

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *Chris*  
Executive Director

DATE: June 1, 2003

SUBJECT: Steller Sea Lion Issues

ESTIMATED TIME  
1 HOUR

**ACTION REQUIRED**

- (a) Receive report from Steller Sea Lion Mitigation Committee
- (b) Receive report from NMFS on the status of the SSL BiOp Addendum

**BACKGROUND**

1. Steller Sea Lion Mitigation Committee

During its April 2003 meeting, the Council asked the Steller Sea Lion Mitigation Committee (the old name of this committee was the RPA Committee) to convene and begin work on a new charge. The Council's charge was two-fold: 1) to review the National Research Council Committee's report on SSL decline and determine the feasibility of implementing the Committee's recommendations, and 2) to review the SSL "trailing amendment" list remanded to the SSL Mitigation (RPA) Committee at the Council's February 2002 meeting. The Council asked that consideration be given to modifying fishing restrictions in the GOA as part of this work. More detail on the Committee's charge is provided in the attached preliminary action plan (Item C-6(a)).

The SSL Mitigation Committee met by teleconference on May 5, 2003. The teleconference was joined by several members of the public and from NMFS staff. Chairman Larry Cotter polled the members to determine their continuing interest and willingness to serve on this committee. Several members could not attend the teleconference, and several have indicated they cannot continue to serve. The minutes of the May 5 meeting are attached (Item C-6(b)).

Chairman Cotter led the committee through the elements of the Council's charge, and explained the process he envisions for accomplishing this work. The committee members discussed various approaches that might be taken to address these issues. Also discussed was some of the information the committee may need to meet its charge. Of particular interest to the committee is a briefing from NOAA GC on the legal and NEPA compliance aspects of modifying the current RPA or proposing other regulatory measures that might affect Steller sea lions or their habitat. The committee will meet together for their first face-to-face work session June 24-26 at the Alaska Fisheries Science Center in Seattle. The agenda for the June meeting is attached as Item C-6(c).

## 2. NMFS SSL BiOp Addendum

During the April 2003 Council meeting, NMFS presented an overview of the draft Addendum to the 2001 Biological Opinion which had been prepared in response to Judge Zilly's remand order. The 2001 BiOp was challenged in Zilly's court, and was upheld except for two areas needing further analysis. NMFS has prepared an Addendum to the 2001 BiOp in which they lay out additional data and analyses to clarify the issues Judge Zilly remanded back to the agency. The Addendum addresses two main issues: one dealing with the factual basis in the available telemetry data for the relative weighting of critical habitat zones around Steller sea lion rookeries and haulouts, and a second dealing with fishery impacts on sea lion prey (cod, pollock, and Atka mackerel). NMFS accepted public comments on the draft Addendum until April 18, and is now preparing the final document. NMFS will complete the Addendum by June 30, 2003. NMFS staff will be available to answer questions.

Steller Sea Lion Mitigation Committee (Previously called the "RPA Committee")  
Preliminary Action Plan – April 2003

### **Introduction and Background**

The Council has requested that the RPA Committee, renamed the Steller Sea Lion Mitigation Committee at the October 2002 meeting, undertake a new charge. The charge is two-fold: 1) to review the National Research Council Committee's report on SSL decline and determine the feasibility of implementing the Committee's recommendations, and 2) to review the SSL "trailing amendment" list remanded to the SSL Mitigation Committee at the Council's February 2002 meeting. The following provides more background.

1. National Research Council Committee Report on the Alaska Groundfish Fishery and Steller Sea Lions

In April, the Council discussed how they might address some of the recommendations provided in the NRC Committee's report on the decline of the Steller sea lion in Alaska (see attached summary of report findings). The Council expressed a desire to use the insights and suggestions in the NRC Committee's report to maintain a healthy groundfish fishery, and yet not compromise the protection of the western Alaska Steller sea lion population. The Council suggested that the Committee might consider adjusting the current RPA to accommodate both objectives. Of particular interest to the Council is the report's suggestion of a study of fishing effects on sea lions and their prey by establishing experimental closed and open areas near sea lion rookeries. The Council asked that the SSL Mitigation Committee be reactivated to work with NMFS, Council staff, and other groups to look for an opportunity to implement such a study, preferably in a small area in the Gulf of Alaska. This is partly because of public comment from GOA communities asking for relief from hardships caused by the current Steller sea lion RPA. Therefore, the Council requested that while the SSL Mitigation Committee examines the existing Steller sea lion RPA, they also give consideration to redesigning regulatory measures that would reduce some of the economic hardships felt by GOA communities yet not compromise the conservation of Steller sea lions and their habitat.

2. SSL Trailing Amendments

In February 2002, the Council asked their SSL Mitigation Committee (RPA Committee at that time) to begin examining several regulatory measures that would be "trailing amendments" to the Steller sea lion protection measures amendments to the FMPs approved that previous October (2001). These trailing amendments (see list attached) included two measures the Council wanted given immediate attention (one of which was implemented [#9], and the other [#7] awaits further Council action). The other seven trailing amendments were sent to the SSL Mitigation Committee (except #4 which was not approved for further consideration).

### **The Charge**

Given the Council's decisions as outlined above, the SSL Mitigation Committee should meet as soon as possible to discuss the Council's requests, to identify the data and information needed to address these issues, and to develop a work schedule. The overall goal of the SSL Mitigation Committee is to conduct a side-by-side analysis of both the NRC Committee's report recommendations and the

trailing amendments, with an objective of designing an amendment "package" that accommodates as many of these regulatory concepts as practicable.

### **Data and Information Needs**

A variety of new data have become available since the SSL Mitigation Committee met last (2001). The Committee will need historic and new data for deliberations; at its first meeting (via teleconference) the Committee will prepare a list of anticipated data needs. The following is a preliminary list of some of these data needs.

- Updated catch history, by region, by month, for the AI Atka mackerel, BSAI Pacific cod and trawl pollock, and GOA Pacific cod and trawl pollock fisheries, including catch history for Pacific cod pot, longline, and jig fisheries
- Recent SSL telemetry data for all areas
- Updated SSL pup, nonpup, lactating female, and adult counts, by rookery and haulout, by season
- Recent SSL genetics information
- Updated BUMP model?
- Recent EA for SSL trailing amendment package (#7 & 9)
- 2001 BiOp
- 2003 Addendum to 2001 BiOp and supporting documents
- New literature on SSL biology and population ecology (since 2001)
- Results of NMFS fishery removal and tagging/movement studies of Atka mackerel and Pacific cod
- Recent SSL Recovery Team report
- Report on NMFS experimental pollock removals in Barnabas and Chiniak gullies, Kodiak

### **Schedule**

The Committee needs to set a work schedule for the coming months – through 2003 if possible. An initial goal is an amendment package that can be approved and implemented by January 1, 2005. A teleconference will be held among Committee members on May 5, 2 to 5 PM AK time, to discuss the Committee's charge. And a face-to-face meeting in Seattle has been scheduled for June 25-26 at the NMFS AK Fisheries Science Center in Sand Point to begin the review of information and data and to begin deliberations. A work schedule for the SSL Mitigation Committee might include the following considerations:

- Scheduled May 5 teleconference – call-in line at NPFMC is 907-271-2896 at 2 PM AK time
- Scheduled June 10-18 Council meeting in Kodiak
- Scheduled June 25-26 SSL Committee meeting in Seattle (tentatively at NMFS AFSC)
- Possible July 8-11 Council meeting in (location TBA – meeting might not happen)
- Three-year Council meeting schedule
- Fishing season and biological research schedules for upcoming May-November period
- Availability of data from AFSC and the RO (given other priorities [e.g. EFH])

Council Chairman Benton has requested that the SSL Mitigation Committee meet once before the June Council meeting in Kodiak to discuss the Committee's charge, to develop a preliminary list of data/information needs, and to develop a draft work schedule (this will be via teleconference on May 5).

## SSL Mitigation Committee Membership

As of February 2002, the following individuals sit on the SSL Mitigation Committee. Chairman Benton added Julie Bonney in April 2003.

<u>Chair:</u> Larry Cotter	Sue Hills
David Benson	Gary Leape
Jerry Bongen	Terry Leitzell
Julie Bonney	Matt Moir
Shane Capron	Alan Parks
David Cline	Fred Robison
Tony DeGange	Bob Small
Doug Demaster	Beth Stewart
Wayne Donaldson	Jack Tagart
Steve Drage	John Winther
John Gauvin	John Iani

NPFMC staff: Bill Wilson

Attachment 1. NRC Report Chapter 7 – Summary of SSL Issue Information Needs/Research + Monitoring Recommendations

The NRC Committee's preamble: Resolution of disputes over fishery management actions will be feasible only after

1. there is considerable evidence confirming one or more hypothesis for the SSL decline, or
2. there is a clear and sustained recovery of the SSL population.

Information needs:

- Long term SSL abundance, sex ratio, and survival/productivity rate data
- Continued monitoring of SSL response variables at locations in the ranges of the eastern and the western stocks (pup birth mass and growth rate; adult female body condition, foraging trip duration, dive depth, and field metabolic rate; and SSL foraging range, SSL beach strandings, presence of other piscivores [seabirds], and SSL prey availability)
- Continued monitoring of spatial and temporal patterns of fishing in proximity to SSLs
- Continued monitoring of spatial abundance and seasonal distribution of key prey fishes
- Expand current studies of localized prey depletion and fishery interactions with prey fields
- Involve local residents and Native fishermen in SSL research to enhance contributions of TEK to SSL/fishery studies
- Conduct a comprehensive killer whale study to gather data on killer whale interactions with fisheries, degree and patterns of consumption of SSLs, abundance, feeding behavior, and seasonal movement patterns
- Gather confidential data on current (unreported) levels of lost fish catch due to SSLs and resultant human take of SSLs
- Analyze archived SSL tissue samples (1980-1990 time series) for trends in infectious disease, toxins, and pollutants
- Analyze available fishery observer data time series for accounts of killer whale attacks on SSLs
- Institute requirement that fishery observers document SSL presence near fishing activities, killer whale encounters, and SSL entanglements
- Conduct an experimental, replicated (at least two treatments) study of open and closed (to fisheries) areas (20-50 nm) centered on SSL rookeries in various management areas of the SSL range; monitor response variables 5 years or longer

Attachment 2. Trailing Amendment List from February 2002 Council Meeting

**Items for a trailing amendment to be analyzed and considered for the 2003 season:**

1. Area 8 exemption: allow catcher vessels (of any LOA) using longline gear to fish 3-10 nm from haulouts of Reef-Lava and Bishop Point.
2. Area 4 exemption: allow vessels under 60 feet LOA using fixed gear to fish in waters of the Chignik area.
3. Stand down provisions between A/B and C/D seasons for pollock in the GOA
4. Exemption for all longline, pot, jig gear, and trawl catcher vessels and catcher processors under 60 ft. Identify as a preliminary preferred alternative that the exemption would only apply to catcher vessels.
5. Examine options for a Gulf of Alaska Pacific cod split other than the current 60/40 split.
6. For the BSAI Atka mackerel fishery, analyze options to change percentage inside/outside critical habitat of 50/50 and 70/30.
7. For the Aleutian Islands pollock fishery, examine three options:
  - a) closure;
  - b) a single season outside of critical habitat;
  - b) a split season (40/60 % of TAC).
8. In Area 9, analyze a range of caps for pot, longline and jig gear.
9. (December 2001 addition). The Board of Fisheries modifications.

Comparison of measures adopted by the Council and by the Board of Fisheries.		
<u>Area</u>	<u>Council Action</u>	<u>Board Action</u>
Cape Barnabas	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Caton Island	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Chignik Area	Open State waters cod fishery seven days after closure of directed Federal season in Central Gulf	open state fishery on March 1

# North Pacific Fishery Management Council

David Benton, Chairman  
Chris Oliver, Executive Director



605 W 4<sup>th</sup> Ste 306  
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

Visit our website: [www.fakr.noaa.gov/npfmc](http://www.fakr.noaa.gov/npfmc)

AGENDA C-6(b)  
JUNE 2003

## Steller Sea Lion Mitigation Committee Meeting Minutes - May 5, 2003

The Steller Sea Lion Committee met by teleconference May 5, 2005 to discuss the Committee's new charge (see attached). The agenda for this meeting was the background document.

Chairman Larry Cotter reviewed the committee membership, noting that Leape, Cline, and Parks have not responded to inquiries about their interest in serving on this committee, but that hopefully they will agree to serve or Council Chairman Benton may appoint new members to serve in their place. Cotter reviewed the Committee's charge: to examine the NRC committee report on the SSL decline, and the list of trailing amendments, to configure modifications to the RPA that will afford some relief from some of the fishing restrictions to GOA fishermen, especially in the Central and Western Regulatory Areas.

Some discussion focused on what kind of modifications to the current SSL RPA may be permissible given the ESA and the issues of jeopardy and adverse modification of critical habitat. The Committee may need NOAA General Counsel input.

Question: can the Committee use the BUMP model again? The BUMP model proved useful to the RPA Committee in evaluating various alternatives. Since the SSC previously found that the BUMP analysis lacked the quantitative data needed as a foundation for its predictions, it is unlikely the SSC would accept this analytical approach again. Plus the SSC has generally rejected categorical ranking models that rely on qualitative rankings and rank sums to generate the background used for making a decision. But if not BUMP, then what tool might the Committee use to judge the relative merits of new alternatives? And is this a zero sum situation - if we suggest giving some fishing relief somewhere, then must we take away fishing somewhere else? "Maybe the love affair with BUMP analysis is over."

Question: Now that the current RPA appears to have stood the legal challenge and the lawsuit is almost settled, what kind of "tweaking" of the measures in the RPA might be allowed and not trigger the need for a formal consultation? What kind of "tweaking" would be permissible legally?

Chairman Cotter suggested that new data and findings from research currently under way may aid the Committee's work. A June 24-26 Committee meeting has been scheduled (in Seattle at the AFSC), at which the Committee will review new data, get caught up with new research findings, review the legalities of adjusting the current RPA, and begin work on the Committee's charge.

Question: Would this Committee's actions possibly trigger the need for a new Section VII consultation, and if so would this be soon? It is likely that formal consultation would begin only after the Committee worked out one or more measures, and the SSC, AP, and Council approved the measure(s). A Biological Assessment of the approved measure(s) would also have to be prepared - which would then trigger the beginning of



consultations. It is likely that any consultation resulting from this Committee's work would not occur until a year or more in the future. Cotter reminded the Committee that the earliest a measure recommended by this Committee could be implemented is January 2005.

Question: What helpful new scientific information will be available to this Committee from the \$80 million that has been spent on SSLs to date? Much of the new information was presented at the Marine Science in the Northeast Pacific symposium held in Anchorage in January 2003. Doug DeMaster will see that the Committee members receive abstracts of the papers from that meeting. DeMaster also reminded that the NOAA budget for SSLs in 2003 was cut significantly, and some projects will not be continued. Of particular interest is the pollock removal study around Kodiak; this project will be a likely casualty of the reduced funding. Cotter suggested that industry might help find funds to continue this potentially important project.

Bob Small reported on the activities of the SSL Recovery Team. The Team is meeting in Juneau this week. To date the Team has reviewed available data and information on SSLs, and this week will hear expert presentations on SSL nutrition and the role nutrition may have played in the SSL population decline. The Team plans to evaluate threats to SSL population recovery by the end of summer, and at a summer meeting will discuss measures that might be implemented to address any nutritional issues. The Team also plans to develop a plan, a road map, for how to de-list the Alaska SSL populations.

Cotter noted that the Committee will work closely with the SSL Recovery Team as both have some similar goals. Bob Small sits on both the SSL Mitigation Committee and the SSL Recovery Team.

Cotter set a schedule for the Committee's work (partially outlined in the attachment): June 24-26 meeting in Seattle and perhaps an August meeting (TBA). A report on this Committee's work to date will be presented to the Council at their June 10-18 meeting in Kodiak.

Council staff is prepared to provide necessary information and reports to the Committee at their June 24-26 meeting, and staff will help facilitate presentations such as a review of the NRC Committee report and findings (suggest Gordon Kruse make this presentation), a walk-through of the 2001 BiOp Addendum by Shane Capron, new SSL telemetry data, and a report from the SSL Recovery Team. Dr. Tagart recommended that the committee also obtain scientific expertise in experimental design to suggest workable and defensible approaches to accomplishing some of the recommendations in the NRC Committee's report.

Other comments: Provide Committee minutes, meeting schedules, etc. on the Council's web site? Can we redefine SSL critical habitat (as a means for relieving fishing restrictions in the GOA? Consider convening a workshop to discuss and develop a program that addresses the NRC Committee's recommendations - i.e. what can/can't we do? Need to discuss the various consequences of the current SSL RPA, such as the shift in fishing activity out of SSL critical habitat but into fur seal foraging areas, or the economic effects on the fleet in the GOA.

These and other similar questions and issues will be discussed at the June 24-26 meeting.

All Committee Members: Please provide suggestions and lists of data or information the Committee will need to Larry Cotter and/or Bill Wilson. To the extent feasible, Council and NMFS staff will make this information available to the Committee at their June 24-26 meeting.

North Pacific Fishery Management Council  
Steller Sea Lion Mitigation Committee Meeting  
Alaska Fisheries Science Center, Seattle  
June 24-26, 2003

**DRAFT AGENDA**

June 24 – 8:30 AM – 5:00 PM

1. Introductions and Opening Remarks (L. Cotter)
2. Confirm Committee Membership (L. Cotter)
3. Review Committee's Charge from the Council (L. Cotter, B. Wilson)
  - A. NRC SSL Committee Report
  - B. SSL Trailing Amendments
  
1. Legal Framework for Committee's Work (NOAA GC?)
  - A. How to approach modifying the current RPA
  - B. Is the Committee's work a zero sum process?
  - C. What triggers the need for a Section VII re-consultation?
  - D. How to ensure Committee's work is NEPA compliant
  
1. Analytical Tools Available for Committee's Work (D. DeMaster, L. Fritz, et al.?)
2. Committee's Working Protocols – How will the Committee go about its business? (L. Cotter)
  - A. Prioritization of tasks
  - B. Data management
  - C. Meeting minutes
  - D. Task assignments
  - E. Etc.
  
1. Presentation of NRC SSL Committee Report (G. Kruse?)
  
2. Report on recent SSL Recovery Team Meeting – Discuss Coordination Between Committees
  
3. Presentations of New Data Relevant to Committee's Charge
  - A. 2001 BiOp Addendum (S. Capron)
  - B. ADF&G and NMML telemetry data (D. DeMaster)
  - C. New SSL food habits data (L. Fritz and K. Wynne?)
  - D. ASLC Captive SSL feeding experiment review
  - E. Updated SSL rookery and haulout counts and composition (T. Loughlin?)
  - F. Updated BSAI and GOA P. cod and pollock and AI A. mackerel catch data (all gear)
  - G. Preliminary results from pollock, P cod, and A mackerel studies (L. Fritz?)
  - H. SSL genetic stock identification studies update (T. Loughlin)
  - I. Perspective on NRC SSL Committee report (L. Fritz)
  - J. 2001 SSL RPA – What worked, what didn't – Were SSL biological effects realized as predicted? (D. DeMaster, L. Fritz, T. Loughlin, S. Capron et al.?)
  - K. 2001 SSL RPA – What have been the economic effects – as predicted? (J. Terry?)
  - L. Overview of SSL-related studies under way or planned (D. DeMaster?)

June 25 – 8:30 AM – 5:00 PM

1. Work Schedule (All)

June 26 – 8:30 AM – 5:00 PM

1. Outline Tasks and Begin Discussions – for remainder of time available? (L. Cotter and all)
2. Closing Remarks (L. Cotter)
3. Action Items (L. Cotter)
4. Next Meeting Location, Time, Arrangements, etc.