

MEMORANDUM

TO: Council and AP Members

FROM: Chris Oliver *Chris*
Executive Director

DATE: September 24, 2002

SUBJECT: Alaska Groundfish Programmatic SEIS

ESTIMATED TIME 1 HOUR

ACTION REQUIRED

Receive Status Report and Update on Schedule

BACKGROUND

In June, the Council finalized a suite of policy alternatives and their accompanying FMP frameworks for analysis. Since then, project team members have worked on revising the work plan, securing additional funding, and getting started on the analysis.

Last November, PSEIS Project Team Leader Steve Davis prepared a modified schedule following receipt of GC's opinion that the first draft required a major overhaul to address a number of weaknesses, the most important being the structure and analysis of the alternatives. That schedule indicated that the agency would work toward having a revised draft PSEIS ready for public review by September-December 2002, and a Final PSEIS ready by September 2003. It was clear by February 2002 that we would not be able to meet these deadlines due to the delay associated with developing a new set of programmatic alternatives. With the support of the Council, considerable effort was made by the project team to construct new alternatives for analysis. The team worked closely with the Council Chairman's Steering Committee, NOAA GC, and with public stakeholder groups. Public review of strawman alternatives provided additional suggestions of how to define the alternatives. While constructing the new restructured alternatives was truly a joint effort, the time required for this alternative development process resulted in delays in starting the analysis of those alternatives.

Now that the alternatives have been finalized, the team is beginning to describe and analyze four different policy alternatives and seven FMP scenarios. This effort will take some time. Complicating the schedule is the fact that there are a number of other ongoing analyses being conducted by the Region, Science Center, and Council staff. These include: EFH analysis, Crab Rationalization EIS, GOA Rationalization, groundfish stock assessment, preparation of the SAFE reports, resource surveys, and SSL/fisheries investigations. Also, NMFS Administrator Dr. Hogarth has committed the agency to work with the Council to determine the preferred alternative, as well as to prepare the timetable for follow-on actions to appear in the Record of Decision. This requires melding the PSEIS schedule to the Council's meetings. A revised schedule for the analysis is shown below

REVISED SCHEDULE

- April 2003 overview of the revised draft PSEIS presented to Council
- Apr-Jun 2003 Council will determine its preliminary preferred alternative, to be included in the revised draft PSEIS (no later than its June 2003 meeting)
- Sep-Dec 2003 public review of revised draft PSEIS
- Jan-Mar 2004 synthesis and review of public comments
- April 2004 comment summary presented to Council
- June 2004 Council finalizes its preferred alternative
- January 2005 Final PSEIS released for public review
- May 2005 Record of decision

September 24, 2002

Dr. James Balsiger
Regional Administrator
Alaska Region
National Marine Fisheries Service
709 W. 9th St.
Juneau, AK 99802-1668

RECEIVED
SEP 24 2002
N.P.F.M.C

David Benton
Chairman
North Pacific Fishery Management Council
605 W. 4th Ave., Suite 306
Anchorage, AK 99501-2252

RE: Concern with the Programmatic Supplemental Environmental Impact Statement (PSEIS) on Alaska Groundfish Fisheries

Dear Dr. Balsiger and Chairman Benton,

We are concerned that the four policy alternatives adopted at the June Council meeting regarding the Alaska Groundfish Fisheries Programmatic SEIS do not adequately allow for cooperative research programs with our Alaska Tribal organizations. The only policy alternative that initiates cooperative research with Tribes is the "no fishing" Alternative 4. All the alternatives under evaluation should have cooperative research programs as an option for consideration and analysis, or Alternative 4 should be divided into two (2) separate alternatives so that such cooperative research programs are not set within an infeasible "no fishing" alternative, such as defined by the bookend of Alternative 4.2.

There are advantages for our Tribal governments and the federal government to conduct cooperative, comprehensive traditional use studies as an approach to resource management. First, a comprehensive study coordinated by our Tribal governments can help define areas where potential conflict in resource use may occur. If studies of contemporary and historical traditional use are considered prior to establishing a resource development plan, along with the results of other natural and cultural resource inventories, our Tribal communities will have an opportunity to participate more meaningfully in consultation without having to react to plans already set in motion. The results of cooperative research studies can provide common ground on which consultation, negotiation and collaboration between Alaska's Tribal governments and the federal government, and third-party interests can be based. We need to recognize and appreciate the vastness of knowledge inherent in the peoples and communities most affected by these studies and regulations. Proximity to the resource is of paramount concern to our people. Presidential executive orders notwithstanding, all Federal agencies are required to have consultation, and if requested, government to government relations with all Tribes. This would be a very important first step to include our Tribal governments in the research and co-management agreements with Alaska's First Nations.

Alaska National Interest Lands Conservation Act (ANILCA) and the federal trust responsibility requires that the PSEIS respectively analyze proposed projects which could potentially conflict with Indian tribes (40 CFR 1502.16), "the effects on subsistence uses and needs" (16 U.S.C. Section 3120(a)), and whether proposed actions are consistent with Federal Agencies' fiduciary trust responsibility for Alaska Natives. We also note that Congress recognizes the importance of subsistence lifestyles even when utilizing threatened or endangered species by granting taking exemptions for the Endangered Species and Marine Mammal Protection Acts at 16 U.S.C. Section 1539(e).

The PSEIS must present an analysis of the impacts of the Alaska groundfish fisheries *on subsistence users* and should include an adequate analysis of direct, indirect and cumulative impacts on subsistence users as required by NEPA (40 CFR 1502.16). We strongly recommend that all of the policy alternatives allow for consultation and coordination with subsistence users regarding the impacts of the fisheries. Consultation with federally recognized Tribal governments in Alaska is in accordance with the general trust responsibility and the recent Presidential Executive Order of May 31, 1998, *Consultation and Coordination with Indian Tribal Governments* (E.O. 13084). Tribal governments are uniquely qualified to provide knowledge about resource trends and potential impacts to people and resources in our homeland areas.

Please consider including cooperative research programs with Alaska's Tribal governments in all the policy alternatives of the Programmatic Supplemental Environmental Impact Statement on Alaska Groundfish Fisheries. Thank you for your consideration.

Cordially,



Marc Lamoreaux
Natural Resources Director
Native Village of Eklutna
36559 Eklutna Village Road
Chugiak, Alaska 99557

Cc: Chris Oliver, Executive Director

North Pacific Fisheries Management Council



QAWALANGIN

Tribe of Unalaska

Dr. James Balsiger
Regional Administrator
Alaska Region
National Marine Fisheries Service
709 W. 9th St.
Juneau, AK 99802-1668

September 17, 2002

David Benton
Chairman
North Pacific Fishery Management Council
605 W. 4th Ave., Suite 306
Anchorage, AK 99501-2252

RECEIVED
SEP 24 2002
N.P.F.M.C

Dear Sirs:

RE: Concern with the Programmatic Supplemental Environmental Impact Statement (PSEIS) on Alaska Groundfish Fisheries

Dear Dr. Balsiger and Chairman Benton,

We are concerned that the four policy alternatives adopted at the June Council meeting regarding the Alaska Groundfish Fisheries Fishery Management Plan does not adequately allow for cooperative research programs with our Alaska Tribal organizations. The only policy alternative that initiates cooperative research with Tribes is the "no fishing" bookend Alternative 4. All the alternatives under evaluation should have cooperative research programs as an option for consideration.

There are advantages for our Tribal governments and the federal government to conduct cooperative, comprehensive traditional use studies as an approach to resource management. First, a comprehensive study coordinated by our Tribal governments can help define areas where potential conflict in resource use may occur. If studies of contemporary and historical traditional use are considered prior to establishing a resource development plan, along with the results of other natural and cultural resource inventories, our Tribal communities will have an opportunity to participate more meaningfully in consultation without having to react to plans already set in motion. The results of cooperative research studies can provide common ground on which consultation, negotiation and collaboration between Alaska's Tribal governments and the federal government, and third-party interests can be situated. We need to recognize and appreciate the



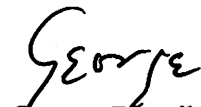
vastness of knowledge inherent in the peoples and communities most affected by these studies and regulations. Proximity to the resource is of paramount concern to our people. Although the biomass of commercial resources may be healthy fifty to one hundred miles from our area waters, the needs of traditional and customary foods for our people within our homeland waters may be gone or seriously threatened. Presidential executive orders notwithstanding, all Federal Agencies are required to have consultation, and if requested government to government relations with all Tribes. This would be a very important first step to include our Tribal governments in the research and co-management agreements with Alaska's first peoples.

Alaska National Interest Lands Conservation Act (ANILCA) and the federal trust responsibility requires that the PSEIS respectively analyze proposed projects which could potentially conflict with Indian tribes (40 CFR 1502.16), "the effects on subsistence uses and needs" (16 U.S.C. Section 3120(a)), and whether proposed actions are consistent with Federal Agencies' fiduciary trust responsibility for Native Alaskans. We also note that Congress recognizes the importance of subsistence lifestyles even when utilizing threatened or endangered species by granting taking exemptions for the Endangered Species and Marine Mammal Protection Acts at 16 U.S.C. Section 1539(e).

The PSEIS lacked and continues to lack a discussion of the impacts of the Fishing Management Plan (FMP) *on Native subsistence users* and should include an adequate analysis of direct, indirect and cumulative impacts on subsistence users as required by NEPA (40 CFR 1502.16). We strongly recommend that all of the policy alternatives allow for consultation with subsistence users regarding the impacts of the fisheries. Consultation with federally recognized Tribal governments in Alaska is in accordance with the general trust responsibility and the recent Presidential Executive Order of May 31, 1998, *Consultation and Coordination with Indian Tribal Governments* (E.O. 13084). Tribal governments are uniquely qualified to provide knowledge about resource trends and potential impacts to people and resources in our homeland areas.

Please consider including cooperative research programs with Alaska's Tribal governments in all the policy alternatives of the Programmatic Supplemental Environmental Impact Statement on Alaska Groundfish Fisheries. Thank you for your consideration.

Cordially,



George Pletnikoff
Environmental Coordinator



ALASKA OCEANS NETWORK

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September 24, 2002

TO: David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

CC: James W. Balsiger, Administrator, Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802-1668

RE: North Pacific Groundfish Programmatic SEIS

RECEIVED
SEP 24 2002
NPFMC

Dear Chairman Benton:

Compliance with the National Environmental Policy Act (NEPA) is part of the marine stewardship responsibility held by the National Marine Fisheries Service (NMFS) and its regional councils. It is intended to guide decision-makers in considering alternative ways of carrying out federal actions that thereby can reduce or avoid impacts to the affected natural environment. The North Pacific Groundfish Programmatic SEIS is particularly important in this respect because it marks the first attempt by NMFS not only in this region, but also anywhere in this country, to assess the cumulative environmental impacts of the policies and programs of Fishery Management Plans (FMPs) in their entirety. In your role as public officials charged with overseeing this complicated maze of regulations, the Council should encourage and welcome the NEPA process as a way to step back from the year-to-year planning cycles and day-to-day management of the fisheries, and should welcome the broader opportunity to engage the public in fisheries and marine management issues.

The Alaska Oceans Network believes that the NEPA process will not only improve decision-making, but will also improve our ability to achieve fishery sustainability, community sustainability and ecosystem sustainability; goals we all share. Thus, to date we have advocated for an ecosystem-based approach to management of the fisheries, advocated for an ecosystem-based definition of sustainability, and have sought a separation of the SEIS 'bookends' into separate alternative FMPs. We again advocate for the separation of Alternative 4 into two separate and distinct alternatives: a highly precautionary FMP as Alternative 4; and a 'no fishing' FMP as Alternative 5. For clear comparison of management alternatives as directed by the NEPA regulations, and for clearer public perception of the intent of the Council and of NMFS, the Alaska Oceans Network again requests a separation of Alternative 4.

The Alaska Oceans Network supports the efforts of NMFS and the Council to address the purposes and meet the requirement of NEPA for the North Pacific Groundfish Programmatic SEIS. We support and strongly encourage efforts to move forward in the process with adequate, distinct and responsible alternatives for analysis, particularly a separate 'no fishing' alternative from other fishing management alternatives. While there is still appropriate time and opportunity to clarify the alternatives to be analyzed, we respectfully encourage and formally request this simple and direct change to the current framework for this North Pacific Groundfish Programmatic SEIS.

Sincerely,
ALASKA OCEANS NETWORK

George Awlitt for

Karen S. Dearlove
Program Director

KSD/kds/go

cc: Chris Oliver, Executive Director, NPFMC

**THE OCEAN CONSERVANCY
OCEANA
SIERRA CLUB
NATIONAL ENVIRONMENTAL TRUST**

September 24, 2002

Dr. James Balsiger
Regional Administrator
Alaska Region
National Marine Fisheries Service
709 W. 9th St.
Juneau, AK 99802-1668

RECEIVED
SEP 24 2002
N.P.F.M.C

David Benton
Chairman
North Pacific Fishery Management Council
605 W. 4th Ave., Suite 306
Anchorage, AK 99501-2252

**RE: Revised Draft Programmatic Supplemental Environmental Impact Statement for
North Pacific Groundfish Fisheries**

Dear Dr. Balsiger and Chairman Benton:

On March 22, 2002 and May 22, 2002, we wrote to you to express concern about the alternatives that NMFS and the Council are proposing to analyze in the Revised Draft Programmatic Supplemental Environmental Impact Statement for North Pacific Groundfish Fisheries (RPDSEIS). While the Council is not prepared to take further steps on the RPDSEIS at this meeting, we would like to take this opportunity to reiterate our major concerns with the current RPDSEIS and our commitment to work with you to resolve these concerns.

These concerns are as follows:

- NMFS and the Council have improperly defined the agency action being considered in the RDPSEIS as limited to a decision on whether to amend the 'goals and objectives' statements of the Fishery Management Plans (FMPs) rather than a decision on whether to continue with the FMPs themselves, or adopt an alternative FMP.
- NMFS and the Council have created an unworkable and meaningless framework by creating alternatives that individually are 'FMP-like case studies' with a range of management activities that will act as boundaries ('bookends') within which future project level management decisions will be made.

- NMFS and the Council have revised a detailed alternative proposed by conservation organizations and combined it with a 'no fishing' alternative. This renders the possibility of adopting this proposal as virtually nil, is exemplary of why the 'bookends' concept is analytically flawed, and creates the impression that there is no difference between this ecosystem-based fisheries management proposal and no fishing. Analytically, it is simply impossible to construct an alternative that is both a "fishing" alternative and a "no fishing" alternative. Alternative 4 must be one or the other. It cannot be both.

Furthermore, we are very concerned with the changes made at the Dutch Harbor meeting to Alternative 3 when the Council changed several of the action verbs in the management measures to passive verbs. Especially troubling is the reworking of the Habitat section (#17), which previously stated:

Develop goals, objectives and criteria and then establish a system of marine protected areas and no-take marine reserves distributed over a range of habitat types and geographic areas to maintain abundance, diversity, and productivity of marine organisms.

This was reworked to state:

Develop goals, objectives and criteria to evaluate the efficacy of marine protected areas and no-take marine reserves as tools to maintain abundance, diversity, and productivity of marine organisms. Consider implementation of MPAs if and where appropriate, giving due consideration to areas already closed to various types of fishing operations.

The management measure to be implemented under this subheading has clearly been removed. We are gravely concerned with this change because Alternative 3 is supposed to be a step forward in management and represent an improvement over the status quo. Considering that virtual scientific consensus, detailed previous testimony, a lengthy report from the National Research Council, and ecological common sense all dictate that marine reserves be implemented as a vital and necessary management component, this revision to Alternative 3 is unacceptable and is representative of the backwards steps taken at the Dutch Harbor meeting.

While we appreciate the work that NMFS and the Council are undertaking to provide a high quality RPDSEIS, we strongly recommend once again that the points reiterated above and the revisions to Alternative 3 at the Dutch Harbor meeting be addressed before the agency moves forward with their analysis.

Sincerely,

Kris Balliet

Kris Balliet
Alaska Region Director
The Ocean Conservancy

Jim Ayers *by KB*

Jim Ayers
Director, North Pacific Office
Oceana, Inc.

Jack Hession

Jack Hession *by KB*
Alaska Representative
Sierra Club

Gerald B. Leape

Gerald B. Leape *by KB*
Director, Marine Conservation Program
National Environmental Trust

Cc: Jack Sterne, Trustees for Alaska
Janis Searles, Earthjustice Legal Defense Fund

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SEP 27 2002

N.P.F.M.C.

September 24, 2002

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David Benton
Chairman
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Anchorage, AK 99501-2252

Re: Programmatic Supplemental Environmental Impact Statement (PSEIS) on Alaska
Groundfish Fisheries

Dear Dr. Balsiger and Chairman Benton

On behalf of the Tanana Tribal Council and its membership I am requesting that the four policy alternatives adopted at the June Council Meeting regarding the Alaska Groundfish Fishery Programmatic SEIS be reviewed and it does not adequately allow for cooperative research programs with Alaska Tribal governments. The only policy alternative that initiates cooperative research with tribes is the no fishing alternative 4. All alternatives under evaluation should have cooperative research programs as an option for consideration and analysis, or alternative 4 should be divided into two separate alternatives so that such cooperate research programs are not set in stone, such as the "no fishing" alternative, which is define at book end of alternative 4.2.

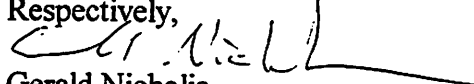
To conduct cooperative, comprehensive traditional use studies as an approach to resource management would be an advantage for this tribal government and others in Alaska to work with the Federal government on a "government to government" basis as required by the Presidential order. Comprehensive studies done in coordination with Alaska's tribal governments would identify areas of conflict and potential conflict for adequately utilizing resources by all user groups within the North Pacific. By using the knowledge and wisdoms of the tribal governments a lot of mis-understanding of cultures and mis-allocation of resources would be avoided and the Alaska tribal governments would not be reacting to plans that would not work for them and are set in stone already. This would not live up to the Presidential order requiring the Federal government to cooperate and work with tribal entities on a gov. to gov. basis.

Alaska National Interest Lands Conservation Act (ANILCA) and the federal trust responsibility requires that the PSEIS respectively analyze proposed projects which could potentially conflict with Indian tribes (40 CFR 1502.16), "the effects on subsistence uses and needs" (16 U.S.C. Section 3120 (a)), and whether proposed actions are consistent with Federal Agencies fiduciary trust responsibility for Alaska natives. It is also known that Congress recognizes the importance of subsistence way of life even when utilizing threaten or endangered species by granting taking exemptions for the Endangered Species and Mammal Protection Act at 16 U.S.C. Section 15399c).

The yearly dismal salmon runs for the Yukon River cause the interior people to suffer for lack of traditional nourishment and cultural preservation to continue with the Koyukon Athabascan way of life. The PSEIS must present an analysis of the impacts of the Alaska groundfish fisheries on Alaska native subsistence users and should include an adequate analysis of direct, indirect and cumulative impacts on Alaska subsistence users as required by NEPA (40 CFR 1502.16). I strongly recommend that all of the policy alternatives allow for consultation and coordination with Alaskan subsistence users regarding the impacts of the groundfish fisheries. Consultation with Federally recognized tribal governments in Alaska is in accordance with the general trust responsibility and the recent Presidential Executive order of May 31, 1998, **Consultation and Coordination with Indian Tribal Governments (E.O. 13084)**. Tribal Governments in Alaska are more then qualified to provide the needed knowledge about resources that they rely upon and the potential impacts from other fisheries, such as the groundfish fishery.

From my point of view Alaskan Tribes have been reacting to regulations and policies that in no way helps them to live the way they should to survive traditionally and culturally in today's world. From being on the Eastern Interior RAC, as the chairman, I am also aware that the once great Yukon River salmon runs are being depleted to the point of shutting subsistence fishing on the Yukon River down and this is really hurting the people I represent. By working with Tribal governments cooperatively and with coordination the Yukon River subsistence fishermen and fisherwomen would not give up the way of life that they so cherish and strive to live. Please consider including cooperative research programs with Alaska's tribal Governments in all the policy alternatives of the Programmatic Supplemental Environmental Impact Statement on Alaska Groundfish Fisheries. Thank you for you time in considering my points of view for the people I represent, *Anna' Basee'* (thank you in Athabascan).

Respectively,



Gerald Nicholia

Realty Director/Subsistence Rep.