

Executive Director's Report

CCC Interim Meeting

In early January NMFS hosted the interim meeting of the Council Coordination Committee in Washington, D.C. Myself, Eric Olson, and Dave Benson attended on behalf of the NPFMC. Among the agenda items discussed were: review of each Council's progress on ACL requirements; budget situation and outlook; SOPPs review and approval procedures; status of the President's Executive Order on ocean governance and coastal and marine spatial planning (CMSP); implementation of NOAA's catch share policy; and, status of the NOAA Enforcement Policy for penalty schedules.

As we continue to operate under the continuing resolution, budget outlook is of course uncertain. For the Council's part we have received one-quarter of our funding for FY2011, based on the 2010 all-Council 'baseline' (which translates to 21% of our actual 2010 total funding). Once the CR ends on March 4, three possible scenarios are: (1) a CR or other budget resolution for the remainder of the year at 2010 funding levels; (2) funding restored to the 2011 President's request (an increase for NOAA and the Councils over 2010); or (3) funding decreased to some level below the President's request for 2011 (rumors are circulating that funding at the 2008 level is a possibility, which would have serious ramifications for NMFS and the Councils). Under our current five-year funding award however, carry over funds from 2010 should allow the NPFMC to carry on operations through 2011 without serious disruption.

Regarding the review and approval process for Council SOPPs, we discussed the rather complicated and extensive review process stipulated by recent NOAA policy directive (described in the December 2010 Executive Director's report), and determined collectively that many details of Council SOPPs could be removed from the SOPPs and contained within internal administrative procedures manuals, thereby negating the need for the extensive NOAA review and approval process for minor SOPPs changes in the future. Therefore I am still working on a revised SOPPs for the NPFMC which will contain all of the legal requirements (including aspects of the 2006 MSA reauthorization) and all of the major procedural aspects of Council operations to comply with the format prescribed by NOAA. I expect to have this done in the next month or so, and distributed to Council members for approval at the April meeting.

On the subject of CMSP, we once again discussed the potential role of the Councils on either Regional Ocean Partnerships or regional planning bodies, which will spearhead implementation of the Executive Order, one component of which is CMSP. The Councils voted to send an all-Council letter to the NOC, expressing our collective experience in this regard, and our desire to have an explicit seat at the table on regional planning bodies. That letter is being drafted and I will distribute it once finalized – at that time I do intend to follow-up with an additional letter from the NPFMC, supporting the general, all-Council letter, but focusing on the specific aspects of this process from the Alaska/Arctic region perspective. For your information, Item B-1(a) is a recent letter from The Nature Conservancy to the NOC expressing support for the Regional Fishery Management Councils participation in regional planning bodies implementing CMSP. Item B-1(b) is a Federal Register announcement from last week noticing the intent to prepare strategic action plans for each of the nine priority actions (including CMSP) from the recommendations of the Ocean Policy Task Force, and inviting comment on the development of these action plans. Comments are due April 29, and I would propose that I develop comments on behalf of the NPFMC, and these could be reviewed and finalized at our April Council meeting. Finally, at our interim CCC meeting NMFS leadership announced the intent of NOC, in coordination with NOAA, to organize a national CMSP workshop sometime this spring, likely in April or May. We expect this workshop to be

invitation-only (much like the recent workshop they organized on 'Catch Shares and Commercial Fishing Communities' (more on that below)), and we urged them to include Council participation in this workshop, and to coordinate the timing to allow for such Council participation. Related to this was a discussion of a potential 'Managing our Nation's Fisheries' Conference III, which would include CMSP as a major agenda item. The Councils decided to appoint a sub-committee to further discuss such a possible conference, and/or other initiatives to highlight the Council's role in CMSP, as well as progress on other major initiatives such as ACL compliance and catch share implementation. I will be a member of that subcommittee which will be meeting in the next few weeks to discuss these possible initiatives.

As mentioned above, NOAA hosted a national workshop during the same week as the interim CCC meeting in Washington, D.C. , to discuss community involvement in catch share programs and formation of regional fishing associations (as outlined in the 2006 MSA reauthorization). Nicole Kimball attended on behalf of the NPFMC. For your information, a copy of the agenda from that workshop is included as Item B-1(c).

Related to catch share implementation, we received an interesting presentation from Sam Rauch, in which he elaborated on one aspect of NOAA's final catch share policy – the issue of Councils revisiting and reassessing initial allocations under catch share programs. It appears to be NOAA's intent, possibly through another policy directive, that all Councils revisit and reassess initial allocations under all catch share programs (IFQ type programs as well as sector allocation programs). While such a reassessment may be prudent under some circumstances, it is not clear to me that such a reassessment is required by the MSA, vs being a policy choice on the part of the Councils. I will keep you up to date on this issue as it progresses.

At this interim CCC meeting we also received a lengthy report from NOAA Enforcement regarding the recent program review, and specifically regarding the standardized penalty schedules (which we recently provided comment on, along with several of the other Councils). From this presentation it seems unlikely that they intend to steer away from the national, standardized penalty schedules, though there may be some limited room for regional flexibility.

The annual CCC meeting will be May 3-5, hosted by the South Atlantic Fishery Management Council in Charleston, South Carolina. Many of these same issues will be discussed at that meeting.

#### New Executive Order

Item B-1(d) is the latest – EO 13563, dated January 18, 2011, titled 'Improving Regulation and Regulatory Review'. This EO appears to be an update and expansion of existing EO 12866, which is a fundamental driver in all of our analyses to support Council FMP and regulatory amendments. I have not specifically discussed the implications of this EO with NMFS, but I don't expect it to change much in the way we conduct analyses. It does call for each agency, within 120 days, to submit a preliminary plan to periodically review all existing regulations and determine whether they should be modified, streamlined, expanded, or repealed. I will be working with NMFS to ascertain whether and to what extent this would affect any North Pacific fishery regulations.

#### Salmon FMP and ACL requirements

At our last meeting you reviewed a discussion paper relative to our Salmon FMP, and potential amendments we would be developing for Council consideration to update the FMP and to potentially address the ACL requirements of the new MSA. At that meeting the Council requested that I write a letter to NOAA specifically requesting a regulatory clarification to the NS1 guidelines which would clarify that the existing State management satisfies the intent of the NS1 guidelines, and therefore that no

Council/NMFS action would be required relative to ACLs for salmon in Alaska. Alternately, we need some confirmation that any FMP amendment we do develop would fall upon the 'alternative approach' provision of the current NS1 guidelines, and likewise affirm that the current State process satisfies the intent of the MSA and the NS1 guidelines relative to salmon. Item B-1(e) is the letter I sent last week in this regard.

#### NBSRA Workshop in January

The Northern Bering Sea Research Area (NBSRA) research plan science workshop was held on January 17, as an adjunct to the Alaska Marine Science Symposium in Anchorage, Alaska. The workshop was hosted by the AFSC in order to gather information from scientists and local communities on what areas and species within the NBSRA warrant protection under this plan. More than sixty people attended, representing state and federal agencies, NGOs, academia, Native corporations, and the fishing industry. A workshop summary is included as Item B-1(f).

#### MPA Federal Advisory Committee reminder

Just a reminder that there are six vacancies coming up in October on the Marine Protected Areas Federal Advisory Committee – that group advises the Departments of Interior and Commerce on the development and implementation of a national system of marine protected areas. In particular, nominations for representatives of ocean industry (e.g. oil and gas), commercial fishing, non-consumptive use, Tribal and/or Pacific islanders, and conservation interests are sought by **February 15, 2011**. Each nomination submission should include the proposed member's name and organizational affiliation, a cover letter describing the nominee's qualifications and interest in serving on the committee, and a resume'. Letters of support are encouraged but not required. Self-nominations are acceptable. E-mail nominations are preferred (see <http://www.mpa.gov/fac/>), or mail to:

Heather Sagar  
Office of the Assistant Administrator  
NMFS  
1315 East-West Highway  
Silver Spring, MD 20910  
Phone-301-713-2239

#### Recent articles of interest

Two articles appeared in the recent edition of Pacific Fishing magazine which I thought were worthy of highlighting. Under Item B-1(g), Dr. Ray Hilborn takes exception to, and clarifies the record on, the concept of 'fishing down the food web', and a second article by Alexandria Guitierrez describes the recent rebound of Pollock quotas and debunks the associated hoopla from the last couple of years when Pollock abundance was in decline. A well-earned touche' to both!

#### General Counsel Awards

Two of the Council's very own, Mark Fina and Bill Wilson (well, sort of our own, but got this award as a NMFS contractor), were among last year's recipients of the 2010 NOAA General Counsel Awards. Mark was named "for exceptional performance that has assisted GC in meeting the agency's mission of protecting and sustainably managing the use of living marine resources through the development, implementation, and monitoring of several important catch share programs". Bill was named as part of the Steller Sea Lion Team "for exceptional performance and significant contribution to the development and implementation of fishery management measures to protect endangered Steller sea lions and their

critical habitat from the effects of groundfish fisheries in the Aleutian Islands". The full list of all 2010 recipients is included as Item B-1(h).

#### Staff news

As you know Jeannie Heltzel has moved to Oregon, but will remain on Council staff through April. I am pleased to announce that we have hired a long-time NMFS employee, Ms. Kristin Mabry, to take over the position of Protected Species Coordinator/Fishery Analyst, beginning in June. With her experience we expect her to be able to hit the ground running! We are still looking for an additional Fisheries Economist, but we have recently received some promising applications, and have interviews scheduled over the next couple weeks.

And I want to recognize Gail Bendixen for an outstanding achievement – above and beyond all that this girl from the village of King Cove has accomplished in her career, as of January 13 she can now lay claim to one of the greatest ‘endurance’ accomplishments of all time – 25 years with the NPFMC!!! I’m not sure whether to get her a gold watch or a gold anchor. Congratulations Gail, and we hope for at least a few more years out of you. Maybe several? Please, pretty please!?

#### Events this week

The Enforcement Committee will meet Tuesday, February 1 from 1 to 5 pm in the Marion Room, and the Ecosystem Committee will meet Thursday, February 3 from 9 am to noon in the James Room. On Wednesday evening, starting at 5:30 pm, an industry sponsored reception will be held in the Madison Ballroom.

On Thursday evening there are two events which will likely be of interest to industry members and Council family: (1) at 5:30 pm in the South Room (Council meeting room) the U.S. Coast Guard will host a workshop focusing on development of Alternative Compliance and Safety Programs as a result of the Coast Guard Reauthorization Act of 2010. Topics will include: which vessels the new requirements apply to; implementation timelines; descriptions of existing programs; common problems and lessons learned from existing programs; and, other issues, questions, or concerns regarding the new requirements. Commander Woodley will be leading this workshop. (2) also at 5:30 pm, in the Northwest Room (AP meeting room) representatives from the Gulf of Maine Research Institute (Jonathan Labaree, Kate Burns) will host a workshop titled “Learning from the Development of Sector Management in New England’s Groundfish Fishery – Considerations for other Fisheries and Regions in Designing and Adopting Catch Share Systems”. GMRI has carried out an evaluation of the process that led to Amendment 16 and the establishment of sector allocations, both the good and the not so good. Their intention is not to propose any specific approach for other regions, but to pass on some of the principles and lessons learned from the New England experience.

On Friday, Mr. Russell Smith will be visiting the Council meeting and hoping to also visit with various members of the fishing industry, in his new role as NOAA’s Fisheries Negotiator. Mr. Smith will be involved in a number of international issues of interest to our industry and Council family.



January 26, 2011

The Honorable Nancy Sutley  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

Director John Holdren  
Office of Science and Technology Policy  
725 17<sup>th</sup> Street, NW  
Washington, DC 20502

Dear Chairwoman Sutley and Director Holdren,

The Nature Conservancy strongly supports the National Ocean Council (NOC) as it works to implement the new National Policy for the Stewardship of the Ocean, Our Coasts and the Great Lakes. Of particular interest, the Conservancy sees great promise in the development and implementation of Coastal and Marine Spatial Planning (CMSP). CMSP has the potential to better coordinate and align human uses in the ocean while providing substantial environmental and economic benefits for diverse ocean stakeholders. We stand ready to play a helpful role as the NOC initiates and implements CMSP at the national and regional scales.

The Conservancy is writing today to respectfully request that the NOC provide a clear statement to agency staff and the nine CMSP regions affirming that each region has the flexibility to include Regional Fishery Management Councils (RFMC) as full members on future Regional Planning Bodies, and furthermore, that this is highly desirable.

The Conservancy has an extensive network of partners in every state of the U.S. We engage in ongoing discussions with senior federal, state, and tribal staff, commercial and recreational fishery representatives, energy development interests, and others, and are frequently called upon by the states to assist with science, data, and innovative solutions to conservation problems. Recently, the Conservancy has been providing spatial data, decision support tools, and policy advice about the path forward for CMSP.

Through our numerous on-the-ground interactions, it has become clear that there is considerable concern and confusion regarding future regional planning body membership, including the roles of stakeholders and specific regulators such as the RFMC. Although the Final Recommendations of the Ocean Policy Task Force (OPTF) repeatedly emphasize regional flexibility in CMSP implementation and note the consultative role of RFMC in CMSP, it remains unclear whether RFMC representatives will be permitted and encouraged as members of the Regional Planning Bodies.

We are concerned that, without clear guidance from the NOC in support of RFMC membership, uncertainty and tensions around this issue may continue to grow in unproductive ways.

In our professional judgment, CMSP is less likely to be successful if the RFMC are not well represented, for several reasons:

- The OPTF Recommendations emphasize the need for an open and transparent multi-objective planning process that utilizes existing authorities for plan implementation.
- Magnuson-Stevens Act authorities provide essential tools for CMSP development and implementation and the nine regions (except the Great Lakes) are nearly perfect matches with the RFMC boundaries.
- Many of the potential conflicts that CMSP can address will need to take into account the interaction of fisheries in time and space with other ocean uses.
- If the RFMC and their fishery stakeholders are limited to a consultative role, the chances of successful implementation of CMSP will be greatly diminished, and are conversely much higher if the RFMC are engaged in actively developing and owning future plans with their federal, state, local and tribal partners.
- RFMC members, staff, and technical committees comprise incredibly valuable resources that can be leveraged to both enhance CMSP data acquisition and analysis, and help assure smoother stakeholder processes as planning occurs.

In conclusion, we ask the NOC to issue a clear statement stating that each region has the flexibility to include RFMC members on Regional Planning Bodies.

We appreciate the opportunity to provide input on this matter and look forward to continuing to work with the National Ocean Council. Please do not hesitate to contact me (lhale@tnc.org) or Kameran Onley, Director of U.S. Marine Policy (konley@tnc.org) with any questions.

Sincerely yours,



Lynne Zeitlin Hale  
Director, Global Marine Initiative

cc:

Dr. Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere  
Eric Schwaab, Assistant Administrator, National Marine Fisheries Service

has entered into an additional Global Reseller Expedited Package (GREP) contract.<sup>1</sup> The Postal Service believes the instant contract is functionally equivalent to the previously submitted GREP contracts, and is supported by Governors' Decision No. 10-1, attached to the Notice and originally filed in Docket No. CP2010-36. *Id.* at 1, Attachment 3. The Notice explains that Order No. 445, which established GREP Contracts 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1-2. Additionally, the Postal Service requested to have the contract in Docket No. CP2010-36 serve as the baseline contract for future functional equivalence analyses of the GREP Contracts 1 product.

*The instant contract.* The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that the instant contract is in accordance with Order No. 445. The term of the contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 3. It may, however, be terminated by either party on not less than 30 days' written notice. *Id.* Attachment 1, at 5.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachment 1—a redacted copy of the contract and applicable annexes;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 10-1 which establishes prices and classifications for GREP contracts, a description of applicable GREP contracts, formulas for prices, an analysis of the formulas, and certification of the Governors' vote; and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contract and supporting documents under seal.

The Notice advances reasons why the instant GREP contract fits within the Mail Classification Schedule language for GREP Contracts 1. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contract from the baseline GREP agreement. It states that the instant contract differs from the contract in Docket No. CP2010-36

pertaining to customer-specific information, e.g., customer's name, address, representative, signatory, notice of postage changes and minimum revenue. *Id.* at 4-5. The Postal Service states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contract's functional equivalency. *Id.* at 4. The Postal Service asserts that "[b]ecause the agreement incorporates the same cost attributes and methodology, the relevant characteristics of this GREP contract are similar, if not the same, as the relevant characteristics of the contract filed in Docket No. CP2010-36." *Id.*

The Postal Service concludes that its filing demonstrates that the new GREP contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GREP contract. It states that the differences do not affect the services being offered or the fundamental structure of the contract. Therefore, it requests that the instant contract be included within the GREP Contracts 1 product. *Id.* at 6.

## II. Notice of Filing

The Commission establishes Docket No. CP2011-58 for consideration of matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642. Comments are due no later than January 24, 2011. The public portions of this filing can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceeding.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. CP2011-58 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than January 24, 2011.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the Officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this Order in the Federal Register.

By the Commission.  
Shoshana M. Grove,  
Secretary.

[FR Doc. 2011-1335 Filed 1-21-11; 8:45 am]  
BILLING CODE 7710-FW-P

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### National Ocean Council; Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes

**ACTION:** Notice of Intent To Prepare Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. Request for comments.

**SUMMARY:** On July 19, 2010, President Obama signed Executive Order 13547 establishing a National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes ("National Policy"). That Executive Order adopts the Final Recommendations of the Interagency Ocean Policy Task Force ("Final Recommendations") and directs Federal agencies to take the appropriate steps to implement them. The Executive Order creates an interagency National Ocean Council (NOC) to strengthen ocean governance and coordination, identifies nine priority actions for the NOC to pursue, and adopts a flexible framework for effective coastal and marine spatial planning to address conservation, economic activity, user conflict, and sustainable use of the ocean, our coasts and the Great Lakes.

**Purpose:** The NOC is announcing its intent to prepare strategic action plans for the nine priority objectives identified in the Final Recommendations and is requesting input on the development of these strategic action plans. (For general information about the NOC and a copy of Executive Order 13547 and the Final Recommendations, please see: <http://www.WhiteHouse.gov/oceans>). Public comments will inform the preparation of the strategic action plans. All comments will be collated and posted on the NOC Web site.

**Public Comment:** The NOC is seeking public input as it develops the strategic action plans for the priority objectives. To be considered during the development of the draft strategic action plans, comments should be submitted by April 29, 2011. Draft strategic action plans will be released for public review in the summer of 2011, allowing

<sup>1</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application For Non-Public Treatment of Materials Filed Under Seal, January 14, 2011 (Notice).

additional opportunity for the public to provide comments. Plans are expected to be completed by the end of 2011.

In this public comment period, the NOC is interested in comments that address the opportunities, obstacles, and metrics of progress relevant to each of the priority objectives. Comments should take into account that the strategic action plans should address the key areas identified in the Final Recommendations, including, as appropriate, the importance of integrating local, regional, and national efforts.

The NOC is requesting responses to the following questions for each of the priority objectives:

- What near-term, mid-term, and long-term actions would most effectively help the Nation achieve this policy objective?

- What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coasts, and Great Lakes?

- What milestones and performance measures would be most useful for measuring progress toward achieving this priority objective?

Comments should be submitted electronically at <http://www.WhiteHouse.gov/administration/eop/oceans/comment> or can be sent by mail to: National Ocean Council, 722 Jackson Place, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Additional information regarding this request can be found at <http://www.WhiteHouse.gov/oceans>. Questions about the content of this request may be sent to <http://www.WhiteHouse.gov/administration/eop/oceans/contact> or by mail (please allow additional time for processing) to the address above.

**SUPPLEMENTARY INFORMATION:** On July 19, 2010, President Obama signed Executive Order 13547 establishing a National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes ("National Policy"). That Executive Order adopts the Final Recommendations of the Interagency Ocean Policy Task Force and directs Federal agencies to take the appropriate steps to implement them. The Executive Order creates an interagency National Ocean Council (NOC) to strengthen ocean governance and coordination, identifies nine priority actions for the NOC to pursue, and adopts a flexible framework for effective coastal and marine spatial planning to address

conservation, economic activity, user conflict, and sustainable use of the ocean, our coasts, and the Great Lakes.

The National Policy provides a comprehensive approach, based on science and technology, to uphold our stewardship responsibilities and ensure accountability for our actions to present and future generations. The Obama Administration intends, through the National Policy, to provide a model of balanced, productive, efficient, sustainable, and informed ocean, coastal, and Great Lakes use, management, and conservation. The Final Recommendations provide an implementation strategy that describes a clear set of priority objectives that our Nation should pursue to further the National Policy.

The nine priority objectives seek to address some of the most pressing challenges facing the ocean, our coasts, and the Great Lakes. The nine priority objectives are identified below. Additional information about each priority may be found at <http://www.WhiteHouse.gov/oceans>.

**Objective 1: Ecosystem-Based Management:** Adopt ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes;

**Objective 2: Coastal and Marine Spatial Planning:** Implement comprehensive, integrated, ecosystem-based coastal and marine spatial planning and management in the United States;

**Objective 3: Inform Decisions and Improve Understanding:** Increase knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges. Better educate the public through formal and informal programs about the ocean, our coasts, and the Great Lakes;

**Objective 4: Coordinate and Support:** Better coordinate and support Federal, State, Tribal, local, and regional management of the ocean, our coasts, and the Great Lakes. Improve coordination and integration across the Federal Government and, as appropriate, engage with the international community;

**Objective 5: Resiliency and Adaptation to Climate Change and Ocean Acidification:** Strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification;

**Objective 6: Regional Ecosystem Protection and Restoration:** Establish and implement an integrated ecosystem

protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, Tribal, local, and regional levels;

**Objective 7: Water Quality and Sustainable Practices on Land:** Enhance water quality in the ocean, along our coasts, and in the Great Lakes by promoting and implementing sustainable practices on land;

**Objective 8: Changing Conditions in the Arctic:** Address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes; and

**Objective 9: Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure:** Strengthen and integrate Federal and non-Federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system and integrate that system into international observation efforts.

These priority objectives are meant to provide a bridge between the National Policy and action on the ground and in the water, but they do not prescribe specific actions or responsibilities. The NOC is responsible for developing strategic action plans to achieve the priority objectives. As envisioned, the plans will:

- Identify specific and measurable near-term, mid-term, and long-term actions, with appropriate milestones, performance measures, and outcomes to fulfill each objective;

- Consider smaller-scale, incremental, and opportunistic efforts that could build upon existing activities, as well as more complex, larger-scale actions that have the potential to be truly transformative;

- Identify key lead and participating agencies;

- Identify gaps and needs in science and technology; and

- Identify potential resource requirements and efficiencies; and steps for integrating or coordinating current and out-year budgets.

The plans will be adaptive to allow for modification and addition of new actions based on new information or changing conditions. Their effective implementation will also require clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component. Implementation of the National Policy for the stewardship of the ocean, our coasts, and the Great Lakes will recognize that different legal regimes, with their associated freedoms, rights, and duties, apply in different maritime zones. The plans will be implemented in a manner consistent



with applicable international conventions and agreements and with customary international law as reflected in the Law of the Sea Convention. The plans and their implementation will be assessed and reviewed annually by the NOC and modified as needed based on the success or failure of the agreed upon actions.

The NOC is committed to transparency in developing strategic action plans and implementing the National Policy. As the NOC develops and revises the plans, it will ensure substantial opportunity for public participation. The NOC will also actively engage interested parties, including, as appropriate, State, Tribal, and local authorities, regional governance structures, academic institutions, nongovernmental organizations, recreational interests, and private enterprise.

Ted Wackler,

Deputy Chief of Staff, OSTP.

[FR Doc. 2011-1316 Filed 1-21-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, January 27, 2011 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, January 27, 2011 will be:

institution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: January 20, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011-1513 Filed 1-20-11; 4:15 pm]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63717; File No. SR-Phlx-2010-145]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Establishment of Remote Specialists

January 14, 2011.

#### I. Introduction

On October 14, 2010, NASDAQ OMX PHLX LLC ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to allow certain Phlx exchange members to act as option specialists that are not physically present on the option trading floor. The proposed rule change was published for comment in the Federal Register on November 2, 2010.<sup>3</sup> On January 11, 2011, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission received no comments on the proposal. This order provides notice of filing of Amendment No. 1 and grants accelerated approval to the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposal

The Exchange proposes to amend Phlx Option Rules 501, 506, 507, 1014, and 1020 to provide for remote specialists under limited circumstances and amend its Option Floor Procedure

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 63192 (October 27, 2010), 75 FR 67427 ("Notice").

<sup>4</sup> On December 16, 2010, the Exchange extended the period for Commission consideration of its proposal to January 14, 2011. See 15 U.S.C. 78s(b)(2)(A)(ii)(III) (concerning the ability of the self-regulatory organization that filed a proposed rule change to extend the time period for Commission consideration of its proposal).

Advices<sup>5</sup> B-3 and E-1 to reflect the new category of remote specialist.

Currently, Phlx has several types of Registered Options Traders ("ROT's")<sup>6</sup> that can register as market makers on the Exchange, including specialists, Streaming Quote Traders ("SQT's"),<sup>7</sup> and Remote Streaming Quote Traders ("RSQT's").<sup>8</sup> Specialists are floor-based Exchange members who are registered as options specialists pursuant to Rule 1020(a). An SQT has a physical presence on the options floor (though they may be "in-crowd" or "out-of-crowd") and is authorized to generate and submit option quotations electronically in options to which such SQT is assigned, but may only do so when he or she is physically present on the floor of the Exchange. An RSQT, on the other hand, has no physical trading floor presence and instead is authorized to generate and submit option quotations electronically in options to which such RSQT has been assigned. The various market making requirements applicable to each category of market maker are set forth in Rule 1014. Rules 500 through 599 (the "Allocation and Assignment Rules") generally describe the process for application and appointment of specialists, SQTs and RSQTs, as well as the allocation of classes of options to them.<sup>9</sup>

Accordingly, while Phlx's rules provide for remote market-making ROTs (i.e., RSQTs), they do not provide for remote specialists. Rather, Phlx's rules currently require that each options class and series listed on the Exchange have a specialist physically present on the

<sup>5</sup> Phlx's Options Floor Procedure Advices ("OFPA's" or "Advices") are part of the Exchange's minor rule plan ("MRP" or "Minor Rule Plan"), which consists of Advices with preset fines, pursuant to Rule 19d-1(c) under the Act (17 CFR 240.19d-1(c)). See e.g., Securities Exchange Act Release No. 50997 (January 7, 2005), 70 FR 2444 (January 13, 2005) (SR-Phlx-2003-40) (order approving the Exchange's Options Floor Broker Management System). As this time, Phlx is not proposing to change any of the fines that are applicable under any of the Advices.

<sup>6</sup> A ROT is a member who has received permission from the Exchange to trade in options for his own account. Phlx also has Directed SQTs and Directed RSQTs, which receive Directed Orders as defined in Rule 1080(l)(i)(A). Specialists may likewise receive Directed Orders. Further, Phlx rules also provide for non-streaming ROTs ("non-SQT ROT"), which can make markets in certain options on an issue-by-issue basis. See Rule 1014(b)(ii)(C).

<sup>7</sup> See Rule 1014(b)(ii)(A).

<sup>8</sup> See Rule 1014(b)(ii)(B).

<sup>9</sup> The Allocation and Assignment Rules also indicate under what circumstances new allocations may not be made. See, e.g., Supplementary Material .01 to Rule 506.

# AGENDA

## Catch Shares and Commercial Fishing Communities

Dates: January 11-13, 2011

Location: Washington Court Hotel

525 New Jersey Avenue, N.W.

Washington, DC 20001

<http://www.washingtoncourthotel.com/>

(202) 628-2100 or (800) 321-3010

Tuesday, January 11			
Time	Min.	Subject	Presenter/Facilitator
8:30-8:45	15	Introductions, Opening Remarks	Eric Schwaab
8:45-9:00	15	Agenda Review and Goals of the Meeting	Mark Holliday, NOAA Fisheries Office of Policy
9:00-10:15	75	<b>Discussion Topic 1: MSA: Communities in Fisheries Management</b> <ul style="list-style-type: none"> <li>• Community Definition</li> <li>• National Standard 8</li> <li>• Designation Criteria</li> <li>• Social Indicators for Program Success</li>   <li>• White Paper /Overview</li> <li>• Discussion</li> </ul>	Susan Abbott-Jamieson, NOAA Fisheries Office of Science and Technology
10:15-10:30	15	Break	
10:30-12:00	75	<b>Discussion Topic 2: MSA 303A Limited Access Privilege Programs &amp; Communities</b> <ul style="list-style-type: none"> <li>• Statute - Regional Fishing Associations and Fishing Communities Provisions</li>   <li>• White Paper /Overview</li> <li>• Discussion</li> </ul>	Constance Sathre, NOAA General Counsel for Fisheries
12:00-1:00		Lunch	
1:00-2:15	75	<b>Discussion Topic 3: Non-303A Community Pathways for Councils- CFAs, Sectors</b> <ul style="list-style-type: none"> <li>• Definition, qualification, geographic designations and community affiliations</li> <li>• Membership and operational standards</li> <li>• Community Sustainability Plans</li> <li>• Criteria evaluation for applications</li> <li>• Special Considerations (accumulation limits, quota acquisition, special responsibilities)</li>   <li>• White Paper /Overview</li> <li>• Discussion</li> </ul>	Jim Seger, Pacific Fishery Management Council

Tuesday, January 11 (cont.)			
2:15-3:15	60	<b>Communities' Experiences</b> <ul style="list-style-type: none"> <li>• Port Clyde, ME</li> <li>• Chatham, MA</li> </ul>	Jen Litteral, Island Institute Paul Parker, Cape Cod Fisheries Trust; Allison Duncan, Amplifier Strategies
3:15-3:30	15	<b>Break</b>	
3:30-5:00	90	<b>Communities' Experiences (cont.)</b> <ul style="list-style-type: none"> <li>• Kodiak, AK</li> <li>• Morro Bay, CA</li> <li>• Cortez, FL</li> </ul>	Linda Kozak, Kozak & Assoc. Michael Bell, The Nature Conservancy Karen Bell, AP Bell Seafood
5:00pm	15	<b>Summary of Day 1/ Plans for Day 2</b>	Kari MacLauchlin, NOAA Fisheries Office of Policy
5:15pm		<b>Adjourn</b>	

Wednesday, January 12			
Time	Min.	Subject	Presenter/Facilitator
8:30-8:45	15	<b>Welcome and Recap</b>	Kari MacLauchlin, NOAA Fisheries Office of Policy
8:45-10	75	<b>Discussion Topic 4: Sustainability Plans and RFA Plans</b> <ul style="list-style-type: none"> <li>• White Paper/Overview</li> <li>• Discussion</li> </ul>	Mark Grant, NOAA Fisheries Northeast Regional Office
10:00-10:15	15	<b>Break</b>	
10:15-12:00 (15 min slack)	90	<b>Discussion Topic 5: Monitoring and Evaluating, and Amending: Responsibilities of Councils/NMFS/Communities</b> <ul style="list-style-type: none"> <li>• White Paper/Overview</li> <li>• Discussion</li> </ul>	Mike Jepson, NOAA Fisheries Southeast Regional Office
12:00-1:00	60	Lunch	
1:00-3:00	120	<b>Discussion Topic 6: Communities Getting and Holding Quota: (Initial Allocation, Transferability, Accumulation Limits) &amp; Mitigation (Permit Banks, Fisheries Loan Fund, Catch Accounting)</b> <ul style="list-style-type: none"> <li>• White Paper/Overview</li> <li>• Discussion</li> </ul>	Glenn Merrill, NOAA Fisheries Alaska Regional Office  Merrick Burden, Environmental Defense Fund

3:00-3:15	15	Break	
3:15-4:30	75	<b>Discussion Topic 3: Communities Getting and Holding Quota (cont.)</b>	
4:30-4:45	15	Recap	Kari MacLauchlin, NOAA Fisheries Office of Policy
5:00		Adjourn	
6:00		Group Dinner/Event TBD	

**Thursday, January 13**

Time	Min.	Subject	Presenter
8:30-9:00	30	Introduction and Day 1-2 Recap	Kari MacLauchlin, NOAA Fisheries Office of Policy
9:00-10:15	75	<b>Discussion Topic 7: Facilitating Community Organization efforts</b> <ul style="list-style-type: none"> <li>• White Paper Overview</li> <li>• Discussion</li> </ul>	Kate Quigley, South Atlantic Fishery Management Council
10:15-10:45		Break/ Checkout	
10:45-12:00	75	<b>Discussion Topic 8 – Current FMP goals and objectives affecting communities; threats and opportunities; Future vision relative to communities</b> <ul style="list-style-type: none"> <li>• White Paper Overview</li> <li>• Discussion</li> </ul>	Bonnie McCay, Rutgers University
12:00-1:00	60	Lunch	
1:00-2:15	75	<b>Discussion Topic 9: Transferring Knowledge – Future Communication and Engagement Strategies with Communities</b> <ul style="list-style-type: none"> <li>• White Paper Overview</li> <li>• Discussion</li> </ul>	Ed Backus, Ecotrust
2:15-2:45	45	Recap/Future Directions	Mark Holliday, NOAA Fisheries Office of Policy
3:00		Adjourn Meeting	

## Presidential Documents

Title 3—

Executive Order 13563 of January 18, 2011

The President

Improving Regulation and Regulatory Review

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve regulation and regulatory review, it is hereby ordered as follows:

**Section 1. *General Principles of Regulation.*** (a) Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

(b) This order is supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866 of September 30, 1993. As stated in that Executive Order and to the extent permitted by law, each agency must, among other things: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(c) In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. Where appropriate and permitted by law, each agency may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

**Sec. 2. *Public Participation.*** (a) Regulations shall be adopted through a process that involves public participation. To that end, regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

(b) To promote that open exchange, each agency, consistent with Executive Order 12866 and other applicable legal requirements, shall endeavor to provide the public with an opportunity to participate in the regulatory process. To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally

be at least 60 days. To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.

(c) Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.

**Sec. 3. *Integration and Innovation.*** Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization. Each agency shall also seek to identify, as appropriate, means to achieve regulatory goals that are designed to promote innovation.

**Sec. 4. *Flexible Approaches.*** Where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, appropriate default rules, and disclosure requirements as well as provision of information to the public in a form that is clear and intelligible.

**Sec. 5. *Science.*** Consistent with the President's Memorandum for the Heads of Executive Departments and Agencies, "Scientific Integrity" (March 9, 2009), and its implementing guidance, each agency shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions.

**Sec. 6. *Retrospective Analyses of Existing Rules.*** (a) To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible.

(b) Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

**Sec. 7. *General Provisions.*** (a) For purposes of this order, "agency" shall have the meaning set forth in section 3(b) of Executive Order 12866.

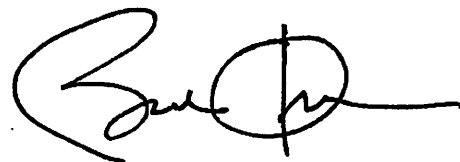
(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a horizontal line.

THE WHITE HOUSE,  
*January 18, 2011.*

[FR Doc. 2011-1385  
Filed 1-20-11; 8:45 am]  
Billing code 3195-W1-P

# North Pacific Fishery Management Council

Eric A. Olson, Chairman  
Chris Oliver, Executive Director



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January 28, 2011

Mr. Eric Schwaab  
Assistant Administrator, NOAA Fisheries  
1315 East-West Highway, SSMC3  
Silver Spring, MD 20910

**RE: Regulatory clarification of NS1 guidelines as pertaining to Alaska salmon fisheries**

Dear Mr. Schwaab:

I write on behalf of the North Pacific Fishery Management Council (Council) to respectfully request your assistance in clarifying the application of the National Standard 1 guidelines (NS1) and Magnuson-Stevens Act (MSA) § 303(a)(15), specifically the application of annual catch limits (ACL), to Alaska salmon fisheries. At its December 2010 meeting, the Council reviewed a discussion paper outlining potential revisions to its *FMP for the Salmon Fisheries in the US EEZ Off the Coast of Alaska* (Salmon FMP) to comply with the requirements of the reauthorized MSA and NS1 guidelines and to more clearly reflect the Council's desire to continue the State of Alaska's (State) management authority over directed commercial salmon fisheries in the West Area EEZ and the Southeast Alaska (SEAK) troll fishery, and over the sport fishery.<sup>1</sup> Language in the reauthorized MSA requiring the implementation of ACLs was developed largely based on practices used in the North Pacific groundfish fisheries for over three decades: MSA § 303(a)(15) states that FMPs must establish mechanisms for specifying ACLs in the FMP, implementing regulations, or annual specifications at a level such that overfishing does not occur in the fishery; MSA § 302(h)(6) requires the Council to "develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its SSC or the [established] peer review process."

However, updating the Salmon FMP in the West Area EEZ and SEAK to include pre-season stock status determination criteria (SDC) and exploitation rate-based ACLs through the process described within the NS1 guidelines would be wholly inappropriate for Alaska salmon fisheries because of the unique life history characteristics of Pacific salmon (50 C.F.R. §600.310(b)(2)(iii)), and due to the State's current inseason management programs. Though the Council has maintained its FMP over time, neither the Council nor NMFS manage salmon pursuant to the intent of the MSA's ACL requirements. The State's escapement-based management strategy and its current abundance-based inseason management approaches have been applied for many decades and historically have sustained relatively high yields.<sup>2</sup> Cognizant of the State's long-term and successful management of Alaska salmon, the Council developed the Salmon FMP in 1979 to primarily prohibit salmon fishing in the North Pacific EEZ while allowing for state-managed fisheries in a few, very limited areas of the EEZ.

<sup>1</sup> Please see Salmon FMP, Section 2.2, descriptions of fisheries, at: <http://www.alaskafisheries.noaa.gov/npfmc/>.

<sup>2</sup> Please see Attachment to the Salmon FMP discussion paper, December 2010, *State of Alaska's Salmon Fishery Management Program*, at: <http://www.alaskafisheries.noaa.gov/npfmc/>.



Under 50 C.F.R. § 600.310(h)(3), the Council may propose “alternative approaches” for satisfying the requirements of the NS1 guidelines in limited circumstances where standard approaches to management do not fit, such as for Alaska salmon (i.e., Pacific salmon). The Council must document its rationale for adopting an alternative approach in an FMP amendment. Such a revision would require NMFS’ determination that the current State salmon management program meets applicable MSA and NS1 requirements. However, a direct regulatory clarification from NMFS would provide a clearer basis for establishing that the current State salmon management program meets the requirements of the MSA and NS1, and could be effected far more expeditiously.

At its December 2010 meeting, the Council, with the concurrence of the State, passed a motion that I write to you to respectfully request a direct regulatory clarification that the current management program used by the State fully satisfies the intent of the MSA and the attendant NS1 requirements for Alaska salmon fisheries, and therefore that no FMP Amendment process would be necessary for these fisheries. This approach would effectively exempt the Council and NMFS from expending significant resources to attempt to comply with existing ACL guidelines, which are irrelevant and unsuitable to the management of Alaska salmon fisheries. In the absence of direct agency regulatory clarification, the Council will need to receive clear direction on the applicability of its proposed alternative approach within the current guidelines, what process to follow, and what data and documentation to supply in its analysis.

In either case, the Council will still need to amend the salmon FMP to fulfill other federal requirements unrelated to the establishment of ACLs. The FMP provides an important conservation backstop by preventing unregulated harvest of salmon in the EEZ by vessels that the State cannot regulate. While the management of salmon fisheries is done by the State, it is important to retain the Council’s FMP in some form.

In summary, the Council respectfully requests that NMFS provide it with either clear direction on the applicability of an alternative approach for the Salmon FMP, which would acknowledge that the State’s management program for these fisheries fully satisfies the intent of NS1 as a ‘proxy ACL,’ or issue clarifying rulemaking specifically pertaining to Alaska salmon that would effectively remove any ACL requirement from the Council process relative to its salmon fisheries. As we proceed to develop other FMP revisions, your response to our specific request regarding ACL requirements will allow the Council and the NMFS Alaska Region to focus our efforts where relevant and not expend resources attempting to amend our FMP pursuant to ACL requirements that are satisfied by State management. Please contact me if you have any questions regarding this matter.

Sincerely,

Chris Oliver  
Executive Director

CC: Dr. Jim Balsiger, RA, Alaska Region  
Mr. Galen Tromble, Acting ARA SF, Alaska Region  
Ms. Lauren Smoker, General Counsel, Alaska Region  
Gov. Sean Parnell, State of Alaska  
Ms. Cora Campbell, Commissioner, Alaska Department of Fish and Game  
Mr. Lance Nelson, Senior Assistant Attorney General, Alaska Department of Law  
Senator Lisa Murkowski  
Senator Mark Begich  
Congressman Don Young

## **Northern Bering Sea Research Area (NBSRA) Research Plan Science Workshop Summary**

Hotel Captain Cook, Endeavor Room, Anchorage, Alaska  
January 17<sup>th</sup>, 2011, Monday, 08:00-12:00

The NBSRA Research Plan Science Workshop was convened at the Alaska Marine Science Symposium (AMSS) on January 17, 2011, in Anchorage, Alaska. The workshop was hosted by the NOAA Fisheries Alaska Fisheries Science Center (AFSC). The goal of the workshop was to gather information from scientists and local communities on what areas and species within the NBSRA warrant protection under this plan. More than sixty people attended, representing state and federal agencies, non-government organizations, academia, native corporations, and the fishing industry.

Russ Nelson, Director of the Resource Assessment and Conservation Engineering Division (RACE), AFSC, opened the workshop with the introduction of participants and an overview of the NBSRA. He emphasized the goal of the workshop, and that of the Research Plan: to investigate the effects of bottom trawling on bottom habitats, and provide information to assist the Council in protecting crabs, marine mammals, endangered species, and the subsistence needs of western Alaskan communities.

Bob McConnaughey (RACE) presented on how to study the effects of bottom trawls based on his research in Bristol Bay. Sue Moore (NOAA Fisheries, Office of Science and Technology) presented for Jackie Grebmeier and Lee Cooper (University of Maryland, Center for Environmental Sciences, Chesapeake Biological Laboratory), providing insights on the variability in the Northern Bering Sea (NBS) ecosystem from decades of research. Jim Lovvorn (Southern Illinois University, Carbondale) presented on the threatened spectacled eider and its critical habitats in the NBS, expounding on ecosystem linkages. Questions and discussions followed each presentation.

After the final open discussion period, Pat Livingston, Director of the Resource Ecology and Fisheries Management Division (REFM), AFSC, summarized the main concerns for study design raised during the workshop:

### **Type of study**

An acute effects study seems most appropriate, but it is important to separate natural variability from trawl effects. There is the need to look at existing data to understand benthic community types and their variability on different temporal and spatial scales. There are questions as to what kinds of existing data are available for use in designing the study, what type of gear should be used, and the size of the area and the duration of the study.

### **Species considerations**

Walrus and bearded seals are important subsistence species that feed mostly on the benthos. Their prey dwell deeper than can be reached by a van Veen sediment grab sampler. Sampling for their prey is problematic. There are decadal-scale changes in prey and predator feeding patterns, so it is difficult to predict what areas are or will be important to mobile predators. The occurrence of phytoplankton blooms that drive benthic productivity can vary in location and timing. Ice cover also dictates where mobile predators can gain access to prey. Given all the variability, it is difficult to predict where benthic production will be favorable and where fisheries may be likely to occur.

### **Spatial and temporal considerations**

Given the variability of the ecosystem on a decadal scale, the duration of the study is an important consideration. The study design needs to account for seasonal and decadal signals. The frequency of trawling is a factor in the effects generated. The design also needs to address the exclusion or inclusion of the habitats for key predators - on one hand, to avoid adversely affecting the animals; on the other, to increase the understanding of them. Inshore areas are important for study for its importance to subsistence fisheries. Data mining is useful for research planning. There are existing data available from

Alaska Department of Fish and Game (ADF&G) on subsistence activities. Also, Russian data on the NBS are important to consider. Regarding the scope of the study, the debate is whether it should be confined to the effects of fishing, or expanded to broader issues, such as the human dimension.

### **Feasibility**

How feasible is it to conduct the study as will be proposed in the Research Plan? Where flatfish, primarily yellowfin sole, are concentrated now and where they might move to in the future are candidate areas for study. The present distribution and abundance of the fish are not attractive to commercial fisheries, and the future state is unpredictable. Federal resources are lacking for conducting a fishery-independent study, so an Exempted Fishing Permit (EFP) process may have to be employed. Monitoring gear will need to be added to commercial vessels under the EFP process. Finally, it is still unclear how the study that will be proposed is linked to regulatory outcomes, e.g., whether area opens if the study concludes that no adverse effects of trawling can be detected.

Nelson closed the workshop thanking the participants and urging for more information on species, habitat, and activities helpful for planning the research. He acknowledged that more basic ecological research is necessary, but it is not in the purview of the Research Plan as AFSC is tasked. He believed that the December 2011 timeline for completing the draft of the Research Plan may be optimistic. Between now and the completion of the draft Research Plan, there will ample opportunity for public input and comment, including possibly another Subsistence and Community Workshop.

Agenda and minutes of the workshop, PowerPoint presentations, and the list of participants will be posted on the Council's website.

# Concept of 'fishing down food webs' shown to be a myth

Perhaps no image of the impact of fish has captured the public as much as "fishing down food webs."

The idea is very simple: Fishing begins, quite naturally, on the largest, most valuable fish. Once those are gone, fishermen move down the food webs to smaller, less valuable fish, and so on until the oceans are empty.

As Daniel Pauly, the prime apostle of the concept, has often said, we will soon have nothing to eat but jellyfish and zooplankton soup. This neatly fits the "apocalyptic" narrative that is so beloved by some environmental activists, but like many of these narratives, it is wishful thinking.

Pauly's original paper, published in 1998, showed that the average fish caught in the world was becoming smaller and ever lower on the food web. This has been one of the most influential papers in the history of fisheries science. The "food web index" has been adopted by the Convention on Biodiversity and other groups as the best indicator of the health of marine ecosystems.

For this and other work, Pauly has received a wide range of international awards, including the prestigious Cosmos Prize worth \$400,000.

But over the last five years, more

careful analysis has shown that every element of the fishing-down-food-webs image is wrong.

A 2006 paper in the *Proceedings of the National Academy of Sciences* by Tim Essington and others showed that far from declining, the catch of fish from high on the food web was rising in most of the marine ecosystems of the world. Where the catch's average rank in the food web was declining,

it was often because the catch of fish from lower on the food web was rising faster than catch of larger fish.

Then, this summer, another paper in *Proceedings of the National Academy of Sciences* by Suresh Sethi and others showed that the fundamental assumptions of Pauly's image were wrong.

First, there is no relationship between the value of fish and where they are on the food web. Top predators are no more valuable than filter feeders. In retrospect this is obvious. At any fish market, it is lobsters, oysters, crab, and shrimp that are the most expensive products. Within species, generally the larger sizes are more valuable. The economic incentive is to catch the biggest size possible within each species, but this has no relationship to where that species ranks in the food web. So there are no economic incentives to begin fishing high on the food web.

*continued on page 12*

*'If we are going to identify ecosystems that are in trouble, we are wasting our time looking at where the catch comes from in the food web. We need to look specifically at the abundance of the species in the ecosystem.'*

# Favorite fish prophecy tool discredited

The most widely adopted measure for assessing the state of the world's oceans and fisheries led to inaccurate conclusions in nearly half the ecosystems where it was applied, according to new analysis by an international team led by a University of Washington fisheries scientist.

"Applied to individual ecosystems it's like flipping a coin, half the time you get the right answer and half the time you get the wrong answer," said Trevor Branch, a UW assistant professor of aquatic and fishery sciences.

In 1998, the journal *Science* published a groundbreaking paper that was the first to use trends in the trophic levels of fish that were caught to measure the health of world fisheries. The trophic level of an organism shows where it fits in food webs, with microscopic algae at a trophic level of 1 and large predators such as sharks, halibut, and tuna at a trophic level of around 4.

The 1998 paper relied on four decades of catch data and averaged the trophic levels of what was caught. The authors determined those averages were declining over time and warned we were "fishing down the food web" by over-harvesting fish at the highest trophic levels and then sequentially going after fish further down the food web.

Twelve years later, newly compiled data has emerged that considers such things as the numbers and types of fish that actually live in these ecosystems, as well as catch data. An analysis in the Nov. 18, 2010, issue of *Nature* reveals weaknesses in assessing ecosystem health from changes in the trophic levels of what is being caught.

"This is important because that measure is the most widely adopted indicator by which to determine the overall health of marine ecosystems," said Branch, lead author of the new analysis in *Nature*.

- University of Washington

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Sethi also showed that fisheries do not begin with top predators. The location on the food web has nothing to do with the sequence of exploitation.

Two of the underlying, and seemingly obvious, assumptions of fishing down food webs were demolished by a University of Washington graduate student — Sethi — who took a little time to test some assumptions of a concept that had been widely touted for a dozen years.

No proponents of fishing down food webs ever asked such elementary questions.

A silver spike was driven through the heart of the concept in November. A paper in *Nature* by Trevor Branch and several co-authors updated the data Pauly used. They showed that the place in the food web of the average catch of the world has been increasing, not declining. More importantly, by actually looking at abundance trends of the fish in different ecosystems, researchers showed that what fishermen catch simply does not reflect what is going on in the ecosystem. The species being caught could rank higher in the food web, while its abundance was declining — or just the opposite.

Using location of the catch in the food web is a useless index of ecosystem health.

This is not to say that fishing does not reduce abundance. In

some places, overfishing has dramatically changed ecosystems and eliminated most of the fish — sometimes starting with the large fish. But as Branch showed for the Gulf of Thailand, where more than 90 percent of all the fish are gone, the food web index has been increasing, not declining. This is because the fisheries there began on shellfish and other invertebrates and then moved on to the fish and then the top predators.

Branch said, "Applied to individual ecosystems, it's like flipping a coin, half the time you get the right answer, and half the time you get the wrong answer."



Ray Hilborn

*'Many have built their understanding of fishing around this concept, and it won't die quickly. There is an ongoing battle. On one side are scientists, managers, fishermen, and some NGOs trying to identify fisheries problems and solve them.'*

If we are going to identify ecosystems that are in trouble, we are wasting our time looking at where the catch comes from in the food web. We need to look specifically at the abundance

of the species in the ecosystem.

All of the key elements of "fishing down food webs" have collapsed under careful analysis:

- Fish high on the food web are no more valuable than those low on the food web.
- Fisheries do not begin high on the food web.
- The food web index is not a useful measure of the status of an ecosystem.
- The food web index itself is increasing worldwide, not declining.
- When we look at trends in abundance, large fish are not declining.

Solving problems of overfishing is like medical diagnosis: We need to identify the problem and the cause; then we can find the solution.

Essington, Sethi, and Branch and their co-authors have shown that, as a diagnostic tool, the food web index is not useful, and we need to rely instead on trends in the abundance of target species.

Pauly remains unconvinced by these critiques, and when interviewed about the Branch article replied, "This paper is a hatchet job, and it's a bad hatchet job."

Many have built their understanding of fishing around this concept, and it won't die quickly. There is an ongoing battle. On one side are scientists, managers, fishermen, and some NGOs trying to identify fisheries problems and solve them.

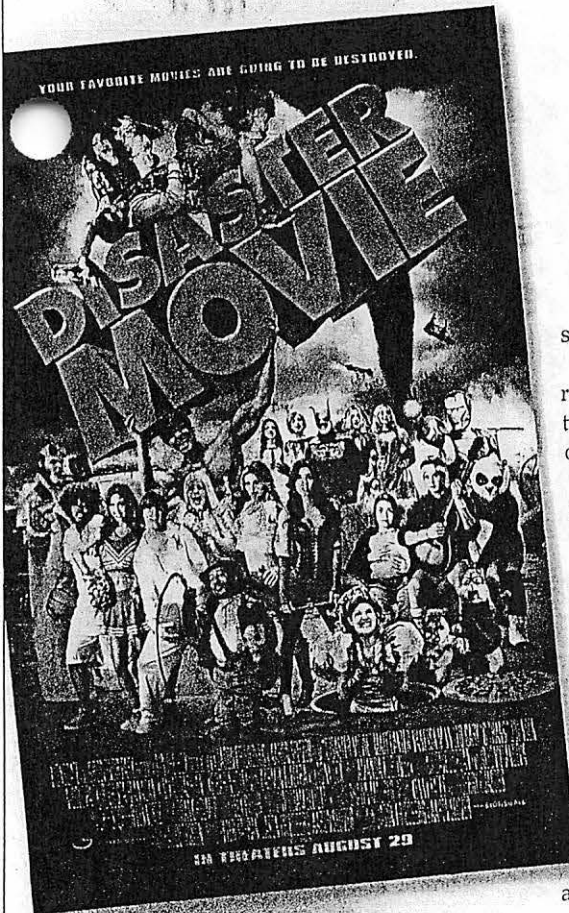
On the other are those like Sylvia Earle, a National Geographic explorer-in-residence, who simply want to stop fishing. Those people have just lost one of their most cherished arguments. ↓

Ray Hilborn is a professor in the School of Aquatic and Fishery Sciences, University of Washington, specializing in natural resource management and conservation. He currently serves as an advisor to several international fisheries commissions and agencies as well as teaching graduate and undergraduate courses in conservation, fisheries stock assessment, and risk analysis.

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# Suppose Greenpeace declares a disaster — and it doesn't HAPPEN

Two years ago, the pollock apocalypse seemed nigh.

The total allowable catch had gone from record highs of nearly 1.5 million metric tons, starting in 2001, down to a record low of 815,000 metric tons.

To some, it seemed a pollock binge was followed by a painful pollock hangover.

A solid number of commercial fishermen and federal biologists wrote off the decline as a temporary slump, but there was a vocal chorus of activists who warned that the pollock fishery was on the verge of a serious crash.

"We are on the cusp of one of the largest fishery collapses in history," said John Hocevar, Greenpeace's oceans campaign director, to Reuters in 2008.

Didn't happen.

Pollock stocks have rebounded. The allowable biological catch for 2011 has been

set at 1.267 million metric tons, and total biomass this year has more than doubled, from 4.6 million metric tons to 9.6 million metric tons.

Since this turnaround, Hocevar has toned down his rhetoric. He calls the latest stock assessment "good news."

"We're really happy that the biomass hasn't continued to decline. It's been in quite a slump for the past several years, and it's very encouraging news that — at least temporarily — it's turned around a little bit," says Hocevar.

Hocevar explains that part of the uncertainty in 2008 came from the number of variables at play in doing stock assessments and projections. He goes on to note that pollock stocks in the Bogoslof area never improved after they all but disappeared in the early 1990s, and that the Gulf of Alaska stock has continued to get smaller.

"There's no reason at all to assume that we're headed back to a decline soon or even ever, but at the same time, there was no real reason to assume that we were going to have the biomass recover, either," says Hocevar. "So where we are right now doesn't really tell us a whole lot about where we're going to be."

In 2008, Greenpeace was somewhat less circumspect about the state of the pollock fishery. It launched an advertising campaign that spelled doom for pollock, thanks to overfishing. The commercial featured a grizzled-looking man taken straight off the Gorton's fish sticks box: gray beard, yellow rain slicker — and a panhandling sign.

It also took a swipe at the National Marine Fisheries Service, suggesting that NMFS should stand for "No More Fish, Sorry."

The primary takeaway was that fishing too much pollock could leave thousands out of work. Greenpeace's other message was that the eradication of the pollock stock could also mean death for the endangered Western population of Steller sea lions, which include pollock in their diet — a major cause for the environmental group.

"The concern here is that the recovery we saw this year may prevent fishery managers from learning the lessons that

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I think they should from the past several years," says Hocevar. "And that is, in part, that it's really playing with fire to continue to fish on spawning aggregations, and also to set catch limits so close to the edge when there is such high uncertainty with many of the parameters."

Greenpeace wasn't the only voice expressing concern that the Bering Sea's pollock stock was in serious danger. Jeremy Jackson, who directs the Center for Marine Biodiversity and Conservation at the Scripps Institution of Oceanography, said that a pollock collapse would be "the ultimate example of the emperor having no clothes."

Jackson is still skeptical of the results today. "One year does not a trend make. While I agree that it is enormously encouraging that what looks like a freefall has finally been broken, I would really like to see a couple years' more data to really be sure," he says, adding, "I'm not against fishing. I'm just against over-optimistic management which results in collapses and people losing their jobs. A lot of us were worried that this was the direction that

*continued on page 8*

## Pollock catch to be up 50 percent

After a few years of decline, the Bering Sea pollock fishery finally seems to be on the rebound.

In November, the National Marine Fisheries Service released its draft assessment of the walleye pollock stock, and the groundfish plan team placed the acceptable biological catch at almost 1.3 million metric tons.

As of press time, the council was just waiting for Commerce Secretary Gary Locke's seal of approval on the quota.

From 2002 to 2006, the pollock fishery saw record catch rates — approaching 1.5 million metric tons. But in 2007, biomass started to drop. The total allowable catch in 2010 was just 813,000 metric tons. Now, the quota is skyrocketing up over 50 percent.

And not only will the next 12 months be bountiful — the next few years should be too.

"We saw record numbers of 2-year-olds in one survey and a very large number of 4-year-olds in another survey," says Jim Ianelli, an NMFS research biologist.

"And when those 2-year classes move into the population, things should be back above the target stock size that we want to have for a stable fishery."

Right now, NMFS has the projected allowable catch for 2012 at around 1.6 million metric tons — almost double the biomass of this year's catch.

— Alexandra Gutierrez

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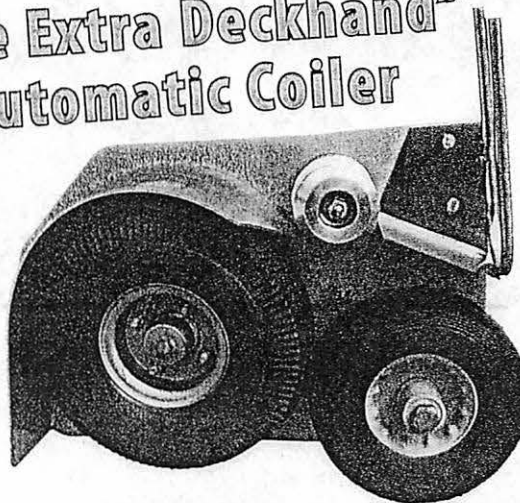
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**'In 2008, Greenpeace was somewhat less circumspect, about the state of the pollock fishery. It launched an advertising campaign that spelled doom for pollock, thanks to overfishing.'**

pollock was going, so hopefully it's not."

Jon Warrenchuk, a biologist with the activist group Oceana, is with him. "We don't hit any other species in Alaska harder than pollock," he said to the *Anchorage Daily News* back in 2008. Oceana has been especially committed to the preservation of Stellar sea lions and has actively lobbied for a fisheries management system that does a better job of taking the whole ecosystem into consideration. Warrenchuk expresses relief that the health of the pollock fishery has improved.

"In the last couple of years, there has been a slow fishing out of the larger, older pollock that remain in the Bering Sea. With fewer young fish recruiting into the population, there was a lot of worry that we were heading to perhaps trouble," says Warrenchuk.

He credits the turnaround to the survival

of the 4-year-old pollock class.

"All the other older fish are way below average, which really means we didn't have a lot left in the bank until these fish showed up," says Warrenchuk. "So, it's not a moment too soon."

Jim Ianelli, a pollock stock assessment biologist for NMFS, agrees with Warrenchuk on that.

"It was pretty clear that we had a period of poor recruitment. There was a string of four or five years where young fish weren't coming into the population in great numbers," says Ianelli.

"And it's a characteristic of the pollock stock that there is a lot of year-class variability. Our conservation measures are geared toward maintaining enough egg production and spawning activity to sustain the stock, but it's still subject to the environmental conditions, and those have a lot of inter-annual variability that affects survival."

That variability is part of what caused the downturn a couple of years back. Factors like increased predation or a poor food supply could have resulted in a lower biomass for this year.

But amidst the alarm, Ianelli reassured activists and fishermen alike that overfishing was not a cause for concern, as the North Pacific Fishery Management Council had recommended low catch limits.

In fact, while some environmentalists were seeing doom and gloom in 2008, that year actually brought good news to federal scientists focused on the long-term health of the stock.

"There were some good signs," says Ianelli of the strong 2006 year-class that had appeared to survive through 2008.

"We base our short-term outlook on observation, so if we don't see many young fish, then our prognosis is pretty pessimistic. And that was the case before 2008, because we didn't see that many 1-year-olds for a number of years prior to that."

Since 2008, the outlook has been mostly rosy, and it looks like the Gorton's fisherman will keep his job for the near future at least. The actor who plays him, though?

Well, he might be having a little more trouble finding work. ↓

## McDonald's: The great Satan

Might environmentalist sensitivity to Alaska's pollock fishery be based, at least in part, not on fishery management but on a major customer of the fleet: McDonald's?

Award-winning journalist Charles Clover thinks so.

His book, *The End of the Line: How Overfishing Is Changing the World and What We Eat*, had him circling the globe, reporting on shameful fisheries — and on the few notable ones. He found Alaska fisheries, including pollock, to be in the latter category.

Here's a portion of Clover's examination of the greens and pollock:

The very idea that McDonald's, hated by the greens and foodies, could make capital out of being on the side of the angels — and that their customers were therefore more virtuous than the denizens of exclusive restaurants — caused shivers of revulsion among the righteous in U.S. environmental groups.

When the Alaska pollock fishery proposed itself for certification as one of the world's best-run fisheries, they accused it, in the words of one campaigner, of "strip-mining the ocean and treating fish like a crop of corn in Iowa."

Clover's book was the basis for the movie *The End of the Line: Imaging a World Without Fish*, which premiered at the Sundance Film Festival in 2009.

## From our files

Here's what Pacific Fishing's columnist in Unalaska — Anne Hillman — reported in December 2008. Our headline: "Regardless of what Greenpeace says, pollock not crashing"

The mid-water trawl survey showed that pollock biomass was down almost 50 percent, but scientists said pollock stocks were not crashing, regardless of what Greenpeace says.

National Marine Fisheries Services scientist Jim Ianelli, who was in charge of the overall stock assessment, said groups like Greenpeace, which sent out a press release saying the fishery is on the brink of collapse, were overreacting.

"What Greenpeace is saying about the stock size is [in reaction to] just one of the surveys," Ianelli said. "In fact, in that survey the number of fish is increased, even though the biomass is dropped. There are new fish coming into the stock, so it's not as doom and gloom as they picture it."



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