

# North Pacific Fishery Management Council

David Benton, Chairman  
Chris Oliver, Acting Executive Director



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Certified \_\_\_\_\_  
David Benton, Chairman  
Date \_\_\_\_\_

## MINUTES

**148th Plenary Session  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
January 12, 2001  
Seattle, Washington**

The North Pacific Fishery Management Council met in a special session on January 12, 2001 at the Doubletree Hotel-Seattle Airport, Seattle, Washington. The Advisory Panel met January 11 at the same location. The Scientific and Statistical Committee did not meet. The meeting was called so the Council could hear from the National Marine Fisheries Service regarding a one-year phase-in of sea lion protective measures for 2001.

The following members of the Council, staff, and AP attended the meetings.

### Council

David Benton, Chairman  
Dennis Austin for Jeff Koenings  
Jim Balsiger  
CAPT V. O'Shea for RADM T. Barrett  
Linda Behnken  
John Bundy  
Anthony DeGange for David Allen

Bob Mace (Vice Chair) for J. Greer  
Kevin Duffy for Frank Rue  
David Fluharty  
Dave Hanson  
Kevin O'Leary  
Robert Penney  
H. Robin Samuelsen, Jr.

### NPFMC Staff

Chris Oliver, Acting Executive Director  
David Witherell

Helen Allen  
Gail Bendixen

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**Support Staff**

Lauren Smoker, NOAA-GCAK  
Sue Salvesson, NMFS-AKR  
Jay Ginter, NMFS-AKR  
Herman Savvikko, ADFG

Doug DeMaster, NMFS-AFSC  
Michael Payne, NMFS-PRD  
Shane Capron, NMFS-AKR  
Jeff Hartman, ADFG

**Advisory Panel**

John Bruce, Chairman  
Ragnar Alstrom  
Dave Benson  
Dave Boisseau  
Al Burch  
Craig Cross

Stephanie Madsen, Vice Chair  
Ben Ellis  
Duncan Fields  
Dave Fraser  
Arne Fuglvog  
John Henderschedt

Spike Jones  
Kris Norosz  
Michelle Ridgway  
Jeff Steele  
Bob Ward

**Other Attendees**

The following people signed the attendance register:

Beth Stewart  
John Henderschedt  
Chris Blackburn  
James Mize  
CDR Richard Preston

Frank Kelty  
Neal Forde  
Al Burch  
Karen Wood-DiBari  
Thorn Smith

**Persons Providing Public Comments:**

Beth Stewart, Aleutians East Borough  
Dave Fraser, High Seas Catcher's Co-op  
Brent Paine, United Catcher Boats  
Steve Hughes/John Gauvin/Ed Richardson/  
Vidar Wespestad (Industry Group)  
Duncan Fields, Gulf of Alaska Coastal  
Communities  
Terry Leitzell, Icicle Seafoods  
Karen Wood DiBari/Michael Brooks, Alaska  
Marine Conservation Council

John Gauvin, Groundfish Forum  
Glen Reed, Pacific Seafood Processors Assn.  
Arni Thomson, Alaska Crab Coalition  
Frank Kelty, City of Unalaska  
Chris Blackburn/Al Burch/Matthew Moyer,  
Kodiak industry group  
Thorn Smith, North Pacific Longline Assn.  
Jack Stern/Phil Kline, Greenpeace  
Russell Pritchett/Steve Aarvik

**A. CALL TO ORDER**

Chairman David Benton called the special meeting to order at approximately 8:10 a.m. on Friday, January 12, 2001.

Steller Sea Lion-related Management Measures

**ACTION REQUIRED**

1. Consult with NMFS on emergency rule, and specifications, for first half of 2001.
2. Discuss measures related to second half of 2001.
3. Discuss schedule for protective measures for 2002 and beyond (including role and timing of Council Committee).
4. Develop schedule and proposal for independent scientific review of BiOp and underlying hypotheses.

**BACKGROUND**

In December the Council reviewed the Biological Opinion (BiOp) and associated RPAs, and adopted the motion attached as Item (a). For reference, Council staff have summarized the basic elements of those RPAs in Item (b). Since the December meeting, a Congressional rider was attached to the appropriations bill which attempted to address Council and industry concerns regarding the BiOp and implementation of those RPAs. That language is attached as Item (c). Working with the Administration, NMFS has interpreted the provisions of that Congressional rider and will summarize the emergency rule which they intend to implement for the first half of this year, pursuant to that Congressional direction.

That emergency rule will be in effect for 180 days, at which time it could be rolled over as is for the latter half of 2001 (which could likely be done at the June meeting), or could be adjusted in certain areas by the Council (which would have to be done at the April meeting, or at a special May meeting). NMFS will provide further detail on the areas for possible adjustment and the criteria involved in those adjustments. Item (d) is the letter from NMFS describing this process, along with the proposed specifications for this year.

A formidable issue remains what to do for 2002 and beyond. Part B of the Council's motion from December involves review and analysis of the proposed RPAs compared to previous RPAs, as well as options in the 2000 draft Pacific cod EA/RIR/IRFA (and those proposed for analysis by the Council at the September 2000 meeting). This seems to feed directly into the overall amendment package which will be required for appropriate measures for 2002, without which the fishery would revert to the RPAs contained in the BiOp, according to the interpretation of the rider language. It seems that this analytical process has to begin concurrent with other initiatives and have a Council final decision by October to be in place for 2002, as it is apparent that a separate, additional consultation will have to occur on that amendment package. That process needs to be considered in the context of the parallel independent review in terms of its relationship and timing, as well as the work of the Council's RPA Committee (to be established after this meeting). Item (e) is a draft summary of timelines of these different vectors for your reference and discussion. This is a very skeletal outline which does not detail all of the analytical and process related steps involved, but provides a general picture of the major vectors. In February we expect to provide you with more detail on these steps and a more definitive game plan for how to get all this done.

A key component of this overall picture is the independent review requested by the Council, the Congressional rider's language regarding the involvement of the National Academy of Science (NAS) in that review, and the \$2 million which is being provided directly to the Council to accommodate that review and other Steller sea lion related Council actions. The Council's Steering Committee has discussed this issue, particularly the involvement of the NAS and the timing of the completion of that review relative to other timelines. I have also discussed these issues directly with Susan Roberts of the NAS earlier this week. She, along with Elizabeth Clark from NMFS, will be here to discuss the NAS involvement with the Council this afternoon, and be available Saturday morning for additional

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discussions if necessary. Chairman Benton and I will also be in DC later this month for a Council budget meeting and have arranged, tentatively, for additional meetings with NAS as necessary. I have also discussed the availability of the \$2 million with appropriate NMFS personnel, and it appears it will not be a problem getting these funds available in time to facilitate the independent review.

Recall also that our SSC is conducting its review of the BiOp and will have detailed comments in February for Council consideration, which would likely be forwarded for consideration in the independent review. For your reference, Item (f) is a summary of the major questions raised by the SSC in previous meetings. We also have available for reference the complete SSC, AP, and Council minutes in this regard. The greatest dilemma at this points appears to be in the timing. A draft workplan from the NAS (Item (g)) proposes a brief, interim report seven months after receipt of funding, with a full in-depth report in 24 months. Obviously this will not fit the Council's schedule of events and we will need to discuss potential adjustments to this schedule, or an alternative approach to the NAS involvement in the independent review. Even with an expedited schedule, it may be unrealistic to expect the independent review to be completed in time to provide information to the Council for its action in April/May regarding the second half of 2001; however, we would certainly need that review to be completed in time to provide information for the more permanent action regarding 2002 and beyond.

Item (h) is a memo summarizing current recommendations from the Alaska Steller Sea Lion Restoration Team. Also for reference (Item (i)) is a matrix summarizing the sequence of RPA recommendations by the Council (and RPAs actually implemented by NMFS) since 1999. Additional materials, including letters received in our offices and full reports from the Restoration Team, are also in your packet.

**Report of the Advisory Panel**

(a) Specifications

The AP recommends Tables 13 - 15 be corrected to reflect the 60/40 Pacific cod split for catcher processors and AFA catcher vessel sideboards.

(b) Measures Related to Second Half of 2001

The AP recommends that the Council advise NMFS against making a commitment to the long-term experimental design at its present stage of development. We encourage NMFS to refine the experimental design and fishery management measures with the input of the myriad review teams and objective application of SSL conservation and research goals. Further, the AP recommends that NMFS dedicate staff and funding to initiate smaller-scale experiments and research designed to maximize the opportunity to address key unknowns about sea lion biology, fishery impacts, and ecosystem interactions.

(c-d) Schedule/Proposal for Independent Scientific Review of BiOp

The AP, after receiving information regarding the timeline proposed by the NAS, recommends the Council conduct the scientific review in consultation with NAS in developing parameters of the review and identifying qualified individuals to ensure the review is completed in time for the Council's related tasks.

**DISCUSSION/ACTION**

The Council received staff reports regarding plans for the one-year phase-in of sea lion protective measures for 2001. The regulations, to be implemented by an emergency rulemaking, are in response to Senator Steven's rider to an appropriations bill (P.L. 106-554). David Benton asked that NOAA General Counsel provide, in advance of the February meeting, the standards used under the Endangered Species Act with

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regard to 'arbitrary and capriciousness' and jeopardy, and the standards that the Council will have to consider when reviewing agency action and future actions the Council might consider. It would also be helpful to know how those standards fit with the Magnuson-Stevens Act standards.

A full amendment package will be developed during this year for Council action in October which would propose a package of protective measures for 2002 and beyond.

**Bob Mace moved to approve the recommendations of the Advisory Panel. The motion was seconded by Robin Samuelsen.**

**Jim Balsiger moved to amend the current emergency rule to reallocate the Pacific halibut PSC trawl limits in the GOA: 450 mt halibut PSC, January-March period; and 150 mt halibut PSC for the June-July period.** The maker of the motion accepted this as a friendly amendment to the main motion. **The main motion, as amended, carried with Balsiger voting no (emergency rule).**

**Linda Behnken moved to convene a workgroup consisting of NMFS Protected Resources staff, Council staff, the State SSL restoration team, or a subset thereof, industry and conservation representatives, to develop proposals for Council consideration on modifying the closed areas for the 2<sup>nd</sup> half of 2001; the workgroup would meet and bring proposals back to the Council in April. The motion was seconded by Kevin Duffy.**

**Robin Samuelsen moved to amend to include that the committee look at the various options in an allocative-neutral tone. The motion was seconded by Dennis Austin and carried without objection. His concern is that individual sectors may try to take advantage of this issue to seek reallocations from one industry sector to another.**

**The amended motion carried without objection.**

During discussion it was clarified that the committee's charge at this point would be to look at ways that the open and closed areas could be modified to ensure that the small boat fleet is not unduly penalized by the RPAs and to see if there are ways to address safety issues and other concerns of that fleet, and to look for ways to ameliorate those impacts. The committee has no authority to set up any kind of allocative scenario; the Council would have to deal with any recommendation of that kind.

Mr. Samuelsen also pointed out that the Council has voted not to consider catch history in 2001 in any future limitation program.

**Linda Behnken moved (referring back to the December final SSL motion ) to initiate a formal EA/RIR for the analysis of the proposed 2000 RPAs compared to 1999 pollock and Atka mackerel RPAs, and the options that were in the 2000 draft EA for cod (the Council recommendation from September for cod) to determine the potential benefits to the recovery of Steller sea lions and the cost to the groundfish industry of those different approaches. The motion was seconded by Kevin Duffy.**

Ms. Behnken requested that the analysis include some of the differential gear impact information that has been previously requested. Analysts will need to consider this information to determine consistency with the Magnuson-Stevens Act as well as with the Endangered Species Act.

The analysis would be in conjunction with the total analysis package for 2002 and beyond, and the December Council motion would be included the scope of this motion.

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**Kevin Duffy moved to include an “ESA” chapter in the analysis. This was included as a friendly amendment.**

Discussion indicated that this was already envisioned as being a part of the analysis from the beginning in order to facilitate the ESA consultation process.

Jim Balsiger said that they will bring this subject back for further discussion in February. It will be critical to either have the staff member dealing with ESA components involved with the analysis, or ensure close coordination between the analysts.

**The motion carried without objection.**

**Dennis Austin moved the following industry proposal:**

**The intent of the following industry proposal is to provide additional flexibility within the BSAI cod trawl CV and CP sectors to better utilize their cod allocations during the 2001 A/B seasons. The change over status quo would provide for two roll-overs between CV and CP sectors: one during the “A” season and one during the “B” season. The late year roll-over between fixed and trawl gear would continue as in past years.**

**The date of optimal roll-over allocations for the “A” season would be not later than March 30. The date of optimal roll-over allocation between trawl CV/CP sectors would not be later than September 15. The final roll-over between trawl and fixed gear sectors would continue to be determined by NMFS, based upon harvest patterns.**

**The motion was seconded by John Bundy and carried, with Balsiger objecting (emergency rule).**

Sue Salvesson indicated to the Council that she believes NMFS already has the authority to do this; however, this motion would ensure a trailing amendment if they find NMFS cannot accomplish it under current regulations.

**Dave Fluharty moved that the Council, through the SSL Steering Committee and Council staff, enter into discussions with the National Academy of Sciences to engage it in the study of outstanding scientific questions surrounding the NMFS’ biological opinions\* for the groundfish fisheries in GOA and BSAI. The Council steering group and Council staff, in consultation with the NAS, would structure a two-stage study process to examine first, those high priority questions that can be resolved and can be reported back to the Council by its June 2001 meeting; second, those high priority questions be referred to the study committee for consideration and a report back to the Council by the December 2003 meeting. The intent would be that the specific recommendations on details of those studies could be finalized by the Council at its February 2001 meeting based on the report of the SSC, and the advice of the Advisory Panel, National Marine Fisheries Service, and the public. The motion was seconded by Linda Behnken.**

\*During discussion, it was clarified that ‘biological opinions’ refers all the previous biological opinions, i.e., Atka mackerel and pollock, are to be considered, not just the November 2000 BiOp.

Discussion with regard to the NAS contract/study indicated that in the event that this process doesn’t work because of the Council’s timeframe for implementing regulations vis-a-vis Congressional mandate, etc., that the Steering Committee should take whatever action it deems appropriate that would allow things to move ahead as quickly as possible.

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Dennis Austin suggested inviting NAS personnel to the February Council meeting after to hear the SSC report so that interactions could occur immediately. The Council concurred with this suggestion.

**The motion carried without objection.** A copy of the Council's newsletter summarizing Council actions taken at this meeting are attached to these minutes.

Other Issues

The Council briefly discussed the February meeting agenda. At that meeting the Council will receive the SSC's review of the November 2000 Biological Opinion and discuss the experimental design. Mr. Mace requested that staff tasking in February be scheduled for 1:00 p.m. on Sunday, February 11. Mr. Duffy brought up the difficulty Council members have consulting with each other during breaks because industry members often approach Council members at their seat. He suggested that the Council consider a measure used by the Alaska Board of Fisheries which restricts the area behind the Council table to Council members and agency staff members. Council members agreed to try this at the February meeting and evaluate the results. Mr. Penney also suggested that some way be devised to guide conversations in the hallway away from the meeting room doors as it is sometimes difficult to hear and concentrate on the issues at hand.

The meeting was adjourned at approximately 6:00 p.m. on Friday, January 12, 2001.