


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: October 4, 1999

SUBJECT: Joint Board of Fisheries/North Pacific Council Activities

ESTIMATED TIME 1 HOUR

ACTION REQUIRED

Review protocol and any other recommendations from joint committee.

BACKGROUND

The joint committee of the Board and Council met in Anchorage on September 15th and considered two main agenda items: revisions to the Council-Board Protocol and the preseason gear restrictions. The draft meeting minutes are under item C-10(a). Recommendations for the protocol are considered below; the preseason gear restriction is treated under agenda item D-3(d).

Protocol Revisions

The joint committee reviewed the joint protocol and the State/Federal Action Plan and recommended approval of an addendum to those documents. The draft addendum seeks to expand the purview of the State/Federal Policy Group and describes a process for categorizing crab proposals and addressing important, off-cycle issues. The committee also identified inter-jurisdictional issues that potentially could be of mutual concern to both bodies. Item C-10(b) is a copy of the original protocol and State/Federal Action Plan, a draft addendum for approval, and the list of inter-jurisdictional issues. The Board will address this matter and our recommendations at their work session later this month.

DRAFT

**Summary of Joint Council/Board Committee Meeting
September 15, 1999
Anchorage, Alaska**

The joint committee of the North Pacific Fishery Management Council and the Alaska Board of Fisheries met in Anchorage, Alaska on September 15, 1999. The following people attended:

Council Members: Kevin O'Leary (vice chair), Dennis Austin, Robin Samuelsen, Dave Benton, and Steve Pennoyer

Board Members: Dan Coffey (vice chair), Ed Dersham, and Larry Engel

Staff Support: Diana Cote, Clarence Pautzke, Lance Nelson, Lauren Smoker, Earl Krygier, Gretchen Harrington, Doug Pengilly, Chris Oliver

Joint Board-Council Protocol

The joint committee reviewed the subject protocol and the State/Federal Action Plan to determine where improvements could be made based on the past two years of experience. After extensive discussion, the committee decided to change neither the protocol or plan, but to add an addendum to those two documents which specifies expanded terms of reference for the State/Federal Policy Group, and describes processes for categorizing crab proposals and addressing other high priority issues of mutual concern to the Board and Council. That addendum is attached. Also attached is a list of inter-jurisdictional issues developed by NMFS and ADF&G and augmented by the joint committee. Both the addendum and issues list need to be reviewed by the full Council and Board.

Preseason Gear Restrictions

The joint committee was tasked to develop alternative solutions for the prospecting and fair start issues in the crab fisheries. A tentative list of alternatives, and a problem statement, were provided by Mr. Austin after meeting with industry. The committee forwarded the list below of alternatives and the accompanying problem statement to the full Council and Board for their consideration and revision as appropriate in October.

Alternatives may include, but are not limited to, the following:

1. 100% observer coverage - consider exception for vessels that deliver unsorted codends directly to catcher processors or motherships.
2. Modify western boundary of exclusion area based on historical catch information (exclude areas where there are few crab; 164 W was suggested in earlier correspondence from the appellants).
3. Consider an exclusion period of less than 30 days (e.g., 15 days).
4. Consider effects of AFA sideboards since the combination vessels would have a lid on their fishery and prospecting would not effect the rest of the fleet.
5. Revise definition of pelagic trawls.

The suggested problem statement is as follows:

“It is the goal of the Council and Board to achieve a fair and equitable start for all fishers engaged in the Bristol Bay red king crab (BBRKC) fishery. The opportunity currently exists for prospecting to occur prior to the BBRKC fishery. Prospecting occurs when gear targeted to harvest other species is used to catch crab and thus determine the distribution of the population prior to the fishery opening. It is the desire of the Council and Board to reduce/eliminate the opportunity to prospect.”

Council or Board final action may be required, depending on the alternatives chosen from the above list. It is the committee’s expectation that the parallel processes for consideration by both bodies will come together at the full joint Board-Council meeting in February 2000, after public review. Both bodies can then discuss final actions that might be taken at the ensuing Council meeting in February and the Board meeting in March.

JOINT PROTOCOL
BETWEEN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL (NPFMC)
ANCHORAGE, ALASKA
and
ALASKA BOARD OF FISHERIES (BOF)
JUNEAU, ALASKA
ON
MANAGEMENT OF FISHERIES
OFF ALASKA

Recognizing that NPFMC has a legal responsibility for reviewing and recommending to the Secretary of Commerce measures for the conservation and management of the fisheries of the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska, with particular emphasis on the consistency of those measures with the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); and

Recognizing that the State of Alaska has a legal responsibility for conservation and management of fisheries within State waters; and further, that the State system centers around BOF policy, regulations, and procedures which provide for extensive public input; is sufficiently structured to ensure annual revisions; is flexible enough to accommodate resource and resource utilization emergencies; and is understood and familiar to the users of North Pacific fisheries resources; and

Recognizing that many of the fish populations in the Gulf of Alaska and the Bering Sea and Aleutian Islands migrate freely between or spend some of the year in both Federal and State waters; and

Recognizing that State and Federal governmental agencies are limited in fiscal resources, and that the optimal use of these monies for North Pacific fisheries management, research, and enforcement occurs through a clear definition of agency roles and division of responsibilities.

Therefore, NPFMC and BOF enter into this Joint Protocol to achieve coordinated, compatible, and sustainable management of fisheries within each organization's jurisdiction in the Gulf of Alaska and the Bering Sea and Aleutians.

I. Applicable Fisheries

This Joint Protocol applies to all fisheries off Alaska of mutual concern.

II. Duration of the Agreement

This agreement shall be reviewed by both NPFMC and the BOF and revised as necessary.

III. NPFMC and BOF shall undertake the following activities:

- A. NPFMC and BOF shall jointly agree upon and implement an annual management cycle that provides for coordinated, compatible, and sustainable fisheries management in State and Federal waters. Management measures shall be consistent with the national standards of the Magnuson-Stevens Act, with the laws of the State of Alaska, and with all other applicable laws.

B. With regard to groundfish, the annual management cycle shall have the following elements:

1. The NPFMC and BOF will endeavor to coordinate their proposal schedules to the greatest extent practicable.
2. The NPFMC will provide the BOF with the latest stock assessment information shortly after the NPFMC's September meeting, noting any special management or conservation concerns with individual groundfish fisheries. The NPFMC will also review fisheries management proposals that it receives that could have impacts on State programs and forward such proposals to the BOF for consideration at an appropriate BOF meeting. The NPFMC will provide all available information concerning such proposals and will identify particular issues that should be analyzed before taking final action.
3. The BOF at its fall meeting will review groundfish proposals. Those proposals identified as being of mutual concern to both the BOF and NPFMC, will be forwarded to the NPFMC for consideration at its December meeting. The BOF will provide any information available concerning the proposals, and will identify particular issues that should be analysed before taking final action.
4. In December the NPFMC will review stock assessments, set acceptable biological catch and harvest limits, consider proposals and other information received from the BOF, and task staff with developing a discussion paper on potential impacts of the proposals if adopted.
5. Final action by the BOF will occur at their next groundfish meeting following the February joint meeting with the NPFMC. After a BOF final decision, the BOF shall adopt findings explaining the basis for the regulation. This provision shall not apply to emergency regulations, however, justification should be provided to the NPFMC in a timely manner, not less than ten days after the emergency action.

C. A joint NPFMC-BOF committee, not to exceed three members from each body, will be formed and meet in January and at other times as necessary to review available analyses, proposals, and any other matters of mutual concern, and to provide recommendations to the joint NPFMC and BOF.

D. The NPFMC and BOF will meet jointly in Anchorage each February to consider proposals, committee recommendations, the analysis, and any other issues of mutual concern. All interested persons and agencies shall have the opportunity to submit comments to the NPFMC and BOF at these meetings on proposals identified as being of mutual concern, and other matters as appropriate.

E. NPFMC and BOF shall encourage ADF&G and NMFS, in carrying out their responsibilities, to consult actively with each other, with NPFMC and BOF, and other agencies as appropriate, in order to prevent duplication of research, management, and enforcement effort and to make optimum use of the resources available for management of the fisheries.

F. The intent of this protocol is to provide long term cooperative, compatible management systems that maintain the sustainability of the fisheries resources in State and Federal waters.

Approved:

For the North Pacific Fishery Management Council


Richard B. Gault
Council Chairman

March 7, 1997
Date

For the Alaska Board of Fisheries


Board of Fisheries Chairman

March 19, 1997
Date

ALASKA DEPARTMENT OF
FISH & GAME
DIVISION OF COMMERCIAL FISHERIES
JUNEAU, ALASKA

NATIONAL MARINE FISHERIES
SERVICE
ALASKA REGION
JUNEAU, ALASKA

STATE/FEDERAL ACTION PLAN
FOR MANAGEMENT OF
COMMERCIAL KING AND TANNER CRAB FISHERIES
OCTOBER, 1993

PURPOSE: To foster improved coordination and communication between National Marine Fisheries Service (NMFS) and Alaska Department of Fish & Game (ADF&G) with respect to crab management under the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area (FMP). Interagency action groups will implement this coordination.

BACKGROUND: The FMP approved in 1989 establishes a State/Federal cooperative management regime that defers crab management to the State of Alaska with Federal oversight. The Secretary of Commerce defers to the State's regulatory regime providing it is consistent with the FMP, the Magnuson Fishery Conservation and Management Act (Magnuson Act) and other Federal law.

A management goal and specific objectives are identified in the FMP. ADF&G, in consultation with NMFS, recommends to the Alaska Board of Fisheries (Board) appropriate management measure(s) for a given year and geographical area to accomplish the objectives. Three categories of management measures are available for consideration: (1) those that are specifically fixed and require an FMP amendment to change, (2) those that are framework-type measures which the State can change without an FMP amendment but following specified criteria, and (3) measures that are neither rigidly specified nor frameworked in the FMP. The measures in categories (2) and (3) may be adopted as State laws subject to the appeals process outlined in the FMP.

The State is not limited to the measures outlined above. Any other management measures must be justified based upon consistency with the FMP objectives, the Magnuson Act, and other applicable Federal law.

Overall, the FMP has efficiently managed the crab fisheries. The framework approach has worked well for the majority of crab management issues. However, Category 2 management measures have been appealed to the Secretary (specifically, pot limits and registration areas). Members of the industry also have criticized Board actions with respect to Category 2 measures

(setting of guideline harvest levels). In order to avoid future contentious problems, NMFS and ADF&G will adopt this action plan to more formally implement State/Federal cooperation in crab management.

ACTION: Three action groups, described below, will facilitate this joint coordination.

- a) Research Planning Group
- b) Crab Plan Team
- c) State/Federal Policy Group

Research Planning Group

The purpose of this group will be to consider long-term crab research priorities, current research activities, and each agency's particular research interests. The group will include NMFS, ADF&G and university crab biologists as well as other representatives from NMFS/Fisheries Management Division; Alaska Fisheries Science Center and ADF&G/Division of Commercial Fisheries. Some of these individuals also may be members of the Crab Plan Team.

This group will work on the development of a long-term plan for applied crab research which will help foster a healthy exchange of ideas among fishery biologists and managers on particular needs. The plan will focus on development of optimal long-term harvest policies. The plan will be updated annually and will function as a vehicle to coordinate the expenditure of crab funds between ADF&G and NMFS and to seek additional funding for critical research.

The group will meet annually for a one- or two-day period at a time and place convenient for the majority of group members.

Crab Plan Team

The annual development of the preseason guideline harvest levels (GHLs) is a dynamic process dependent on using the most current information available and applying this information via analysis and statistical modeling. Scientists from NMFS and ADF&G are currently involved in this process.

Though individual members of the Plan Team have always participated in the development of GHLs, public perception is that this is an ad hoc process. Due to the timing of the Bering Sea surveys and the openings of the early fall fisheries, only a limited amount of time exists to analyze, discuss, amend and release the GHLs to the public in a timely fashion. To release preseason GHLs that have been reviewed using a Council process, such as that used to establish annual groundfish harvest specifications under the groundfish FMPs, would require that

current season opening dates for the fall fisheries be delayed and/or rescheduled, or the previous year's survey information would have to be used to set GHs in the current year. The latter option could interfere with the FMP management objective of biological conservation. In addition, the Council would have to schedule a special meeting or allow time during the September meeting to address crab management after the survey information became available.

The purpose of a Plan Team review will be to formally incorporate its input in the GHs process. The FMP calls for Plan Team input in the preparation of an annual area management report to the Board. This report includes a discussion of the current status of GHs and support for different management decisions. This report is reviewed by the State, NMFS, and the Council, and available for public comment on an annual basis.

The Plan Team will meet annually to review GHs in a session that is open to the public.

State/Federal Policy Group

The purpose of the State/Federal Policy Group will be to review and discuss crab management issues prior to Board and/or Council review. This group will include senior staff and legal counsel and will meet annually, or more often if necessary. Many issues may be resolved through interagency agreement. For instance, prior to final Board action, this Policy Group could review whether crab management proposals and petitions are consistent with the FMP and reflect an appropriate and desired management strategy. Also, this group will review FMP amendment proposals. Their recommendations will be forwarded to the Board and the Council, providing guidance as the Board establishes management regulations.

OTHER ACTION:

In addition to the above action groups, NMFS and ADF&G will meet annually with crab industry representatives to discuss crab management issues such as, but not limited to, setting of GHs, stock analysis, current research, and harvest strategies. The location of meetings will alternate between Washington and Alaska. These meetings will provide an opportunity for review of crab management issues and industry input to management agencies.

Council and Board members have agreed to form a Consultation Group composed of a subcommittee of Council and Board members that will meet publicly on an annual basis to focus on crab issues. (These meetings could occur at one of the regularly scheduled Council or Board meetings.) This joint subcommittee could review staff data on the status of crab stocks and fisheries and both public and staff information regarding crab

management and then provide guidance to the respective Council and Board on pertinent crab issues. Council and Board representatives would benefit by meeting for the sole purpose of discussing crab-related issues.

Both NMFS and ADF&G agree to jointly request Council and Board concurrence on these action groups and their role in the cooperative management of the king and Tanner crab fisheries in the Bering Sea and Aleutian Islands.

This State/Federal Action Plan for Management of Commercial King and Tanner Crab Fisheries has been approved by:



Steven Pennoyer
Director, Alaska Region
National Marine Fisheries
Service

10/12/93

Date



Carl L. Rosier
Commissioner
Alaska Department of
Fish & Game

10/15/93

Date

Addendum to Joint Protocol and State/Federal Action Plan

DRAFT

1. State/Federal Policy Group

Policy group purview should be expanded to consider other proposals/issues beyond crab. Policy group should meet more often and be more pro-active on cross-jurisdictional issues.

2. Categorizing crab proposals:

ADF&G staff will categorize proposals in late April/May after proposal deadline
Crab Team will review categories.
State/Federal Policy Group will review categories if necessary.
Council reviews category recommendations at June meeting. (This is not a discussion of the merits of a proposal)

Category 1 Proposals:

June: Council confirms categories, particularly with regard to Category 1 proposals.
October: Council decides which category 1 proposals to further analyze.
Council reports to Board at October work session on the proposals it will analyze.

Category 2 & 3 Proposals:

Joint Board/Council Committee reviews these proposals initially in July, but also as necessary in January or at other times, and flags issues/concerns with proposals.
Flagged issues are discussed by the Council in October (or other meeting) and comments passed to the Board at their October work session. A second opportunity is at the full joint Board/Council meeting each February.
Board will schedule a Council/NMFS/NOAA staff report on their March agenda..

3. Other "hot" issues/off-cycle issues:

Council staff will brief the Board at their October work session on issues that will be before the Council during the next nine months. Briefing documents should be made available to Board at least one week ahead of the work session.
At each Council meeting, particularly in April during initial review of amendment packages, the Council will strive to identify issues that need to be brought to the attention of the Joint Committee and the Board.
Specific opportunity will be given to the Board or its Committee representatives to comment on issues of mutual concern at the Council meeting before a final decision is made.
Conversely, there will be a spot on Board agenda(s) for Council/NMFS/NOAA input as appropriate.

4. NMFS and Council should make staff available during March Board meeting on crab

5. Other issues of mutual concern should be referred to Joint Committee per Protocol

Approved:

For North Pacific Fishery Management Council

For the Alaska Board of Fisheries

Council Chairman

Board of Fisheries Chairman

Date

Date

DRAFT

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(September 15, 1999)

DRAFT
Board/Council Inter-jurisdictional Issues

1. Halibut Charter Caps/Moratorium
2. Local Area Management Plans
3. Beluga whale concerns in Cook Inlet
4. Steller Sea Lions & other ESA species
5. Shark Amendments
6. Forage fish issues
7. BSAI king and Tanner Crab
 - a. Tanner (*C. bairdi*) crab rebuilding plan
 - b. *C. opilio* rebuilding plan
 - c. St. Matthews blue king crab rebuilding plan
 - d. CDQ crab
 - e. Bycatch measures in the directed crab fisheries
 - f. Bycatch measures in the groundfish trawl fisheries
 - g. Guideline harvest levels
8. Groundfish stand-down period in Area T
9. State water groundfish fisheries
10. Pelagic trawl definition
11. No-trawl zone in Cook Inlet
12. AFA sideboards
13. Scallop management
14. Salmon management (Salmon FMP and bycatch)
15. Overhaul of protocol agreement
16. Ecosystem-habitat considerations
17. Conservation issues
18. Subsistence

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206 547 0130 FaxEmail: acc-crabak@msn.com**RECEIVED**
OCT - 5 1999
N.P.F.M.C

October 5, 1999

Steve Pennoyer,
Regional Director
NMFS
P.O. Box 21668
Juneau, Alaska 99802**RE: COMMENT ON UCB APPEAL TO THE SECRETARY OF COMMERCE ON ALASKA BOARD OF FISHERIES ACTIONS**

This is to update the NMFS on recent events pertinent to the UCB appeal of the Board of Fisheries action to exclude pot and trawl gear for 30 days prior to the opening of the Bristol Bay king crab season. As you are aware, the Board modified its action in March to allow trawlers to fish in Bristol Bay during the 30-day period, for 1999 only, provided they have an observers on board the vessels. Pot vessels are still excluded during the 30-day period.

- I checked with the NMFS field representative in Dutch Harbor the week of September 21st and learned that there were 38 pot boats fishing groundfish in the Bering Sea that week. It is notable that all the vessels are excluded from fishing in Bristol Bay. It also demonstrates that, contrary to UCB allegations, the 30-day gear exclusion rule did not discriminate against the 42 UCB trawl vessels. The BOF action has seriously impacted the pot vessels fishing for cod, as they are excluded from productive grounds for that species.
- The NMFS has also informed the ACC that the inshore pollock season for catcher vessels will likely close on October 6th, or possibly a little later. The UCB-led group of catcher vessels claimed that the October 15th change of season date would force them to choose between pollock and crab and likely prevent them from fishing king crab in the future. This situation, too, has not materialized.

I request that these facts be taken into account by the Department of Commerce as it considers the UCB appeal.

Sincerely,


Arni Thomson
Executive Director

cc: Rick Lauber, Chairman, NPFMC