

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-4(c) Pribilof BKC Rebuilding Plan

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Mateo Paz-Soldon / Heather McFarley	City of St Paul / CBSFA
2	ED RICHARDSON	POLLOCK CONSERVATION COOPERATIVE
3	Frank Kelly	City of UNA Alaska
4	Edward Poulsen	Alaska Bay Sea Cabbers
5	Kenny Down	Freezer Longline Coalition
6	Lori Swanson	Groundfish Forum
7	JOHN GAUVIN	AK Seaford Corp
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

Groundfish Forum

4241 21st Avenue West, Suite 302
Seattle, WA 98199
206-213-5270 Fax 206-213-5272
www.groundfishforum.org

March 29, 2011

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 W 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Re: Agenda Item C-4(c), Final action on Pribilof Island blue king crab rebuilding

Dear Chairman Olson,

I am writing to you today on behalf of the members of Groundfish Forum, six companies representing 19 non-AFA trawl catcher processors and/or LLPs which operate in the Amendment 80 sector. Our vessels are heavily dependent on flatfish fisheries in the Bering Sea. As you know, the Council is considering action to provide additional protections for Pribilof Island blue king crab through an array of either complete or triggered groundfish closures in several areas around the Pribilof Islands, which would be applied to selected (or all) gear types and fisheries in those areas. Some of the alternatives considered would close important flatfish fishing grounds and could result in considerable harm to members of Groundfish Forum.

The problem statement developed by the Council states that *'This action is necessary to facilitate compliance with requirements of the MSA (Magnuson Stevens Act) to end and prevent overfishing, rebuild overfished stocks and achieve optimum yield.'* We believe that the proposed action is not required by the MSA, will not facilitate rebuilding Pribilof Island blue king crab (PIBKC) stocks, could be extremely costly to flatfish vessels and could force our fishermen into less productive areas with higher halibut bycatch.

Rebuilding is an unrealistic goal

The Scientific and Statistical Committee (SSC) noted in their December, 2010 minutes that 'In reality, recovery likely depends on chance and fortuitous environmental conditions leading to several strong year classes, which are not predictable.'¹ In fact, scientific models predict the stock will not rebuild in the next 50 years even if there is NO fishery-related mortality. None of the alternatives in this action are expected to change that.

¹ NPFMC SSC minutes, December 2010, page 3.

The MSA does not force Council action when environmental circumstances are driving stock productivity. The regulation states that:

'If environmental changes affect the long-term reproductive potential of the stock or stock complex, one or more components of the SDC (stock determination criteria) must be respecified. Once SDC have been respecified, *fishing mortality may or may not have to be reduced*, depending on the status of the stock or stock complex with respect to the new criteria.'² (emphasis added)

MSA requirements for ACLs and AMs have been met

The MSA requires that the Council establish Annual Catch Limits (ACLs) and Accountability Measures (AMs). The Council has established an ACL of 3600 pounds and an overfishing level (OFL) of 4000 pounds. Further, the Council has closed the Pribilof Island red king crab fishery to eliminate bycatch of blue crab, and has prohibited all trawling in the Pribilof Island Habitat Protection Area (established through amendment 21a to the Bering Sea/Aleutian Islands FMP) to protect PIBKC habitat.³ NMFS also has the authority to close fisheries and areas in-season if catch or bycatch concerns arise. All of these actions represent 'accountability measures' to minimize PIBKC mortality.

It is also important to note that while the PIBKC stock is 'overfished,' the analysis shows that 'overfishing' only occurred in 2007/2008. This was due to high bycatch in pot fisheries. The analysis seems to use these terms interchangeably.

It has been suggested that there should be a 'feedback loop' to connect groundfish and crab FMPs, since crab bycatch in groundfish fisheries may result in a decrease in the directed crab fishery. There is no directed PIBKC fishery, and models suggest there will not be one for the next 50 years. Additional restrictions on groundfish fisheries will not change this.

Impact to trawl fisheries

All trawl fishing is already prohibited within the Pribilof Island Habitat Conservation Area (PIHCA). Vessels fish near the PIHCA when they find suitable aggregations of fish. For the Amendment 80 sector in particular, because PSC caps are still ratcheting down, the decision to fish in an area is driven by both productivity and the amount of halibut encountered. Closures to flatfish fishing will further limit the flexibility of the vessels to avoid halibut. Larger closures, of course, make the problem worse.

The alternatives include areas that are important flatfish grounds. For example, Alternative 3 (closing the ADF&G crab closure area) has represented over 6,000 mt of groundfish in some years.⁴ The larger closure options in Alternative 4 represent even higher groundfish catch. Existing closures and PSC caps place serious limits on where this displaced harvest can go.

² 50CFR §600.310(e)(2)(iii)(B)

³Note that the problem statement is incorrect when it states that "...action has been taken to limit bycatch mortality in other crab fisheries occurring near the Pribilof Islands; however no similar action has been taken for groundfish fisheries." Closure of the PIBKC to all trawling was clearly done to limit bycatch mortality in groundfish fisheries.

⁴Environmental Assessment of the Proposed Amendment to the FMP for BSAI King and Tanner Crabs and the FMP for Groundfish of the BSAI to revise the rebuilding plan for Pribilof Islands blue king crab, March 2011, Table A5 (page 35).

Triggered closures

Alternative 5 considers 'triggered closures' for each of the areas proposed under Alternatives 2 through 4. The closures would apply to all fisheries included in the action, regardless of their actual amount of PIBKC bycatch. This is precisely the scenario that results in a 'perverse incentive' to race for bycatch. Because no sector can control the actions of another, a sector that attempts to minimize its crab catch will wind up being penalized if the area is closed due to catch in another sector. There is no incentive or mechanism to avoid this. The problem will only be exacerbated if conditions change and the size of the PIBKC stock increases. If the Council were to divide the cap so as to allow some control within sectors, it will create an allocation battle for bycatch and, likely, caps that are too small for every sector in some years. We do not believe that triggered closures are a viable option.

Exempted fisheries

In December 2010, the Council added a provision which would exclude gear types accounting for less than 5% or 10% of the ABC *in any given year*, effectively exempting the pollock trawl fishery. However, the analysis shows that PIBKC bycatch is sporadic in all gear types, so individual years may not be representative of mortality over time. Using the information contained in Table 11-9 (page 24 of the EA), the following table shows the *average* percent of ABC for the remaining gear types:

PIBKC bycatch mortality by groundfish gear type, 2003/04 through 2009/10

Crab fishing season	Hook and line		Non-pelagic trawl		Pot		Total	
	Mill lbs	% of ABC	Mill lbs	% of ABC	Mill lbs	% of ABC	Mill lbs	% of ABC
2003/04	0.0002	5.6%	0.0006	16.7%	0	0.0%	0.0008	22.2%
2004/05	0.0009	25.0%	0	0.0%	0	0.0%	0.0009	25.0%
2005/06	0.0005	13.9%	0.0001	2.8%	0.0022	61.1%	0.0028	77.8%
2006/07	0.0001	2.8%	0.0001	2.8%	0	0.0%	0.0003	8.3%
2007/08	0.00005	1.4%	0.0001	2.8%	0.0044	122.2%	0.0046	126.4%
2008/09	0.0002	5.6%	0.0008	22.2%	0	0.0%	0.001	27.8%
2009/10	0.0003	8.3%	0.0008	22.2%	0.0002	5.6%	0.0013	36.1%
Average	0.0003	8.9%	0.0004	9.9%	0.0010	27.0%	0.0017	46.2%

Looking at the average bycatch, the only gear type which exceeds 10% of the ABC is the pot fishery. Further, the only two years when total catch exceed 40% of the ABC (shaded) were years when the pot fishery contributed the majority of the bycatch mortality.

Note that the data in this table differs from Table 11-9 in that it presents the *percentage of ABC*, not the *percentage of catch*. This is the relevant comparison. Longline and trawl fisheries may have a fairly high percentage of catch in years when the overall catch is small, but in fact account for a small percentage of the ABC compared to pot fisheries.

Conclusion

We do not believe that the Council is required to take further action to reduce the bycatch of PIBKC in groundfish fisheries. However, if the Council decides to proceed with action we recommend that you consider surgical closures that provide the most potential return for the least cost to fisheries.

The Council has already closed the core area of the PIBKC stock to all trawling through Amendment 21a (establishing the PIHCA). The next logical step is to extend this closure to fixed gear fisheries. Figure 10-11 (page 42 of the EA) shows that the majority of fixed gear bycatch occurs in the eastern area of the PIHCA, where it overlaps with management area 513. It further shows that a large portion of fixed gear bycatch is contained in the northern part of this sub-area, where the PIHCA overlaps with the ADF&G crab closure area:

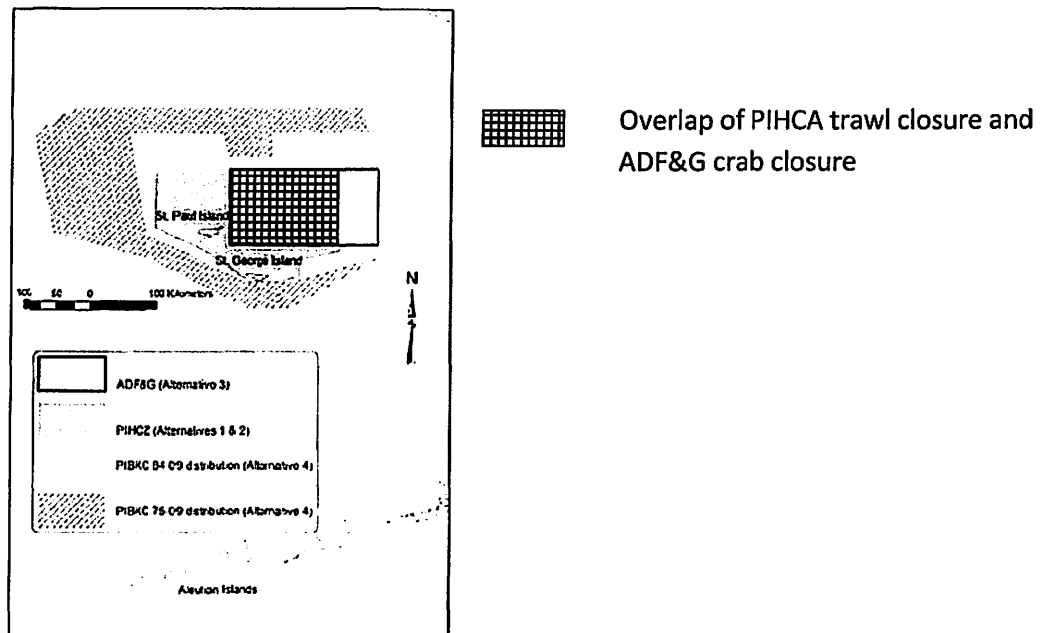


Figure 10-5 A comparison of relative extent of closures under Alternatives 1-4.

To be clear, we do not recommend closing this area; we simply provide it as an option that appears to give the most return for the least harm if the Council feels compelled to act.

Summary

We believe that the Council has fulfilled the MSA requirement to establish ACLs and AMs for the PIBKC stock. The stock is not expected to be rebuilt under any scenario within the next 50 years, even if there is no fishery-related mortality. Environmental conditions appear to be the driving force, and National Standard One allows consideration of this when determining what actions, if any, must be taken.

The PIHCA has already been closed to all trawl fisheries, and areas surrounding this closure are valuable flatfish grounds. Closing additional areas to trawl fisheries will have significant economic cost as vessels are forced to move to less desirable grounds which may have higher halibut bycatch, and would have a minimal impact on the amount of PIBKC bycatch overall. We believe triggered closures are not viable because, applied across sectors, they create a race for bycatch that is ultimately detrimental to everyone.

The exemptions the Council is considering for sectors with low levels of bycatch (5% or 10% of the ABC) should be applied to the average bycatch level, not specific years. If this is done, the only fishery that exceeds the 10% threshold is the pot fishery.

If the Council feels compelled to institute additional closures to protect PIBKC, they should be applied to fixed gear within the PIHCA as a logical 'next step' following trawl gear closures in that area. Given the location of most fixed gear bycatch shown in the analysis, it may make sense to limit the closures to sub-sections of the PIHCA where it overlaps with Area 513 or with the ADF&G crab closure.

We appreciate the opportunity to offer these comments.

Sincerely,



Lori Swanson
Executive Director

C4(c) Pribilof Blue King Crab Rebuilding Motion

April 2, 2011

1. **Take final action to revise PBKC rebuilding plan no sooner than October 2011**
2. **Address comments by AP as appropriate**
3. **Under Option 5D (Distribution of PIBKC from 1984-2009) Suboptions 3 and 4, analyze allocation of trigger cap to:**
 - Non-Pelagic Trawl**
 - Hook and Line**
 - Pot**
4. **For that part of the analysis, include to the extent practicable, historical bycatch from entire PIBKC district.**

5. Discussion...