

North Pacific Fishery Management Council

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Certified John G. Peterson

Date June 20, 1989

MINUTES
86th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
April 11-14, 1989
Sheraton Hotel
Anchorage, Alaska

The North Pacific Fishery Management Council met April 11-14, 1989 at the Sheraton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee and Advisory Panel began meeting on Monday, April 10. Members of the Council, Scientific & Statistical Committee and Advisory Panel in attendance are listed below.

Council

John Peterson, Chairman
Bob Alverson
Joe Blum
Ken Parker for Don Collinsworth
Larry Cotter
Oscar Dyson
Bob Mace for Randy Fisher
[Jon Nelson, USFW, was not present]

John Winther, Vice Chairman
Bob Ford
Dave Hanson
Tony Knowles
Henry Mitchell
CAPT Geo. White for
RADM Edw. Nelson
Steve Pennoyer

NPFMC Staff

Clarence Pautzke, Executive Director
Steve Davis, Deputy Director
Judy Willoughby
Terry Smith
Dick Tremaine

Bill Wilson
Marcus Hartley
Hal Weeks
Helen Allen
Peggy Kircher

Support Staff

Mark Pedersen, WDF
Dale Evans, NMFS-AKR
Craig Hammond, NMFS-AKR
Craig O'Connor, NOAA-GCAK
Peter Craig, ADF&G

Jim Brooks, NMFS-AKR
Ron Berg, NMFS-AKR
Loh-Lee Low, NMFS-NWAFAC
Jim Balsiger, NMFS-NWAFAC
Steve Hoag, IPHC

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Scientific and Statistical Committee

Richard Marasco, Chairman
Bill Aron
John Burns
Bill Clark
Jack Tagart

Doug Eggers, Vice Chairman
Larry Hreha
Terry Quinn
Don Rosenberg

Advisory Panel

Nancy Munro, Chair
Rick Lauber
Dan O'Hara
Ron Peterson
Harold Sparck
Dave Woodruff
Lyle Yeck
Fred Zharoff

Arne Aadland
Al Burch
Phil Chitwood
Lamar Cotten
Dave Fraser
John Gilbert
Ron Hegge
Pete Isleib

General Public

Over 150 people attended the Council meeting. Names of those who registered are listed below.

Douglas G. Knutson
John Nystrom
Scott Hovik
James A. Wexler
Marvin Stone
Robert Miller
Brian Bigler
John Bruce
John & Elizabeth Coyne
Doug Dixon
Barney Seiler
Jim Gilmore
Ron Dearborn
Stanley Wiedemon
Alexander Galanin
Li Shanxun
D. Lee Forsgren
Bill McCloskey
Theo Matthews
Steve Hughes
Debby Swenson

Steven W. Carr
CDR Joe Kyle, USCG
Perfenia Pletnikoff, Jr.
Alf Sorvik
Stanley Hovik
Rod Moore
Ted West
Gary Branfeld
Jeff Ingman
James Russell
Dennis Thornton
John Roos
Bill Atkinson
Greg McIntosh
Tim Metzger
Eric Maisonpierre
Bill Orr
Thor Olsen
Phil Werdal
Barry Collier
Neil Schuckerow

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Del Clark
Kenneth Allread
Terry Thomas
Spike Jones
Jsoeph Wabey
Roy Jones
Bert Larkins
Rudy Petersen
Mike Atterberry
Chris Blackburn
Karl Ohls
Michael Snigaroff
Chip Threinen
Peter Block
Nancy Stanton
Buster McNabb
Bryce Edgmon
Henry L. Mason
Vern Hall
Stephen Brooks
Ernest Svasand
John Dahlen
Joe Plesha
Jay Nelson
Ana Seagars
Vic Horgan, Jr.
Dennis Rydman
Craig Larson
Kate Graham
John Nystrom
Steve Grabacki

David Ambrose
Mike Haggren
Bob Morgan
Jess Webster
Einar Pedersen
David Harville
Michael Petersen
Krys Holmes
Kari Udbye
Alec Brindle
Keith Langren
Matt Moir
Dave Herrnsteen
Maureen McCrea
Chip Dennerlein
Mass. Umeya
William Hayes
John Cleveland
Tyson Vogeler
Barry Ohai
Dave Shoemaker
H. Allen Fernstrom
Ilarion Pletnikoff
Chuck Kekoni
Linda Kozak
Gleyn Bledsoe
Bill Jacobson
Forrest Gould
Walter Parker
Michael Reif
Brad Resnick

A. CALL TO ORDER, APPROVAL OF AGENDA, AND MINUTES OF PREVIOUS MEETING

Chairman John Peterson called the meeting to order at 1:10 p.m. on Tuesday, April 11, 1989.

AGENDA. The agenda was approved with minor scheduling changes.

MINUTES OF PREVIOUS MEETING. The minutes of the January 1989 Council meeting were not considered for approval pending revisions.

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B. SPECIAL REPORTS

B-1 Executive Director's Report

Clarence Pautzke introduced new NPFMC staff members Hal Weeks and Marcus Hartley who will come on board in May.

The meeting schedule for 1990 was discussed and the following dates approved: weeks of January 15; April 23; June 25, September 24, and December 3. Because January 15 is a federal holiday, it was suggested that the meeting begin on Tuesday and run through Saturday, if necessary.

John Peterson reported on a recent trip by an industry group to Washington, DC to carry forward concerns over the NOAA fisheries budget. Mr. Peterson also reported that Congressman Studds has invited testimony from the regional fishery management councils during MFCMA reauthorization hearings in May.

B-2 Domestic Fisheries Report by ADF&G

Dave Carlile reported that the Alaska Department of Fish and Game has decided to close several commercial fisheries in Prince William Sound as a result of the recent oil spill. Both the herring and pot shrimp fisheries were closed until further notice and the sablefish fishery within State waters has been delayed until August 15, unless changed by emergency order. Other fisheries may also be closed depending on the extent of oil contamination.

B-3 NOAA Fisheries Management Report

Craig Hammond reported on transshipment data for foreign vessels for 1988 and also responded to a Council request in January on sablefish catches, quotas and export statistics, their concern being that more sablefish was being imported into Japan than showed up in catch reports. Mr. Hammond said it is difficult to compare Japanese imports with quotas and catch reports for several reasons, including last-minute changes in the species composition of a shipment which are not reflected in export declarations and incorrect data entry by foreign trade data clerks.

Dale Evans reported on management actions by NOAA Fisheries-Alaska Region. Bering Sea and Aleutian Islands joint ventures were closed on March 12 because yellowfin sole JVP was exhausted. NOAA predicted the trawl bycatch of sablefish in the West Yakutat area would be exhausted by mid-April, and shortly thereafter, the sablefish hook and line fishery would close. The fisheries are proceeding much more rapidly this year. By April 13, the DAP fleet had harvested and processed 403,197 mt of groundfish off Alaska. In the Gulf of Alaska the catch was 85,675 mt, including 66,837 mt pollock, 13,606 mt Pacific cod, 683 mt sablefish, 1,741 mt rockfish, 2,086 mt founders, and lesser amounts of other species. The catch in the Bering Sea and Aleutians was 317,540 mt, including 246,332 mt pollock, 31,522 mt Pacific cod, 12,918 mt rock sole, and lesser amounts of other species.

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Public Testimony

Paul MacGregor, AFTA, commented that right after NMFS determined that the Western/Central Gulf of Alaska pollock quota had been reached, they declared pollock a prohibited species and advised vessels that all pollock and pollock products had to be offloaded before fishing there again. The advisory caught everyone by surprise and vessels were forced to quickly find shoreside facilities, cold storage, or other facilities for offloading. The only options for some vessels that could not find space were to move to the Bering Sea where 160°-163°W was closed to all trawling; move to the Eastern Gulf, an unpalatable idea; or continue fishing in the Central and Western Gulf without offloading. Some vessels chose the last option, and one was cited by the Coast Guard. They will need to prove they caught the pollock before it became a prohibited species. Industry will discuss this problem with the Regional Office to see if there is a solution.

B-4 Enforcement and Surveillance Report by USCG

Captain White introduced CDR Joe Kyle who will succeed him in August and then reported on Coast Guard enforcement and surveillance from January through March. He noted that bycatch limits, now based on retention, will be enforced using the bycatch limits of the area where a vessel is fishing, regardless of where the vessel claims the bycatch species were caught. Because daily catch logs are not required, it will be impossible to establish whether a groundfish species, then prohibited but found on board, was caught before or after being designated a prohibited species. The Coast Guard will automatically issue a violation to any vessel found fishing with a prohibited species on board. They advised that vessels offload product of any groundfish species before fishing in an area where that species is prohibited.

B-5 Special Report on Prince William Sound Oil Spill

The Council received status reports on efforts to contain and clean up the oil spill in Prince William Sound from NOAA representative Jawed Hameedi and Under Secretary William Evans, Administrator of NOAA.

COUNCIL DISCUSSION AND ACTION

Henry Mitchell suggested that the Council appoint a Habitat Committee to meet with federal and state agencies to discuss the spill and its potential impacts on fisheries. Chairman Peterson appointed the following Council members to the committee: Henry Mitchell (Chairman), Larry Cotter, Oscar Dyson, Tony Knowles, Ken Parker and John Winther. The Committee will report their findings to the Council in June. The Council also reaffirmed its opposition to oil and gas leasing activities in Bristol Bay and asked the Chairman to send a letter on the subject to the President.

Larry Cotter moved to send a letter to President Bush expressing the Council's opposition to offshore oil development in Bristol Bay. The motion was seconded by Oscar Dyson and

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carried with Steve Pennoyer abstaining.

C. NEW OR CONTINUING BUSINESS

C-1 Oath of Office

Jim Brennan, NOAA Assistant Administrator for Fisheries, briefed the Council on the development of the oath of office which is now a requirement under the Secretary's revised guidelines and regulations. Each Council member signed a copy of the oath which will be kept on file in the Council office.

C-2 Legislative Update

Council members were briefed by Council staff and Dave Hanson, Pacific Marine Fisheries Commission, on current legislative activities on ocean-related issues, including the reauthorization of the MFCMA, the Marine Resources Support Act, Fishermen's Protective Act, and a bill that would require certain plastic articles to be made of biodegradable material.

Rod Moore, aide to Congressman Don Young, was asked whether there would be an attempt to reinstate the bill on marine licenses. Mr. Moore said it was possible but he doubts that Congress would act on that particular bill. He noted that hearings on the reauthorization of the Magnuson Act will be held in Seattle and Kodiak in August.

John Peterson asked members of the Council's Reauthorization Committee to meet with him to discuss his testimony at hearings in Washington, DC in May.

C-3 Statement of Organization, Practices and Procedures (SOPP)

The Secretary of Commerce's revised regulations and guidelines concerning operations of the regional fishery management councils were published as a final rule on January 17, 1989. The new guidelines/regulations require the Councils to publish new SOPPs within 180 days of the final rule. Clarence Pautzke asked Council members to review the revised SOPP provided in their notebooks and offer comments to him by April 30. The revised SOPP will be sent out for public review and available for final Council approval at the June meeting.

C-4 International Fisheries

Joe Blum reported on activities of the U.S.-Soviet Advisory Committee which has decided to provide the State Department with their views on the direction the Department should take in negotiations with the Soviets on high seas interceptions and donut hole issues. They are proposing a joint US-USSR meeting sometime in May or June. Mr. Blum asked the Council to send correspondence to the Secretary of State expressing Council interest in these issues and stressing the need for leadership on the part of the State Department. He

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also suggested John Peterson highlight the Council's concerns on these two issues when testifying in Washington, DC in May. Council members agreed with the suggestion to write to the Secretary of State and asked Dr. Pautzke to draft the letter with oversight from Mr. Blum and Mr. Collinsworth.

Steve Pennoyer reported on recent International North Pacific Fisheries Commission issues. Japan wants to convert their mothership fishery to a landbased fleet. The U.S. section of INPFC is concerned with this proposal and has developed some conditions which include monitoring measures, observers and better scientific data.

C-5 Future Management Planning

In January the Council proposed a January 16, 1989 cut-off date with pipeline criteria recommended by industry members. The Council requested public comment and indicated they would discuss it again in April. Under this agenda item, the Council was also asked to identify problems and concerns with the fisheries; review the recommendations of the Fishery Planning Committee and refine options for further development for sablefish and halibut management; review Committee recommendations and give further direction for development of open access projections for the groundfish and crab fisheries; and review Committee recommendations and public comments and decide on a future course of action on the concerns and needs of coastal communities in Alaska.

(a) Cut-off Date and Pipeline Definition

Report of the Advisory Panel

The Advisory Panel recommended the Council maintain the open access system and discontinue development of limited access systems for all species currently within Council jurisdiction (except salmon which is already managed under a State license system).

Public Testimony on this agenda item is found in Appendix I to these minutes.

COUNCIL DISCUSSION AND ACTION

Craig O'Connor reviewed a memorandum prepared by Jon Pollard regarding the proposed cut-off date and pipeline definition. He pointed out that the pipeline definition is not specific enough to allow potential investors to determine if they would be included in any future limited access system. Mr. O'Connor suggested that the Council abandon the concept of "in the pipeline" and rely on licenses and other tangible evidence of eligibility.

Joe Blum moved to adopt the following:

The North Pacific Fishery Management Council establishes a cut-off date of April 14, 1989, after which vessels which have not reported catch in a fishery under the Council's jurisdiction will not be assured of future participation in

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that fishery should the Council develop, and the Secretary of Commerce implement, a limited access system for that fishery.

Notwithstanding the foregoing, the cut-off date shall be extended to June 1, 1991 for vessels that meet the following criteria: The vessel was contracted to be purchased, built or rebuilt on or before April 14, 1989, and the contract or other reliable evidence acceptable to the Secretary of Commerce shows that the vessel was contracted to be purchased, built or rebuilt with the intent of operating the vessel in a fishery under the Council's jurisdiction; and The vessel reports catch in that fishery on or before June 1, 1991.

NOTES:

The fisheries under the Council's jurisdiction are: longline halibut, groundfish, red king crab, C. bairdi Tanner crab, and C. opilio Tanner crab. Each fishery shall be considered separately for purposes of the cut-off date. Longline sablefish in the Gulf of Alaska are covered by a September 26, 1985 cut-off date. The catch report requirement shall be met by a report submitted under any mandatory catch reporting system required under State or Federal law, such as the Alaska State fish ticket system or the groundfish weekly catch reporting system.

The motion was seconded by Larry Cotter.

Mr. Blum said that he feels the Council has a responsibility to the resource and this decision is a reaffirmation of their January decision, not a commitment to a particular system at this time. This action will serve the industry, fisheries, and the United States by meeting the objectives of the MFCMA and will give industry a clear signal that the Council is looking at all kinds of management regimes.

Ken Parker suggested that the word "red" be deleted before "king crab" in the motion so that brown and other species of king crab would be included. There was no objection to this change.

Larry Cotter moved to amend the motion as follows:

In the first paragraph, second line, insert "factory trawler" in front of the word "vessels," and in the third line, insert "groundfish" in front of the word "fishery," and delete everything after the first paragraph.

The motion to amend was seconded by Henry Mitchell for discussion.

Mr. Cotter said that the Council needs to address the instability of the growing factory trawler fleet, but should not have to address other vessels in the fishery. This motion does not obligate the Council; it merely sets the stage for future action if they choose to take any. The factory trawler component of the fleet is threatening to cause gross instability in the fisheries.

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Bob Macé and Joe Blum said they feel the problems are inherent in the overall fishery, not just with the factory trawler fleet.

The motion to amend failed, 10 to 1, with Cotter voting in favor.

Further discussion on the main motion included concerns by some Council members that little support was given for limited access systems during public testimony and that if industry does not support the concept, there is little reason to proceed. Mr. Parker said that in addition to the evident lack of industry support, he feels that perhaps it is too late for a limited access system to be effective.

Craig O'Connor was asked if the motion addresses his concerns with the original cut-off motion in January. He said that the current motion provides some clarity, but he is still concerned about what evidence could be used to verify a contract for purchase, etc. He suggested more specific documentation criteria. He is also concerned about the lack of a record to support the particular dates included in the motion.

Tony Knowles expressed his concern about the procedure being followed in this action. His understanding of the January cut-off motion was that it was to solicit public testimony in order to amend or reject the language at this meeting. The public has not had a chance to comment on the new date of April 14, 1989. He also expressed concern over the fact that the original plan to explore limited access for the sablefish fishery has now been expanded to include other species.

The main motion failed, 8 to 3, with Alverson, Blum and Mace voting in favor.

Tony Knowles moved to delete all measures on limited access from the work schedule the Council approved for analysis of future management measures for sablefish, groundfish, halibut and crab. The motion was seconded by Oscar Dyson.

Mr. Knowles said he feels that current management problems can be handled within the open access system.

Larry Cotter pointed out that sablefish fishermen were not informed there might be a change in the schedule or that analysis of sablefish limited access might be abandoned at this meeting and have not had a chance to comment; the schedule which has been circulated calls for a final Council decision in December 1989. He said the Council should follow through on the schedule, study the issues and put them out for public review, and make a decision after that. He suggested that perhaps open access alternatives should be expanded in the analyses, but that limited access alternatives should not be abandoned at this point.

Bob Alverson moved to amend the main motion to include an examination of a license limitation system for sablefish and halibut fisheries in the considerations sent out for

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public review. The motion was seconded by Henry Mitchell. (Intent is to add the consideration of a license system for sablefish and halibut.) When Mr. Alverson noted that his motion was intended for fixed gear groups only, Mr. Mitchell withdrew his second and the motion died.

Larry Cotter moved to amend the main motion to exclude reference to sablefish (i.e., continue the process for sablefish analyses) in the Gulf of Alaska and Bering Sea/Aleutian Islands. The motion was seconded by Joe Blum.

Further discussion included concern by some Council members that public testimony at this meeting indicates industry is not in favor of continuing the study of limited access alternatives. It was suggested that the Council should notify industry that they intend to abandon the work on limited access and give them the chance to comment prior to a final decision. It was pointed out that in the Federal Register notice for the scoping process and in other documents circulated that the public was notified of specific timelines for the analysis of various management alternatives and final Council decisions and that the public should be given prior notice before the Council discusses abandoning the process.

Tony Knowles withdrew the main motion with the concurrence of the second.

Tony Knowles moved that the Council send notice to the industry that, after hearing substantial public testimony at scoping sessions and Council meetings, they may change the scheduled work plan for presenting the different management regimes; the Council may consider deleting limited access regimes and request public comment with the intent to take action on any or all of the fisheries at the June Council meeting, or subsequent meetings. The motion was seconded by Oscar Dyson.

Joe Blum pointed out that the Council should have the opportunity to explore all options, not just abandon the whole process at this point. Also, it's not logical to notice the public that the Council may take action at "subsequent meetings."

The motion failed, 8 to 3, with Dyson, Knowles, and Peterson voting in favor.

Bob Mace moved to proceed with the work schedule for sablefish, halibut, groundfish and crab management options as previously approved. The motion was seconded by John Winther and carried, 9 to 2, with Knowles and Dyson objecting.

For the record, it was clarified that through the Council's action at this meeting, the January 16, 1989 cut-off date has been abandoned.

Henry Mitchell asked that the issue of coastal community development and shoreside preference be discussed. It was decided that these issues should be dealt with outside the discussion of limited access.

Larry Cotter moved to calendar for the June Council meeting a discussion of shoreside preference and request public and industry to submit proposals to the Council for review

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at the June meeting. The motion was seconded by Oscar Dyson and carried with Bob Alverson objecting.

Mr. Blum was concerned that June may be too soon to flesh out this issue. Dr. Pautzke pointed out that the coastal community issue is included within the current schedule for analysis of sablefish management alternatives. Mr. Cotter pointed out that this is a call for proposals at this point and in June the Council can determine whether it's appropriate to move ahead with a plan amendment to both groundfish plans separate from limited access.

(b) Problems and Concerns

The Fishery Planning Committee reviewed the list of sablefish concerns upon which the Council agreed in January and modified it to include 21 concerns applicable to all of the fisheries. The Council was asked to review and approve the Committee's revised list of concerns which will be addressed in the analyses of alternative management systems.

The Council discussed the particular wording of some of the problems. It was suggested that an effort should be made to word each one as a statement without qualifying adjectives. In the interest of time, Council members delegated further work on the list of concerns to the Fishery Planning Committee. Council members were asked to contact the Committee with any concerns or suggestions. It was suggested that there is enough Council concern on these issues that perhaps the Fishery Planning Committee should operate as a committee of the whole. Rather than having every Council member involved, it was suggested that the Council be kept informed of all the Committee's meetings and activities and they can participate if they choose.

C-6 Comprehensive Data Gathering Program

In January the Council reviewed several groundfish amendment proposals which included requests for a logbook program and mandatory observer requirements. The Council directed its Data Gathering Committee to develop a comprehensive data gathering program as an amendment to the groundfish plans. The Data Gathering Committee met with the Data Technical Team in March to review an amendment package which encompasses a review of the existing reporting requirements and data gathering programs and advances a single program designed to fulfill the Council's data needs in two major areas - recordkeeping and reporting requirements, and an observer program. The Council received a copy of the amendment for review before the Council meeting. The Data Gathering Committee recommended that the Council send the amendment package out for public review recognizing that the observer portion may need further work.

Public Testimony on this agenda item is included with other groundfish items in Appendix I to these minutes.

Comments of the Scientific and Statistical Committee are found under Agenda Item D-2(a), Proposed Groundfish Amendments.

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Report of the Advisory Panel

The Advisory Panel recommended that the Council send the amendment package out for public review with the following revisions.

- (1) Emphasize that the graph on page 50 which shows precision estimates attainable with increasing levels of observer coverage is an example based on joint venture data from 1986-88. The AP is concerned that those estimates may change if a different data base is used.
- (2) The administration section on pages 54-54 offers little substance on which the public could comment. The AP recommends that alternatives and details for administration be clearly spelled out.

The AP also recommended that the Council proceed with an emergency rule requiring observer coverage on all trawl vessels operating in the EEZ.

COUNCIL DISCUSSION AND ACTION

Further Council action on this amendment is included under Agenda item D-2(a), Groundfish Amendment Proposals.

C-7 Request for Immediate Council Action on Groundfish

Because of rapid attainment of the Gulf pollock quota and continued industry concern over the practice of roe stripping in the pollock fisheries of the North Pacific, the Council was asked by industry to take action to require full utilization by the 1990 fishing year and to permit pollock bycatch to be retained up to 20% in other groundfish fisheries in the Western/Central Area throughout the rest of 1989.

Report of the Scientific and Statistical Committee

In their review of Amendment 11 to the Bering Sea FMP last year, the SSC concluded that there was no evidence of economic losses from roe-stripping operations under the circumstances that existed at that time. There was also a lack of scientific information. The SSC will review documents in support of this proposal if the Council decides to take action on it.

With reference to the retention of pollock bycatch for the remainder of 1989, the SSC does not believe that the projected bycatch of pollock in the flatfish and Pacific cod fisheries constitutes a threat to the pollock resource at this time; however, they suggested closely monitoring bycatch in these fisheries.

Report of the Advisory Panel

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The Advisory Panel recommended the Council proceed with an emergency rule to prohibit roe stripping and require full utilization of pollock in the Gulf of Alaska and Bering Sea/Aleutians by January 1, 1990.

The AP also recommended the Council direct the staff to develop an amendment package which would ensure a full airing of the issues and impacts of full utilization, including a range of alternatives to include: (1) status quo; (2) prohibit roe stripping of pollock and require full utilization in the GOA and BS/AI; (3) prohibit roe stripping of all groundfish in the GOA and BS/AI; and (4) require full utilization of all fish. They recommended such an amendment be developed immediately, outside of the current amendment cycle.

Public Testimony on this agenda item is in Appendix I to these minutes.

COUNCIL DISCUSSION AND ACTION

(a) Pollock roe-stripping and full utilization

Craig O'Connor said that prohibition of roe stripping and requiring full utilization of pollock or all groundfish will take an amendment to the groundfish plans. He suggested that the Council not take emergency action at this time but begin preparation of an amendment and use an emergency rule if required to implement management measures for the 1990 season. At this point he is not sure there is an adequate record to support an emergency rule.

Larry Cotter suggested that the alternatives could be developed for Council review in September and then sent out for public review. Clarence Pautzke said that perhaps staff and the plan teams could prepare some alternatives for the June meeting and advise the Council on the feasibility of developing an amendment for just pollock or for all groundfish for the September Council meeting.

Joe Blum moved to request the staff to prepare alternatives for action on roe stripping and full utilization for Council review at the June meeting. At that time the groundfish plan teams will advise the Council of the feasibility of developing an amendment package by September dealing with just pollock or whether it will be possible to include other species and still have final action in time for implementation for the 1990 fishing year. The motion was seconded by Larry Cotter.

Tony Knowles felt the Council should follow the AP recommendation and issue an emergency rule prohibiting roe stripping of pollock. John Peterson pointed out that NOAA General Counsel feels that an adequate record has not been established to support an emergency rule. Henry Mitchell suggested that Council members should be involved with developing the alternatives. Clarence Pautzke suggested that the Fishery Planning Committee could address this issue at their next meeting.

The motion carried unanimously.

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Later in the meeting Larry Cotter moved to reconsider the motion with respect to scheduling. The motion to reconsider carried with no objection.

There was some concern by Council members that if an emergency rule is required after Council approval in December there wouldn't be enough time to implement it for the beginning of the 1990 fishing year.

Larry Cotter moved that the Council take the following action with respect to the issues of roe stripping and full utilization:

- (a) Request staff to develop an EA/RIR amendment package for the June Council meeting which would address the issue of prohibiting pollock roe stripping in the Bering Sea/Aleutian Islands and the Gulf of Alaska.
- (b) Request staff to prepare options for future action regarding roe stripping in all groundfish fisheries for Council review at the June Council meeting.
- (c) Request staff to prepare options for future action to address the broader issue of full utilization and waste in all fisheries for Council review in June.

The motion was seconded by Joe Blum and carried unanimously.

(b) Retention of Pollock Bycatch

Mr. O'Connor told the Council that he doesn't think there is an adequate record for an emergency action on this issue. However, there may be an enforcement problem with pollock bycatch in the Pacific cod fishery since the two species look very much alike.

Steve Pennoyer said that because the regulations specify TAC as being set equal to ABC and there is no provision for setting aside an amount for bycatch, an emergency rule would be necessary. He suggested that the Council wait until the survey results from Shelikof are available in June before deciding whether to adjust the TAC.

Tony Knowles moved that the Council recommend to the Secretary to take whatever action is necessary to allow retention of bycatch of pollock in the Western and Central Gulf, up to 20%, until the June Council meeting. Henry Mitchell seconded the motion for discussion.

Council members were concerned about the waste that will occur until the June meeting, however, according to reports and public testimony the amount required will not be significant. They agreed with Mr. O'Connor and Mr. Pennoyer that emergency action should not be taken now.

Craig Hammond, NOAA-Enforcement, told Council members that they recognize the difficulty in sorting the bycatch of pollock in a Pacific cod fishery and that enforcement agents will exercise discretion in issuing citations in those situations; however, significant

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amounts of pollock bycatch will not be overlooked.

Following these discussions, **Henry Mitchell withdrew his second to the motion, and the motion died.**

Bob Mace moved that the Council recognize the needs of the Kodiak industry with respect to pollock bycatch; that the Council instruct staff to assess data between now and June and come back with the stock assessment; if data support it, the Council will then consider an emergency rule to permit prosecution of the fishery with bycatch through 1989. The motion was seconded by Henry Mitchell and carried unanimously.

Henry Mitchell asked that John Peterson write to the Secretary of Commerce requesting any information he may have from other Councils on the full utilization and waste issues.

Tony Knowles moved that the Council issue a statement that would censure all acts of wanton waste committed with the resources under its jurisdiction. Henry Mitchell seconded the motion.

It was pointed out that Goal 5 of the Council's Comprehensive Fishery Management Goals addresses this issue and the motion was not required. There was some discussion of a news release on this issue but no further action was taken.

D. FISHERY MANAGEMENT PLANS

D-1 Salmon FMP

The Council was scheduled to approve the draft revised Salmon FMP for public review.

Report of the Scientific and Statistical Committee

The SSC recommended the draft FMP be sent out for public review.

Report of the Advisory Panel

The Advisory Panel recommended the draft FMP be sent out for public review and that final action by the Council be delayed until the September Council meeting to allow salmon fishermen the opportunity to comment.

Public Testimony

Harold Spark asked that the draft plan be modified to include the unresolved issue of how extending Council jurisdiction west of 175° E. longitude would impact future management of high seas salmon by the International North Pacific Fisheries Commission.

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COUNCIL DISCUSSION AND ACTION

Steve Davis pointed out that the issue noted by Harold Sparck is covered in the FMP. The Council agreed that the cover letter to the plan will specifically request comment on this issue.

Larry Cotter suggested that Craig O'Connor could look into the legal aspects of this particular proposal and report back to the Council prior to final action on the FMP.

John Winther moved to send out the draft Salmon FMP with the cover letter as discussed and schedule final action for the September 1989 Council meeting. The motion was seconded by Oscar Dyson and carried unanimously.

D-2 Gulf of Alaska and Bering Sea/Aleutian Islands FMPs

- (a) Approve proposed groundfish amendments for public review.**

The Council reviewed amendment proposals in January and selected the following eight topics for further development during the current amendment cycle:

- (a) Allocate sablefish total allowable catch in the BS/AI.
- (b) Establish a fishing season framework for all groundfish fisheries in the GOA and BS/AI.
- (c) Establish a Shelikof District in the Central Regulatory Area of the GOA.
- (d) Establish a groundfish fishing closed zone near the Walrus Islands and Cape Peirce in the BS/AI.
- (e) Replace the king crab protection time/area closures around Kodiak Island and modify the halibut bycatch management regime for the GOA.
- (f) Expand the Pacific cod trawl exemption zone in the BS/AI.
- (g) Implement a system of observer coverage and other data gathering and data reporting requirements for the groundfish fisheries of the GOA and BS/AI.
- (h) Clarify the Secretary's authority to split or combine species groups within the target species management category by a framework procedure for the GOA and BS/AI.

The groundfish plan teams prepared an amendment package, including an EA/RIR, which was mailed to Council members before the meeting.

Report of the Scientific and Statistical Committee

Following is a summary of the SSC's recommendations on the amendment proposals; the complete text of their review is found in the SSC Minutes, Appendix II to these minutes.

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- (a) Allocate sablefish total allowable catch in the BS/AI. The SSC believes the current draft does not provide an adequate discussion of the impact of the three alternatives identified. The SSC provided guidance to the team that will rectify this deficiency. With these modifications, the SSC recommended the proposal be released for public review.
- (b) Establish a fishing season framework for all groundfish fisheries in the GOA and BS/AI. The SSC had some concerns which they passed on to the teams and recommended the proposal be sent out for public review.
- (c) Establish a Shelikof District in the Central Regulatory Area of the GOA. The SSC recommended this proposal go out for public review.
- (d) Establish a groundfish fishing closed zone near the Walrus Islands and Cape Peirce in the BS/AI. The SSC recommended that, with minor editorial modification, this proposal should be released for public review.
- (e) Replace the king crab protection time/area closures around Kodiak Island and modify the halibut bycatch management regime for the GOA. The SSC recommended a number of clarifications before sending the proposal out for public review.
- (f) Expand the Pacific cod trawl exemption zone in the BS/AI. The SSC recommended the proposal be released for public review, but noted that data confidentiality made it difficult for the team to evaluate the biological impacts of the alternatives and therefore the analysis is not as insightful as it could have been.
- (g) Implement a system of observer coverage and other data gathering and data reporting requirements for the groundfish fisheries of the GOA and BS/AI. The SSC had several comments and suggestions on this proposal (see Appendix II). They recommended that the proposal be sent out for public review but suggested that an introductory overview of the system's strategy should be included.
- (h) Clarify the Secretary's authority to split or combine species groups within the target species management category by a framework procedure for the GOA and BS/AI. The SSC recommended that this proposal be sent out for public review.

Report of the Advisory Panel

The AP offered comments and suggestions on the eight amendment proposals (see AP Minutes, Appendix III) for the package before sending it out for public review.

Public Testimony on this agenda item is found in Appendix I to these minutes.

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COUNCIL DISCUSSION AND ACTION

Bob Mace moved to send the amendment package out for public review after accommodating the recommendations of the SSC and AP. The motion was seconded by Bob Alverson.

Steve Pennoyer suggested that the staff/plan teams be given the latitude to accommodate AP and SSC recommendations to the extent possible and within the time constraints of the amendment cycle. Council members agreed with this suggestion.

On the halibut PSC framework for the Gulf of Alaska, John Winther asked whether Alternative 2 is feasible under the restrictions of the Halibut Treaty. If not, he suggested that it should not be included as an alternative. Clarification of Winther's concern, which focused on retaining halibut bycatch, was provided by Steve Davis and Bill Wilson. Larry Cotter felt this particular chapter was inadequate and could lead to a lot of confusion. Mr. Cotter also had other comments on various portions of the amendment and was asked to discuss them with staff before the document goes out for public review.

Larry Cotter moved to amend the main motion, with reference to the observer chapter, to include crab harvesting vessels. The motion was seconded by Joe Blum.

Craig O'Connor said that he didn't think that a groundfish plan could require observers on crab boats. It was pointed out that the Crab FMP does give the Council authority to place observers on vessels, so this motion isn't necessary. **The motion to amend was withdrawn.**

Larry Cotter moved to amend the main motion to delete the SSC's recommendation to add an alternative in the data gathering chapter for the elimination of reporting requirements on discards. The motion was seconded and carried with no objection.

Henry Mitchell moved to amend the main motion, with respect to observer coverage and data gathering section of the amendment document, to add: "From this date forward, if adopted, there is no need for confidentiality of any of the records outlined or the observer coverage report." The motion was seconded by Tony Knowles.

Craig O'Connor said that confidentiality is provided for by statute and the Council cannot amend those statutes by FMP. Mr. Mitchell said the intent of the motion is to be sure that data gathered are available and usable.

The motion to amend failed, 7 to 4, with Alverson, Dyson, Knowles and Mitchell voting in favor.

The main motion carried, as previously amended, with Henry Mitchell objecting.

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(b) Directed Fishing Definition

In January 1989 the Council was informed that the Secretary of Commerce had not approved the Council's recommendation to use retention as the basis for directed fishing limits because of concerns with conservation and enforcement. However, after additional public testimony, the Council reaffirmed the retention definition and NOAA Fisheries agreed to implement it for 1989. The emergency rule implementing the regulation expires June 26. The Council asked NOAA Fisheries to develop directed fishing definitions for the groundfish fisheries of the Bering Sea/Aleutian Islands and the trawl sablefish fishery in the Gulf of Alaska as a regulatory amendment for final Council approval at this meeting.

Report of the Scientific and Statistical Committee

The SSC could not evaluate the merits of the proposed definition because they were unable to determine whether the regulatory amendment prepared by NOAA Fisheries represents the intent of the Council. The SSC did note that some of the recommended retention percentages in Table 1 of the amendment are larger than allowed under the existing rule.

Report of the Advisory Panel

The Advisory Panel recommended the regulatory amendment be changed to provide for enforcement based on retention only. They defined retention as "fish that has been sorted, is in any stage of processing, or has been preserved." The AP also recommended that enforcement of bycatch percentages be based on fish "taken and retained within a trip or following any off-loading" to prevent the problem of topping off. They also recommended sablefish bycatch percentages be reduced in the trawl fisheries in the Gulf of Alaska to: 5% in the flounder (except rex sole and dover sole, which would be 15%), pollock and Pacific cod fisheries, and 15% for the rockfish fishery. In the Bering Sea/Aleutian Island trawl fisheries for Greenland turbot and rockfish they recommended a sablefish bycatch of 10%.

Public Testimony is found in Appendix I to these minutes.

COUNCIL DISCUSSION AND ACTION

Larry Cotter moved that the Council adopt their original directed fishing definition which is based on catch, take or retention, with the following modifications:

- 1. Apply the percentages as developed by the AP to each one of the categories except for pollock in the first quarter, in which case the percentage would be 1% for sablefish.**
- 2. That the definition be further modified to allow vessels which have an observer or which are participating in an approved logbook program to apply the catch percentage that occurs over an average of the last five tows.**

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The motion was seconded by Ken Parker.

Mr. Cotter said he felt the new proposal from NOAA Fisheries is faulty in that it really doesn't discourage targeting at any time except for the last tow when the enforcement officer may come on board. Mr. Pennoyer was asked whether this action would be implementable. Mr. Pennoyer said the best answer would be an observer program. Averaging over five tows or a period of time would avoid topping off and may improve the system if it's implementable.

Craig O'Connor made some suggestions for changes in language with reference to rebuttable presumption. He said the Council is getting more into the area of implementation instead of just relaying their policy and intent to NOAA Fisheries and letting them try to translate that into regulations. He also said that to deal with the Council's concerns over enforcement he would like to come back to the Council in June with a penalty schedule that will give them the flexibility to deal with those who are targeting and not penalize the fisherman who is trying to prosecute a clean fishery.

The motion was withdrawn so that Mr. O'Connor could look at the possibilities and put together some language for the Council's consideration later in the meeting.

After reviewing the issue, Mr. O'Connor said they could not suspend the portion of the emergency rule that redefined directed fishing under the Gulf of Alaska regulations during the first 90-day period.

Steve Pennoyer recapped the current emergency rule which ends on June 26. The rule has bycatch by retention and sablefish limits, which the Council has been considering changing. Also, NOAA Fisheries has brought to the Council the regulatory amendment to address the Council's concern for topping off on a retained-catch basis. The emergency rule, if extended for another 90 days, will expire in September, so a regulatory amendment is needed so that it can go into effect when the emergency rule expires. He recommended the Council extend the emergency rule and give NOAA Fisheries policy direction so they can redraft the regulatory amendment that will replace the emergency rule. If they find there is a problem with addressing Council concerns they will come back to the Council for direction.

Oscar Dyson moved to adopt the AP recommendation on the directed fishing definition based on retention, with the following modification: a vessel is restricted from using catch and/or product taken in one management area for the purpose of calculating retainable bycatch species in a different management area. The motion was seconded by Joe Blum.

John Winther moved to amend the motion to set the sablefish bycatch in the Bering Sea at 1% for all gear types for all species except for Pacific ocean perch and turbot, which would be set at 10%. The motion was seconded by Larry Cotter for discussion.

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Henry Mitchell pointed out that without a logbook program and proper accounting systems this approach will not be very effective.

The motion to amend carried with no objection. The main motion carried, as amended, with no objection.

There was some discussion of providing the Regional Director with discretionary authority to set the sablefish bycatch in GOA pollock fisheries between 1% and 5%. Mr. O'Connor said the amendment would still have to stay in the regulatory process and might take longer because parameters would have to be set for the authority. Mr. Pennoyer said they would explore that possibility.

Bob Mace moved to extend the emergency rule for another 90 days. The motion was seconded by Bob Alverson and carried with Steve Pennoyer objecting.

Mr. O'Connor recapped what he understands is the Council's intent and policy direction, which is for the Regional Director to implement a regulatory package consistent with Council guidance to ensure that the practice of topping off does not occur, but that a fisherman with an inadvertent bycatch violation would not be prosecuted.

(c) Bycatch Planning Report

The Council received a review of bycatch management measures which are now in process - the emergency rule to close 160° to 162°W with a seasonal extension to 163°W; Amendment 12a to the BS/AI FMP; interim management of bycatch by NOAA Fisheries until the amendment is in place; and inseason management measures.

Responding to public testimony by Paul MacGregor (See Appendix I), Bob Mace asked whether there is a possibility of changing the emergency rule to allow midwater trawling in the 162°-163°W extension. Steve Pennoyer pointed out that the emergency rule cannot be changed when it is extended, but that midwater trawling could be allowed with an approved observer program, the same as in the 160°-162°W area.

Bob Mace moved to extend for 90 days the emergency rule to close 160°-162°W with a 162°-163°W seasonal closure. The motion was seconded by Bob Alverson.

Larry Cotter asked whether adopting the main motion is also a reaffirmation of the Council's earlier positions taken on bycatch management in this area, i.e., the interim bycatch measures NOAA Fisheries will use until Amendment 12a is in place. Dr. Pautzke said that the emergency rule has a lengthy preamble conveying the Council's intent with regard to those guidelines.

Henry Mitchell moved to amend the motion to include the prohibition of cod trawling from 160°-163°W out to the 25-fathom contour, to be in effect March 15-July 15 to protect the Port Moller herring stock. The motion was seconded by Ken Parker for discussion

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purposes.

It was pointed out that the basis of the emergency rule was to protect crab and there is no basis for including herring; also, changing the emergency rule at this point would not be feasible. It was also pointed out that herring bycatch will be taken up later on the agenda.

Henry Mitchell withdrew the motion to amend. The main motion carried unanimously.

(d) Herring Bycatch Workgroup Report

The Council received a report of the March 16 Ad Hoc Herring Bycatch Workgroup meeting. The workgroup has discussed a bycatch plan for Bering Sea herring which consists of a scientific stock composition study, a communications system to notify trawl fishermen of the location of herring schools, an observer program, and an education program in which trawl fishermen will learn methods of identifying and avoiding herring. The Council also received a minority report from members of the Ad Hoc Herring Bycatch Workgroup, presented by Harold Sparck.

Report of the Advisory Panel

The Advisory Panel received the Workgroup and minority reports and defeated a proposal to recommend the Council act on recommendations in the minority report.

Public Testimony on this agenda item is found in Appendix I to these minutes.

COUNCIL DISCUSSION AND ACTION

Larry Cotter moved that the Council adopt the recommendations in the draft workgroup report and in addition a requirement that vessels participating in the Unimak Pass fishery from June 15 to August 31 participate in a statistically significant observer program as a condition of participating in the fishery. The Council would send a notice of this action to the various trawl fleets and ask them to participate in the program. The motion includes item (b) of the minority report (Require statistically significant observer coverage to determine bycatch rates of harvesters who discharge at sea, and monitor shoreside deliveries). The motion was seconded by Joe Blum.

Steve Pennoyer pointed out that requiring an observer program will require some type of emergency rule based on a need for such a declaration. After considerable discussion of the regulatory action required to implement the motion, **Larry Cotter withdrew the motion** until later in the meeting so that methods of implementing it could be studied.

Later in the meeting, Ted Evans and Harold Sparck appeared before the Council with a voluntary program to address the issue of herring bycatch. The agreement included the following points:

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For the Port Moller fishery, Alaska Factory Trawlers (AFTA) agrees to the following:

- 1. In the summer Port Moller cod fishery AFTA would have 50% observer coverage with all tonnages reported and published.**
- 2. AFTA will hold a workshop for their companies to discuss and teach herring avoidance procedures.**
- 3. AFTA will define these herring avoidance procedures.**
- 4. If AFTA vessels have tows with herring in them, they will move to an area where there are no herring, which may be in or out of the Port Moller area.**

For the Bogoslof fishery in Area 515, AFTA agrees to the following:

- 1. Participate in the ADF&G sampling program.**
- 2. AFTA will determine how many of their vessels will participate in the fishery during that time in Bogoslof.**
- 3. AFTA will agree to seek 20% observer coverage during the period of time herring are in the area, approximately mid-June through the end of July, from the AFTA or industry-NMFS observer program.**
- 4. This agreement does not affect the observer coverage for boats delivering to shore plants; Harold Sparck is dealing with the State on that separately.**
- 5. AFTA vessels encountering herring in their tows in this area during this period will pick up and move to another place in or out of the area during the program's operation.**

There was no Council action required; however, they did thank Mr. Evans and Mr. Sparck for working out a voluntary solution. John Peterson said that the Council would monitor the situation to see how the program proceeds. The Council found it unnecessary to act on the Herring Bycatch Workgroup's recommendations because the voluntary agreement covered the Workgroup's concerns.

Dave Carlile and Rich Cannon of the Alaska Department of Fish and Game reported to the Council on Western Alaska herring stocks and some concerns of the Department on herring.

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E. FINANCIAL REPORT

There was no financial report at this meeting.

F. PUBLIC/GENERAL COMMENTS

Pribilof Island fishermen have asked the Council to allocate a portion of the Bering Sea fishery resources to them in an effort to assist their developing fisheries as required under the Fur Seal Act. Craig O'Connor was asked to report to the Council on the Fur Seal Act and whether it mandates community preferences. Mr. O'Connor said that the Act itself does not establish any preferential right but does encourage the dependence of this community on fisheries. Henry Mitchell said since the Council has been petitioned on this they should take action or set a time to act on it. However, some Council members felt action would not be appropriate because it was not on the agenda. Craig O'Connor said that the petition should be addressed as an amendment to the groundfish plans.

In another matter, John Winther asked for an investigation by GAO or the appropriate body into illegal foreign ownership of American fishing vessels. Craig Hammond said they should probably do some preliminary investigation and if it is warranted, then the evidence would be turned over to the Justice Department. He said he will follow up on comments on this issue made during public testimony and report to the Council in executive session in June.

G. CHAIRMAN'S COMMENTS AND ADJOURNMENT

Chairman John Peterson adjourned the meeting at approximately 4:00 p.m. on Friday, April 14, 1989.