

MEMORANDUM

TO: Council and Board Members

FROM: Chris Oliver *Clif*
Acting Executive Director, NPFMC

DATE: January 25, 2002

SUBJECT: EFH/MPA Issues

BACKGROUND

Council Activities on the Essential Fish Habitat (EFH) EIS

The Magnuson-Stevens Act mandates that any Fishery Management Plan (FMP) must include a provision to describe and identify essential fish habitat (EFH) for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Essential Fish habitat has been broadly defined by the Act to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The EFH final rule becomes effective February 19, 2002. This rule contains guidelines to assist Councils in developing the EFH components of fishery management plans.

In June 1999, several environmental and fishing groups challenged the scope and substance of the environmental assessment (EA) prepared for the EFH Amendments 55/55/8/5/5 (*American Oceans Campaign et.al.v. Daley*, Civ. No. 99-982 (D.D.C. September 14, 2000)). On September 14, 2000, the U.S. District Court issued an opinion finding the EA insufficient in scope and analytical substance and requiring National Marine Fisheries Service (NMFS) to prepare an analysis that is legally sufficient under NEPA. Therefore, NMFS is re-evaluating the EFH components originally developed as part of Amendments 55/55/8/5/5. The SEIS will supersede the EA previously prepared in support of Amendments 55/55/8/5/5. NMFS draft timeline predicts the preliminary draft SEIS due in June 2003, and the final draft in August 2003.

The Council appointed an EFH Committee in May 2001, to work with the agency and Council staff to develop alternative(s) for the SEIS, and review the draft documents before publication. At its December meeting, the Council adopted alternatives for the designation of Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC), and significance criteria for analysis. These alternatives were developed by the Council's EFH Committee. The Council will be taking public comments on these preferred alternatives.

EFH Alternatives

- Alternative 1: No Action – No EFH Designation
- Alternative 2: Species-Based (Level 0-2 Information) Status Quo
- Alternative 3: Species-Based (EFH designated using Level 1-4 Data)
- Alternative 4: Ecosystem / Habitat Based
- Alternative 5: Core Area Based

HAPC Alternatives

- Alternative 1: No Action – No HAPC Designation
- Alternative 2: Type - Based (Status Quo)
- Alternative 3: Species Distribution - Core Based
- Alternative 4: Habitat – Ecoregion/Ecological Based
- Alternative 5: Site - Specific Based
- Alternative 6: Type -Site Based

A two day meeting of the EFH committee will be held between January 29-30, 2002 in Juneau. The subject of the meeting will be an initial discussion of alternatives to minimize fishing impacts on EFH, to the extent practicable.

Staff contacts are Cathy Coon and David Witherell.

Web Information: <http://www.fakr.noaa.gov/npfmc/Committees/EFH/efh.htm>

Board of Fisheries MPA Process

Attached is a copy of the BOF 'Charge to Committee' adopted November 12, 2001.

Invertebrate/Plan Species Prohibition

Attached is the letter from the Council to the BOF from last February requesting the Board's aid in implementing a prohibition on commercial fisheries for invertebrate and plant species. Also attached is the January 2001 letter from NMFS to the Council explaining the issues and rationale for seeking action by the Board.

ALASKA BOARD OF FISHERIES
CHARGE TO COMMITTEE:
MARINE PROTECTED AREAS
2001-207-FB

The Board of Fisheries' authority for marine protected areas (MPAs) is found in AS 16.05.251(a)(1): setting apart fish reserve areas, refuges, and sanctuaries, in waters of the state over which it has jurisdiction, subject to approval of the legislature;..." Within this charge, "marine protected areas" is meant to generally describe these areas. The board and department seek to develop a process by which marine protected areas might be established and evaluated, including coordination with other agencies and other organizations.

The department is beginning a process to organize its approach to MPAs. A multi-divisional committee will inventory the current protected areas, no-take zones, etc. in Alaska; perform literature searches; review other programs; outline how to coordinate current efforts with other jurisdictions such as Western Association of Fish and Wildlife Agencies, National Marine Fisheries Service, North Pacific Fishery Management Council; define use of MPAs as a management tool; identify criteria under which MPAs will be established and evaluated; define terms, etc.

For the current meeting cycle (2001/2002), the board included in its Call for Proposals an opportunity for the public to submit proposals concerning MPAs, and received three proposals. In order to coordinate with state (and national) programs and initiatives, the board shall appoint a committee to design a process that the board may utilize for evaluating MPAs, including opportunities to involve the public. It is important to include the Department of Law to clarify the authority the board has in this area.

The committee shall consist of: Ed Dersham, Grant Miller, and Dr. John White. Staff will include the Deputy Commissioner, the Executive Director, and the Interjurisdictional Coordinator, and an Assistant Attorney General. The committee shall report to the full board in March 2002.

The calendar of events is as follows:

NOVEMBER 2001 – February 2002

Department committee meets to continue its work
Board MPA Committee is formed

JANUARY 2002

Joint BOF/NPFMC Protocol Committee meets and identifies coordination issues

FEBRUARY 2002

A white paper is provided to the board (and public) describing:

Progress of department committee

Recommendations on a board process for establishing an MPA

Finding 2001-207-FB

Page 2

MARCH 2002

Board MPA Committee brings recommendation for process to full board
Board reviews white paper and decides on its process and timeline

Adopted: Nov 12, 2001
Anchorage, Alaska



Ed Dersham, Chair

Vote: 7-0

PROPOSAL 424 - 5 AAC 39.1XX. NO FISHING ZONES. Create a new regulation as follows:

The intent of this proposal is to establish a "no fishing zone" in a specified combined area of Bristol Bay and the Bering Sea. Further, the intent of this proposal is that all commercial fishing activities be prohibited in the no fishing zone.

All commercial fishing activities (i.e., all species all gear types) are prohibited at all times in the EEZ within the area bounded by a straight line connecting the following pairs of coordinates in the order listed.

58° 00.0'N. 162° 00.0'W:

57° 00.0'N. 162° 00.0'W:

58° 00.0'N. 170° 40.0'W:

59° 00.0'N. 171° 55.0'W:

59° 30.0'N. 171° 55.0'W:

60° 00.0'N. 168° 00.0'W:

Fishing areas: 1) king crab, Bristol Bay (T); 2) king crab, Bering Sea area, Pribilof District (Q1); 3) king crab: Bering Sea area, St. Matthew Section (Q2); 4) Tanner crab, Bering Sea District, Eastern Subdistrict (J7); 5) groundfish, Bering Sea/Aleutian Islands area (O); 6) scallops, Westward area (J); 7) miscellaneous shellfish, Westward area (J); 8) shrimp, Westward area (J); 9) Dungeness crab; 10) herring; 11) halibut; 12) snails; 13) any other species or commercial fishery that takes place in this proposal no fishing zone.

PROBLEM: Frequent failures in traditional methods to protect fisheries resources. User conflicts and the intersection of incompatible activities. Management miscalculations. The need to protect biodiversity while maintaining active fisheries. The need to protect and conserve essential fish habitat. The need to implement ecosystem principles in fisheries management. The need to save our fisheries.

Complexity of marine ecosystems, combined with simplistic single species fisheries models, and economic pressures driving over fishing for short term gain have doomed major fisheries worldwide to collapse in the 20th century. Allowing market forces to drive stocks to exhaustion and precipitate ecosystem overfishing may have been an acceptable fishery management strategy through the 19th century when new frontiers and exploitable species abounded. At that time, the only reasons to forego immediate reward in return for long term productivity appeared moral and ethical. Most management strategies focus on preventing growth of effort, and overfishing. In the 20th century, new fishing frontiers are virtually gone, and the list of additional marketable species is alarmingly short. Today, ecological imperatives for stock and ecosystem survival overshadow earlier ethical and moral concerns. Modern fishery managers face the challenge of developing new ways to rebuild harvest-damaged stocks, and to maintain their productivity for future as well as current generations. As a result, virtually all suitable coastal habitat now appears to be exploited in many areas.

WHAT WILL HAPPEN IF NOTHING IS DONE? Major fisheries will continue to collapse, showing that marine resources are exhaustible. Commercial fishing activities will seriously impact ecosystem interactions. The productivity of commercial species will be negatively impacted. Continued frequent failures in traditional methods to protect fisheries resources. Increased user conflicts and the continued collision of incompatible activities. Management miscalculations. Commercial fishing activities will impact biodiversity. Destruction and degradation of essential fish habitat. Delay in the implementation of ecosystem principles in fisheries management. We will not be able to save our fisheries.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?

WHO IS LIKELY TO BENEFIT? The productivity of resources that are associated with the pelagic and benthic habitats (including invertebrates, vertebrates, corals, shellfish, worms, starfish, finfish, etc.). Essential fish habitat. The entire benthic and pelagic ecosystem. Conservation and management. Managers, research and harvesters.

WHO IS LIKELY TO SUFFER? No one that I can think of.

OTHER SOLUTIONS CONSIDERED? I can think of no other solution that achieve the desired objectives.

PROPOSED BY: Jeff T. Steele

(HQ-01-F-083)

PROPOSAL 42 - 5 AAC 39.1XX. ESTABLISH MARINE RESERVE. Create a new regulation to provide the following:

PROBLEM: Request the board establish a series of marine reserves within Prince William Sound, Outer Gulf of Alaska coast, Kachemak Bay, Cook Inlet, the Barren and Chugach Islands and the Kodiak Archipelago to boost fish productivity in adjacent fishing areas.

These no-take refugia of sensitivity would be used as control zones for species within their unperturbed habitat. They would be able to demonstrate long term effects of oceanic and climatic oscillations that result in changes in productivity and trophic shifts in marine environments.

Issues to include might be:

Location, size, site fidelity or philopatry, genetic subpopulations, genetic segregation, species, distinct stocks, interrelationships, predator-prey relationships and requirements, boundary flexibility, nurseries, rearing, spawning, and essential habitat.

Different areas chosen might include:

1. diversity of depths
2. shelf breaks
3. sub marine canyon heads
4. diversity of species
5. core areas of abundant spawning broodstock
6. diversity and quality of habitats
7. diverse oceanographic conditions (maximum upwelling, etc.)
8. areas where different levels of exploitation have taken place
9. islands
10. broad scale features of water masses like temperature, fronts, which serve all life stage growth, spawning and feeding parameters

WHAT WILL HAPPEN IF NOTHING IS DONE? Localized depletions of genetic subpopulations which have K-selected reproductive strategies are occurring before we grasp the biological significance of human action on these species. Species like rockfish that show strong site fidelity, philopatry, and unique life stage histories are in decline or are depleted. The potential for fishery failure designation as declared in east and west coast groundfish exists for Alaska. Limited entry and IFQ programs in both commercial and sport are expanding exploitation of finfish, rockfish, and other groundfish.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?

WHO IS LIKELY TO BENEFIT? Everyone. Marine reserves have proven clearly in other parts of the world to be generators of fishery productivity. They would be genetic and larval banks for the future and insurance policies against depletion thresholds. They result in increased fish size and increased yields adjacent to those no take refugia as well as protection of recruits that settle inside.

WHO IS LIKELY TO SUFFER? Those who do not understand the significant biological impact we are having on K-selected species while tremendous uncertainty surrounds biomass estimates and ocean processes.

OTHER SOLUTIONS CONSIDERED? Rehabilitation, fisheries closures, expand marine mammal areas into marine refugia, an Alaskan marine reserve management plan.

PROPOSED BY: Pioneer Alaskan Fisheries

(HQ-01-F-017)

PROPOSAL 402 - 5 AAC 28.XXX. AREA E, AREA H, AREA K, AREA L STATE MARINE RESERVE AREAS. Create a regulation to provide the following:

Issues to include might be:

- a) Location, b) size, c) site fidelity, d) genetic sub populations, e) Genetic segregation, f) species, g) distinct stocks, h) interrelationships, i) predator-prey relationships and requirements, j) boundary flexibility, k) nurseries, l) rearing, spawning and essential habitat.

Different areas chosen might include:

- a) diversity of depths b) shelf breaks c) submarine canyon heads d) diversity of species e) core areas of abundant spawning broodstock f) diversity and quality of habitats g) diverse oceanographic conditions (maximum upwelling, etc.) h) islands i) areas where different levels of exploitation have taken place j) existing marine mammal areas k) broad scale features of water masses like temperature, fronts l) areas which serve all life stage growth, spawning and feeding parameters.

PROBLEM: Localized depletions of Pelagic shelf, demersal shelf, and slope assemblages of Rockfish are in decline or are being depleted before we grasp the biological significance of human action on these species. Difficulty of gaining stock assessments, harvest data and unknown long-term sustainable fishery objectives will remain. The threshold of sustained yield may be crossed due to: biological K-selected reproductive strategies, strong site fidelity, behavior, life history, decompression injury and the risky efficiency and access of all user groups.

For the purpose of fishery conservation we request the board establish a series of State Marine Reserve Areas within Prince William Sound, Outer Gulf of Alaska Coast, Kachemak Bay, Cook Inlet, the Barren and Chugach Islands and the Kodiak Archipelago to boost fish productivity in adjacent fishing areas.

These no-take refugia would be used as control zones for all species within their unperturbed habitat. They would be able to demonstrate long-term effects of oceanic and climatic oscillations that result in changes in productivity and trophic shifts in marine environments. They would reserve a portion of the spawning biomass, preserve biodiversity of species composition and genetics. They would be genetic and larval banks for the future and insurance policies against depletion thresholds.

WHAT WILL HAPPEN IF NOTHING IS DONE? Limited entry and IFQ programs in both commercial and sport are expanding exploitation to other finfish, rockfish and groundfish. We need to prevent costly and time consuming species recovery plans. The potential for fishery failure designation as declared in East and West Coast groundfish exists for Alaska.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? They can result in increased fish size and increased yields adjacent to these no-take refugia as well as protection of recruits that settle inside.

WHO IS LIKELY TO BENEFIT? Everyone. Marine reserves have shown in other parts of the world to be generators of fishery productivity.

WHO IS LIKELY TO SUFFER? Those who do not understand the significant biological impact we are having on K-selected species while tremendous uncertainty surrounds biomass estimates and ocean processes.

OTHER SOLUTIONS CONSIDERED? Rockfish rehabilitation plans, fisheries closures, an Alaskan marine reserve plan are also options.

PROPOSED BY: Pioneer Alaskan Fisheries Inc.

(SC-01-F-077/HQ-01-F-239)

North Pacific Fishery Management Council

David Benton, Chairman
Chris Oliver, Acting Executive Director



605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

Visit our website: www.fakr.noaa.gov/npfmc

February 8, 2001

Mr. Dan Coffey, Chairman
Alaska Board of Fisheries
P.O. Box 25526
Juneau, AK 99802-5526

Dear Chairman Coffey:

We are requesting the Alaska Board of Fisheries (Board) aid in addressing a precautionary measure that the North Pacific Fishery Management Council (Council) adopted to prevent commercial fisheries from developing on invertebrate and plant species used as habitat by marine fish and shellfish that we jointly manage. While the goal of the Council to protect this important living habitat has not changed, the National Marine Fisheries Service (NMFS) has informed the Council that our proposed amendment will not provide the intended protection due to an inability to regulate non-federally registered vessels.

While there are a few options available to the Council to resolve this issue, the most timely and efficient option for both the Board and the Council would be for us to request you to prohibit commercial fishing for these species in the exclusive economic zone (EEZ) outside of state waters, as well as taking similar action in state waters to protect this important habitat. The authority for the Board to regulate this group of species in the EEZ is located under Section 306 (a) (3) of the Magnuson-Stevens Fishery and Conservation Act. The Board's action on this issue would close the potential loop-hole in our proposed federal action and eliminate the need for such federal action since the state action would cover both state and federal waters off Alaska.

We believe that this matter is urgent and deserves expedited review and resolution. Because we wish to enter this action onto your schedule at the earliest opportunity, we intend that this letter serve as a proposal to the Board, or an Agenda Change Request if this topic does not meet your scheduled agenda for statewide issues.

So that you may more fully understand the issue at hand, I have attached a copy of the letter from the NMFS informing the Council of this regulatory problem.

Thank you for your consideration, I look forward to your reply. I will inform the Council of your intent at our April meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "David Benton". The signature is fluid and cursive, with a large initial "D" and "B".

David L. Benton
Chairman, NPFMC



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

@002

AGENDA B-3
FEBRUARY 2001
Supplemental

January 31, 2001

Mr. David Benton, Chairman
North Pacific Fisheries Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

RECEIVED
FEB - 1 2001

N.P.F.M.C

Dear Dave,

In April 2000, the North Pacific Fishery Management Council (Council) adopted a precautionary measure to control or prevent a commercial fishery from developing for certain invertebrate and plant species that are used as habitat by fish, and have been defined by the Council as Habitat Areas of Particular Concern (HAPC) biota. The action taken would amend the two fishery management plans (FMPs) governing fishing for groundfish, by placing corals, sponges, kelp and mussels in a new prohibited species category. No additional management actions would be taken immediately for kelp and mussels, but the sale, barter, trade, or processing of corals and sponges would be prohibited.

In reviewing the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) that was prepared in support of the proposed FMP amendments, we do not believe that the Council's preferred alternative would fully achieve the goal outlined in the problem statement. If approved and implemented as proposed, the FMP amendments would govern only Federally licensed groundfish vessels, and would not prevent other vessels from engaging in a commercial fishery for the HAPC species. After consideration of the following discussion, the Council may wish to reconsider this HAPC action.

Discussion

The Council adopted EA Alternative (2), Option (1), which would amend the groundfish FMPs to classify selected HAPC biota as a prohibited species. This would include corals, sponges, kelp, and mussels, all of which have commercial potential. These species currently are not covered by any FMP, and, hence, have no Federal harvest limits or reporting requirements. Further, the amendments would prohibit the sale, barter, trade, or processing of corals and sponges; however, retention of these species for personal use would be allowed. Kelp and mussels would not be subject to additional management regulations at this time.



The problem statement contained in the EA says:

The Council recognizes that some invertebrates & plants (corals, sponges, mussels, and kelp (including rockweed)), which provide important habitat for fish, have the potential to be developed into large-scale commercial fisheries. The Council currently has little or no controls on the harvesting of these invertebrates. Adopting management measures as a precautionary approach would allow the Council to control any commercial fishery that might develop.

The preferred alternative does not appear to fully accomplish the stated goal. The groundfish FMPs govern fishing only by vessels and fishermen authorized to fish for groundfish. Vessels and fishermen not required to be licensed pursuant to the groundfish FMPs are not governed by the FMPs, and would not be prevented by the Council's action from pursuing a trade in corals or sponges.

We anticipate that the State of Alaska would issue complementary regulations in State waters. However, vessels and fishermen in Federal waters that don't have groundfish licenses issued pursuant to the groundfish FMPs (including, for example, salmon vessels with State licenses) would remain unregulated with respect to harvesting corals and sponges. The EA does not consider that some vessels and fishermen would not be affected by the action.

If the Council wishes to prevent the commercial harvest of these HAPC species by all vessels and fishermen in the EEZ, then we offer the following options:

1. The most efficient option would be for the Council to request the State to prohibit commercial fishing for these HAPC species in the exclusive economic zone (EEZ) outside of State waters. Section 306(a)(3) of the Magnuson-Stevens Act provides authority for the State to regulate a vessel in the EEZ, even if it is not registered under State of Alaska laws, if it is operating in a fishery in the EEZ for which there "was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery." The State could use this authority to prohibit a commercial fishery for HAPC species in the EEZ beyond State waters, provided that the necessary determinations are made under Magnuson-Stevens Act Section 306(a)(3).

Such an action taken by the State would achieve the Council's goal of preventing a commercial fishery from developing for corals and sponges. This State action would make the proposed Federal action redundant because the State action would cover State waters and the EEZ.

- 2. The Council could adopt Alternative 3 in the EA, under which the groundfish FMPs would be amended to classify HAPC biota as a new category of groundfish. If this alternative were approved, the FMP could require a Federal fisheries permit under 50 CFR 679.4(b) to commercially harvest corals and sponges, and thereby control or prevent the development of a commercial fishery for these species pursuant to Council policy.

This alternative has the advantage over the preferred alternative of more closely achieving the stated EA goal of preventing a commercial fishery for corals or sponges from starting.

This alternative was rejected by the Council, however, because of the work that would be entailed in dealing with a problem that is, at present, only hypothetical. The Council would be required to define essential fish habitat and overfishing levels for HAPC biota, among other things.

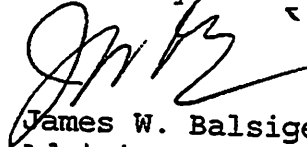
A second disadvantage is that this alternative would require complementary State action within State waters and, in light of the State's existing authority to extend its jurisdiction in the EEZ under Magnuson-Stevens Act Section 306(a)(3)(C), would result in duplicate State and Federal regulations where one State regulation alone would suffice.

- 3. The Council could propose a new FMP for HAPC species. This would appear to be more straightforward than classifying these biota as groundfish. This option likely would require the development of an environmental impact statement and otherwise retains the advantages and disadvantages of the previous option.

If, after review of its April 2000 HAPC action, the Council determines that no change is necessary, we will proceed with drafting proposed regulations for the Council's preferred alternative. In that event, we recommend modification of the problem statement and EA/RIR/IRFA to bring the analysis in line with the proposed action.

We are also prepared, of course, to work with the Council and the State to develop an alternative approach to controlling or prohibiting commercial fisheries for these ecologically important species.

Sincerely



James W. Balsiger
Administrator, Alaska Region

History of HAPC Designation and Analysis

prepared by Dave Witherell 11/29/01

Habitat areas of particular concern (HAPC) are those areas of special importance that may require additional protection from adverse effects. The interim final rule states "In determining whether a type, or area of EFH is a HAPC, one or more of the following criteria must be met:

- (i) The importance of the ecological function provided by the habitat.
- (ii) The extent to which the habitat is sensitive to human-induced environmental degradation.
- (iii) Whether, and to what extent, development activities are, or will be, stressing the habitat type.
- (iv) The rarity of the habitat type."

In June 1998, the Council adopted several habitat types were identified as HAPC within the essential fish habitat amendments 55/55/8/5/5. Habitat types, rather than specific areas, were designated as HAPC because little was known at the time regarding where these habitat types were located. These HAPC types included:

1. Areas with living substrates in shallow waters (e.g., eelgrass, kelp, mussel beds, etc.)
2. Areas with living substrates in deep waters (e.g., sponges, coral, anemones, etc.)
3. Freshwater areas used by anadromous fish (e.g., migration, spawning, and rearing areas)

In October 1998, the Council approved for analysis several proposals regarding habitat areas of particular concern (HAPC). These proposals requested that a gap analysis be prepared, and additional habitat types and areas be designated as HAPC. Proposed HAPC habitat types included seamounts and pinnacles, the ice edge, the shelf break, and biologically-consolidated fine-grained sediments. Proposed specific HAPC areas included a deep basin in Prince William Sound, the Chirikov Basin north of St. Lawrence Island, and the red king crab bycatch areas around Kodiak Island.

At the February 2000 meeting, the Council reviewed an initial draft of a proposed amendment that would consider identifying additional HAPC, and two management measures to protect HAPC from fishing effects. The first management measure considered would potentially prohibit directed fishing for certain HAPC biota (corals, sponges, kelp, rockweed, and mussels). The second measure would establish several marine protected areas where Gorgonian corals are found in abundance. Gorgonian corals have been shown to be important shelter for rockfish and other fish species, are very long lived, easily damaged by fishing gear, and slow to recover from damage. Based on public testimony, and input from its advisory committees, the Council dropped the proposed closure areas for gorgonian coral protection, and voted to split the remaining portions of the amendment and associated analysis into two parts: Part 1 would allow for control on the harvest of HAPC biota and Part 2 will develop a more comprehensive and iterative process for HAPC identification and habitat protection involving researchers, stakeholders and management agencies.

At the April 2000 meeting, the Council took final action on Harvest Control measures of HAPC Part 1. The Council adopted alternative 2 of the analysis which will add corals and sponges to the prohibited species category. This action would have essentially split prohibited species into two types: the first type will continue to allow no retention for halibut, salmon, and crab species, and the second type would include only corals and sponges as prohibited species whose management would be specified in the regulations. The HAPC prohibited species would allow retention, but will prohibit the sale, barter, trade or processing of corals and sponges. Kelp (including rockweed), and mussels would not be subject to any management actions. This action would apply to both the Bering Sea and Gulf of Alaska groundfish fisheries in the EEZ; other fisheries may be considered for HAPC biota protection in the future. The Council also relayed their concerns to the Alaska Board of Fisheries regarding protection of HAPC biota in state waters.

In February 2001, NMFS informed the Council they they would not be pursuing Amendment 65 regulations, and instead suggested that the most efficient option would be for the Council to request the State to prohibit commercial fishing for these HAPC species in the exclusive economic zone (EEZ) outside of State waters. Section 306(a)(3) of the Magnuson-Stevens Act provides authority for the State to regulate a vessel in the EEZ, even if it is not registered under State of Alaska laws, if it is operating in a fishery in the EEZ for which there "was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery." The State could use this authority to prohibit a commercial fishery for HAPC species in the EEZ beyond State waters, provided that the necessary determinations are made under Magnuson-Stevens Act Section 306(a)(3).

Some progress was made on Part 2 of the HAPC amendments, which was to develop a more comprehensive and iterative process for HAPC identification and habitat protection involving researchers, stakeholders, and management agencies. A scientific committee was supposed to be tasked to develop a discussion paper that identifies possible management approaches to meet habitat protection objectives and the pros and cons of each. Council staff, with Ecosystem Committee input, was tasked to expand the analysis of HAPC categories, and define the process initiated by submission of a HAPC proposal, through the steps of evaluation, identification, stakeholder involvement and, where indicated, management actions. Once these actions had been taken, the stakeholder process was to be initiated to better define high density Gorgonian coral areas and develop appropriate management alternatives. A process was developed for HAPC identification (see discussion paper at <http://www.fakr.noaa.gov/npfmc/HAPC/hapcdisc.pdf>), and stakeholder meetings were held in Sitka and Yakutat in January 2001. No additional meetings had occurred prior to the formation of the EFH Committee.

ADF&G's Program for Marine Protected Areas in Alaska

Doug Woodby, MPA Task Force chair
Alaska Department of Fish and Game
Juneau, Alaska



MPA Task Force

Purpose:

- Make recommendations to the Board of Fisheries

Approach:

- Science-based
- Focus on Reserves in relation to fisheries

Task Force Composition

- **Commercial Fisheries Division**
 - Earl Krygier, Denby Lloyd, Kristin Mabry, Tory O'Connell, Charlie Trowbridge, Doug Woodby (chair)
- **Habitat Division**
 - Janet Hall-Schempf
- **Sport Fish Division**
 - Scott Meyer
- **Wildlife Conservation**
 - Bob Small
- **Commissioner's Office**
 - Rob Bosworth

Definitions

• Marine Protected Area

Areas designated for special protection to enhance the management of marine resources (NRC 2001) with "year-round protection" (NOAA 2001)

• Marine Reserve

zones within an MPA where removal or disturbance of resources is prohibited" = "no-take" areas (NRC 2001)

Impetus for MPA Public Process

- **Executive Order 13158 (2000)**
 - Directive to develop national system of MPAs
- **Public proposals to Board of Fisheries**
 - Proposals 42, 402, 424 for Marine Reserves
- **ADF&G staff interest in MPAs as management tools**
- **Provisions of Magnuson-Stevens Act (1996)**
 - Essential Fish Habitat (EFH)
 - Habitat Areas of Particular Concern (HAPC)
- **Industry concern for further loss of fishing areas**

MPA Task Force Report

1. Recommendation for process
2. Literature review of the scientific basis
3. Catalogue and GIS maps of areas
4. Legal process for designating MPAs
5. Review of programs in other jurisdictions

MPA Task Force Report (pt. 1)

1. Recommendation for process

- Goals and uses of MPAs in Alaska
- Enhanced public participation (by March 2002 for April proposal deadline)
- Site selection, size, and other design criteria
- Monitoring and evaluation of effectiveness



MPA Task Force Report (pt. 2)

2. Literature review of the scientific basis

- Conserving biodiversity (inside reserves)
- Improving fishery yields outside of reserves
- Design criteria: size and location



MPA Task Force Report (pt. 3)

3. Catalogue and GIS maps of Existing MPAs

- Type of protections
- History
- Jurisdiction and legal basis
- Boundaries



MPA Task Force Report (pt. 4)

4. Legal process for designating MPAs

- Board process
- Joint Board and Council, IPHC
- Other agencies
- Legislative action



MPA Task Force Report (pt. 5)

5. Review of other programs: Federal U.S., CA, OR, WA, BC

- Public and legal processes
- Learn from mistakes and successes



Summary

- **Recommending a process to the Board**
 - Science-based, focused on reserves
 - Significant public (stakeholder) process (recommendation to Board by March)
- **Not recommending specific closed areas at this time**
- **Opportunity to learn from mistakes and successes elsewhere**

