

# North Pacific Fishery Management Council

Richard B. Lauber, Chairman  
Clarence G. Pautzke, Executive Director

605 West 4th Avenue  
Anchorage, Alaska 99501



Mailing Address: P.O. Box 103136  
Anchorage, Alaska 99510

Telephone: (907) 271-2809  
FAX (907) 271-2817

Approved by \_\_\_\_\_  
Date \_\_\_\_\_

*John G. Pautzke*  
*8/3/92*

## ADVISORY PANEL MINUTES JUNE 22-25, 1992 SITKA, ALASKA

The Advisory Panel for the North Pacific Fishery Management Council met on June 22-25, 1992, at the Centennial Building in Sitka, Alaska. Members in attendance were:

John Bruce  
Al Burch  
Phil Chitwood  
Dan Falvey  
Dave Fraser, Vice Chair

Spike Jones  
Pete Maloney  
Penny Pagels  
Perfenia Pletnikoff  
John Roos

John Sevier  
Harold Sparck  
Michael Stevens  
Beth Stewart  
John Woodruff, Chair

Minutes for the April 1992 meeting were approved.

### B-1 ED REPORT

The AP recommends the Council flag some of the critical funding needs listed in the Executive Director's report;

- Domestic fisheries observers
- Industry funded observer start-up costs
- Alaska groundfish/crab monitoring
- Marine mammal fishery interaction
- Steller sea lion recovery plan
- Computer hardware
- PacFin network

The AP recognizes that all of the programs listed are priorities but thinks those listed above are especially critical to the problems we face in the North Pacific.

### C-1 MORATORIUM

The AP heard a staff report and very limited public testimony on the moratorium issue. After discussion on many of the issues, the AP makes the following set of recommendations to the Council about the moratorium and it's mechanics;

1. The AP recommends the Council proceed with a moratorium (**passed 13-1**). The general feeling of the AP is that this is the place to start in terms of limiting the sphere of participants that must be dealt with in any rationalization scheme. The AP also knows that there is currently an excess

of fishing capacity to catch all available resources in the North Pacific and to continue to allow entry exacerbates the problems we face today in most fisheries.

2. The AP recommends the Council adopt January 1, 1976 as the beginning date for the qualifying period. **(passed unanimously)**. AP members think this date will not affect capacity much compared to the other dates since most of the increase in boats are the > 60 feet class. This date is also the least contentious and most fair. Many think this alternative, as the loosest, should be used since the moratorium isn't the limiting, rationalizing plan, but rather just a way to allow the Council to get to the rationalizing plan. Also, 1976 is the date of the Magnuson Act.
3. The AP recommends February 9, 1992 as an ending date for the qualifying period. **(passed unanimously)**. Most of the AP see this date as very much the same as option "D" in effect, and yet without the legal wrangling over "due consideration." The fixed gear qualifying date would change by 25 days but very few (if any) vessels would be added under the moratorium's umbrella as a result. For all vessels, this is a more loose requirement and therefore, the AP believes more realistic and doable.
4. The AP recommends option "B" under the length of the moratorium. **(passed unanimously)**. This is a middle of the road approach and should allow the Council enough time to develop the rationalization schemes it feels are needed.
5. The AP made no recommendation regarding crossovers but accepts the proposed alternative listed.
6. The AP agrees with the moratorium committee's comments regarding length and recommends the Council use overall length as the sole measure of capacity. **(passed unanimously)**

The AP recognizes that the issue of true fishing capacity is too complex to deal with considering the number and range of vessels under consideration and sees length as the only practical measure of capacity.

7. The AP recommends the Council allow for no increase in length in replacement or reconstruction of vessels during the moratorium except; any vessel which had deliveries both prior to and after the Council's original cut-off date (January 19, 1990) but which has not been lengthened during the interim period between the original cut-off and the date actually adopted by the Council, shall be entitled to upgrade its carrying capacity by lengthening such vessel one time during the period subsequent to the final cut-off date and prior to the expiration of such moratorium; except that such lengthening shall not exceed 20 percent of vessel length and the reconstructed vessel's length shall not exceed 125 feet overall in any case. **(passed 10-4)**. This recommendation allows vessels which are currently participating the opportunity to make a one-time adjustment to their vessel length, and makes up for the disenfranchisement of some vessels due to the beginning of the moratorium notice dates in January 1990.
8. The AP recommends the Council allow for replacement of vessels lost or destroyed during the moratorium up to the original overall length except any vessel which had deliveries both prior to and after the Council's original cut-off date (January 19, 1990) but which has not been lengthened during the interim period between the original cut-off and the date actually adopted by the Council, shall be entitled to upgrade its carrying capacity by lengthening such vessel one time during the period subsequent to the final cut-off date and prior to the expiration of such moratorium; except that such lengthening shall not exceed 20 percent of vessel length and the reconstructed vessel's length shall not exceed 125 feet overall in any case. **(passed unanimously)**

9. The AP clearly believes the right to replace a lost or destroyed vessel should reside with the current federal groundfish permit holder and not the owner (insurance companies).
10. The AP recommends the Council adopt January 1, 1988 as the date for replacement of vessels lost or destroyed before the moratorium. Further, any replaced vessel cannot be salvaged and come back into the fishery. (passed 12-2). This change doesn't add many vessels to the moratorium but establishes a date closer to the beginning of the current moratorium discussion.
11. The AP recommends the Council exempt vessels 32 feet or less from the moratorium. (passed 7-5). Most of the AP members think there should be an exemption for small boats but there wasn't a lot of agreement about where the line should be drawn. Our discussions ranged from 26 feet to 58 feet; the 32 feet or less line is a compromise of sorts.
12. The AP recommends the Council adopt alternative "B" for the disadvantaged communities section of the moratorium (passed 13-2). Members think this will allow the disadvantaged communities to use whatever vessels they want without adding more vessels to the moratorium's umbrella.
13. The AP unanimously recommends the Council;  
  
require no minimum poundage for qualifying,  
  
apply the moratorium only to harvesting vessels,  
  
establish an appeals board as described in the EA/RIR,  
  
and adopt the technical committee's recommendation for halibut & sablefish fixed gear vessels.

Finally, the AP believes strongly that this Council should proceed with a moratorium as defined above.

## **C-2 INSHORE/OFFSHORE**

The AP heard staff reports on each of the 4 components of the supplementary analysis for Amendment 18.

The AP recommends the Council send the supplementary analysis out for public comment and review, realizing that there are some concerns with the analysis that need to be and will be addressed in the public comment period. The AP also recommends the addition of an alternative similar to Alternative 6 in the original Amendment 18 (analyze catchers vs catcher/processors rather than inshore processors vs offshore processors) (passed unanimous).

The AP is very aware of the need to have something in place for January 1993 and knows that it must go forward at this time to meet the needed public comment periods, Secretary review periods, etc., in order to meet the deadline. Even so, the AP members on both sides of the issue have concern about the document and especially many of the assumptions and data used.

(e.g., application of foreign investment percentages for cost benefit study, roe recovery percentages, exploitation rates from CVOA, PRR's from 1991 vs 1992, amount of pollock going directly to meal, etc. There were many similar types of concerns raised in our discussion; AP members think the three industry letters in our notebooks present most of these concerns.)

The AP believes that most of these concerns can be resolved in the public comment period and at the final decision in August.

Further, the AP is aware that the current Amendment 18 - Inshore/Offshore document could negatively impact CDQ applications in seasons of fishing, bycatch allocations, and opportunities to fish in the operational zone in a 1993-95 fishery. In addition, the AP recommends development of socioeconomic data on CDQ eligible villages in Western Alaska to supplement Section 5-3 (at some time in the future, but not to hold up Amendment 18).

### **C-3 NORTH PACIFIC FISHERIES RESEARCH PLAN**

The AP heard reports from staff and the observer committee and also some public testimony.

The AP recommends the Council adopt the framework plan C-3(a) with the following provisions:

1. B-1 Level of Coverage - Option 2 with the words "from 30 percent to 100 percent" deleted. (passed 12-2)  
(The AP believes that 1 percent of ex-vessel value will not be enough to adequately fund the current level of observers so the program will need to be matched to what funding is available, with annual Council oversight. Furthermore, much of the industry doesn't want to exceed the 1 percent ex-vessel value either and they feel this will keep the programs feet to the fire.)
2. C - Crab Observer Program - Option 3 (passed unanimously)  
(This is the most equitable and may produce a small surplus for the plan as a whole, as long as the level of coverage doesn't significantly change).
3. E4 - Establishing the Fee Percentage - Option 1 (passed unanimously)  
(This is the recommendation of the oversight committee and the AP believes that decisions made in December as in Option 2 would present problems in terms of being ready for a January 1 fishery; especially if major changes happen.)  
  
E-2 1 percent cap.  
(passed 8-6)
4. E-10 Fee Collection for Discards and Donut Hole Fisheries  
While the AP would like to see discards and Donut Hole fisheries as part of this program, most members believe it's not realistic to include them. However, the AP recommends that when an equitable, accurate, and reliable method of measuring discards is developed and implemented, they be assessed as part of the Research Plan. (passed unanimously)  
  
(Discards are difficult to weigh and assess value for and fees on them would tend to reduce the amount reported. As far as the Donut Hole, it's the AP's understanding that there is no jurisdiction there to allow for fee assessment).
5. F-1(a) Fee collection for category A processors  
Option 2 with this language added; "ex-vessel price should include bonuses, retro payments and incentives and that ex-vessel price applies to all revenues generated from the sale of fish products." (passed unanimously)

(The AP members think this option allows individual processors to pay based on what they're producing and at current prices. The added language is an attempt to cover for fee assessment, any additional payments for fish after the actual delivery.)

6. F-1(b) Fee collection for Category B Processors  
The AP recommends the initial fee basis should be the previous years average price with a reconciliation done at the end of the year plugging in the current year price. (passed unanimously)
7. F-1(b-3) Fee payment assurity  
The AP recommends suboption 2, such that a bond, letter of credit or actual prepayment for the actual or estimated highest quarter from previous year. The bond, letter of credit or prepayment would have to be valid and in place for the entire year. (passed unanimously)
8. G - Start-up funding  
The AP recommends Option 1 and Option 2. It doesn't seem fair to the AP that a vessel paying for observers out of pocket would also have to pay the fee as well. Further, we believe it doesn't make sense to drop Congressional funding possibilities. (passed unanimously)
9. G - Shortfall funding  
The AP could not come to agreement on which option to pick with some members favoring one of each of the 4 options. Many AP members think the 1% should be raised and others feel very strongly its inviolate. Others think the program should just conform to the money available, but this was also unacceptable to a majority. Still others think that monies should first be spent for resource assessment, TAC management and bycatch monitoring first and that any needs of a VIP program should be borne by the participants in that fishery (even though they would also be paying the 1% fee).

In any event, the AP could not reach a compromise on this issue and it slows the basic division, those who want the funding maximum at 1% first and the observer program second and those who want the program first and the funding level raised to accomplish it.

#### Additional recommendations relative to the Research Plan.

1. The AP recommends the Oversight Committee continue, but that it should have at least one representative from the portion of the industry that is currently not paying for observers, but who will be paying the fee under the plan.  
It's the AP's feeling that the only guys paying attention now are those who are anteing up and there are definitely some portions of the fleet that need awakening.
2. The AP's priority list for observer coverage in case complete funding is not available;
  - (a) Stock Assessment data
  - (b) Perform in-season management
  - (c) Bycatch monitoring
  - (d) VIP type programs
3. The AP believes there should be multiple observer contractors.

4. The AP is frustrated with what we perceive as a serious lack of useful data from observer program. The AP is hopeful that the data collected in the future will be more timely imputed and available to industry.

**MINORITY REPORT**

We, the undersigned members of the AP, believe that it is contradictory to approve the NPFRP for implementation without approving an increased fee value necessary to fund the expended observer program. We recognize that the observer program provides invaluable data needed to manage the fisheries in the Bering Sea/Aleutian Islands and Gulf of Alaska. We would like to reiterate our support taken by the AP in January and combine the solution as proposed by the oversight committee. We recommend that a change in valuation is included which states: Set the user-fee up to 1 percent of first wholesale value, not to exceed 2 percent of ex-vessel value.

Signed: Penny Pagels  
Harold Sparck  
Mick Stevens  
John Woodruff  
Dave Fraser

## **C-5 CRP**

The AP recommends the Council request staff to develop a draft qualitative analysis for the September meeting. It will be ready at that time to offer input related to the alternatives, the timetable, etc..  
(passed unanimously)

## **C-6 MARINE MAMMALS AND SEABIRDS**

The AP heard staff and NMFS reports on marine mammals and seabirds. It will be especially interested in Tom Laughlin's report at the September meeting as well as any update on seabirds.  
(see B-1 AP Minutes)

## **D-1 CRAB MANAGEMENT**

Regarding OY caps, the AP recommends for opilio crab only that the Council proceed with an analysis (similar to the Plan Team's approach) with at least these alternatives;

- a) status quo
- b) eliminate reference to any poundage
- c) some other OY number

(passed unanimously)

AP members heard staff discussion that the opilio cap had been set without much basis and that the biology of the stock may support higher yields. They think it is definitely worth exploring.

## **D-2 GROUND FISH MANAGEMENT**

The AP heard a Council staff report as well as from IPHC and ADF&G on Amendment 26 and 21, it also took some public testimony.

Regarding the southeast proposed trawl closure, the AP recommends that due to conservation, management, social and economic considerations presented in part in the Amendment 26 analysis and in part in public testimony, that the Council adopt alternative 2; the closure of the area east of 140 degrees west to all forms of trawling.

(passed 8-6)

Those voting in favor of this motion cite the following rationale;

a high volume fishery with non-specific gear can create big problems when managing small TACs,

intense effort in small areas on long lived species can result in severe localized depletion,

the southeastern shelf and edge is a unique area with sensitive habitat, especially for corals, and trawl gear negatively impacts them even though trawlers try to avoid them,

the primary target of the trawl fleet in southeastern is rockfish and these are generally associated with rocky ares where corals often flourish,

much of the economic value foregone due to a closure to trawling east of 140 degrees is from POP which could be made up in West Yakutat,



the economic and social value of small quantities of rockfish has a much greater total value to the residents of coastal communities, such as Sitka, than to a few trawlers.

Those voting against the motion, in addition to filing a minority report, believe;

the trawl fleet fishes mostly for a species not taken by local fishermen (POP), that they don't conflict with gear and that there is nothing other than anecdotal evidence of damage to corals and the like,

the problems which created the need for Amendment 26 have been cured by other action, such as DSR bycatch regs, TAC buffers vs over fishing definition, and delayed rockfish season,

the area of fishing east of 140 degrees for POP is cleaner in terms of bycatch than that in West Yakutat.

Regarding the Kodiak Island no-trawl crab protection closures;

The AP recommends the Council adopt alternative 3.  
(passed unanimously)

AP members believe these areas need to continue to be closed to protect king crab stocks and think the permanent implementation makes sense since the closures, as part of the FMP, can always be amended.

Regarding halibut bycatch caps in the BSAI, the AP has the following recommendation to the Council;

1. that Bering Sea halibut bycatch accounting for PSC should be in mortality.  
(passed unanimously)

The AP believes this will standardize the numbers and accounting, as well as provide incentive for the trawl fleet to improve it's handling techniques.

2. that fishing for P. cod with pot gear should be exempted from halibut PSC caps for 1993.  
(passed unanimously)

The AP believes halibut bycatch mortality with pot gear is negligible; in 1991 pot gear caught 4,400 mt of groundfish with a mortality rate about .1 percent; the worst weekly rate during 1992 so far is .3 percent and the average is lower.

3. that the trawl gear bycatch mortality cap should be 3,775 mt.  
(passed 6-5)

Those voting in favor of this motion felt that this was the status quo compared to 1992 and are concerned about the need to continue to reduce bycatch mortality. They see the Bering Sea as an important rearing ground for halibut. Those voting against see this as a reduction based on the numbers in the last amendment. Both sides think there are several things that could be done to constructively reduce the cap without constraining fisheries. Many of these are listed in IPHC's letters to the Council.

4. that the halibut caps for all gear be set by Regulatory Amendment as in alternative 4.  
(passed unanimously)

This simply allows for more flexibility and timely response.

5. that the fixed gear bycatch mortality should be 750 mt.  
(passed unanimously)

In addition to these recommendations regarding Amendment 21, the AP recommends the Council develop a Plan Amendment to eliminate the primary and secondary zone component of the trawl halibut cap.  
(passed unanimously)

The AP believes that the industry has found these zones haven't worked as desired; bycatch rates inside zone 1 are sometimes lower than outside this zone.

As a further recommendation, the AP suggests the Council direct staff to analyze separating PSC caps for halibut mortality between the Bering Sea and Aleutian Islands for all gear types.  
(passed unanimously)

The AP believe rates in some areas are much higher and that one areas shouldn't shut the other down. This is one of the measures the AP thinks can reduce bycatch without further constraining fisheries.

The AP also makes note that it believes there are many options that should be pursued to reduce halibut bycatch mortality without further constraining fisheries. Both the industry and the Council family needs to work toward these.

D-2(d)

The AP recommends the Council request the Plan Team review the LGL draft report on the seasonal apportionment of P. cod TAC in the BSAI and determine to use this report as the basis for an EA/RIR on this issue.  
(passed unanimously)

D-2(f)

The AP heard in update on defining pelagic trawl gear (regulation will be ready after August meeting) and re commends the Council proceed with the analysis of the proposed physical pelagic trawl definition and the performance standard definition so that the issue can be dealt with at September meeting.  
(passed unanimously)

The AP thinks it is important that physical definition changes should be made so that they'll be in effect by January 1, 1993, for the "A" pollock season. The AP wants to discuss the performance definition more because it sees some problems based on what has been presented so far.

D-2(k)(1)

Regarding VIP rates for the balance of 1992 once Amendment 19 is in effect, the AP recommends the Council adopt these categories and numbers for halibut bycatch rate standards:

|                  |             |
|------------------|-------------|
| midwater pollock | .1 percent  |
| bottom pollock   | .5 percent  |
| yellowfin sole   | .5 percent  |
| other trawl      | 3.0 percent |

(passed unanimously)

Rational for fourth category: This fishery has a distinctly different rate from the global rate.

AP members heard testimony from NMFS that it was difficult (and impossible at times) to make all of the proposed seven incentive categories work. The AP convened an industry workgroup briefly and these are their recommendations. The AP is also aware that these categories are likely to be in effect in 1993.

The AP heard staff reports on other issues under D-2 and chose to take no action.

### MINORITY REPORT

The proposed closure to trawling of that portion of Gulf of Alaska east of 140 degrees west longitude is not supported by the analysis. The analysis clearly demonstrates that in today's fishery the alleged problems to be cured by the closure have either already been addressed by recent regulatory measures, do not exist, or are not documented. The analysis shows that trawlers and longliners generally target on different species and generally fish on different grounds. Trawler destruction of habitat is undocumented and not substantiated in the analysis. The claim of trawler threat to marine mammals is unfounded in the analysis and is countered by the recent reclassification of trawl fisheries from category 1 to category 3. Data in the analysis show the area proposed to be closed is cleaner with respect to trawler bycatch than other areas in the Gulf where it is proposed trawl effort be shifted. We believe the analysis shows the stated problems are perceived rather than real.

Signed:        Phil Chitwood  
                  John Sevier  
                  Spike Jones  
                  Beth Stewart  
                  Dave Fraser

**MINORITY REPORT**

We the undersigned members of the AP believe the analysis of Amendment 21 identified several options that would allow for current or increased groundfish harvest with reduced halibut mortality in all sectors of the industry. These methods include better handling practices, gangion cutting, and day/night restrictions. Therefore, the total bycatch mortality recommended in the BSAI is set to high. An additional option noted in the analysis is preferential allocation to clean gear types. This option should be seriously considered when the clean gear preference amendment is reviewed in September.

Signed:        Dan Falvey  
                  Perfenia Pletnikoff  
                  John Bruce  
                  Penny Pagels

D-2(A-B)

## Minority Statement

The proposed closure to trawling of that portion of Gulf of Alaska ~~located~~ east of 140°W. Long. is not supported by the analysis. The analysis clearly demonstrates that in today's fishery the alleged problems to be cured by the closure have either already been addressed by recent regulatory measures, do not exist, or are not documented. The analysis shows that trawlers & longliners generally target on different species and generally fish on different grounds. Trawler destruction of habitat is undocumented & not substantiated in the analysis. The claim of trawler threat to marine mammals is unfounded in the analysis & is countered by the recent reclassification of trawl fisheries from Category one to Category 3. Data in the analysis show the area proposed to be closed is cleaner with respect to trawler bycatch than other areas in the Gulf where it is proposed trawl effort be shifted. We believe the analysis shows the stated problems are perceived rather than real.

Paul Chelwood

John  
Sullivan

Spike Jones

Bonnie

← (A)



Thermodynamic Equilibrium

D.S. (A-B)

The condition for thermodynamic equilibrium is that the total entropy of the system and its surroundings is maximized. This occurs when the system is in contact with a reservoir at a constant temperature  $T$ . In this case, the system's entropy  $S$  and internal energy  $U$  are related by the equation  $dS = \frac{1}{T} dU + \dots$ . The system will evolve until it reaches a state where the entropy is maximized, which corresponds to the state of minimum free energy.

For a system in contact with a reservoir at temperature  $T$ , the Helmholtz free energy  $A = U - TS$  is the thermodynamic potential. The system will evolve to minimize  $A$ . The condition for equilibrium is  $dA = 0$ . This leads to the condition  $dS = \frac{1}{T} dU + \dots = 0$ , which is the condition for maximum entropy.

In a more general case, the Gibbs free energy  $G = U - TS + PV$  is the thermodynamic potential. The system will evolve to minimize  $G$ . The condition for equilibrium is  $dG = 0$ . This leads to the condition  $dS = \frac{1}{T} dU + \frac{P}{T} dV + \dots = 0$ , which is the condition for maximum entropy.

The condition for thermodynamic equilibrium is that the total entropy of the system and its surroundings is maximized. This occurs when the system is in contact with a reservoir at a constant temperature  $T$ . In this case, the system's entropy  $S$  and internal energy  $U$  are related by the equation  $dS = \frac{1}{T} dU + \dots$ . The system will evolve until it reaches a state where the entropy is maximized, which corresponds to the state of minimum free energy.

Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_

D-2 (a)

MINORITY REPORT

We the undersigned members of the AP believe the analysis of Amendment 21 identified several options that would allow for current or increased groundfish harvest with reduced halibut mortality in all sectors of the industry. These methods include better handling practices, gangion cutting, and day/night restrictions. Therefore, the total bycatch mortality recommended in the BS/AI is set too high. An additional option noted in the analysis is preferential allocation to clean gear types. This option should be seriously considered when the clean gear preference amendment is reviewed in September.

Signed

Dan Falvey

Perfenia Pletnikoff

John Bruce

Penny Pagels

*Dan Falvey*  
*Perfenia Pletnikoff*  
*John Bruce*  
*Penny Pagels*

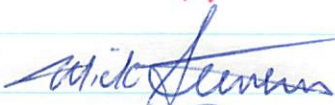


8-6

## MINORITY REPORT

## AGENDA ITEM C-3

WE, THE UNDERSIGNED MEMBERS OF THE AP, BELIEVE THAT IT IS CONTRADICTIONARY TO APPROVE THE NPFRP FOR IMPLEMENTATION WITHOUT APPROVING AN INCREASED FEE VALUE NECESSARY TO FUND ~~THE~~ EXPANDED OBSERVER PROGRAM. WE RECOGNIZE THAT THE OBSERVER PROGRAM PROVIDES INVALUABLE DATA NEEDED TO MANAGE THE FISHERIES IN THE BERING SEA/ALUTIAN ISLANDS & GULF OF ALASKA. WE WOULD LIKE TO REITERATE OUR SUPPORT TAKEN BY THE AP IN JANUARY ~~2011~~ AND COMBINE THE SOLUTION AS PROPOSED BY THE OVERSIGHT COMMITTEE. WE RECOMMEND THAT ~~THE~~ A CHANGE IN VALUATION IS INCLUDED, WHICH STATES: SET THE USER-FEE UP TO 1% OF FIRST WHOLESALE VALUE, NOT TO EXCEED 2% OF EX-VESSEL VALUE.



THE STATE OF TEXAS  
COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public in and for the State of Texas

*[Signature]*

*[Signature]*

*[Signature]*