05 a.m on Friday, September 8, 2000. All members were present except Linda Behnken. Ms. Behnken arrived later in the morning.

Oath of Office to New Appointees. Regional Administrator Jim Balsiger administered the oath of office to Dave Benton, Dave Fluharty, and Bob Penney.

Election of Officers. Robin Samuelsen nominated Dave Benton to serve as Chairman. No other nominations were offered and Mr. Benton was elected by unanimous consent. Mr. Samuelsen nominated Bob Mace to serve as Vice Chairman. No other nominations were offered and Mr. Mace was also elected by unanimous consent.

Agenda. The agenda was approved as submitted.

B. REPORTS

Because this was a special meeting of the Council the normal fisheries reports by NMFS and ADF&G and enforcement reports were not scheduled. The Executive Director provided a report (B-1), and the Council received a special report from Dr. Al Tyler on the status of current pollock research projects funded through the Pollock Conservation Cooperative Research Center, University of Alaska Fairbanks. Dr. Balsiger and Dr. Tyler sit on the advisory board which sets research priorities and selects proposals for funding. The Council also received a briefing from Admiral Barratt on the Coast Guard's recent seizure of a Chinese vessel for illegally fishing within U.S. waters.

Discussions/Action Resulting from Reports

Dr. Berkeley's appointment to the SSC through December 2000 was confirmed by the Council. Also, the Council approved the appointment of Herman Savikko, ADFG, to the Crab and Scallop Plan Teams, and Kathy Kuletz, USFW, to the Bering Sea/Aleutian Islands and Gulf of Alaska Plan Teams.

The Council also voted to nominate Dr. Fluharty to the Federal Advisory Committee on Marine Protected Areas.

Executive Director Clarence Pautzke advised Council members that, with their permission, he has accepted an Interagency Personnel Assignment to head up the NMFS Sustainable Fisheries Division in Washington, DC, between September 18 and June 30, 2000. The Council approved Chris Oliver to serve as Acting Executive Director during that period.

FORMAT FOR COUNCIL MEETING MINUTES

Each agenda item requiring Council action will begin with a copy of the original "**Action Memo**" from the Council meeting notebook. This will provide an "historical" background leading up to the current action. This section will be set in a different type than the actual minutes. Any attachments referred to in the Action Memo will not be attached to the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be the **reports** of the Scientific and Statistical Committee, Advisory panel, and any other relevant committee or workgroup on the subject. Last will be a section describing Council **Discussion and Action**, if any.

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C. NEW OR CONTINUING BUSINESS

C-1 Observer Program

ACTION REQUIRED

- (a) Receive report from Marine Resource Assessment Group (MRAG).
- (b) Receive report from your Observer Committee and provide recommendations as necessary.

BACKGROUND

MRAG Report

Last year NMFS contracted with MRAG Americas to conduct an independent review of the North Pacific groundfish observer program. Their report was completed and released in late June, and was mailed to you in late July, along with NMFS' response to the recommendations, and the report from your Observer Committee which met in late July and reviewed the MRAG report. Representatives from MRAG Americas are on hand to summarize for the Council the results of their independent review. Due to timing issues with the rest of our agenda, and availability of the contractors, we should take the MRAG report and get any questions of the contractors answered at this time. Later in the meeting (scheduled for Sunday), we would get additional reports from NMFS and from the Observer Committee and reserve Council discussion then. The Executive Summary from the report is under Item C-1(a).

Agency Response and Observer Committee Report

NMFS' response to the MRAG recommendations is contained under Item C-1(b), and will be summarized for the Council by Dr. Dan Ito. Your Observer Committee met in Seattle on July 24-25 to discuss a variety of program issues, with emphasis on some of the recommendations from the MRAG report. In particular is the recommendation to establish (in lieu of a fully federal program) a contractual relationship between NMFS and the contractors which will place the agency in the role of the client as opposed to industry. This structure would allow NMFS to make determinations as to which contractors would cover specific fisheries, and would create the desired 'arms length' relationship. It would not address cost equity or overall funding issues, but would not preclude development of any particular funding mechanism. The agency intends to proceed with this recommendation using the offshore AFA fishery (catcher/processors and motherships) as a pilot program module. This is discussed more fully in both the agency response to the MRAG report and the Observer Committee report.

Following Dr. Ito's report, Council staff will present the Observer Committee report (Item C-1(c)). Given the pending internal discussions by NMFS regarding program goals and objectives and resolution of issues regarding the no-cost contract proposal, along with additional information requests to staff, it appears most feasible to schedule the next Observer Committee meeting for sometime following the October Council meeting. We would then have an update for the Council at our December meeting.

The **Advisory Panel** had no comments on this agenda item.

Report of the Scientific and Statistical Committee

The SSC stressed that the core goals and objectives of the observer program to provide catch, bycatch, and biological data necessary to support in-season monitoring and stock assessment should not be compromised

by other competing goals and objectives. The SSC recommended that alternatives for achieving observer coverage levels consider both benefits and costs of the options. Additionally, the SSC concurred with the MRAG recommendation that NMFS should control placement of observers on vessels where the coverage is less than 100% and placement must be random over available vessels.

The written report of the **Observer Oversight Committee** was provided to the Council in their meeting notebooks.

DISCUSSION/ACTION

Council members expressed appreciation for the efforts of the Observer Program Office to improve the current program and encouraged them to continue its work. Council members also expressed the desire that the Observer Committee continue its work as outlined in their committee report.

C-2 Pacific Cod/Steller Sea Lion Interactions

ACTION REQUIRED

Initial review of an analysis of the Pacific cod fisheries and reasonable alternatives to minimize possible competitive interactions with the endangered western population of Steller sea lions.

BACKGROUND

There are three major items which incorporate Steller sea lion conservation issues: the Supplemental Environmental Impact Statement (SEIS), the plan level Biological Opinion, and the initial draft Environmental Assessment of alternatives for the Pacific cod fisheries.

SEIS

On July 8, 1999, U.S. District Court issued two rulings. First, the 1998 biological opinion and the reasonable and prudent alternatives (RPAs) developed therein to mitigate interactions between Steller sea lions and the pollock fisheries were arbitrary and capricious for lack of sufficient explanation. Second, the court found that the 1998 SEIS was too narrow in scope and that a more programmatic (i.e., plan level) EIS was needed. NMFS staff, with assistance from others including Council staff, are preparing a revised SEIS. A complete draft is scheduled to be available for review by October 20 and a notice of availability will be published in the Federal Register on October 27.

Biological Opinion

On January 25, 2000, the Court ruled that the biological opinion for the 1999 BSAI and GOA Groundfish TAC specifications was arbitrary and capricious as it failed to conduct a sufficiently comprehensive examination of the overall effects of the groundfish fisheries on listed species and designated critical habitat. On July 19, the Court ruled that it would enjoin all groundfish trawl fishing in Steller sea lion critical habitat in the BSAI and GOA beginning on August 8. The injunction remains in effect until further order of the Court. Presumably, the injunction would be lifted when the Court deems that a sufficient plan level biological opinion has been prepared and that management measures are adequate to avoid jeopardy or adverse modification of critical habitat for all listed species. At this meeting, the Council will be considering additional measures to alleviate possible competitive interactions between the Pacific cod fisheries and Steller sea lions. Any additional management measures, if adopted, would be incorporated into the biological opinion under the status quo for 2001.

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Pacific Cod – Steller sea lion analysis

At the June meeting, NMFS staff provided the Council with a discussion paper on potential interactions between Steller sea lions and the GOA and BSAI Pacific cod fisheries. The Council and its Advisory Panel requested that additional information be added to the analysis, including the effects of previous management actions such as the pollock trawl closures, the midwater pollock trawl restriction, and the effects of the American Fisheries Act. NMFS held public meetings (June 27 in Kodiak and June 29 in Seattle) to develop reasonable alternatives for the Pacific cod fishery that would reduce the likelihood of competitive interactions with Steller sea lions. At this meeting, NMFS will present the analysis for initial review. Final action is scheduled for October, with implementation of the preferred alternative by emergency rule prior to January 1, 2001.

Note that several sentences were left off the draft on page 45 of the analysis. The corrected text is attached, followed by comment letters we have received on this issue.

Report of the Scientific and Statistical Committee

The SSC had extensive comments regarding the interaction between the Pacific cod fisheries and Steller sea lions and on the current analyses. Briefly, the SSC asserts that conflicting mandates of the Magnuson Act, NEPA and ESA, the lack of knowledge and understanding of factors affecting Steller sea lions, and the absence of a proactive research and management plan make it difficult to assess the situation. When uncertainties create doubt, a cautious and precautionary approach is warranted. However, the SSC feels that at the current time, the premise upon which the alternatives are based is so tenuous that adoption of the alternatives seems imprudent. Please see more detailed recommendations and comments in the SSC Minutes, Appendix II to these minutes.

Report of the Advisory Panel

The AP concurred with the SSC's statement that ". . .at the current time, the premise upon which the alternatives are based is so tenuous that adoption of the alternatives seems imprudent." The AP stressed, however, that if the analyses does go forward, they would recommend additional options and information be included. The AP motion was extensive and can be found in Appendix III to these minutes.

DISCUSSION/ACTION

Bob Mace moved to approve the recommendations of the Advisory Panel:

Alternative for the GOA:

- A. Divide fishery into two seasons. ("A" & "B")**
 - 1. Season A: January 1 - April 30**
 - 2. Season B: May 1 - December 31**

B. Phase in implementation of seasonal and critical habitat TAC limits.

A. B season CH limit to be frameworked and based annually on biomass distribution in summer survey.

B. No B season limit in CH.

- 1. 2001 "A" Season: No more than 80 % of TAC and no more than 60% in critical habitat.**

2. 2002 "A" Season: No more than 70% of TAC and no more than 50% in critical habitat.

Note: The phase-in would be superceded when winter survey data on biomass distribution is available

- C. Keep federal waters open under current regulations around rookeries and haulouts open to all gear types.
- D. During the federal fishery within State waters, (zero to three miles), the fishery will start on January 1 and fishing may occur within currently open rookeries and haul out areas. The fishery is limited to pot and jig vessels with the following restrictions:
1. Pot Limits
 - a. 60
 - b. 75
 - c. 100
 2. A 5 mechanical jigging machine limit for vessels using jig gear.
 3. Retain inside trawl exemptions provided by Board of Fisheries in Shumagins
- E. Remainder of seasonal and critical habitat limits in federal waters is allocated to catcher vessels, catcher processors and pot fisheries by gear type based on historic catch and percent within critical habitat.

Alternative for the Bering Sea

The AP recommends that an additional alternative be added to the EA/RIR for the Bering Sea. The elements of this option are:

A. Management measures

1. Two seasons, A and B

Rationale: This part of the mechanism we propose to spread harvest across the year in CH (CH as identified in this alternative, NOT as defined by NMFS that includes haulouts in the waters of the Bering Sea.

2. A season start/end dates

	<u>Trawl</u>	<u>Fixed Gear</u>
A season start	January 20	January 1
A season end	May 31	May 31?
B season start	June 1	June 1
B season end	November 15	December 31

Rationale: This A season start provides to fixed gear fleet the advantage of access to their traditional fishing grounds and reduces the potential for high catch rates at the outset of the season by delaying the start of the trawl fishery until January 20. The B season start for the fixed gear sector should balance catch objectives with potential for significant rollovers and bycatch considerations. The end date for B season for trawl is the date used for the Atka mackerel trawl fishery.

- B. Critical Habitat limit on P. cod removals in the A season:

A season TAC=60% of annual TAC and 60% of the A season TAC can be taken in CH in A season

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Note: This season split should be used to determine the A season harvest limit for CH. This alternative does not limit the amount of cod that can be harvested outside of CH.

Rationale: This is a mechanism to ensure a balanced harvest of cod in CH throughout the year, while still preserving some element of the basic nature of the fishery which is that cod are best fished for when they are aggregated during the first part of the year.

The actual winter distribution of P. cod is currently not obtainable from available data, but distribution of cod fishing effort in the Bering Sea suggests that cod are mostly found in the Bering Sea CH for at least the first two to three months of the year. When a winter survey is conducted, the proportion of P. cod in CH can be substituted for the above CH fishing limit.

C. No A or B season limit outside CH

Rationale: The objective is to spread fishing over the year to reduce potential for competition with Steller sea lion foraging. Given that increased fishing outside of CH has little or no impact on sea lion CH and serves to reduce overall CH removals to below the "A" season CH limit, then fishing outside of CH should not be limited. This could also help the industry reduce the economic impacts of modifications to the cod fishery by increasing opportunity to harvest the entire TAC in an area that is less important to sea lion foraging, as per the designation of CH.

D. No "B" season CH limit

Rationale: Cod are not primarily located in CH during the second portion of the year and little fishing occurs in CH for that reason. The creation of a "B" season limit could actually trigger a small "race for fish" inside CH.

E. CH cod catch in the "Residual CH" area do not count against CH catch limit

Rationale: The "crescent" shaped area on the eastern edge of sea lion CH (also referred to in the analysis as "residual SCA") is not CH. This means that in designating CH, the area once sufficiently distant from areas in the feeding range of sea lions to mean it was not included in the CH designation. The argument in the analysis that "edge effects" could occur could be said of any area adjacent to CH, regardless of how far that line is placed.

F. Attainment of CH "A" season limit closes CH to directed cod fishing only. Bycatch in non-cod target fisheries should be deducted from individual gear and sector catch limits, based on historical usage. Attainment of the CH limit should trigger MRB (bycatch-only) status for cod in CH, not closure of area to non-cod target fisheries

Rationale: Flatfish and other non-pollock fisheries that occur during the proposed "A" season period do not generally take large quantities of cod as bycatch. Evidence of this is apparent when catch per week of cod is evaluated in weeks where P. cod is closed to directed fishing or in weeks when little or no cod effort is occurring. There is no reason to hamstring vessels targeting other species that need to fish in their traditional areas in order to maintain catches at economic levels and low bycatch rates.

G. Rookery "no-trawl" areas to be maintained according to current regulations.

Rationale: Sea lions demonstrate no fidelity to haul outs and use of haul outs is variable (testimony of John Burns to AP on September 8, 2000). Existing measures restricting trawl fishing for non-pollock species to outside ten miles around sea lion rookeries (including the seasonal 20 mile closures at three specific sites) have not been tested for efficacy. Until this research is done, there is no evidence to suggest that extension of the rookery closures will benefit sea lions.

H. Fixed gear can continue to be fished in rookery “no trawl” zones (note: fishing with any gear is not restricted in haulouts)

Catch rates of cod per week by the portion of fixed gear vessels fishing in Bering Sea CH are relatively low. To force these vessels to fish outside of rookeries could impact their ability to fish (in the case of smaller vessels) and will create needless grounds conflicts and possibly gear conflicts.

I. Proposed distribution of allowed CH fishing between different gear sectors

The “pain sharing” formula will use historical dependence on fishing during the first half of the year and historical dependence on fishing to determine fishing limits in CH in the first half year per gear and sub-sector.

The principle for compensation for pain sharing, as we envision it, would be that in the event of a significant rollover of cod from trawl to fixed gear, the trawl sector would work with the fixed gear sector to maximize the ability of the fixed gear sector to harvest the fish that are rolled over. A formula for rolling over cod earlier in the year so that the rollover works for the fixed gear sector should also be developed.

Additionally, the AP recommends the Council delete Alternative 3.

The AP further recommends the Council identify Alternative 1 as the preferred option for both the Gulf of Alaska and the Bering Sea and Aleutian Islands.

Further, the AP requests the Council request NMFS prioritize an annual winter biomass surveys in the GOA, BSAI and that adaptive management research and surveys be allowed to continue in critical habitat.

The AP shares the concerns identified by the SSC regarding the EA/RIR. In addition to the changes recommended by the SSC, the AP recommends that the council make the following comments on the draft EA/RIR on Cod and Sea Lions:

The analysis needs to be enhanced with the following information to better evaluate the question of competition between the fishery and the sea lions. Therefore the AP recommends the following:

Where there is discussion in the text concerning elements of overlap (diet composition, fishing/diving depths, size composition, etc.) that the text avoid presenting information on the extreme ends of those ranges of data, without providing characterization about the distribution of the data that provides the reader with a clear understanding of the central tendency of the data.

The presentation of fishery depths and sizes on pages 37 & 38 is a example of an appropriate presentation.

Examples of inappropriate presentations:

- Page 53 Sea lions dive up to 250 meters (doesn't represent the avg or range)
- Page 57 Sea lion scats contain up to 62% cod (doesn't give avg or range)
- Page 57 Sea lions consume cod up to 80 cm (nothing in data to support-only one data point of 75)
- Page 28 Mackerel, herring, capelin, etc. can be less than 5% of cod diet in any given year (no average given per year).

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Though the EA “tiers” off the prior BiOps, the public would be better informed if important information regarding sea lions were recapped (and updated) in the EA.

- **Population data (both counts and population estimates by year and area, including pup counts and pup population estimates by year and area). This should update and expand upon Table 7 from the December 1998 BiOp.**
- **Telemetry data on sea lion dive depths should include and update figure 36 from the December 1998 BiOp. (Including similar data tables from the paper on diving behavior by Loughlin et al. 1998 , as well as a review of information on ongoing research that may be available to the agency but not yet in press.)**
- **Expanded information on GIS analysis of foraging patterns (presented in such a way that the reader has an understanding of the central tendency of the data, as well as the extremes of the ranges.), including a review of information on ongoing research that may be available to the agency but not yet in press..**
- **Presentation of quantitative data on estimates human caused sea lion kills and an estimate of their contribution to the decline.**
- **Presentation of best available data on estimates of killer whale populations and their consumption of sea lions and the role they might play in impeding recovery.**
- **A review of the literature regarding the applicability of the “nutritional stress” hypothesis to the decade of the 1990s, with regard to data on condition factors of sea lions, including a review of information on ongoing research that may be available to the agency but not yet in press..**
- **A presentation of the case for “regime shift hypothesis.”**

The EA should also include a quantitative analysis of the probabilities of overlap and competition as outlined in the SSC minutes. This should include quantification of the area of overlap in depth by category of animal (ie: juveniles, lactating females, etc.) and by fishery and area. It should also include a quantification of overlap in diet in both weight/biomass consumed by the fishery and by sea lions by age/size class of cod by area.

The analysis of total groundfish consumption by Stellers presented on page 55 is based on 1980’s population estimates and provides little area specific information. This portion of the EA needs to be updated using current population levels by area, and broken down by key prey species to the extent possible. A review of the current literature should be undertaken (including a thesis by Winship in 2000) for more recent estimates.

The size analysis of cod in sea lion scat shown in Figure 31 on page 235 is a much smaller data set than Table 3 of the June 2000 discussion paper. Both sets of information should be included in the EA. Additionally, the review of stomach contents studies from the December 1998 BiOp should be included (Table 6 pages 147-157)

The preliminary CPUE analysis presented on page 34-37 and in figure 5 should be include only if the

deficiencies noted by the SSC are incorporated. Additionally, the statement concerning interpretation of the Martin Smith analysis based on this work (page 49) should be deleted.

CPUE analysis should be undertaken to compare winter and summer CPUEs in CH as a potential index of abundance changes between seasons. However, any further CPUE work undertaken should avoid mixing CV and CP catches, as well as mixing target and non-target catches. Time series of CPUE data should clearly delineate the opening and closing of target fishing in the study areas, or sub-components thereof.

The EA should include a thorough review of the cumulative measures that constitute the current cod fishery management regime, together with the matrix of closures that apply to the cod trawl fishery, as well as a quantification of the reduction in fishing for pollock and mackerel in CH that has resulted from actions related to sea lion concerns.

The estimate of cod in the SCA based on the summer trawl survey should include the amount of cod estimated in the Southern Bering Sea portion of the AI survey.

The statement regarding bottom trawl and Spectacled Eiders on page 72 should be deleted.

Expand the tropic analysis relative to P.cod diet.

Include information on how rookeries and haulouts were identified, particularly the haulouts.

Discussion on page 41 regarding edge effects should be deleted from the document as the crescent is not designated as CH and edge effects, by definition, would occur anywhere the edge is replaced. An expanded discussion on the ramifications of the state water fishery relative to the federal fishery.

Also, the AP recommends that the Council send a letter to Congress requesting that the \$7 million line item in the Department of Commerce's budget for Steller sea lion research be earmarked for immediate use by NMFS RACE division to launch winter biomass surveys in sea lion critical habitat and the 3 aquatic foraging habitat areas this year. This letter should emphasize that at a minimum this level of funding is needed on an annual basis to provide essential data for managing fisheries. We further recommend that NMFS utilize commercial fishing vessels, crews and expertise, as well as collaborate with the State of Alaska to the extent possible to most efficiently use these limited funds to conduct stock assessment and management efficacy studies.

The motion was seconded by Robin Samuelsen.

Kevin Duffy moved to add the following draft problem statement and revised "Purpose and Need" section to the document:

Draft Problem Statement

Steller sea lion (SSL) populations have declined and there are numerous reasons hypothesized for the decline. Recently, Steller sea lions have been listed as endangered in the western portion of their range under the Endangered Species Act (ESA), and it is suggested that they may be nutritionally stressed. Pacific cod is one of many recognized food items of Steller sea lions and the Pacific cod fishery has been identified as a potential

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source of competition that might result in jeopardy to Steller sea lions as that term is used in the ESA.

Revised Purpose and Need Statement

The purpose of this action is to consider the need to develop and implement management measures that reduce competition between Pacific cod fisheries and sea lions if such competition is found to be a likely source of jeopardy as that term is used in the ESA. This action must provide research and adaptive management measures for the evaluation of the likelihood that fishery removals of Pacific cod are a significant factor in the failure of sea lion populations to increase.

The motion was accepted as friendly. There were minor edits to Mr. Duffy's original motion; however the final motion is shown above.

Linda Behnken submitted a revision to the amendment, as follows:

Gulf of Alaska

A. Divide fishery into 2 seasons

Season A: January 1 - April 30

Season B: May 1 - December 31

B. Phase in implementation of critical habitat TAC limits.

a. B season CH limit to be frameworked and based annually on biomass distribution in summer survey.

b. No B season limit in CH.

- 1. 2001 "A" season: No more than 60% of TAC and no more than 40% in critical habitat.**
- 2. 2002 "A" season: No more than 50% of TAC and no more than 30% in critical habitat.**
- 3. 2003 "A" season: No more than 40% of TAC and no more than 20% in critical habitat.**

Note: The phase in could be superceded when winter survey data on biomass distribution is available.

C. Rookeries*

**0-3 nm
no fishing**

**3-10nm
pot (60 pot limit)
jig (5 machines)
CV longline**

**10-20nm
pot
jig
CV longline
Freezer longline
Trawl <80'**

**outside 20
all vessels**

Option: Trawl <60'

D. Haulouts*

<u>0-10nm</u>	<u>10-20nm</u>	<u>>20nm</u>
pot (60 pot limit)	pot	all vessels
jig (5 machines)	longline (all)	
	jig	
	Trawl <80'	
	Option:Trawl <60'	

*Rookeries and haulouts defined as those that are currently closed to pollock trawling. Gear allowed in the zones mentioned pertains only to directed cod fishing.

The motion was accepted by the maker of the motion as an additional alternative, with the understanding that NMFS staff will address the issues to the best of their ability.

John Bundy moved to re-word the AP recommendation that "...the Council send a letter to Congress requesting that the \$7 million line item in the Department of Commerce's budget for Steller sea lion research be earmarked for immediate use by NMFS RACE division . . ." as follows:

Also, the Council will send a letter to the Secretary of Commerce, with a copy to the Alaska, Washington, and Oregon Congressional delegations, requesting that adequate funding be provided in the Department of Commerce's budget for Steller sea lion research for immediate use by NMFS RACE division to launch winter biomass surveys in sea lion critical habitat and the 3 aquatic foraging habitat areas this year. This letter should emphasize that an adequate level of funding is needed on an annual basis to provide essential data for managing fisheries. The Council further recommends that NMFS utilize commercial fishing vessels, crews and expertise, as well as collaborate with the State of Alaska to the extent possible to most efficiently use these limited funds to conduct stock assessment and management efficacy studies.

The editorial changes were accepted as a friendly amendment.

John Bundy moved to add the following:

Future Consultations on Commercial Fisheries and Steller Sea Lion Interactions

The Council will send a letter to the NMFS Alaska Region indicating its strong desire that the agency address, to every extent possible, the scientific concerns put forward by the SSC and AP as regards the cod-Steller sea lion EA as it completes the comprehensive FMP-level consultation that it will deliver on October 31, 2000.

The motion was accepted as a friendly amendment.

John Bundy moved to add the following:

Fishery Rationalization. The EA should include a discussion of the regulatory changes that would be necessary to facilitate the voluntary formation of harvesting cooperatives in the BSAI and GOA cod fisheries, along with a proposed timetable for Council action that describes the steps necessary to enable the various sectors wishing

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to form cooperatives to do so as quickly as possible, hopefully in time for the 2001 fisheries.

The motion was accepted as a friendly amendment.

Dennis Austin moved to amend, for the 10-20nm options under Rookeries and Haulouts under Ms. Behnken's amendment, to add a third vessel size class of trawls less than 100'. The motion was accepted as friendly.

Kevin O'Leary moved for the Bering Sea/Aleutian Islands and Gulf of Alaska cod fisheries that each subsector be evaluated for spatial and temporal dispersion, and rate and volume of catch in critical habitat, and that fixed gear and trawl sectors be evaluated in the same manner. The motion was seconded by Linda Behnken and carried without objection.

Linda Behnken moved the following additional option:

Bering Sea east of Seguam Pass

A. Rookeries*

<u>0-3nm</u>	<u>3-10nm</u>	<u>10-20nm</u>	<u>outside 20</u>
no fishing	pot (60 pot limit) jig (5 machines) CV longline	pot jig all longline Trawl ≤99'	all vessels

B. Haulouts*

<u>0-10nm</u>	<u>10-20nm</u>	<u>>20nm</u>
pot (60 pot limit) jig (5 machines) CV longline	pot jig longline Trawl ≤99'	All vessels

*Rookeries and haulouts defined as those that are currently closed to pollock trawling. Gear allowed in the zones mentioned pertains only to directed cod fishing.

C. Critical Habitat

pot
jig
longline
trawl ≤99'

The motion was accepted as a friendly amendment, as an additional option, amended as follows:

- An additional vessel size class of 124' and under was added under Rookeries and Haulouts, in the 10-20nm column.

Kevin O’Leary moved to amend the motion to delete Section B, “Proposed distribution of allowed CH fishing between different gear sectors” from the motion. The motion was seconded by Linda Behnken and failed, 7 to 4, with Behnken, Fluharty, O’Leary, and Samuelsen voting in favor.

Ms. Behnken suggested that this issue (“sharing the pain”) be “flagged” as one way to share the pain and that the Council may consider additional alternatives or scenarios in October; this suggestion was agreed to by the Council.

At this point, the Council recessed for the evening and asked staff to prepare a typed motion reflecting Council action to this point.

Mr. Bundy submitted a substitute motion; then withdrew it after Council discussion. The Council made some editorial changes in wording to the motion, and approved the following motions to amend:

- Add a new alternative, “Section C. Rookery and Haulout Alternatives for All Areas:
 1. Closures in rookeries only.
 2. Rookery no-trawl areas to be maintained according to current regulations.
 3. Fixed gear can continue to be fished in rookery no-trawl zones.
 4. Rookeries and important haulout closures as per pollock RFRPAs (generally 20nm in Bering Sea and 10nm in Aleutian Islands and Gulf of Alaska).[Moved by John Bundy; seconded by Linda Behnken; carried without objection]

- Add a new section: “Section D. Vessel Safety.

Analyze impacts of critical habitat restrictions on the following size classes of vessels:
less than 125'
less than 100'
less than 60' in Bering Sea/Aleutian Islands; and
less than 100', and
less than 80' in the Gulf of Alaska.

[Moved by John Bundy; seconded by Bob Mace; carried without objection]

- Clarify language during the “parallel fishery”, (Section C in current draft) as follows:

“During the parallel fishery that takes place within State waters (zero to three miles), the fishery will start on January 1 and fishing may occur within currently open rookeries and haulout areas. . . .”
(The remainder of the section remains the same.)

[Motion by Linda Behnken, seconded by John Bundy, carried without objection]

- Insert an additional alternative at end of Section B, “Proposed distribution of allowed CH fishing between different gear sectors,”:

“Any reduction in the ‘A’ season critical habitat quota to protect Steller sea lions will be absorbed by each subsector in direct proportion to its percentage of total ‘A’ season historical catch in critical habitat.”

[Motion by Kevin Duffy; second by John Bundy; carried without objection]

- Change the vessel length of 124' wherever it appears to 125' to conform with current observer vessel categories. [Motion by Dennis Austin; second by Dave Fluharty, carried without objection]

- Drop the <60' category from the “rookeries” and “haulout” sections for ease of analysis.

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[Motion by Linda Behnken; second by Kevin O'Leary; carried without objection]

- For the Gulf of Alaska, under 10-20nm category for both rookeries and haulouts, add another category of "all trawl vessels". [Motion by Dave Fluharty; second by Robin Samuelsen; carried with Behnken objecting.]
- Delete the recommendation to delete Alternative 3 from the analysis. [Motion by Linda Behnken, second by Robin Samuelsen; carried without objecting.]

The final motion, as amended, carried 10 to 1, with Samuelsen voting against. The final motion is included as Appendix IV to these minutes.

Because of the extensive requests for additions to the analysis, the Council agreed that they would not expect to review the revised analysis until the December Council meeting. In October, NMFS will provide a brief progress report.

C-3 American Fisheries Act/Crab Processing Sideboards

ACTION REQUIRED

Review discussion paper and options and take final action.

BACKGROUND

In the spring 2000 opilio fisheries, NMFS implemented crab processing limits for AFA processors as prescribed by the Act, which limited those entities to their historic (1995-1997) processing levels of BSAI crab. In April and June the Council heard from both harvesters and processors citing adverse, unintended consequences of those crab processing limits. At the June meeting you requested additional information, and identified alternatives to mitigate potential adverse impacts, including (1) a 10-20% overage allowance, (2) adding 1998 to the baseline historical period, which would increase the percentage cap for AFA processors, and (3) eliminating the caps. In the discussion paper staff identify some additional options, including lifting the caps a specific number of days after the fishery closes. The pros and cons of these options are discussed in the paper (Item C-3(a)).

In order to alter the caps as stipulated in the Act, or to repeal them, the Council will need to justify such changes in light of the Section 213 allowances for superceding the provisions of the Act. Those are summarized on page 1 of the discussion paper. Depending on the Council's direction at this meeting, changes to the crab processing limits could be in place for year 2001 through the AFA rulemaking currently being prepared by NMFS. Staff will summarize the points of the discussion paper at this time.

The **Scientific and Statistical Committee** did not address this issue.

Report of the Advisory Panel

The Advisory Panel recommended the Council exercise its authority under Section 213 of the American Fisheries Act to lift the crab processing caps contained in Section 211 of the Act, by emergency action.

DISCUSSION/ACTION

Linda Behnken moved to adjust the base for calculating crab processing sideboard caps to use the years 1995-98 as the base. In addition, ADF&G is requested to use management measures employed in the CDQ fisheries, i.e., estimates are provided to processors three days after the close of the season, so processors have a better real-time assessment of where they stand relative to the caps. The motion was seconded by Kevin Duffy.

Ms. Behnken said that although she thinks caps are necessary to protect non-AFA processors, some adjustments need to be made, based on concerns expressed by industry participants.

Kevin O'Leary moved to amend to use the average of the years 1997-98 to calculate the crab cap for AFA processors. The motion was seconded by Bob Mace and failed, 6 to 5, with Austin, Bundy, Fluharty, Mace and O'Leary voting in favor.

Mr. O'Leary felt that the caps as presently set, nor those in Ms. Behnken's motion, accurately reflect Congressional intent. The years originally chosen were reflective of years negotiated for market share in pollock, not in crab. The latent capacity issue was not focused on when the negotiations took place. Mr. O'Leary felt that his motion better represents the industry when the Act was passed.

John Bundy moved to amend to use the years 1995-98, counting 1998 twice, weighting the most recent year. The motion was seconded by Bob Mace and carried, 6 to 4, with Balsiger, Behnken, Duffy and Penney voting against. It was clarified that this applies to all crab species, not just *opilio*.

The main motion carried, as amended, 6 to 5, with Behnken, Duffy, Penney, Samuelsen and Benton voting against.

Council members agreed with NMFS staff that caps would be applied on a species-by-species basis, and also agreed that caps should apply only to directed fisheries.

C-4 Cook Inlet Non-pelagic Trawl Ban

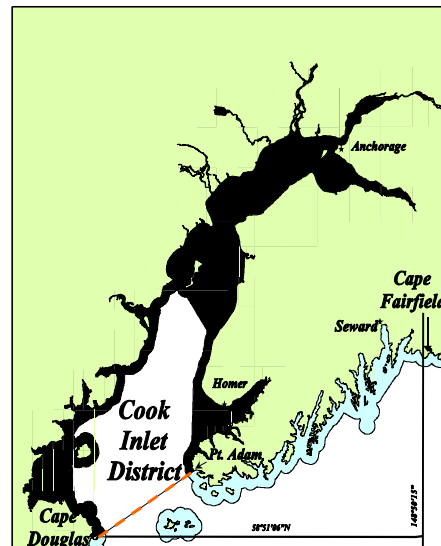
ACTION REQUIRED

Final action to prohibit the use of non-pelagic trawl gear in Cook Inlet.

BACKGROUND

Cook Inlet non-pelagic trawl ban

At its October 1998 meeting, the Council approved a groundfish proposal submitted by ADF&G and requested that staff prepare an analysis of alternatives to prohibit the use of non-pelagic trawl gear in federal waters of Cook Inlet in the Gulf of Alaska (GOA). To protect and promote rebuilding of king and Tanner crab resources, the Alaska Board of Fisheries prohibited the use of non-pelagic trawl gear in state waters of Cook Inlet. However, a significant portion of critical habitat for these crab resources occurs in federal waters of Cook Inlet. Although little fishing effort has occurred with this



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gear, previous efforts to prohibit non-pelagic trawling in this habitat have largely been reactive. Greater long-term, proactive protection is needed for this habitat to promote rebuilding of these resources. The EA/RIR for this change to the GOA FMP analyzes seven alternatives for limiting the impact of gear on crabs in the federal portion of Cook Inlet in the GOA.

The public review draft of the analysis was mailed to you on August 3. The executive summary is attached as Item C-4(a). The following alternatives were included in the analysis.

Alternative 1: No action.

Alternative 2: Prohibit the use of non-pelagic trawl in Federal waters of Cook Inlet.

Alternative 3: Defer management of groundfish in Federal waters of Cook Inlet to the State of Alaska.

Alternative 4: Remove waters of Cook Inlet from the Gulf of Alaska FMP.

Alternative 5: Require observer coverage in Federal waters of Cook Inlet.

Alternative 6: Implement time and area closures.

Alternative 7: Require an ADF&G Commissioner's Permit.

The Council approved the draft analysis for public review at its October 1999 meeting, pending recommended changes by the AP and SSC. The AP recommended deleting an eighth alternative to establish Cook Inlet as a marine reserve. The SSC minutes from its last review in April 1999 are attached below. All recommended changes were made by the authors.

SSC excerpt: D-1(c) PROHIBIT NON-PELAGIC TRAWL GEAR IN COOK INLET

Bill Bechtol of ADF&G presented the EA/RIR/IRFA for a proposed amendment to ban non-pelagic trawl gear in Cook Inlet. No public testimony was received.

Historically, there has been very little non-pelagic trawl activity in Cook Inlet. The intent of the action proposed here is to minimize impacts on the brood stocks of Cook Inlet king and Tanner crab stocks. There has been no commercial harvest of king crab from Cook Inlet since 1984 and no commercial harvest of Tanner crab since 1994.

The SSC finds that the document is generally well structured and recommends it be released for public comment conditioned upon addition and expansion of the following discussion points:

- 4. There is no discussion of economic opportunities foregone due to closure of the area to non-pelagic trawling.*
- 5. A listing of the groundfish composition in the region should be included as well as any survey data from the region.*
- 6. The ADF&G has already closed state waters in Cook Inlet to non-pelagic trawling. A description of the proportion of total crab habitat and/or biomass that remains vulnerable to impact from bottom trawling would be helpful, i.e., identification of the fraction of the crab resource found in federal waters.*
- 7. A figure showing trawl survey locations used to compute the trawl survey index should be added.*
- 8. The decline in both the king and Tanner crab stocks has occurred at the same time as declines in many of the other crustacean stocks in the Gulf of Alaska. The document should discuss these declines in a broader ecosystem context.*

9. *A ban on trawling around Kodiak Island was instituted following collapse of those king crab stocks in the early 1980's. To date, those stocks have not recovered. It is likely that rebuilding of these stocks may await improved environmental conditions. The proposed activity is a pro-active measure whose intent is to preserve brood stock such that the populations are able to take advantage of a crab-favorable change in the environment.*

Neither the SSC nor the AP addressed this agenda issue at this meeting.

DISCUSSION/ACTION

Bob Penney moved to approve **Alternative 2, to prohibit the use of non-pelagic trawls in Federal waters of Cook Inlet.** The motion was seconded by Earl Krygier and carried without objection.

C-5 Reports

ACTION REQUIRED

Receive reports.

BACKGROUND

(a) MSA Reauthorization Issues

In April I gave you a marked up version of the Gilchrist bill, HR 4046, which had many provisions proposed by the environmental community. In June, I summarized the recommendations voiced at the various Senate and House hearings over the past year. Since our June meeting, Senators Snowe and Kerry each have submitted proposed amendments. A section-by-section analysis provided by the Senate staff for the Kerry bill is under C-5(a)(1). Helen Allen has incorporated the changes for all three bills into the Act in separate versions, and they are available on our website for downloading. I will have limited copies available for this meeting. I will attempt to have a comparison of the bills prepared by meeting time.

I have been told that major changes to the Act will not be forthcoming until 2001, but am also aware that the issue of the IFQ moratorium is lingering out there and will need to be addressed in the near future. I have heard that possible courses of action may include letting the moratorium expire, extending it one year, or four years, and/or allowing an exception to it for certain fisheries such as crab off Alaska, or redfish in the Gulf of Mexico. Maybe we will be able to receive more information from industry representatives who are tracking the issue much more closely. An interesting letter on IFQs from none other than Governor George W. Bush is under C-5(a)(2).

(b) Socio-economic Data Committee

The Socio-economic Data Committee met August 15 in Seattle. Committee Chair Dennis Austin will report on the meeting.

(c) Stakeholder Process and HAPC

Habitat areas of particular concern (HAPC) are those areas of special importance that may require additional protection from adverse effects. Part one of the HAPC amendment package was finalized for action in April 2000, and applies to both the Bering Sea and Gulf of Alaska groundfish FMP's. The amendment added corals and sponges to the prohibited species category. The action split prohibited species into two types, the first will continue to allow no retention and includes halibut,

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salmon, and crab species and the second type would include only corals and sponges. These HAPC prohibited species would allow retention for personal use, but sale, barter, and trade would be prohibited.

The second part of the HAPC initiative is to develop a more comprehensive and iterative approach for future HAPC identification and habitat protection involving researchers, stakeholders and management agencies. A draft discussion paper, "The Stakeholder Process and Identification of Habitat Areas of Particular Concern," was prepared by staff and discussed at the last Council meeting. Copies of the discussion paper have been distributed and the paper is also available on our website.

In June, the Council directed staff to prepare meeting materials on corals and sponges for an initial set of stakeholder meetings this fall. The purpose of the meetings will be information exchange on gorgonian corals. The meetings will be held in Sitka, Yakutat, and a location representing the Western Aleutians. Staff recently presented a paper summarizing the why's and how's of protecting gorgonian corals off Alaska, and a copy of that paper is attached as Item C-5(c)(1).

(d) Status of Western Alaska Salmon Fisheries

This year's returns of chinook and chum salmon to the Yukon, Kuskokwim, and Norton Sound regions were poor. In July, Governor Tony Knowles declared this to be a disaster, and has written a letter requesting the Council to stop or at least further reduce bycatch of chinook and chum salmon (Item C5(d)(1)). He is also asking the Council to require 100% observer coverage on all vessels fishing in the EEZ.

I have provided background material on our existing management measures to control salmon bycatch (Item C5(d)(2)). The Council may find this information useful as they consider additional actions.

Report of the Social and Economic Data Committee

The Social and Economic Data Committee met on August 15 to continue discussion of data requirements for economic analysis. The Committee formed a workgroup, to be chaired by Ed Richardson, to discuss a specific survey response proposal put forth by industry. The Committee also discussed how economic analyses might be affected by procedural requirements such as RFA guidelines, and reviewed a list of current data collection efforts, and long-term goals. The full report of the committee is under Appendix V to these minutes.

Due to lack of time, the **Advisory Panel** did not address these agenda issues.

Report of the Scientific and Statistical Committee

Social and Economic Data Committee. The SSC received the report of the Social and Economic Data Committee and had several comments with regard to the urgent need to make progress in the collection of social and economic data. The SSC suggested the Council set some specific timelines for progress, as well as urge more industry participation on the committee. Please see the SSC Minutes, Appendix II to these minutes, for more detailed comments.

Habitat Areas of Particular Concern. The SSC received a staff report regarding process on HAPC initiatives. The SSC had no comments, other than to commend David Witherell and Cathy Coon for their publication of a paper on protection of Gorgonian Corals off Alaska.

DISCUSSION/ACTION

Magnuson-Stevens Act Reauthorization

Linda Behnken moved to send a letter to the appropriate parties (Secretary of Commerce, with copies to Congressional delegations for Alaska, Washington and Oregon) requesting that in the event that the current moratorium is lifted on IFQ programs, that development of such programs remain within the public process established by the Councils. The motion was seconded and carried without objection.

Western Alaska Salmon Fisheries

Responding to a letter from Alaska Governor Tony Knowles regarding the current status of Western Alaska salmon stocks, **Linda Behnken moved to initiate an analysis to pursue options to assign and manage salmon bycatch by co-op, exploring incentive programs and a rate-based approach.** The motion was seconded by Robin Samuelsen and carried without objection. The amendment would be assigned a timeline within the context of staff tasking.

Bob Mace moved to respond to Governor Knowles' letter advising him of Council actions on chinook chum salmon and the Council's future plan to address this issue. The motion was seconded by Robin Samuelsen and carried without objection.

The Council discussed asking NMFS to address the effects of RPAs on non-listed species in the current biological opinion. Jim Balsiger said they will be addressing some listed species, but not Western Alaska salmon. He suggested that that issue be included in a separate analysis.

D. Other Issues

Advisory Panel Recommendation on Industry Proposal

The Advisory Panel and Council received a proposal from the Midwater Trawlers' Cooperative to take action to allow inshore co-ops to contract with non-member inshore AFA catcher vessels to harvest co-op allocations. The Advisory Panel recommended the Council consider the request under a future staff tasking discussion.

Bob Mace moved to add the subject of action to allow inshore co-ops to contract with non-member inshore AFA catcher vessels to harvest co-op allocations be included in the draft agenda for the October Council meeting under AFA issues. The motion was seconded by Robin Samuelsen and carried without objection. It was clarified that the problem statement and rationale as stated in the AP minutes are included in the motion.

Jim Balsiger pointed out that the Regional Office does not have the resources to work on this in time to have it in place for next year's fisheries, even by emergency rule.

Delay of Opilio Crab Season

During the recent joint Council/Board of Fisheries Committee meeting, members were advised that the Board of Fisheries will consider the subject of changes to the *opilio* season during their October worksession. Council members noted that this could technically conflict with the joint protocol between the Council and

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Board, but directed the Executive Director to advise the Chairman of the Board of Fisheries that the Council has no objection to consideration of the proposal, however they did not discuss merits of the proposal or have any recommendations at this time.

E. ADJOURNMENT

The Chairman adjourned the meeting at approximately 3:15 p.m. on Monday, September 11, 2000.

FINAL MINUTES

**145th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
SEPTEMBER 8-11, 2000
Anchorage, Alaska**

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APPENDICES

- I List of Persons Giving Public Comment
- II Minutes of the Scientific and Statistical Committee
- III Minutes of the Advisory Panel
- IV Council Action on Steller sea lion/Pacific cod interactions
- V Summary Proceedings of the Social and Economic Data Committee