


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver 
Executive Director

DATE: September 26, 2003

SUBJECT: Aleutian Islands Pollock Fishery

ESTIMATED TIME 2 HOURS

ACTION REQUIRED

Receive staff report on history of the Aleutian Islands pollock fishery and give direction on how to proceed.

BACKGROUND

At its June 2003 meeting, the Council reviewed the issue of re-opening the Aleutian Islands to a directed pollock fishery. The Council noted that it has considered this issue in several recent meetings, but has not chosen to re-open the AI until additional analyses are completed. NMFS reminded the Council that technically the AI is open to the pollock fishery, but that it hasn't been prosecuted in the past several years because no pollock TAC was apportioned to this area (other than the amount needed for bycatch in other target fisheries). NMFS also noted that the agency does not consider a closure of the AI directed pollock fishery as a necessary Steller sea lion conservation measure. In June, the Council asked staff to go back into the records and develop a history of Council actions related to opening/closing the AI to a directed pollock fishery.

The attached report (Item D-1(a)(1)) provides a timeline of Council discussions and actions relative to the AI pollock fishery. Below is a summary of some of the salient points in the history of this issue.

1. The Aleutian Islands have been open to a directed pollock fishery since inception of the MSFCMA, and had remained open through 1998, with TACs during the 1990s ranging from 23,800 to 100,000 mt.
2. A November 1998 special Council meeting was convened to address SSL and groundfish fishery issues. The Council reviewed draft NMFS RPAs that suggested a suite of conservation measures for SSLs, including closure of the AI directed pollock fishery as an option for a "protection zone". The Council scheduled action on the RPAs for their December meeting.
3. The Council took final action on the SSL issue in December 1998, and recommended a suite of SSL protection measures including closure of the AI to a directed pollock fishery. An emergency rule closed the AI for 1999 (the AI remained closed to a directed pollock fishery through 2000).
4. Court challenges to the 1998 BiOp, and to the TAC setting process during next two years, led to the development of an FMP-level BiOp in 2000; the 2000 RPA excluded a closure to a directed pollock fishery in the AI. The Council rejected the RPA based on public comments and other concerns and formed its RPA Committee.

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5. The Council's RPA Committee developed a revised RPA which was included as one of the alternative actions in the 2001 NMFS EIS and BiOp.
6. The Council met in October 2001 to review the 2001 EIS and BiOp, and chose its preferred alternative, which was the RPA Committee's alternative (#4), with modifications that closed the AI to a directed pollock fishery in 2002 but opened it in 2003 (outside SSL critical habitat and with a 40/60 TAC split); the Council requested analysis of a trailing amendment that would analyze the effects of opening the AI to a pollock fishery.
7. At the Council's April 2002 meeting, an EA for a trailing amendment to open the AI to a directed pollock fishery was reviewed and sent out for public review (with a request for some revisions – which were included in the review draft).
8. In October 2002, the Council approved Alternative 2 in the trailing amendment package, maintaining the AI pollock fishery closure for another year. The motion recognized a need for more information with which to better evaluate the effects of opening this fishery, including a cumulative impacts analysis and other analyses requested in the Council motion. During Council discussion, NMFS pointed out that the closure is not a SSL conservation issue. Staff were tasked with gathering the information listed in the motion.
9. In April 2003, the Council asked for a report on progress in preparing the information requested in October 2002. NMFS reported that some of the analyses were being conducted as part of other projects.
10. In June 2003, the Council repeated their desire to have additional analysis available to determine whether to re-open the AI to a directed pollock fishery; the Council requested a review of the history of this issue for review at their October 2003 meeting.

The full report, attached Item D-1(a)(1), provides a more detailed account of the history of Council actions on the AI pollock fishery issue. This document has seven attachments, two of which are the Council-requested transcripts of the SSL discussions at the October 2002 meeting.

At this point the Council could consider several actions: 1) keep the AI closed by not apportioning TAC for a directed pollock fishery, 2) develop a new NEPA document that would evaluate the impacts of opening, or closing permanently, the AI to a directed pollock fishery, or 3) wait until the Programmatic Groundfish SEIS is complete and take action under its policy umbrella. The Programmatic Groundfish SEIS does provide for a management policy framework within which the Council could address this issue in the near future. Should the Council wish to permanently open (or close) the AI to a directed pollock trawl fishery, the analysis of this measure could tier off the Programmatic Groundfish SEIS once the Council's selected policy is adopted.

Aleutian Islands Directed Pollock Trawl Fishery

The following is a review of Council discussions and actions on the issue of opening or closing the Aleutian Islands to a directed pollock trawl fishery. This was prepared in response to a Council motion passed at their June 2003 meeting.

Introduction

Since the Council began managing the groundfish fisheries in the Alaskan EEZ, the Council has provided for a directed pollock trawl fishery in the Aleutian Islands. During the 1990s (through 1998), TACs for the AI have ranged from 23,800 to 100,000 mt (plus approximately 1,000 mt for the Bogoslov District starting in 1994). Since 1990, the Council's recommended TACs were:

<u>Year</u>	<u>Recommended TAC (mt)</u>	
	<u>AI</u>	<u>Bogoslov District</u>
1990	100,000	
1991	85,000	
1992	51,600	
1993	51,600	
1994	56,600	1,000
1995	56,600	1,000
1996	35,600	1,000
1997	28,000	1,000
1998	23,800	1,000
1999	2,000	1,000
2000	2,000	1,000
2001	2,000	1,000
2002	1,000	100
2003	1,000	50

The history of the AI pollock fishery closure begins, then, in late 1998 when the Council was faced with Steller sea lion issues. These issues prompted a special Council meeting convened in Sitka during November 1998.

November 1998 Meeting

A special Council meeting was convened to deal with SSL/groundfish fishery interaction issues and the NMFS Section 7 consultation and draft Biological Opinion. The draft 1998 BiOp included a jeopardy finding relative to groundfish fisheries and SSLs. The record indicates that the NMFS RPAs considered by the Council were reviewed in a PowerPoint presentation given by NMFS staff; the presentation included a proposed closure of the AI directed pollock fishery as an option for a "protection zone" measure. The November Council newsletter does not contain a reference to an AI pollock fishery

closure. The Council was scheduled to take final action on the 1998 BiOp and RPAs in December.

December 1998 Meeting

After the Council reviewed NMFS' 1998 BiOp and RPAs, the Council adopted measures to protect SSLs, which included closing the AI to directed pollock fishing (motion by Benton). **(Attachment 1)** After the December meeting adjourned, NMFS prepared a memorandum dated December 16, 1998 (from Pennoyer to Matlock) outlining the Council's recommended revised RPA, which specifically included an AI pollock fishery closure. **(Attachment 2)** NMFS recommended that the SSL RPA be implemented for 1999 as an emergency rule (and the Council and NMFS extended the rule mid-way through 1999 for the remainder of that year). Thus, the AI directed pollock fishery was closed for 1999 as part of an emergency rule recommended by the Council with concurrence from NMFS as a SSL protection measure.

Later, the Court found the 1998 BiOp RPAs were arbitrary and capricious because the BiOp did not provide sufficient explanation of how the RPAs would provide SSL protection, and remanded the BiOp back to NMFS for more information. NMFS prepared a document that complied with the Court's order – a document entitled "Revised Final RPAs" dated October 1999. The RFRPAs specifically included the closure of a directed AI pollock fishery as a necessary SSL protection measure. **(Attachment 3)**

In the next two years, NMFS' TAC setting BiOps also were challenged in Court. This led to preparation of an FMP-level BiOp in 2000 that re-examined groundfish fishery interactions with SSLs. The 2000 (FMP) BiOp and its single RPA did not contain a recommendation to close the AI to a directed pollock fishery as a SSL protection measure. Rather, the RPA specifically recommended that an AI directed pollock fishery could be prosecuted with a 40/60 % TAC split outside critical habitat. The RPA included this language: "...a portion of the AI will be opened to pollock fishing that was previously closed under earlier biological opinions..." This 2000 FMP-level BiOp superseded the previous agency position on SSL protection measures.

At its December 2000 meeting, the Council rejected NMFS' 2000 BiOp RPA and formed an RPA Committee to address Council and public concerns. Eventually, the RPA Committee developed a suite of proposed SSL protection measures that were included by NMFS as an alternative in a new 2001 EIS and BiOp, which was presented to the Council in October 2001.

October 2001 Meeting

The 2001 SSL Protection Measures EIS was a main subject of Council action in their October 2001 meeting. The meeting agenda included Council selection of a preferred alternative in the dEIS. Duffy moved to accept Alternative #4. This was the alternative

developed by the Council's RPA Committee and was called "the area and fishery specific approach".

[The RPA Committee's recommendations for the AI pollock fishery provided for "One season opening on January 20, with no directed fishing for pollock inside critical habitat. The following pollock TAC would be available in the AI:

Total pollock TAC:	23,800 mt
CDQ reserve	2,300 mt
AFA	19,420 mt
ICA	2,000 mt"]

However, the Duffy motion included a provision to amend the RPA Committee's alternative for "closure of the Aleutian Islands to directed pollock fishing west of 170 west longitude". The Duffy motion also stated that the Council would consider at a future date, after analysis and public comment, a trailing amendment which had two suboptions to the AI closure: a) a single season outside of critical habitat, and b) a split season (40/60 % of TAC). Madsen seconded the Duffy motion.

During discussion, and before the vote, the Council separated all the trailing amendment suggestions from the motion and put them into a trailing amendments list.

Also during discussion, and before the vote, the Council clarified (friendly amending motion) the AI closure issue "to provide that the Aleutian Islands pollock fishery outside 20 miles would be open in 2003 (closed in 2002), with the TAC split 40% in winter and 60% in the summer. A trailing amendment would consider three suboptions: (1) closure, (2) split season of 60/40, and (3) a single season outside critical habitat." This was subsequently clarified that the TAC split and seasons would mirror those of the eastern Bering Sea. The motion carried.

Another Council motion proposed to analyze 8 trailing amendments. The list included "For the Aleutian Islands pollock fishery, examine three options: a) closure, b) a single season outside of critical habitat, and c) a split season (40/60 % of TAC)." The motion carried.

In summary: The wording of the final motion on the AI closure issue stated: "Closure of the Aleutian Islands to directed pollock fishing west of 170 west longitude in 2002. Directed pollock fishing would open in the Aleutian Islands in 2003 with a seasonal TAC split of 60/40." The final motion also included a list of proposed trailing amendments to be considered in 2003. (**Attachment 4**)

[The final specifications for 2002 provided for a bycatch only pollock TAC in the AI.]

February 2002 Meeting

The Council received a report from NMFS on whether the trailing amendments, if approved, would constitute jeopardy to SSLs and/or adverse modification of SSL habitat,

thereby negating the intent of the protection measures and undermining their effect. NMFS stated they could not "...endorse them without balancing their implementation with additional protection measures imposed on other segments of the fishing fleet. Until new information becomes available to indicate otherwise, NMFS believes strongly that Steller sea lion protection measures determined necessary to avoid jeopardy to the western population of these animals or adverse modification to their habitat must not be eroded."

In response to the NMFS report, Krygier moved "to request NMFS to begin analysis [of] Item #7 of the trailing amendments: 'For the Aleutian Islands pollock fishery, examine the following three options: a) closure, b) a single season outside of critical habitat, and c) a split season (40/60 % of TAC).'" Madsen seconded the motion. The motion carried.

Balsiger noted that NMFS would need to review this motion in context with other trailing amendments to determine if the changes might constitute jeopardy to SSLs.

The Council indicated their intent that trailing amendment items #7 (AI pollock fishery) and #9 (BOF exemptions) be analyzed as soon as possible; the draft analysis was to be reviewed by the SSL Mitigation Committee before Council review, but if not possible, then this review could occur concurrently.

April 2002 Meeting

The Action Memo for C-10 notes that the SSL Mitigation Committee had not yet met.

The Council was presented with an EA/RIR/IRFA for proposed trailing amendments on both the AI pollock fishery issue and the BOF exemptions issue; the document was prepared by NMFS. For the AI pollock fishery, the EA/RIR/IRFA proposed three alternative management regimes:

- Alternative 1 – No action. The AI directed pollock fishery outside SSL critical habitat would be allowed in 2003 and beyond. The TAC in this area would be apportioned 40% to the A season and 60% to the B season.
- Alternative 2 – Continue to prohibit a directed fishery for pollock in the AI in 2003 and beyond.
- Alternative 3 – Allow a directed pollock fishery in the AI outside SSL critical habitat without seasonal apportionment of the TAC.

(Two additional alternatives addressed the BOF exemption issue.)

The SSC report noted that the EA/RIR/IRFA was deficient and should provide the history of why the AI directed pollock fishery was closed and what has changed to justify its reopening at this time.

The AP asked that the Council not release the EA/RIR/IRFA until the SSC's concerns were addressed and new survey data were included.

In Council action, Duffy moved to release the EA/RIR/IRFA for public review. Samuelson seconded the motion. Balsiger stated that the former RPA Committee did not see a reason to close the eastern AI to a directed pollock fishery to protect SSLs, and "...There was no advantage to the sea lions by keeping it closed." The motion carried. The Council Newsletter notes that the analysis of the amendment package, after inclusion of the SSC and AP recommended materials, would go out for public review, with final action on the amendment occurring in June 2002. [NMFS made those changes by adding a history of the opening/closing, the consultation process, and NMFS' reasoning for their position on the issue.]

June 2002 Meeting

The Action Memo notes that the SSL Mitigation Committee had not yet met.

The Council again reviewed the trailing amendment package with its 5 alternatives, 3 of which addressed the AI pollock fishery issue.

The AP recommended Alternative 1 – No action (open the AI to directed pollock fishery in 2003 and beyond with a 40/60 % TAC split). The AP further stated their belief that "...if there are concerns with the status of pollock stocks, they should be handled under the annual TAC setting process as has been done in the past."

The meeting minutes indicate that the Council took no action on this issue.

October 2002 Meeting

Under Agenda Item C-2, the Council again was to take up the trailing amendments, including the AI directed pollock fishery issue. The Council was provided with the AP recommendations from the June 2002 meeting: Alternative 1, No Action, allow the AI directed pollock fishery to open in 2003 and beyond with a 40/60 % TAC split. The Council also was provided with the updated EA/RIR/IRFA of the trailing amendment package prepared by NMFS. The following is a summary of the Council's deliberations from the October 2002 meeting minutes (which have not been approved yet); this synopsis also includes information from the verbatim transcript.

(A Transcript of the October 2002 C-2 Council discussion is Attachment 5)

During Council discussion, Duffy moved to select Alternative 2, maintaining the AI pollock fishery closure for one year. Madsen seconded the motion. Duffy's reasoning for maintaining this closure was the following:

- The AI continue to see SSL population decline
- Pollock are an important component of prey diversity and forage availability when the weaned SSL pups are feeding

- The SSC recommended in April 2002 a review of the history of why the AI pollock fishery was closed and what changed to justify its reopening (and that information is not available yet)
- Uncertainties in the AI pollock stock structure make it difficult to analyze the impact of a fishery outside of 20 n mi
- Cumulative effects of multiple fisheries (for Atka mackerel, Pacific cod, and pollock) have not been sufficiently analyzed
- A precautionary approach for one year is called for until additional information is provided

Duffy further stated his intent that the Council needs before it further analysis and advice from the SSC, and that, after consideration of additional information, and absent Council action, the pollock fishery would open in 2004.

Fluharty noted that new studies have provided substantial new information on what the effects would be of an AI pollock fishery. He believed that a pollock fishery reopening in the AI would be cautious, not a wide-open measure, and if this action were taken it would still be considered precautionary. A substitute motion (by Fluharty) to adopt Alternative 1 failed.

Bundy noted that the Council's objective is to maintain SSL protection while avoiding unnecessary burdens on fisheries. Bundy questioned the reasoning for closing the AI to pollock fishing, and asked that the debate be on the merits and "Not in the guise of a Steller sea lion measure." (Transcript) Bundy noted:

- In the EA it says that Alternative 1 (open the AI in 2003 outside CH with 40/60) would not jeopardize SSLs nor adversely modify their habitat
- NMFS has stated that no additional conservation benefits would accrue to SSLs by the closure of the AI
- NMFS has stated that it does not see a complete closure of the AI as a tool for supporting the survival of SSLs or for protecting their habitat
- And the EA/RIR/IRFA also states "NMFS cannot determine that any conservation gained for sea lions would accrue from this closure"

Anderson supported keeping the AI closed as a precautionary measure, particularly since there would be no adverse economic impact from the closure, until the Council has more information.

Austin noted that since there's no scientific link between an AI pollock fishery and SSLs, there seem to be "...other agendas afloat on this issue than our concern for Steller sea lions. And if that is true, I think we need to address those specifically..."

Madsen supported a closure for one year, but that more discussion should occur under Staff Tasking so as to decide how this issue will be handled during this coming year.

Benton recounted that in 1998, when the Council voted to close the AI to a directed pollock fishery, the reason was problems with the pollock stocks and with SSLs. At that time the Council did not have sufficient analysis to reopen the AI with confidence because the analysis did not show cumulative effects of reopening the fishery and how the fishery would interact with SSLs and the new fishery management measures. Also, because of the Council's action on SSLs and other actions with other fisheries occurring in the region when the AI pollock fishery was closed, the Council needed to look at how the AI pollock fishery would change and interact with other fisheries occurring in the region (and didn't have that information at the time). The reason the Council kept the fishery closed was because of that uncertainty and not having the full analysis in front of them. Benton also noted that the SSC identified deficiencies in the analysis and the Council wanted to see more cumulative effects analyses.

Benton noted his concern for sending a potentially very confusing message to the Court by reopening the fishery. He felt that the Council doesn't want to give the impression that they were acting inappropriately without sufficient information.

Balsiger stated for the record that the Zilly hearing is on record, and that record is supported by the BiOp produced by NMFS as part of the RPA Committee's process, that to avoid jeopardy the Council does not have to close the fishery; the Council also does not have to close this fishery to be cautionary. Balsiger supported the substitute motion (to adopt Alternative 1 – reopen the fishery) because it helps NMFS to allow the proposed rule to go through and the Agency could still accomplish the closure by setting TAC=0 without interfering with the progress of the proposed rule.

Madsen moved to amend the main motion to take up this issue under Staff Tasking; Nelson seconded the motion. The motion carried. The amended main motion carried.

[The effect of the passed motion was to adopt Alternative 2 (close the AI for one year) and to discuss how to proceed further under Staff Tasking.]

Under Staff Tasking, Duffy moved to adopt the following work plan for the Aleutian Islands pollock trawl closure. To paraphrase: In April 2002 the SSC recommended modifications to the SSL trailing amendment package to correct some deficiencies, in particular to provide an historical perspective as to why the Aleutian Islands pollock fishery was closed and what has changed since that time that would warrant its reopening. Also, the SSC in October 2002 cautioned that it was too soon to conclude that the western population of SSLs was recovering and that the pup counts in this area continue to decline in the 2002 SSL survey. The AI pollock fishery has been closed for the past 4 years; reopening it under the proposed SSL protection measures will result in markedly different spatial and temporal fishing patterns in the AI. A comprehensive review of the effects of reopening the fishery needs to be done prior to authorizing the fishery.

Duffy further stated that the review should build on the EA developed by NMFS and should include a description of:

- The current SSL stock structure within the AI
- A consideration of the current theory and information regarding localized fishery depletions and SSL prey densities
- The importance of such prey densities and forage availability to weaned pups and nursing females
- The most current telemetry information on weaned pups and foraging outside of critical habitat in the AI
- The cumulative effects on these SSL age classes resulting from multiple fisheries on SSL prey in the AI (Atka mackerel, Pacific cod, and pollock)

In addition, Duffy stated that the review should include an analysis of the cumulative impacts arising from reopening the AI pollock fishery on bycatch of target and non-target species, forage fish, or other prey of SSLs and the potential impacts on other fisheries. This should include such issues as changes in fishing patterns in the other AI fisheries which have come about during the period of the pollock closure, any changes in spatial and temporal distribution in the pollock fishery arising from proposed SSL measures, and any impacts which might affect participants in other fisheries in the region as a result of reopening the AI pollock fishery. The report should be provided to the Council for consideration at their April 2003 meeting.

Madsen seconded the motion and it carried without objection. In clarifying discussion, Duffy noted that the April 2003 deadline was not hard and fast; Balsiger noted that since the work would involve primarily NMFS staff, and given other major staff commitments, the deadline might slip, which was satisfactory to Duffy. Also, discussion clarified that this work should not be extensive; staff should build on available information in the programmatic sEIS and other documents and add to the existing EA/RIR/IRFA and not “reinvent the wheel”.

(A transcript of the October 2002 Council discussions of Staff Tasking is Attachment 6)

April 2003 Meeting

Under Agenda Item C-3, the Council was to hear a report on how NMFS was handling the Council’s request for updated information relative to the AI pollock fishery closure issue. NMFS presented to the Council a letter outlining how the Agency is addressing the points listed in the Council’s October 2002 requested work plan. **(Attachment 7)**

In their letter, NMFS stated that the AI pollock fishery, while authorized under the SSL protection measures, “...has been closed since 1999 under the annual harvest specifications to address pollock resource and fishery management concerns.” NMFS noted that it reported to the Council in February 2003 that staff workload priorities conflicted with the Council’s expectation for NMFS to develop the analysis requested in the Council’s October 2002 motion. NMFS further stated that the Agency supports the

premises of the 2001 BiOp that fishing activities conducted under the SSL protection measures are not likely to cause jeopardy or adverse modification.

NMFS reported that its work on the Zilly remand order includes continued evaluation of effects of fishing activities on SSLs, that this work will partially fulfill the Council's motion, and this work "...will reiterate that pollock closures in the Aleutian Islands beyond critical habitat are not an integral part of the conservation strategy for SSLs." NMFS' letter further stated that opening of an AI pollock fishery outside of critical habitat (under the AFA and with a seasonal apportionment of TAC of 40/60 %) "...would not require re-consultation under section 7 of the ESA, because the action of having a pollock fishery beyond critical habitat has already been considered (2001 BiOp)."

NMFS also noted that in the near future the Agency will be re-consulting on SSL issues associated with several other pending actions, including the programmatic sEIS and EFH, but that no new information from new and ongoing SSL research has been received to date to cause NMFS to re-consult on the BSAI or GOA groundfish fisheries.

The NMFS letter concluded that the intent of the Council's October 2002 requested work plan is being addressed by a number of agency initiatives.

During discussion under Agenda Item C-3, the Council reiterated its concern that adequate NEPA documentation was not available to allow authorization of an AI pollock fishery. The Council directed staff to bring to the June 2003 meeting available NEPA documentation on this issue including the May 8, 2002 draft EA/RIR/IRFA for the proposed trailing amendment package that included reopening the AI to a directed pollock fishery. The Council intended to address management options for the AI pollock fishery in June 2003.

June 2003 Meeting

Comments during discussion of C-6 included remarks from Benton that "...things have changed out there" (in the AI) and more analysis is required before the Council can address this issue. In a similar vein, Duffy remarked that a cumulative effects analysis is required before addressing the AI pollock fishery issue. The Council moved discussion of the AI pollock closure issue to Staff Tasking.

Under Staff Tasking, the Council debated how to address the AI pollock fishery issue and whether this fishery could be opened in the future. Krygier noted that there's a lack of a cumulative effects analysis and the Council needs information on impacts of re-starting a large fishery in the AI, particularly impacts on local communities and on the whole ecosystem. Madsen noted that NEPA documentation would take some time to develop. Oliver noted that the AI pollock fishery was authorized under the 2001 SSL protection measures but was closed because no TAC was apportioned to that fishery. Benton cautioned that opening the AI pollock fishery through the TAC setting process might subject the Council to legal action because of lack of NEPA analysis. Madsen asked if the BiOp Addendum now being finalized would suffice. Additional discussion ensued

about what the October 2002 motion was and how the AI pollock fishery re-opening might be effected; discussion included differing opinions of how that process would proceed. Madsen moved to have staff prepare a discussion paper that includes the history of the Council's discussions and motions on this issue, a transcript of the Council's discussions during the October 2002 meeting, and a summary of what NEPA documentation is available that addresses opening the AI pollock fishery (this is a general sense of the motion). Anderson seconded the motion. The motion carried.

Summary

Throughout the 1990s (and previous years), the AI has been open to a directed pollock fishery. Since 1999, the AI has been closed to this fishery. The Council record suggests that the 1999 closure initially was for SSL conservation, but in succeeding years, although the Council discussion tied a continuing closure to SSL conservation and uncertainty, NMFS did not consider the AI closure as a necessary component of SSL conservation. From 1999 to the present, the closure has been effected by not setting a TAC for the AI.

So, where to go from here?

The programmatic sEIS does not specifically include provisions for either opening or closing the AI. Rather, the psEIS recognizes the uncertainties of fishery effects on the environment and includes a range of policies the Council could follow, including a more conservative or a less conservative approach to fishery management, either of which could include either opening or closing the AI. Should the Council wish to open the AI to a directed pollock fishery, the analysis of this measure could tier off the psEIS once the Council's selected policy is adopted. Alternatively, should the Council wish to keep this area closed to a directed pollock fishery, this measure could be effected through the TAC setting process (again) or tiered off the psEIS. The Council's decision would rely most heavily on a focused analysis of the proposal and the public's comment on the alternatives. The Council and Secretary will be taking final action on its preferred policy alternative in 2004. Once made, the Council could choose to initiate a review of the AI pollock issue and draft a purpose and need statement that would trigger an FMP amendment analysis.

NEPA Documents on AI Pollock Fishery

During its June 2003 meeting, the Council requested a list of available NEPA documents related to an AI directed pollock fishery closure/opening analysis. These are documents currently available:

- 2003 final EA/RIR/IRFA on trailing amendment package (only contains analysis of the BOF exemption – Caton Island and Cape Barnabas)
- May 2002 draft EA/RIR/IRFA on trailing amendment package that includes analysis of both the BOF exemption and the AI pollock fishery
- The 2001 BiOp supplement (2003 Addendum)

- November 2001 final supplemental EIS on SSL protection measures
- Annual TAC specifications EAs and attendant SAFE Reports

Upcoming NEPA documentation:

- Programmatic sEIS (provides for an AI pollock fishery – but NMFS hasn't consulted on the programmatic nor completed a BiOp yet)
- EA for TAC setting in fall 2003
- GOA Rationalization dEIS (several years down the road?)
- EFH dEIS (fall 2003)

MINUTES
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C. NEW OR CONTINUING BUSINESS

C-1 Steller Sea Lions

ACTION REQUIRED

- (a) Receive update from NMFS on Section 7 findings.
- (b) Recommend immediate actions as necessary.
- (c) Provide direction on follow-up actions.

BACKGROUND

At our special November meeting we heard extensive public testimony on the issue of Steller sea lions and potential adjustments to the fisheries to protect them. Extensive materials were presented at that meeting including: a summary of the draft biological opinion from NMFS; comments received by NMFS in their public workshops held in late October; comments received by the Council; Chapters 5 and 6 from the I/O3 analysis which dealt with CVOA fishing activities and marine mammals; four proposals from our annual groundfish cycle which addressed sea lion concerns; copies of papers by Boyd, Alverson, and Trites which offered further perspectives on the implications of fishery management measures to sea lion recovery; and, the latest guidance on emergency rule promulgation. These are the materials which we requested you bring to this meeting.

We also heard from NMFS scientists and managers regarding the agency's assessments of the sea lion problem, some possible implications to the fisheries, and the process by which these concerns would be addressed. After much discussion on the issue of process, I believe we reached a mutual understanding with NMFS that it would be the Council's prerogative and responsibility to take emergency action as appropriate, under the Magnuson-Stevens Act, to respond to the agency's Section 7 findings and reasonable and prudent alternatives (RPAs). Then, during 1999, the Council would need to consider for 2000 follow-on plan and regulatory amendments as appropriate, accompanied by a comprehensive analysis.

We expect to have the full biological opinion from NMFS for distribution at this meeting, as well as the recommended RPAs. These RPAs may in some instances be specific, and in some instances may be more generic, giving the Council further latitude in determining appropriate measures to

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accommodate the concerns underlying those RPAs. For your reference, Item C-1(a) contains the actions and suggestions that you made in November (the full AP and SSC minutes are in your notebooks under Tab A). Item C-1(b) is the summary of previous actions taken by the Council and NMFS to protect sea lions. Item C-1(c) contains comments received since the November meeting.

Report of the Scientific and Statistical Committee

The SSC had extensive comments on this agenda issue. Briefly, they expressed discomfort with the speed of the process and indicated that it has hampered their ability to thoroughly review the analysis and has provided less peer review than is desirable. The SSC also stated that there is inadequate understanding of the roles of the Council, public, and the SSC in the Endangered Species Act (ESA) legal process. In addition, the SSC indicated their general discomfort over the large amount of uncertainty in the data and large data gaps which allow many approaches and interpretations, none of which they feel can be overwhelmingly supported by rigorous science at this time. Please see the SSC minutes (Appendix II to these minutes) for more specific comments relating to the alternatives, analysis, emergency measures, and future management measures.

Report of the Advisory Panel

The AP provided the Council with a specific set of actions to be considered under this agenda item. However, the AP stressed to the Council that the actions taken were formulated under an unsatisfactory time constraint and without sufficient or appropriate information. The AP pointed out that the ESA requires the use of the best scientific and commercial data as well as traditional knowledge and, in the AP's opinion, NMFS failed to fulfill those requirements in several different areas (see the full AP minutes, Appendix III to these minutes for detailed comments and their full motion).

DISCUSSION/ACTION

Mr. Pennoyer advised that he would abstain from motions on this subject but would try to provide guidance to the Council with regard to the Secretary's responsibilities.

David Benton proposed the following motion:

There is considerable scientific uncertainty regarding the relationships between the pollock fisheries and the Western population of Steller sea lions. This uncertainty lies at the heart of the concerns expressed by the AP and the SSC. The Council recognizes and shares these concerns. This uncertainty has placed the industry at risk, and forced the Council to react to Endangered Species Act concerns in a very compressed time frame and make critical decisions based on incomplete and conflicting data. This is not acceptable.

Nonetheless, as the SSC has noted, the Endangered Species Act involves a fundamental shift in the burden of proof and some basic facts are clear: 1) The Western population of Steller sea lions is greatly reduced; 2) the Western population has been listed as endangered; 3) pollock forms a large part of the contemporary diet of Steller sea lions; and 4) pollock fisheries remove and disperse potential prey. In view of the importance of the pollock fisheries, the Council is compelled to take immediate action to address the Endangered Species Act issues. Therefore, the council adopts the following measures for emergency action in 1999:

A) Aleutian Islands

Close the Western Aleutian Islands area to directed pollock fishing.

B) Bering Sea

1. Establish a quarterly system of seasonal sector allocations (between A1, A2, B and C seasons). Seasons to start on January 20, March 1, June 1, and September 15, respectively.
2. The combined A1+A2 harvest for the non-CDQ fisheries is set at 40% of the annual non-CDQ TAC.
3. Set the A1 and A2 seasonal allocations at 27.5% and 12.5%, respectively, of each sector allocation in the non-CDQ fisheries.
4. No more than 30% of the annual TAC may be harvested in any single season.
5. Five-day stand-down period between the A1 and A2 seasons.
6. Allow rollover from one season to the next if it doesn't boost the following season over the 30% of annual TAC seasonal limit.
7. Establish seasonal harvest measures from inside Bering Sea critical habitat as follows:

Catcher-processor Sector:

- a) Neither A1 or A2 harvest in critical habitat (CH) may exceed 31% of the respective A1 or A2 apportionments for the catcher-processor sector.
- b) Prohibited from fishing in CH in the B and C seasons.

Catcher Vessels Delivering to Motherships:

- a) Neither A1 or A2 harvest in CH may exceed 31% of the respective A1 or A2 apportionments for the mothership sector.
- b) Prohibited from fishing in CH in the B and C seasons.

Inshore Sector:

- a) Catcher vessels greater than or equal to 155' LOA are prohibited from fishing in CH in the A1 and A2 seasons.
- b) In the B and C Seasons, no size restrictions on CVs, fishing in CH limited to 80% of the inshore sector seasonal allocations.

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CDQ Sector:

- a) Harvests in A1 and A2 seasons, combined, may not exceed 45% of the CDQ allocation. Stand-down provisions do not apply.
- b) Harvests in B and C seasons to be conducted as under present regulations.
- c) GOA
1. Seasons:

Establish the following seasons and allocations:

Season	Start Date	Allocation
A	Jan. 20	30%
B	June 1	20%
C	Sept. 1	50%

2. Limit the A season harvest from the Shelikof critical foraging area in accordance with the method described in the Final Biological Opinion (p. 122), i.e.: (Shelikof survey estimate/total GOA survey estimate) * A season TAC.
3. Pollock Trawl Exclusion Zones:

Adopt the pollock trawl exclusion zones proposed by NMFS in the Biological Opinion with the following exceptions for 1999:

Cape Barnabas; Gull Point; Rugged Island; Point Elrington; Cape Ikolik; Needles; Mitrofanian; and Sea Lion Rocks.
4. Trip limits:

Establish a 300,000 lb trip limit for directed pollock fishing in the W/C GOA.
- D) Other Actions

These measures are being adopted as an Emergency Order in accordance with the MSFCMA. They will be in effect for 180 days. In reviewing the possible extension of these measures for an additional 180 day period, the Council will pay great attention to NMFS' response to the following:

1. The Council requests that NMFS, in consultation with the Council, the Marine Mammal Commission, ADF&G, and other relevant management agencies, coordinate an independent scientific review of the biological data and other relevant information relating to factors affecting Steller sea lions and their prey. The purpose of the scientific review is to provide guidance to the Council as it prepares to address the long-term aspects of the Steller sea lion situation through the plan amendment process. The Council requests that the scientific peer review be completed by April 1, 1999.

2. The Council requests that NMFS reconstitute the Steller Sea Lion Recovery Team to address concerns such as those expressed by the SSC to ensure that the Council has an appropriate additional source of advice as the Council prepares for long-term treatment of Steller sea lion issues.
3. The Council requests that NMFS prepare and submit a budget proposal for the FY 2000 budget for a sustained research program to investigate: the efficacy of the emergency actions adopted by the Council; sea lion dietary and foraging patterns; sea lion/fishery interactions; and current trends in sea lion population dynamics.

The Council recognizes that these management measures represent an incremental step, and are for 1999 only. To fully comply with both the ESA and MSFCMA requirements, amendments to the BSAI and GOA FMPs will be necessary. Such FMP amendments may need to consider additional measures to satisfy statutory requirements.

The written motion was accompanied by a table showing the percent of pollock harvest allowed in the CVOA by sector and season.

The motion was seconded by Robin Samuelsen and discussed at length. Portions of the motion were clarified and others were amended as follows.

Mr. Benton clarified that his motion is intended to include all rookery closure areas in the Biological Opinion. With regard to the stand-down provision, the 5-day closure means the pollock season would close for those five days.

Wally Pereyra moved to amend the motion by substituting the industry proposal for the Bering Sea/Aleutian Islands portion of the main motion (Sections "A" and "B"). The motion was seconded by Dennis Austin.

Referring to the main motion, Mr. Pereyra explained that his motion would delete Section A, and his motion would replace Section B. Section C would remain the same. The substituted parts are as follows:

Substitute the following text for paragraphs A, B, and D in the main motion:

The Council recommends the following additions and modifications to the Bering Sea and Aleutian Islands RPAS:

A: RPA Modifications--

- (1) rollovers should be allowed from one season to a subsequent season so long as no single-season harvest exceeds 30% of the EBS TAC.
- (2) the existing regulatory regimes (trawl exclusion zones or lack thereof) that apply to Amak Island and Cape Sarichef should be maintained.
- (3) each sector, including CDQ, shall have seasonal apportionments and start dates, including allowable harvest inside and outside of the expanded area, as set forth on the attached

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table. The table reflects a combined A1 and A2 season apportionment of 45% and a combined B and C season apportionment of 55% as provided in the NMFS RPAs.

(4) vessels that are 99 feet or less LOA shall be exempt from the caps on seasonal removals from the "critical area" during the period September 1 through March 31.

(5) there will be no division of the B and C season apportionments between the areas east and west of 170°W long.

B: Research Priorities--

(1) NMFS should assess the efficacy of prior and current Steller sea lion mitigation measures.

(2) Since competition between the EBS and GOA pollock fisheries and the Steller sea lion for prey is a primary justification for the finding of jeopardy, NMFS should develop and implement a research program designed to quantify the relationship between the effects of the pollock fisheries and the decline of the Steller sea lion.

(3) The Steller sea lion Recovery Team should be fully funded and brought into the process.

(4) A formal review of the Biological opinion should be conducted by independent scientists recommended by the Chairman after consultation with the SSC, and the review should be made available to the public for comment.

(5) NMFS should acquire and incorporate traditional knowledge from indigenous people as required by the Endangered Species Act.

(6) NMFS should establish a marine mammal recovery team. The team would function like the incidental-take reduction teams established under the MMPA. The team should include university, NMFS and other agency scientists, representatives of the environmental community, the fishing industry and Alaskan Native people, and should work to identify research initiatives designed to establish methods and criteria to evaluate the efficacy of past and future mitigation measures.

(7) NMFS should initiate pollock biomass distribution surveys at the earliest possible date to determine the seasonal distribution of pollock both inside and outside of critical habitat, and to test the hypothesis that the fishery and Steller sea lions compete for prey.

New Paragraph D: Other Measures--

(1) Existing stand-down requirements prior to the beginning of the pollock seasons will be removed from the BSAI groundfish regulations.

With regard to the two rookery areas Mr. Pereyra's motion omits from further regulations (Amak and Sarichef), Mr. Pereyra said that current regulations seem to be effective in protecting the sea lion and no further measures should be taken until the results of those actions can be verified.

Ms Behnken pointed out that the substitute motion still allows more harvest during the A1 and A2 seasons that NMFS is recommending, and it fails to protect two key rookery areas identified by NMFS. Mr. Benton indicated this his motion is similar to the substituted portion in most areas, however he is also concerned that it would allow for a large part of the quota to be taken in critical habitat area during the A1 season.

Mr. Pennoyer advised that the substitute motion does not conform to the RPAs.

The motion was subsequently changed, through friendly amendments, to reduce the catch in the A1 and A2 seasons in a proportional manner across all industry sectors to reduce from 70% to 62.5%, and to remove the Amak rookery from the motion, thus returning it to a protected rookery area.

Mr. Pereyra's motion to amend failed, 6 to 4, with Austin, Fluharty, Mace and Pereyra voting in favor, and Mr. Pennoyer abstaining from the vote.

The following amendments and clarifications to the main motion were then offered and accepted:

- Implicit in the motion that there will be no pollock fishery between November 1 and January 19.
- Harvest measures listed in #7 of the original motion would be applied not only to critical habitat but also to that portion of the CVOA east of the critical habitat area.
- Of the vessels allowed to fish in the critical habitat/CVOA complex identified, during the A1 and A2 seasons, no more than 80% of the inshore allocation can be taken in that area. The intent would be to place a cap on the catch in that area, i.e., no more than 80% of the inshore seasonal allocation could be harvested in the critical habitat complex.
- Clarified that the Council is requesting the removal of the existing stand-down requirements in the BSAI by emergency rule. This does not include the five-day closed period in the current motion. It was also suggested that terminology should be changed to differentiate between the two terms - "standown" vs "closed area." There was some question whether this issue relates to the Steller sea lion issue. Mr. Pereyra explained that the current stand-down provisions combined with the closed areas being suggested to protect sea lions would negatively impact the ability of the different sectors to participate in fisheries in which they have participated in in the past.
- Season start dates for the Bering Sea 'B' and 'C' seasons would be changed from June 1 to August 1 and from September 15 to September 1, respectively. The intent is to try to avoid possible excessive salmon bycatch.
- Vessels delivering onshore that are 99 ft LOA or less shall not be excluded from the CH/CVOA during September 1 through March 31 during any time that the Bering Sea onshore pollock season is open to provide some protection to smaller vessels. Council intent is that NMFS would close the CH/CVOA prior to the applicable CH/CVOA cap being reached for the larger boats leaving sufficient quota remaining within the CH/CVOA to allow the smaller boats to fish for the duration of the onshore fishery that for others would be taking place outside the CH/CVOA. Clarification: All boats would stop fishing when the overall seasonal quota is taken. If the quota inside the CH/CVOA set-aside for small catcher boats is taken by the small boats prior to the end of the pollock, the CH/CVOA would then close to all fishing. Mr. Benton stressed that it should be kept in mind that the AFA allocates no less than 8.5% of the available offshore TAC to those catcher vessels delivering to catcher processors.

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- For catcher vessels delivering to motherships there would be two seasons only: A season, beginning February 1, and B season, beginning September 1. For the A season, 50% of the quota could come from the critical habitat/CVOA area; in the B season, 50% could come from that area and 50% from outside that area.
- Exempt Cape Sarichef from sea lion closures.
- Urge NMFS to move quickly to develop national standards for vessel monitoring systems so that such systems can be required on fishing vessels engaged in the trawl fisheries of the GOA and BSAI. Council intent is that NMFS will consult with affected states, councils and other federal and enforcement agencies to assure that the U.S. Coast Guard and other regional enforcement agencies will have timely and efficient access to VMS data.
- To reduce the percentage of catch coming out of critical habitat during the A1-A2 season to comply with NMFS recommendations, reduce the inshore sector A1-A2 season cap from 80% to 70%; remove the 155 ft. LOA catcher vessel restriction for the 'A' season. With regard to the offshore sector, set the A1-A2 seasonal allocation at 40%. For motherships, allow 50% of the total annual allocation to come out of critical habitat area for A1 season (reduced from 100%).
- Under Section B.1, change the A2 season start date to February 20. The reason is poor quality of fish and unnecessary waste.

The motion, as amended, carried, 8 to 2, with Austin and Pereyra voting no and Pennoyer abstaining.

C-2 American Fisheries Act

ACTION REQUIRED

Review progress and provide staff guidance for developing follow up amendments.

BACKGROUND

Provisions of the American Fisheries Act (AFA) were presented during the special November Council meeting. Following that overview, the Council took action on issues which required immediate resolution for the 1999 fishing seasons. These are reiterated below, as they were described in our recent newsletter:

ACTIONS TAKEN AT NOVEMBER 1998 MEETING

- Comment to the Secretary of Commerce to revise the following IO3 regulations to be compatible with the various elements of the Act:
 1. the allocation percentages and duration of allocations as written in the Act.
 2. the 2.5% set aside for catcher vessels delivering shoreside is no longer necessary.
 3. the exclusion of offshore catcher vessels from fishing in the CVOA during "B" season is no longer necessary.



MEMORANDUM TO: Gary Matlock, Director
Office of Sustainable Fisheries

FROM: Steven Pennoyer, Regional Administrator *Pennoyer*
Alaska Region

SUBJECT: Revised reasonable and prudent alternative for the
1998 Biological Opinion on authorization of a pollock
fishery under the Bering Sea-Aleutian Island
groundfish Fishery Management Plan, and authorization
of a pollock fishery under the Gulf of Alaska
groundfish Fishery Management Plan

On December 3, 1998, the National Marine Fisheries Service (NMFS) finalized a Biological Opinion on the two subject pollock trawl fisheries and the Atka mackerel fishery in the Bering Sea/Aleutian Islands region. The Biological Opinion concluded that the pollock fisheries were likely to jeopardize the continued existence of the endangered western population of Steller sea lions and were likely to adversely modify designated critical habitat for Steller sea lions. The Biological Opinion identified principles that a reasonable and prudent alternative to the fisheries would have to address to avoid the likelihood of such jeopardy and adverse modification. Finally, the Biological Opinion provided an example of a reasonable and prudent alternative that complied with those principles and could be implemented by NMFS.

On December 13, 1998, the North Pacific Fishery Management Council (Council) adopted measures to reduce the adverse effects of the 1999 pollock fisheries in the Bering Sea and Aleutian Islands and the Gulf of Alaska on the western population of Steller sea lions (attached). These measures constituted the Council's response to the reasonable and prudent alternative outlined in the subject Biological Opinion.

The Council's proposed measures, with the modifications we propose below, adhere to the principles that were identified in the December 3, 1998, Biological Opinion by dispersing the pollock trawl fisheries and protecting Steller sea lion foraging areas in ways that eliminate competition between the fisheries and the sea lions. Specifically, the Council's proposals to limit catch by season and area, combined with the annual TAC recommendation and the requirements imposed by other laws, will:

- Reduce the overall pollock TAC in the Bering Sea by 108,000 mt compared to 1998;



- Further reduce the overall TAC in the Bering Sea/Aleutian Islands region by closure of the Aleutian Islands fishing area (a reduction of about 25,000 mt);
- Reduce pollock harvest in the combined catcher vessel operation area (CVOA) and Steller sea lion critical habitat (CH) by about 183,000 mt from levels in 1998;
- Extend the A seasons' duration in the Bering Sea by 3 weeks compared to 1998;
- Reduce probable daily harvest rates in the CVOA/CH by an estimated 30%;
- Close the Bering Sea to significant pollock harvests between the two winter seasons instead of concentration in one season;
- Create seasonal and year-round closures of critical rookery and haulout areas in the Bering Sea and Gulf of Alaska;
- Spread the Gulf of Alaska pollock harvest to better conform to known biomass distribution; and
- Further coordinate and analyze available scientific and management information to promote the conservation of the endangered western population of Steller sea lions.

For these reasons, I recommend incorporating the Council's measures, as modified below, into the reasonable and prudent alternative of the December 3, 1998 Biological Opinion. My staff and I have carefully reviewed and considered the measures we recommend for inclusion; based on our review, we believe they are consistent with the principles and the alternative contained in our December 3, 1998, Biological Opinion. Consequently, we believe the measures are also consistent with our obligations as a Federal action agency (pursuant to 50 CFR 402.15) to determine whether and in what manner to proceed with an action in light of its section 7 obligations.

In the Bering Sea, I recommend accepting the Council's measures for the A1 and A2 seasons (with the modifications detailed below). The Council's recommendations for the Gulf of Alaska will be fully included, except that, in the year 2000, we will close the eight pollock trawl closure areas exempted by the Council's motion, absent other alternative management measures that are compelling and provide Steller sea lion's with an equivalent level of protection. The measures outlined for the B and C seasons in the December 3, 1998, Biological Opinion would remain in effect unless the Council takes further action.

Therefore, I recommend incorporating the following measures into the example reasonable and prudent alternative in the December 3, 1998, Biological Opinion on the Bering Sea and Aleutian Islands pollock fishery and the Gulf of Alaska pollock fishery. That example, as

modified by the following measures, would constitute NMFS' final reasonable and prudent alternative for the Biological Opinion. I recommend that your office initiate the appropriate procedures to promulgate this reasonable and prudent alternative through an emergency rule pursuant to the Magnuson-Stevens Fishery Management Act. The emergency rule would extend for 180-days. The Council should then be asked to submit further measures for the Bering Sea B and C seasons that are more consistent with the reasonable and prudent alternative contained in the Biological Opinion. If the Council provides suitable measures for the B and C seasons in the Bering Sea, then appropriate procedures would be initiated to promulgate those measures in a second emergency rule at the end of the initial 180-day period. If the Council's measures are not sufficient to satisfy the principles outlined in the reasonable and prudent alternative, then NMFS will implement the alternative as contained in the December 3, 1998, Biological Opinion.

Specifically, then, I recommend that NMFS initiate the appropriate procedures to implement the following measures adopted by the Council (or added by NMFS; e.g., the Cape Sarichef haulout closure) as emergency rules. Some of these measures pertain to sector allocation, but also have bearing on sea lion conservation as they influence harvest rates in critical areas.

A. Aleutian Islands

Close the Aleutian Islands area to directed pollock fishing.

B. Bering Sea

1. Establish a system of sector allocations between the A1 and A2 seasons to start on January 20 and February 20, respectively.
 - a. No pollock fishing between November 1 through January 19 (except for CDQ).
 - b. CH/CVOA complex, excludes the NW corner of the CVOA that is outside of designated critical habitat for the Steller sea lion.
2. The combined A1 and A2 harvest for the non-CDQ fisheries is set at 40% of the annual non-CDQ TAC. In addition, in the A1 and A2 seasons, the portion of the harvest taken from the CH/CVOA shall not exceed 62.5% of each seasonal TAC, regardless of sector allocations.
3. Set the A1 and A2 seasonal allocations at 27.5% and 12.5%, respectively, of each sector allocation in the non-CDQ fisheries.
4. No more than 30% of the annual TAC may be harvested in either the A1 or A2 seasons.

5. Five day closed period between the A1 and A2 seasons.
6. Allow rollover from one season to the next if it doesn't boost the following season over the 30% of annual TAC seasonal limit. Restrictions on rollover as described in the Biological Opinion are no longer deemed necessary in view of the other measures adopted by the Council to effect seasonal distribution of harvest.
7. Establish seasonal harvest measures from inside Bering Sea critical habitat as follows:

Catcher-processor Sector: Neither A1 or A2 harvest in CH/CVOA may exceed 40% of the respective A1 or A2 apportionments for the catcher-processor sector.

Catcher Vessels Delivering to Motherships: A single A season beginning February 1. 50% may come from the CH/CVOA.

Inshore Sector: Vessels delivering onshore that are 99 ft LOA or less should not be excluded from the CH/CVOA during Sept 1 through March 31 during any time that the Bering Sea onshore pollock season is open. (Note: NMFS will manage overall onshore CV harvests in CH/CVOA so that 70% limit is not exceeded. This means closing vessels over 99' LOA to fishing inside CH/CVOA before 70% limit is reached)

- a. The intent would be to close the CH/CVOA prior to the applicable CH/CVOA cap being reached for the larger boats, leaving sufficient quota remaining within the CH/CVOA to allow the smaller boats to fish for the duration of the onshore fishery that others would be taking place outside the CH/CVOA.
- b. Of the overall A1/A2 inshore cap, no more than 70% shall come out of the CH/CVOA.

CDQ Sector: Harvests in A1 and A2 seasons, combined, may not exceed 45% of the CDQ allocation. Between-season closure provisions do not apply.

8. Existing stand-down requirements of the A season shall be removed.
9. Implement a 10-nm closure around the Cape Sarichef Steller sea lion haulout in 1999 and extend that closure to 20-nm in the year 2000, absent other management alternatives that are both compelling and equivalent in terms of sea lion protection. The measure proposed for the year 2000 would be in the reasonable and prudent alternatives as a basis for a future regulatory amendment.

C. Gulf of Alaska

1. There will be a single A season, beginning January 20, 1999, with a 30% allocation. The B season will begin June 1, the C season September 1, and the D season no later than October 1 and no earlier than 5 days after the close of the C season.
 2. Limit the A season harvest from the Shelikof critical foraging area in accordance with the method described in the Final Biological Opinion (p. 122); i.e., (Shelikof survey estimate/Total GOA survey estimate) multiplied by the A season TAC. The remainder of the A season TAC will be distributed to Areas 610, 620 (outside of 621), and 630 (outside of 631) according to results of the most recent bottom trawl survey.
 3. *Pollock Trawl Exclusion Zones*: adopt the pollock trawl exclusion zones proposed by NMFS in the December 3, 1998, Biological Opinion with the following exceptions for 1999: Cape Barnabas; Gull Point; Rugged Island; Point Elrington; Cape Ikolik; Needles; Mitrofanina; and Sea Lion Rocks. Absent alternatives that are both compelling and equivalent in terms of sea lion protection, these areas will be protected by 10-nm closure areas beginning in the year 2000. The year 2000 measures would be in the reasonable and prudent alternatives as the basis for a future regulatory amendment.
 4. *Trip limits*: Establish a 300,000 lb trip limit for directed pollock fishing in the W/C GOA. This measure will be implemented by NMFS to the degree possible.
- D. Other Actions (which apply to the A, B, and C seasons in the Bering Sea, Aleutian Islands, and Gulf of Alaska).
1. NMFS, in consultation with the Council, the Marine Mammal Commission, ADF&G, and other relevant management agencies, will coordinate an independent scientific review of the biological data incorporated into the Biological Opinion and other relevant information relating to factors affecting Steller sea lions and their prey. The purpose of the scientific review is to provide guidance to NMFS and the Council as it prepares to address the long-term aspects of the Steller sea lion situation through the plan amendment process. To the extent practicable, this effort will be completed by April 1, 1999.
 2. NMFS will reconvene the Steller Sea Lion Recovery Team to address concerns such as those expressed by the SSC to ensure that NMFS has an appropriate additional source of advice as NMFS prepares for addressing long-term resolution of Steller sea lion issues.
 3. NMFS will prepare and submit a budget proposal for the FY 2001 budget for a sustained research program to investigate: the efficacy of the emergency actions adopted by the

Council; sea lion dietary and foraging patterns; sea lion/fishery interactions; and current trends in sea lion population dynamics.

4. NMFS will move as quickly as possible to develop National Standards for Vessel Monitoring Systems (VMS) so that such systems can be required on fishing vessels engaged in the trawl fisheries of the Bering Sea and Gulf of Alaska. Furthermore, it is also Council intent that in developing the National Standards that the NMFS consult with affected states, Councils and other Federal and enforcement agencies with the intent that the U.S. Coast Guard and other regional enforcement agencies have timely and efficient access to VMS data.

C. Aleutian Islands

The Aleutian Islands region will be closed to all directed fishing for pollock.

XI. RFRPAs and jeopardy/adverse modification

NMFS believes that RFRPA principles taken together will avoid jeopardy and adverse modification.

Scientists and managers are data-limited in their ability to understand and resolve this issue. The evidence is sufficient to illustrate a strong likelihood of competition, but the degree of protection necessary to remove that threat is largely unknown. Therefore, NMFS constructed a model that served as the basis for the jeopardy/adverse modification conclusion of the Biological Opinion, and should also serve as the basis for the determination of whether the RFRPAs have avoided jeopardy and adverse modification.

NMFS's additive approach assumes a default condition of a Steller sea lion population unaffected by fishing. This approach then protects key areas and time periods to prevent competition for certain segments of the population around rookeries and haulouts, and during the period of time when sea lions are thought to be particularly susceptible to reductions in prey availability.

Next, this approach allows fishing in remaining areas and time periods where NMFS believes a certain level of fishing and pollock removal will not cause jeopardy or adverse modification. The fundamental difficulty with the addition of fishing is the lack of information on the effects of different levels of fishing on sea lions. The management and research programs conducted in support of the fisheries do not provide the level of detail necessary to understand and resolve the matter of competition at local scales appropriate to sea lion foraging. Until such time as the appropriate information is available, efforts to resolve this issue of competition will depend largely on the conceptual model NMFS uses to provide the necessary level of protection for sea lions.

NMFS's model assumes that the current level of fishing (i.e., as determined by the TAC-setting process) and the overall harvest rate are safe for the pollock stocks. As pointed out earlier in this document, this assumption is supported by extensive literature on the management and harvesting of gadoid stocks and other groundfish. In the Biological Opinion, NMFS extends that assumption to the ecosystem at large, and to Steller sea lions in particular. If the fisheries are dispersed in time and space to the extent that local harvest rates are commensurate with the overall harvest rate. That is, the conclusions of the Biological Opinion were based on the fact that harvests had become concentrated in space and time and as a result, local harvest rates far exceeded the overall harvest rate in some seasons (particularly fall and winter periods) and some areas (Steller sea lion critical habitat). Such concentration of catch and high harvest rates are more likely to result in localized depletion of prey relative to the needs of Steller sea lions.

The issues, then, are 1) whether the RFRPAs provide the appropriate level of protection around rookeries and haulouts, and for the winter period, and 2) whether the allowed level of fishing outside these areas and this time

Council Final Motion on Steller Sea Lions

Adopt Alternative 4 as described in the action memo attached to Agenda item C-2 Description of Alternative 4, based on September 2001 Council action" (pages 2-2 with the following modifications:

- 1) Page 2-28, Applicable to BSAI Atka mackerel fisheries: (second bullet) "TAC would be further apportioned inside and outside critical habitat, with 40% outside.
- 2) Page 2-32, Exclude Options 1 and 3, Include Option 2: Unalaska small boat exemption for Pacific cod. This would establish a fishing zone in the Dutch Harbor area (Area 9) for jig, and longline catcher vessels less than 60 ft. as described on the attached map (presented by the Dutch Harbor fisherman). {All waters of the Bering Sea and Area 9 south of the line connecting the point 3 nm north of Bishop Point to Cape Tanak.} This Option would include a 10 nmi radius closure around the Bishop Pt haulout in Area 9. This area would fish under a 250,000 lbs. Pacific cod harvest cap.
- 3) Page 2-33, Closure of the Aleutian Islands to directed Pollock fishing West of 170 West Longitude in 2002. Directed pollock fishing would open in the Aleutian Islands in 2003 with a seasonal TAC split of 40/60.

Also include the following clarifications:

- 4) P. cod rollover in the BSAI: - Unharvested cod can be rolled over from one season to the next, consistent with bycatch consideration objectives of optimizing catch by gear groups and sectors.
- 5) P. cod trawl fishery closures during the Atka mackerel CH fishery: - P. cod trawling should be closed from 0-20 nmi off rookeries and haulouts in the AI west of 178 West Longitude during the Atka mackerel CH fishery.
- 6) P. cod fishery in the GOA B Season accounting: - The start date for the GOA cod B season would be 6/10, but directed fishing would be prohibited for all gear until 9/1.
- 7) AI CDQ mackerel season: - CDQ mackerel fishing should be governed by a single season as per the 2001 provisions.

With the exception of vessels using jig gear, all vessels participating in a directed fishery for pollock, Pacific cod, or Atka mackerel must have onboard an operable VMS unit during the time period that the respective directed fishery is open in federal waters. Specific VMS provisions will be included in the emergency rule implementing the 2002 Steller sea lion protection measures and would be effective on June 10, 2002.

The Council encourages NMFS to develop standards a protocols for integrating a software backup system which uses existing vessel electronics into the vessel monitoring and data reporting program for groundfish fisheries. The Council also requests NMFS to explore federal funding options for these measures. Should federal funding for VMS become available, NMFS should prioritize funding to vessels fishing for cod with disproportionate costs, possibly based on earnings estimates. NMFS should provide notice to fishermen of possible federal funding 90 days prior to June 10, 2002.

Further, the Council requested that NMFS provide a discussion paper for February on procedures NMFS would use when a VMS unit breaks down on a vessel.

The Council moved to seek an independent scientific review of the F40 harvest policy relative to national standards. The intent of this review is to determine whether changes need to be made to account for ecosystem needs.

Items for a trailing amendment to be analyzed and considered for the 2003 season:

1. Area 8 exemption: allow catcher vessels (of any LOA) using longline gear to fish 3-10 nm from haulouts of Reef-Lava and Bishop Point.
2. Area 4 exemption: allow vessels under 60 feet LOA using fixed gear to fish in waters of the Chignik area.
3. Stand down provisions between A/B and C/D seasons for pollock in the GOA
4. Exemption for all longline, pot, jig gear, and trawl catcher vessels and catcher processors under 60 ft. Identify as a preliminary preferred alternative that the exemption would only apply to catcher vessels.
5. Examine options for a Gulf of Alaska Pacific cod split other than the current 60/40 split.
6. For the BSAI Atka mackerel fishery, analyze options to change percentage inside/outside critical habitat of 50/50 and 70/30.
7. For the Aleutian Islands pollock fishery, examine three options:
 - a) closure;
 - b) a single season outside of critical habitat;
 - b) a split season (40/60 % of TAC).
8. In Area 9, analyze a range of caps for pot, longline and jig gear.

Saturday, October 5th, 2002

Agenda Issue C-2 Steller Sea Lion Measures

Kevin Duffy: Thank you, Mr. Chairman, given the alternative that 1 through 3 is basically separated from 4 and 5, I'd like to deal with Alternatives 1 through 3 dealing with Aleutian Islands Pollock first. I would move that to maintain closure of the Aleutian Islands Pollock Fishery for one year.

Chairman Benton: Second?

Stephanie Madsen: Second.

Kevin Duffy: Thank you, Mr. Chairman. The Aleutian Islands are the only area that continues to see, or one of the main areas that continues to see, Steller sea lion population declines. Recent tagging information indicates weaned juveniles are foraging north into the Bering Sea from the Aleutian Islands from outside of 20 NM. Pollock are an important, maybe not primary, but important component of prey diversity and forage availability where the weaned pups are feeding. There are uncertainties in stock structure of pollock in the Aleutian Islands and it makes it difficult to understand the impact of a fishery outside of 20 NM. In April of 2002, the SSC commented on this particular issue and indicated that additional analysis of this issue and basically they asked for a historical perspective of why the Aleutian Islands was closed back in 1998-99, and they also asked for some additional justification as to reasons why the Aleutian Islands fishery outside of critical habitat should be opened. As far as I'm aware, that historical perspective and following justification has not been generated. Mr. Chairman, I think there is a positive information to some degree on this particular issue and I think it would be in the Council's best interest to continue the closure for one year and provide an opportunity for a further look at the current status of the pollock stocks in the Aleutian Islands to look at the relationship of Steller sea lions and any additional telemetry data that is available on movements of Steller sea lions. We need to continue to observe the population trends relative to Steller sea lions in the Western Aleutian Islands and for those reasons, Mr. Chairman, I think that a one-year closure for additional analysis and then to assess this particular issue would be a precautionary and prudent move by the Council at this point in time.

Chairman Benton: Mr. Bundy.

John Bundy: Thank you, Mr. Chairman, a question I guess of the maker of the motion and whoever else might want to comment. I'm unsure of the effect of the motion. To say that it is closed for an additional year, and then what happens? I just wonder, Mr. Duffy, if you have a concept of what occurs after that.

Kevin Duffy: Thank you, Mr. Chairman, Mr. Bundy I guess really what I'm saying is there is, we looked to the SSC for advice on a lot of these tough issues and they gave us some advice in April about some things they thought would be appropriate for them and the Council to look at prior to making a final decision on this issue. In my opinion, we do not have that information in

front of us and I'd like to see some additional analysis. So I guess from my perspective, as I would see it, is we would have the information requested by the SSC and that would be factored into the Analysis or the EA/RIR in front of us and then we would make a decision at that time relative to the future of the Aleutian Island pollock fishery outside of critical habitat.

John Bundy: Mr. Chairman, if I could ask then the Parliamentarian, is there a procedural issue here with regard to tabling an issue, from a parliamentarian standpoint what do you think we're doing, if this motion passes?

Dave Hanson: I don't think it's tabling or anything else, Mr. Chairman, I think it's just killing the issue. And then if you want to take it up in the future you're going to have to start a new process with what's presently proposed.

Chairman Benton: What would be proposed – I mean if I understand the motion, if you're asking procedurally where we're at – we've got a trailing amendment to an action we took a year ago; the trailing amendment has basically 3 components. And there's some reasons that we did that at the time and we can get into that discussion. But, our choices here today really are either to maintain the closure, if we took an action today we could take an action to close the fishery, we could take an action to open the fishery with no restrictions in terms of the A/B split, if we took no action, then the action we took a year ago was for the fishery to open with the A/B split. Tabling the issue, if I understood you correctly, tabling the issue at this meeting would be, I would assume, the same as the no action alternative – in other words, the fishery would open in January absent any other direction, the fishery would open in January with the A/B split. Was that really your question, Mr. Bundy?

John Bundy: Thank you, Mr. Chairman. That helps there. I still am puzzled about what happens a year from now.

Chairman Benton: That's a separate, yeah – you mean if his motion passes.

John Bundy: If his motion passes.

Chairman Benton: Yeah. I would – I don't know. Maybe he wants to clarify it. I would assume that we'd be sort of in the same situation we're in right now.

Kevin Duffy: Mr. Chairman, if I could – thank you. Mr. Bundy, my assumption would be following the additional information that I think should be looked at, absent an additional action by the Council the pollock fishery outside of critical habitat would open in January 2004.

John Bundy: I see.

Chairman Benton: Dr. Fluharty.

David Fluharty: Mr. Chairman. I think we need as a Council to be consistent with what we've been doing. I think this motion sets us back – makes us look like we're flip/flopping like we don't know what we're doing, and therefore I would move to substitute Alternative 1 for the

motion that's on the floor and that motion would be to allow an AI pollock fishery with split season outside of critical habitat with 40% of the TAC from June 20th to June 10th, and 60% of the TAC from June 10th to November 1. If I receive a second I'll speak to the motion.

Chairman Benton: Is there a second?

John Bundy: Second.

Chairman Benton: OK. And before we vote on that, just to the Parliamentarian. A substitute motion would carry the main motion, if it passes. If it fails, where's that bring you?

Dave Hanson: Back to the main motion.

Chairman Benton: OK. So there needs to be – just so you understand – and we are in a situation where a split vote, the motion fails. Mr. Anderson.

Stosh Anderson: Mr. Chairman, may I address the Parliamentarian? If this motion fails, is it reachable without reconsideration if the current main motion on the floor fails?

Dave Hanson: Mr. Chairman, once a motion's been made and fails, it can't be re-brought up as the same motion, it has to be altered substantially enough that the Chairman says it's substantial enough.

Chairman Benton: And, just to put a fine point on it that you might want to be thinking about, a 5-5 split fails and right now we are at 10, not 11, individuals. So we all know where we're at. Mr. Duffy.

Kevin Duffy: Thank you, Mr. Chairman. I would like from Dr. Fluharty a little better explanation as to his description of why he's introducing his substitute. He described it as the Council appears to be flip/flopping and not knowing what they're doing and I hardly find that adequate justification to consider seriously a substitute amendment.

Chairman Benton: Dr. Fluharty.

David Fluharty: Mr. Chairman, I did not have a chance to speak to my motion, so I think that on that basis I would agree with Mr. Duffy. We made a decision a year ago that basically set us toward opening of these fisheries and we made that based on the information that was before us at the time and that included some of the biological opinions, it included a whole bunch of new studies – I think 6 or 7 new studies and others have been done in the meantime – that have taken the concern that was expressed by the majority in setting up this Aleutian Islands measure earlier and has, I think, filled in a lot of information on what the affects would be. So I thought that was what informed our decision-making last year which continues to inform me, at least, in terms of why I think that we ought to be able to move ahead in this manner. I think that in looking at the likelihood of a fishery opening, I actually foresee that this going on maybe a bycatch-only type fishery based on the testimony we've been hearing, and so I don't think that that necessarily puts us at a much different position than what the proposed measure would be only that it would

again say we're going to close this for an additional year instead of opening it as we had originally scheduled. I think the opening that we're proposing here is very cautious, I don't think that it's a wide-open measure, and so I think that for a lot of these reasons basically staying the course and using the scientific information that we have, there's science in - I go back to the original decision where we had significant debate where the RPA request from the Agency, the marine mammal folks and the protected species, did not ask us to close this area. We did because we didn't know a whole lot about how Steller sea lions foraged, we didn't know a lot about their diets, a lot of that information has filled in and gives me more confidence that we can actually take this measure and still be precautionary in terms of Steller sea lions and the pollock stocks that we're managing. Thank you.

Chairman Benton: Mr. Bundy.

John Bundy: Mr. Chairman, thank you. I will support Dr. Fluharty and I recognize, obviously, that there are people who very much would like to close the Aleutian Island area to pollock fishing - that's come across, and I think that maybe Dr. Fluharty's motion is a better way to accomplish that if that's what you want because first of all, I can virtually guarantee or I can say as a moral certainty, that there will be no pollock fishing in the Aleutian Islands in 2003. The Plan Team has already, in the spec process, said that they recommend - although they find an ABC I think of over 23,000 tons, that they recommend a 1,000-ton TAC, bycatch only. And there's so much darn pollock running around the ocean now the place is polluted with it, we don't need to go all the way out there - we can catch it all in the eastern Bering Sea. It's not always going to be that way, but that's the way it is now. And so, if you want to close the Aleutian Islands it seems to me that what a person ought do is to find the problem that they're concerned about, analyze it, and then we can have a debate on the merits and vote on it. Not in the guise of a Steller sea lion measure. I'm just going to mention a couple things from the analysis; on page 3 of the Executive Summary it says Alternative 1 would not jeopardize the continued existence of the Steller sea lions or adversely modify critical habitat. Page 4 of the analysis reminds us that the objective is to maintain Steller sea lion protection while avoiding unnecessary burdens on the fishing industry and coastal communities. On page 10 of the analysis it says NMFS does not accrue any additional conservation benefits to sea lions by the closure of the Aleutian Island pollock fishery. Also on page 10 the analysis says that complete closure may be more risk averse, but NMFS does not see this as a necessary tool of supporting the survival of the animal or protecting its habitat. Therefore, the analysis says, "Alternatives 1 and 2 are roughly equal and protective of the western sea lion population. Further it goes on, NMFS cannot determine that any conservation gained for sea lions would accrue from this closure. Now we've heard a little bit about economic impact. Again, because the TAC is so high this economic impact will not occur this year or next year, but in my experience with the pollock industry in most years in the past when the TAC gets down to something like 1 million or 1.2 million then you can use additional pollock. So if there's a 20,000 or 30,000 TAC out in the Aleutian Islands it's very useful. And in the analysis on Table 8 it gives you an idea of the impact, what would occur, if you had a TAC equal to the present ABC which is 23,000 plus. The revenues would range up to \$16 million; CDQ would come off the top, and that would be roughly \$700,000 royalty, so that does give you an idea of the economic impact under circumstances when the TAC is a little bit lower than it is now and the way that has usually been in the past. And so, I

think that Alternative 1 is the way to go here. And if we want to close the Aleutians in the name of habitat or something else, then we should analyze that. Thanks.

Chairman Benton: It's noon – I anticipate that there's a couple people who want to speak. We can either continue on and finish this up, but that may take us at least another half-hour or longer. Or we can have lunch and then go on. Do you want to keep on going? OK. What's the Council's pleasure? Keep on going – all right – we'll do that. Mr. Anderson.

Stosh Anderson: Mr. Chairman. This is a difficult issue. We've got documents that are outlining the necessity or non-necessity of taking this action. But in looking at it, I won't be able to support the substitute motion and the reason is with the TAC setting, as Mr. Bundy said, for this year and possibly the year after being zero, there's no economic cost to the industry and with there not being cost to the industry, I think the precautionary approach on this is the safest route to go. I think this is a policy call – I mean if it was just reading in a book what some scientist said and from their best available information, we wouldn't need to sit here. So as a policy call using all the available information that I have before me and from past experience, I think the appropriate thing to do is to keep the closure and there's no economic cost, and it'll give this body the time to look at the issue and judge when there is an economic cost to industry what's the appropriate action to take.

Chairman Benton: Mr. Austin.

Dennis Austin: Thank you, Mr. Chair. We pride ourselves on our ability to listen to and follow our scientific advisors – both from the Agencies as well as the SSC. They've essentially told us, at least in my interpretation of what I've been reading and what Mr. Bundy so eloquently quoted, that there's no linkage between the problem we're dealing with – the status of Steller sea lions – and this closure. And yet we are contemplating continuing that closure. I am always concerned, because my feeble mind can't always figure out these agendas, but it would appear to me like there are other agendas afloat on this issue than our concern for Steller sea lions. And if that is true, I think we need to address those specifically and based on my understanding relative to Steller sea lions, this closure has no need and we need to look at it back in our normal process of TAC setting, etc., that's responsive to the resource. Now if somebody else wants to tell me what's really going on here and why it needs to be closed, then I'll consider that, but from a Steller sea lions perspective, this is an unnecessary action and is not supportable from that agenda item.

Chairman Benton: Any other comments? Dr. Balsiger.

Jim Balsiger: Thank you, Mr. Chairman. Relative to Mr. Anderson's statement that there would be no economic cost or something like that, I wonder if you elaborate shortly – is that on the assumption that the AP's recommended TAC of 1,000 would carry through – is that the reason you say there would be no cost to the industry from the closure?

Stosh Anderson: Mr. Chairman. As I understand it, there would be pollock harvested as a non-target species, but there wouldn't be any TAC set, as Mr. Bundy referred to, because of the

advice that we have received that we will be dealing with in December. If I'm incorrect, correct me.

Jim Balsiger: Thank you, Mr. Chairman, I guess if we can be as confident as these 2 Council members that the TAC will be set at only 1,000 for bycatch purposes, we achieve virtually the same result with the substitute motion as we would by closing the – extending the closure for one year. Thank you.

Chairman Benton: Ms. Madsen.

Stephanie Madsen: Mr. Chairman, I agree with Mr. Anderson that this is a difficult issue, but I'm not convinced that just allowing it to go through the TAC setting process this year is the appropriate way to go. I think we heard the analyst identify that the 16 million that they anticipate of losses was the high end, that we don't really know what the cost associated with the fishery outside 20 would be out there because I think you heard me ask in public testimony about amount of fish that was taken inside critical habitat versus outside, although it seemed to be some indication that they're – maybe more confident that there's fish outside 20 – then others have indicated to me. But I guess between Mr. Bundy's moral indication that there wouldn't be a fishery out there based on the large TAC in the Bering Sea and the control we have next year on setting the TAC in the Aleutians as bycatch only, I see no problem with keeping the Aleutians closed for another year. I would, if this motion fails and we get back to Mr. Duffy's, recommend or make the amendment to that motion that we take this issue up under Staff Tasking and discuss the way that we're going to handle it over the next year. But I'm not comfortable just allowing the Aleutians to open without some kind of a discussion about, further discussion, about how we're going to handle it.

Chairman Benton: I want to speak to the substitute motion somewhat. It probably comes as no surprise that I can't support the substitute motion, and there's a number of reasons. I've been sitting here trying to weigh in my own mind, how much to speak to that on the record or not, and I've come to the conclusion that I'm going to have to speak to it on the record – even with some reluctance. Going back in history in 1998, the reasons that the Council closed the Aleutian Island fishery to begin with was because of concerns with sea lions and concerns with pollock stocks and the interaction between the two. Stocks in the Aleutian Islands, there is a significantly larger amount of uncertainty of stock in the Aleutian Islands and its status as there is, for example, in the Bering Sea. Just by virtue of how we do our surveys, when we do them, what data we rely on. We recognize that in our TAC-setting process. In last year's action, and just to recall, the fishery's been closed since 1999, so at last year's action what we were looking at was reopening a major fishery in an area that has the highest decline of Steller sea lions where we have the greatest uncertainty with regard to pollock stocks – which is, admittedly in the Aleutian Islands, not the primary prey species – but a very important prey species. They're also looking at making modifications to the measures that were in place for the primary prey species in the Aleutian Islands, which was Atka mackerel, and the fishery that would affect those. At that time, at least for me and the way I look at the issue, we did not have sufficient analysis in front of us to, with confidence and at least my personal comfort, reopen the Aleutian Islands because we did not have an analysis that showed us the cumulative effects of reopening the Aleutian Island pollock fishery and how that would interact both with the availability of prey for Steller sea lions and

also how that would interact with the new fishery management measures that have come about because of our action on sea lions and the interaction with other fisheries that have, over that intervening four years when it was closed, when the Aleutian Island pollock fishery was closed, how that fishery which would be changed from previous performance, how that fishery would interact with other fisheries occurring in the region. There is great uncertainty about how the Aleutian Island pollock fishery would interact on a whole range of issues. And because of that uncertainty, in part, not having that analysis in front of us in part, and because of the notion that we – in that instance in an area where sea lions are clearly at a lower, you know sort of at their lower levels – we ought to be cautionary. In my view, that's why we kept it closed for an additional year, in order to get that information. When we got the analysis in draft form, our SSC recommended not to send it forward at all, and identified that there were deficiencies in that analysis. At that time, one of the deficiencies that I identified and was hoping to see dealt with more, were these cumulative effects. And some more answers to some of those questions that led us at the time when we adopted the measure that kept it closed for an additional year, that we could get that information. And that's why I was asking Dr. Muse about, well is this all that we have? Is there any other information available? Well, it's not been presented to us. I don't see it. And I have a hard time, in my own mind, seeing how that helps us get around some of the problems that we've had in the past like NEPA arguments. We are in a situation where, potentially, we don't have sufficient information in front of us unless somebody can help me understand it better, to warrant reopening the fishery absent that analysis. I thought that was the intent of Mr. Duffy's motion, and I think that was the intention of what Ms. Madsen is identifying. The other thing, and you all know, we were going to take this up in Dutch Harbor – we did not take this up in Dutch Harbor – and we were sort of hoping that there would be the oral arguments and some clearer guidance perhaps by the courts. That's not happened as well. I don't want to confuse the courts. Part of the reason I didn't really want to get into a debate about this, in some ways, but I think we could potentially be sending a very confused signal to the court right now if we allow the fishery to reopen. We said we were going to keep it closed, we were going to get additional information, we were going to look at it. We don't have the information. The courts, I don't know whether the courts are going to hear about that or not, but I don't want to provide anybody the opportunity to say that this Council was acting inappropriately and did that without the information in front of us. Now maybe that information is there and if Council members have it in front of them and they can point it out to me, maybe that would be helpful. But I don't see it. Taking it on good faith that somehow that the industry, through the AP is going to recommend a closure or a low level of pollock harvest in December, I take that on face value that people mean that on good faith. But the problem is, the court's going to be looking at this between now and then, and we don't have the information in front of us, and I am really very concerned about that. I cannot support the substitute motion. I think that Mr. Duffy has an idea for a plan to get us around that problem – having this additional information that we probably ought to have to make the decision. Dr. Balsiger.

Jim Balsiger: Thank you, Mr. Chairman. I think probably for the record I should state that the Zilly hearing is on the administrative record and that record is supported by the biop that was produced by the Agency, but certainly as part of RPA Committee's process that involved everyone and it's pretty clear that to avoid jeopardy you don't have to close the Aleutians outside of critical habitat. So I don't think that confuses the court. However, I don't have a problem with being cautious, or cautionary – whatever the right word is – but I think we could do it the way

Dr. Fluharty's recommended which also helps us a lot because we have a proposed rule in place that we would have to make changes to, we'd probably have to do an emergency rule. We could have the regular regulations people come up and explain this. If we're able to allow that rule to go through and then close it anyway by setting TAC to zero if you want, we don't have to rely on the good will of the industry or the AP. We have to control that the Council to do that. So we can still accomplish that closure without screwing up that proposed rule that's in process.

Chairman Benton: While the court may, Dr. Balsiger – I can appreciate what you're saying – and what's before the court is what you're talking about, there's also oral argument. And during the course of oral argument, I don't know what might be said about this issue one way or the other. But more importantly, there's also reports in the press and that kind of thing which obviously the court will be aware of – that really was my point. Go ahead.

Lisa Lindeman: Mr. Chairman, I was just going to say it would be limited to what's in the biop, OK? You wouldn't be considering this action here.

Chairman Benton: So, are you ready to vote on the substitute motion? Looks like you are. OK, let's call the roll.

Chris Oliver calls roll – votes are as follows:

Mr. Bundy: yes
Mr. Duffy: no
Dr. Fluharty: yes
Mr. Hyder: no
Ms. Madsen: no
Ms. Nelson: yes
Mr. Anderson: no
Mr. Austin: yes
Dr. Balsiger: yes
Mr. Benton: no

Chris Oliver: 5-5, vote fails.

Chairman Benton: Back to the Duffy motion. Ms. Madsen.

Stephanie Madsen: Mr. Chairman, I would move to amend the motion that's on the floor to require the Council to take this issue up under Staff Tasking to discuss development of an analysis for 2003. I guess, Mr. Chairman, what I'm trying to do is – this closure is for one year. And throughout the discussion we've talked about different ways of accomplishing the same goal. Which I haven't necessarily heard objection to. And I would like for this to – my amendment to this motion – to include the process after this motion passes, if it does, if it fails everything goes down, but it's my intention that we discuss Aleutian Island closure under Staff Tasking and have a Council discussion about what options would be available to us to either maintain the closure, to make sure that we don't get in this lack of information or options at the last minute, and that would be my intent – if I had a second to my amendment.

Chairman Benton: Seconded by Ms. Nelson. I think – do you need to speak to it any further?

Stephanie Madsen: No, Mr. Chairman.

Chairman Benton: OK. Dr. Fluharty.

David Fluharty: Mr. Chairman, I guess I would simply point out that what is proposed, which I think is our only recourse at this point – we are embarking on a major new piece of staff tasking for a staff who is already overburdened and what I was trying to avoid with the proposal that failed to make it past the 5-5 vote. I think that we really do need to consider the way that this Council works in a way to try to minimize the impact on staff. This is not going to be a trivial exercise, given the discussion that we had. I think that based on the record we had and are defending in court, and what we've learned over time, this is just a lot of extra effort that I think is wasted effort.

Chairman Benton: Any other discussion? Ready for the question on the amendment? Is there any objection to the amendment? OK. Is there any further discussion on the main motion? Ms. Nelson.

Hazel Nelson: Thank you, Mr. Chairman. Being a new Council member and knowing that this is a critical issue both on the conservation side and the industry sector, I believe that it would help for me to have a lot more input from staff when we address this down in the future. And I know that the last vote I supported, but I think that because of the importance placed on conservation and having this issue connected to it, I think that there's – well obviously I'm a little confused because the waters in my mind have been muddied for conservation. And being concerned about Steller sea lions, and being concerned about the industry maybe being impacted over something that may not be necessary. I think that staff tasking is important component of this motion and I will go ahead and support it because I'd like to see this resolved in the future.

Chairman Benton: Further discussion? Dr. Balsiger.

Jim Balsiger: Thank you, Mr. Chairman. I thought that this motion had passed by you asking if there had been no objection.

Chairman Benton: on the amendment. Ms. Nelson was speaking to the main motion. Because the Duffy motion – to maintain the closure for one year – as amended by Ms. Madsen, which would be that we'd take – under Staff Tasking – to see how we, over that year period, how we get answers to the questions that we have so that when we get to the end of that we can deal with it.

Jim Balsiger: Thank you for straightening me out. So, in that case, could we, under Staff Tasking, also try to figure out what we would do with rules considering the proposed rule that's in progress, since there's a whole bunch – 8 of them – and the schedule to go through.

Chairman Benton: Certainly.

Jim Balsiger: Thank you.

Chairman Benton: Are you ready for the question? OK, probably ought to call the roll on this.

Chris Oliver calls roll – votes are as follows:

Mr. Duffy: yes
Dr. Fluharty: no
Mr. Hyder: yes
Ms. Madsen: yes
Ms. Nelson: yes
Mr. Anderson: yes
Mr. Austin: yes
Dr. Balsiger: yes
Mr. Bundy: no
Mr. Benton: yes

Chris Oliver: That passed 8-2.

Chairman Benton: Should we break for lunch and then come back to C-2 for the other C-2 items? Ms. Madsen.

Stephanie Madsen: I think there's one other action under this document, and then the rest is Cape Sarichef. And that's just Alternative 5. Do you want to come back to it?

Chairman Benton: Let's just come back to it. It is 12:30; we'll come back into session at 1:30.

Saturday, October 5th, 2002

AGENDA D-1(a)(1)
Attachment 6

Agenda Issue D-3 Staff Tasking

Chairman Benton: That concludes public comment on Agenda Item D-3, what's your pleasure?
Mr. Duffy.

Kevin Duffy: Thank you, Mr. Chairman. I'd like to put a motion on the table as a follow-up responsibility under C-2, Steller sea lion measures. It relates to the Work Plan for the Aleutian Islands pollock trawl closure. I move the following Work Plan under C-2, Steller sea lion measures. In April 2002, the SSC recommended modifications to the Steller sea lion trailing amendment to address certain deficiencies part of the document going out for public review. In particular, the request was to provide a historical perspective as to why the Aleutian Islands pollock fishery was originally closed and what has changed since that time that would warrant reopening. The SSC in their October 2000 meeting cautioned that it was too soon to conclude that the western population of Steller sea lions was recovering and that the pup counts in this area had continued to decline in the 2002 population survey. The Aleutian Islands pollock fishery has been closed for the past 4 years. Reopening the fishery under the proposed Steller sea lion measures will result in markedly different spatial and temporal fishing patterns in the Aleutian Islands fishery. A comprehensive review of the effects of reopening the fishery needs to be done prior to authorizing the new fishery. This review should build on the recent EA developed by staff and should include a description of the current SSL stock structure within the Aleutian Islands, a consideration of the current theory, and information regarding localized fishery depletions and Steller sea lion prey densities, the importance of such prey densities and forage availability to wean pups and nursing females, the most current telemetry information on weaned pups and foraging outside of critical habitat in the Aleutian Islands, and the cumulative effects of these Steller sea lion age class resulting from multiple fish raised on Steller sea lion prey in the Aleutian Islands, Atka mackerel, P.cod, and pollock fisheries combined. In addition, the review should include an analysis of cumulative impacts rising from reopening the Aleutian Islands pollock fishery on bycatch of target/non-target species, forage fish, and other prey of Steller sea lions and potential impacts on other fisheries. These should include such issues as changes in fishing patterns in the other Aleutian Islands fisheries which have come about during the period of the pollock closure, any changes in spatial and temporal distribution in the pollock fishery arising from the proposed Steller sea lion measures, and any impacts which might affect participants in other fisheries in the region as a result from reopening the pollock fisheries. This report should be provided to the Council for consideration at the April 2003 meeting.

Chairman Benton: That's your motion, right? Is there a second?

Stephanie Madsen: Second.

Chairman Benton: Do you need to speak to your motion?

Kevin Duffy: Just a bit, Mr. Chairman. We did talk at length about this issue under Item C-2 and I think it was a responsibility of mine to try and craft up what I would see as a work plan based

on Council member comments prior to approving the approach that we took. So I have tried to frame these issues – you know some work has been done on this issue. A couple of specific things the SSC had asked for I don't think were adequately responded to. I put a date in here of April 2003 – that's not a hard and fast date. It's really encouraging that this bit of an expansion of the EA that's been done with a little more detail in particular areas would be provided to the Council so we can be more fully informed on this particular issue and then be able to make a decision on this issue prior to the January 2004 fishing season. So that's why the date is in there of April 2003. With that, I think I have attempted to respond to the Council direction on this issue and I'm hopeful that this is not an enormous research task by any means, but really a matter of putting information together in a fashion that is already somewhat available. Thank you, Mr. Chairman.

Chairman Benton: Mr. Bundy.

John Bundy: Mr. Chairman, Mr. Duffy – your last comment I think is correct. With regard to sea lions, of course, we have the SEIS on sea lions with regard to ecosystem considerations and things of that nature we have the PSEIS going on, and I assume that your intent is not to reinvent the wheel, but to take, perhaps bring together or package together the information that we have plus whatever information the analysts might want to add, but that we're not talking about a whole lot of new stuff, I assume.

Kevin Duffy: Mr. Chairman, Mr. Bundy, that is exactly my intent. Not to reinvent the wheel by any means. Thank you.

John Bundy: Mr. Chairman, then to – and I assume also your intent is to address the Aleutian Island pollock fishery in the configuration that is anticipated which, I believe, is outside of critical habitat and split temporally 40/60.

Kevin Duffy: Mr. Chairman, Mr. Bundy, that's correct – that's my intent.

Chairman Benton: Mr. Austin.

Dennis Austin: Mr. Chairman I just want to express my appreciation for ADF&G responding to my whine when we were dealing with this issue earlier and providing some focus so that the Council can make an informed decision in the future.

Jim Balsiger: Thank you, Mr. Chairman. The authors of this aren't identified here, but I presume this would largely be done by fisheries service staff, which staff is also working on the Programmatic EIS, EFH and a variety of other things. So to the extent that those products being developed on other timelines fit in here, we'll have the understanding that this April date is a goal, but if the schedule to produce the EIS has these people working on something at that same time, well it may slip a meeting.

Kevin Duffy: Mr. Chairman, Dr. Balsiger, yes. I think I made that clear that the deadline is somewhat flexible. I just wanted to make sure that we had the information in front of us so that

we could respond to it in a timely fashion so as to have a decision by January 2004 without any administrative problem.

Chairman Benton: Ms. Nelson.

Hazel Nelson: I don't want to change the subject, but in Staff Tasking do we do amendments for some of these other things?

Chairman Benton: I think let's get through this motion and then we can entertain anything else that we need to. OK, is there any further discussion of the motion. Dr. Fluharty.

David Fluharty: Mr. Chairman, I wish we'd had the benefit of a similar study when we closed down this place but it strikes me that this provides us with an opportunity to perhaps, as part of this, to do an evaluation of what the effect of the closure was. I think that some of the things you pointed toward would ask for that, but to the extent that we can ask analysts to kind of look at the base case 4 years ago versus the present, I think we might be able to learn something about fishery closures of this type and that would be very valuable to us as we move ahead.

Chairman Benton: Anything further? Are you ready for the question? Is there any objection to the motion? Hearing none, so moved.

Chairman Benton: OK – what other items do we have. OK – the one thing I would suggest is that we not take up things we don't have to act on here today, OK? Because we will roll all the rest of them over and take them up at our December meeting under Staff Tasking there.

Hazel Nelson: Like Amendment 64?

Chairman Benton: Well, that's what Mr. Oliver suggested – unless someone has a motion on Amendment 64.

Hazel Nelson: Mr. Chairman, I move that the Council or staff initiate analysis of the Amendment 64 based on initial alternatives as presented in staff's discussion paper with the Council finalizing the alternatives in December.

Stephanie Madsen: Second.

Chairman Benton: I don't know if you can – no, I wasn't going to say anything about whether you could second your own motion, was I?

(laughter in audience)

Hazel Nelson: I was going to make this motion!

Chairman Benton: You guys are doing very well. Do you want to speak to your motion – I think it's pretty clear.

Hazel Nelson: Mr. Chairman, we heard from industry and they're concerned about it and I think that we need to start the process again. Thank you.

Chairman Benton: OK. Dr. Fluharty.

David Fluharty: Mr. Chairman, I haven't had time to see how Chris layed out the staff tasking for this, but it was mentioned in an earlier action had to agreed to glue Amendment 68 issues to this so we could deal with this as a composite, and I'm curious if that's included in your motion.

Hazel Nelson: Before Stephanie interrupted me I was going pose it in that juncture. So it's a friendly amendment.

Chairman Benton: It was your inention?

Hazel Nelson: It was my intention. Thank you.

Chairman Benton: Any further discussion of the motion? Mr. Bundy.

John Bundy: No.

Chairman Benton: Are you ready for the question? Is there any objection , OK – so moved. Is there anything else that we need to do before we adjourn. Dr. Fluharty.

David Fluharty: Mr. Chairman, I believe that we are required to start a rebuilding plan for Pribilof Blue Crab and I don't know if – I think we may as well go on record as initiating - I so move that we begin a rebuilding plan for Pribilof Blue King Crab.

Chairman Benton: Second?

Stosh Anderson: Second.

Chairman Benton: Do you want to speak any further to your motion?

David Fluharty: Only to the sense that the appropriate time – I'm not saying we have to start immediately – but the appropriate timing – we pick that up and move with it in keeping with the one-year deadline.

Chairman Benton: Any further discussion? Are you ready for the question? Any objection to the motion? So moved. Mr. Austin.

Dennis Austin: Mr. Chair, I don't have any motion or anything further on this subject, but I for one have sat in here for basically, since last Wednesday, and am exhausted. And yet I want to express my appreciation for the staff because I know that we are simply the tip of the iceberg that's above the water and what allows us to do what we do over such long periods of time is a tremendous effort by the staffs of all of our supporting organizations that provide us the

information, and so even though I'm tired, I've got to imagine what they're like and I'd like to really express my appreciation for their efforts to support us.

Chairman Benton: Are there any other items under this Agenda item? OK. Mr. Austin, I think your comments are extraordinarily germane – I think all of us wholeheartedly support them, and I think the staff would appreciate it more if somebody would move to adjourn.

(Laughter in audience!)

Dennis Austin: I so move.

Stosh Anderson: Second.

Chairman Benton: Any objection? We're done.

**National Oceanic and Atmospheric**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

March 13, 2003

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

Dear Mr. Benton,

At its October 8, 2002, meeting, the Council adopted a motion (attached) for a "work plan" to assess the potential effects of an Aleutian Islands (AI) pollock fishery outside of Steller sea lion critical habitat (CH), as currently authorized under Steller sea lion (SSL) protection measures. The Council acknowledged that the AI pollock fishery has been closed since 1999 under the annual harvest specifications to address pollock resource and fishery management concerns. It also expressed concern about the continued potential for a fishery outside CH under SSL protection measures and whether the authorization of this fishery was prudent without further review of the effects of the fishery on SSLs, on other fisheries, as well as potential cumulative impacts of a pollock fishery on other components of the AI biological ecosystem. The Council requested that a report on these issues be provided for Council consideration at its April 2003 meeting.

The Council assumed that NMFS would take the lead on this assessment, which largely is appropriate given the nature of the questions being asked. As we informed the Council at its February 2003 meeting, other staff workload priorities conflicted with the Council's expectation for NMFS staff to develop a separate analysis that responds specifically to the Council's October 2002 motion. We continue to support the premises of the 2001 biological opinion with respect to actions necessary to protect SSLs and the determination that fishing activities conducted under the SSL protection measures are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. We are continuing to evaluate the effect of fishing activities on endangered SSLs in response to the December 30, 2002, court order concerning the 2001 BiOp and the associated remand that requires NMFS to provide additional information by June 30, 2003.

The work undertaken by NMFS, as part of the remand, will partially address the Council's motion and will reiterate that pollock closures in the Aleutian Islands beyond critical habitat are not an integral part of the conservation strategy for SSLs. In the draft section 7 consultation on the Steller sea lion conservation measures (August 2001) which was reviewed by the Council, NMFS determined that a pollock fishery outside of critical habitat would not jeopardize the continued existence of the species and would not destroy or adversely modify its critical habitat. Conversely, closures for AI pollock within critical habitat and seasonal distribution of catch are consistent with the overall management strategy for SSL protection measures. Thus, our initial review is that the opening of an AI pollock fishery outside of critical habitat (under the APA and



with a seasonal apportionment of 40/60) would not require re-consultation under section 7 of the ESA, because the action of having a pollock fishery beyond critical habitat has already been considered (2001 BiOp). Additionally, the area beyond critical habitat lies almost entirely off the continental shelf break, and the probability of adverse effects on the population are unlikely.

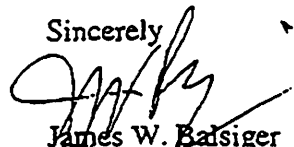
Moving beyond the 2001 BiOp and associated remand, we anticipate reinitiating consultation on the effects of fishing activities on SSLs and other listed species within the next year. The agency will need to consult on the programmatic supplemental environmental impact statement (PSEIS) that currently is being developed. We anticipate that this would be a new FMP level BiOp based on the Council's preferred alternative and will be a significant undertaking. In addition to the ESA-focused assessment of a new FMP level BiOp, other components of the PSEIS analysis would assess broader ecosystem and fishery related impacts. For example, Alternative 2.1 of the PSEIS (which sets TAC=OFL, and OY cap=sum of OFL) examines the impacts of reopening the AI pollock fishery. The scope of this alternative is broad and results of the analysis of impacts would have to be carefully interpreted with respect to the AI pollock fishery alone, but the analysis should provide additional insight into the ecosystem and fishery effects of an AI pollock fishery.

Additional consultations and analyses in the near future also could be responsive to the Council's request to more fully assess the effects of an AI pollock fishery. For example, the Council's response to the National Academy of Sciences Report on the decline of SSLs could result in the investigation of control areas in the North Pacific, including consideration of an Aleutian Islands closure to fishing for pollock, Pacific cod and Atka mackerel at an appropriate scale. Control areas also may be an effective response to Essential Fish Habitat (EFH) concerns currently under investigation.

Although results of new and ongoing research related to SSL issues is anticipated, no information received to date would cause us to reinitiate consultation on the BSAI and GOA fisheries. Nonetheless, we will be continually evaluating new information to determine if it is sufficiently significant to trigger consultation. Similarly, any new management action under Council consideration that potentially may adversely affect Steller sea lions would trigger consultation and will be reviewed on a case by case basis as required by the ESA.

In summary, we believe that the intent of the Council's October 2002 motion to reassess the impacts of a potential AI pollock fishery outside critical habitat is being addressed by a number of agency initiatives. These initiatives include the remand process on the 2001 BiOp, PSEIS analyses of alternatives and consultation on the Council's preferred alternative, and ongoing evaluation of new information relative to the impacts to listed species under the ESA.

Sincerely



James W. Badsiger
Administrator, Alaska Region

Attachment

**Work Plan for Aleutian Islands Pollock Trawl Closure
Under C-2, Steller Sea Lion Measures
October 8, 2002**

In April 2002, the SSC recommended modifications to the Steller sea lion (SSL) trawling amendments to address certain deficiencies prior to the document going out for public review. In particular, the request was to provide a historical perspective as to why the Aleutian Islands pollock fishery was originally closed, and what has changed since that time that would warrant reopening.

The SSC in their October 2002 meeting cautioned that it was too soon to conclude that the western population of SSLs was recovering, and that the pup counts in this area continue to decline in the 2002 SSL population survey.

The Aleutian Islands pollock fishery has been closed for the past four years. Reopening the fishery under the proposed SSL measures will result in markedly different spatial and temporal fishing patterns in the Aleutian Islands fishery. A comprehensive review of the effects of reopening the fishery needs to be done prior to authorizing the new fishery.

This review should build on the recent Environmental Assessment developed by staff, and should include a description of: the current SSL stock structure within the Aleutian Islands; a consideration of the current theory and information regarding localized fishery depletions and SSL prey densities; the importance of such prey densities and forage availability to weaned pups and nursing females; the most current telemetry information on weaned pups and foraging outside of critical habitat in the Aleutian Islands; and the cumulative effects on these SSL age classes resulting from multiple fisheries on SSL prey in the Aleutian Islands (Atka mackerel, Pacific cod and Pollock).

In addition, the review should include an analysis of cumulative impacts arising from reopening the Aleutian Islands pollock fishery on bycatch of target and non-target species, forage fish or other prey of SSLs, and potential impacts on other fisheries. This should include such issues as changes in fishing patterns in the other Aleutian Islands fisheries which have come about during the period of the pollock closure, any changes in spatial and temporal distribution in the pollock fishery arising from proposed SSL measures, and any impacts which might affect participants in other fisheries in the region as a result from reopening the pollock fisheries.

This report should be provided to the Council for consideration at the April 2003 meeting.

Items for a trailing amendment to be analyzed and considered for the 2003 season:

1. Area 8 exemption: allow catcher vessels (of any LOA) using longline gear to fish 3-10 nm from haulouts of Reef-Lava and Bishop Point.
2. Area 4 exemption: allow vessels under 60 feet LOA using fixed gear to fish in waters of the Chignik area.
3. Stand down provisions between A/B and C/D seasons for pollock in the GOA
4. Exemption for all longline, pot, jig gear, and trawl catcher vessels and catcher processors under 60 ft. Identify as a preliminary preferred alternative that the exemption would only apply to catcher vessels.
5. Examine options for a Gulf of Alaska Pacific cod split other than the current 60/40 split.
6. For the BSAI Atka mackerel fishery, analyze options to change percentage inside/outside critical habitat of 50/50 and 70/30.
7. For the Aleutian Islands pollock fishery, examine three options:
 - a) closure;
 - b) a single season outside of critical habitat;
 - b) a split season (40/60 % of TAC).
8. In Area 9, analyze a range of caps for pot, longline and jig gear.
9. (December 2001 addition). The Board of Fisheries modifications.

Comparison of measures adopted by the Council and by the Board of Fisheries.		
<u>Area</u>	<u>Council Action</u>	<u>Board Action</u>
Cape Barnabas	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Caton Island	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Chignik Area	Open State waters cod fishery seven days after closure of directed Federal season in Central Gulf	open state fishery on March 1