

# North Pacific Fishery Management Council

Richard B. Lauber, Chairman  
Clarence G. Pautzke, Executive Director

Telephone: (907) 271-2809



605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

Fax: (907) 271-2817

Certified Richard B. Lauber  
Richard B. Lauber, Chairman

Date: April 26, 1999

## MINUTES

**135th Plenary Session  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
November 10-13, 1998  
Anchorage Hilton Hotel  
Anchorage, Alaska**

The North Pacific Fishery Management Council met November 10-13, 1998 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met November 8-10, and the Advisory Panel met November 8-10, at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

### Council

Richard Lauber, Chairman  
Dennis Austin  
CAPT Vince O'Shea for RADM T. Cross  
Linda Behnken  
David Fluharty  
Dave Hanson  
Joe Kyle

Walter Pereyra, Vice Chair  
Bob Mace for J. Greer  
Kevin O'Leary  
Jim Balsiger/Sue Salvesson for S. Pennoyer  
H. Robin Samuelsen, Jr.  
Dave Benton for Frank Rue

### NPFMC Staff

Clarence Pautzke, Executive Director  
Jane DiCosimo  
David Witherell  
Darrell Brannan  
Chuck Hamel

Chris Oliver, Deputy Director  
Helen Allen  
Gail Bendixen  
Linda Roberts

**MINUTES  
NPFMC  
NOVEMBER 1998**

**Support Staff**

Trevor McCabe, Aide to Senator Stevens  
Lisa Lindeman, NOAA-CGAK  
Jon Pollard, NOAA-GCAK  
Earl Krygier, ADF&G  
Jay Ginter, NMFS-AKR

Lowell Fritz, NMFS-AFSC  
Tim Ragen, NMFS-AKR  
Rich Ferrero, NMFS-NMML  
Peggy Murphy, ADF&G  
Craig Johnson, NMFS

**Scientific and Statistical Committee**

Richard Marasco, Chair  
Al Tyler  
Keith Criddle  
Doug Eggers  
Sue Hills

Dan Kimura  
Steve Klosiewski  
Seth Macinko  
Jack Tagart, Vice Chair

**Advisory Panel**

John Bruce, Chair  
Ragnar Alstrom  
Dave Benson  
Tim Blott  
Al Burch  
Craig Cross  
Dan Falvey

Stephanie Madsen, Vice Chair  
Kris Fanning  
Dave Fraser  
Steve Ganey  
Justine Gundersen  
John Henderschedt  
Spike Jones

John Lewis  
Hazel Nelson  
Dean Paddock  
Jeff Stephan  
Robert Ward  
Lyle Yeck  
Grant Yutrzenka

**Other Attendees**

The following people signed the attendance register:

C.L. Lowenberg  
Ed Glotfelty  
Kirk Cochran  
Barbara Nomsalems  
Matthew Doherty  
Steve Toomey  
Earl Comstock  
Thomas Abel  
Jonathan Spool  
John Iani  
Alec Brindle  
Robert Good  
Dave Allison  
Paul Clarke  
Beth Stewart  
Heather McCarty

Dave Oesting  
C. Mateo Paz-Soldan  
Bill Jacobson  
Jim McManus  
Garry Loncon  
Lou Fleming  
Joe Plesha  
Margaret Hall  
Robert Czeisler  
Gerry Davis  
Simeon Swetzof, Jr.  
Shari Gross  
Ruel Holmberg, Sr.  
Al Geiser  
Terry Leitzell  
Thorn Smith

Kris Norosz  
Dwain Foster, Sr.  
Carol Foster  
Lawrence Calugan, Sr.  
Douglas Holmberg  
Kelly Barber  
Lennie Gorsuch  
Chris Arnim  
Phillip Lestenkof  
Ellen Lockyer  
Mark Wenger  
Stephen W. Faust  
Ole A. Mathisen  
Paul Jacobson  
Bill Lock  
Rick Shelford

**MINUTES  
NPFMC  
NOVEMBER 1998**

Marcus Hartley  
Sinclair Wilt  
Jean Franquelin  
Wayen Tiger  
Glenn Merrill  
Mike Simpson

Steve Hughes  
Vince Curry  
Bob Desautel  
Leonard Herzog  
Peter Vant  
Jennie Webster

Wendy Dunlap-Harding  
Margaret Bauman  
Rich Monroe  
Dave Whaley  
Gary Stevens  
Gary Bloomquist

**NOTE: A list of those who gave public comment during the meeting is found in Appendix I to these minutes.**

**Call to Order**

Chairman Rick Lauber called the meeting to order at 8:28 a.m. on Tuesday, November 10, 1998. This meeting of the Council was scheduled specifically to discuss the American Fisheries Act (S.B. 1221) and any necessary staff tasking resulting from it. In addition to Council, NMFS and ADF&G staff, Trevor McCabe, Senator Stevens' aide, was on hand to answer Council questions. On Thursday, November 12, the Senator addressed Council on the Act and Congressional intent.

In addition, at the request of the National Marine Fisheries Service, the subject of Section 7 consultations on the Steller sea lion was placed on the agenda. There was also a brief report from NMFS on recent bycatches of short-tailed albatross in longline fisheries.

On the recommendation of the Scientific and Statistical Committee, the Council approved the appointment of Sue Shirley, CFEC, to the Scallop Plan Team.

**Bycatch of Short-tailed Albatross in Longline Fisheries**

Sue Salvesson, NMFS, advised the Council that NMFS will not recommend a change in the current incidental take of four birds over a two-year period for short-tailed albatross in the Gulf of Alaska and Bering Sea hook and line fisheries. Currently, two birds have been taken two of the four allowed for the 1997-98 period. NMFS has warned the hook-and-line fleet to take cautionary measures to reduce seabird bycatch to avoid the possibility of shutting down the fishery should the cap be exceeded before further consultation can be initiated with the U.S. Fish & Wildlife (USFW). NMFS plans to recommend to USFW that the four-bird limit over a two-year period remain in effect, with a new four-bird allocation for the years 1999-2000. However, until that consultation, the current limit of two remaining birds would be in effect.

Thorn Smith, North Pacific Longline Assn., provided a brief presentation to the Council on methods the industry is using to avoid seabird bycatch as well as a new device being tested, a lining tube for deploying baited hooks.

Council member Kevin O'Leary asked that this issue be placed on the December meeting agenda in order to determine whether to initiate a regulatory amendment requiring the use of the lining tubes.

**MINUTES  
NPFMC  
NOVEMBER 1998**

**S.B. 1221 (American Fisheries Act)**

**ACTION REQUIRED**

**Review provisions of SB 1221 and take action as necessary.**

**BACKGROUND**

**SB 1221 was recently signed into law and contains numerous provisions affecting prosecution of the BSAI pollock fisheries. Immediate action by NMFS will be required to implement primary provisions of SB 1221 for 1999. In addition, many provisions of SB 1221 will affect the management of other BSAI and GOA fishing and processing sectors and will require the Council to initiate conforming amendments. Some aspects of the Council's I/O3 action are not mentioned in the Act and we will need to address those issues as well. Council and NMFS staff will review the provisions of the Act, section by section, and inform the Council in the following areas: (1) describe what actions are necessary by NMFS to get the Act's provisions implemented for the 1999 fisheries; (2) describe what actions must be initiated as follow-up amendments by the Council; (3) identify where Council comment to the Secretary is required relevant to I/O3 issues; and, (4) identify where actions may be initiated by the Council.**

**Our primary working document for this is Item C-1(a). This is an annotated summary of the provisions of the Act, and necessary tasking, which is keyed to the page numbers in the full Act which was mailed to you last week. Item C-1(b) is a further condensed summary of tasking and timelines, along with tasking and proposals from October. A copy of the Notice of Availability for the I/O3 plan amendment and the Proposed Rulemaking for that amendment are under Item C-1(c). Comment periods end November 16 and December 14, respectively.**

**A related issue is the Council's October action with regard to crab LLP qualification. At that time it was noted that SB 1221 could have implications to the crab LLP program (those will be highlighted by staff), and that the State of Alaska may have management concerns related to SB 1221 provisions and the LLP. Item C-1(d) is a letter from the Board of Fish regarding this issue. Item C-1(e) contains other correspondence received by the Council.**

The Scientific and Statistical Committee did not take up this agenda issue.

**Report of the Advisory Panel**

The AP provided extensive recommendations to the Council relating to revising and supplementing current groundfish regulations to conform to the American Fisheries Act (Act). Please refer to Appendix II to these minutes for specific recommendations. In summary, the AP recommended discussion papers be developed examining conditions for cooperative agreements, options for compensation to inshore catcher vessels with catch history delivering to catcher processors no longer available to them under the Act, the feasibility of changing the option for determining catch history, and examining options to mitigate potential adverse impacts from the Act on non-pollock processors. The AP also recommended the Council initiate several plan and regulatory amendments and initiate a data gathering program to identify the benefits and impacts of the Act. Additional recommendations included an emergency rulemaking to exempt squid from the CDQ program, a regulatory amendment to examine the start dates for the pollock A and B seasons, and a request for the Council to consider removal of the stand-down provisions for inshore/offshore catcher vessels in the pollock fishery (A & B seasons).

On the subject of re-examination of the Council's previous action on reducing capacity in the crab license limitation program, the AP recommended that the Council take no further action.

## DISCUSSION/ACTION

Using an outline of Council actions required ("Roadmap for Council Discussions of S1221 Tasking (November 11, 1998," Appendix III to these minutes), Council members made the following motions:

**Bob Mace moved to instruct staff to develop those measures denoted in the Roadmap that have need for immediate action. Those actions are found on pages 1, 2 and through Item 7a on page 3 of the Roadmap. The recommendations of the Advisory Panel included with each action would be the recommendations of the Council. The motion was seconded by Dave Benton.**

With regard to the Advisory Panel recommendation to request the Secretary of Commerce to change FMP language to remove the 2.5% set aside for catcher vessels delivering shoreside and the exclusion of offshore catcher vessels from the CVOA during the "B" season, NOAA General Counsel representative Lisa Lindeman advised that the Secretary cannot change the amendment, only approve or disapprove it. She recommended that the Council ask the Secretary to disapprove those portions of the FMP amendment because they are no longer necessary since the passage of S.B. 1221. Council members indicated that that would be their intent and directed staff to initiate emergency rulemaking to eliminate these two measures from the FMP if the Secretary cannot partially disapprove the measures submitted under I/O3.

**Council members agreed that the motion would reflect this recommendation.**

In discussion of the stand-down requirements and start dates, it was determined that the AP recommendations did not include consideration of start dates for the "A" or "B" seasons. **Dennis Austin offered a friendly amendment to include the issue of start dates in the motion. Mr. Mace agreed to include the issue in the main motion.**

Also during discussion of the dates, Sue Salvesson indicated that any change in the "A" season start date may be difficult to achieve at this late date. **Council members agreed that the intent of the motion would be to keep the "A" season start date as is for the 1999 season and to notice the public that the Council will be considering changes for the 1999 "B" season and the "A" season in the year 2000.**

Council members discussed the issue of the expiration of the current inshore-offshore allocation in the Gulf of Alaska and determined that extension of the expiration date to coincide with the Bering Sea/Aleutian Islands program under S.B. 1221 could be discussed at the December meeting and handled under the normal amendment proposal cycle.

With regard to the requirement for two observers, Ms. Salvesson indicated that NMFS is requesting the Council recommend an emergency rule to require two observers on all the listed [in S.B. 1221] catcher processors whenever they are fishing for groundfish in order to monitor bycatch. NMFS would also like to require that at least one of those observers have the training required for the multi-species CDQ observers, but will be contacting observer contractors to determine whether an adequate number of qualified observers are available.

**Dave Benton moved to incorporate into the motion an expression by the Council to support placing two observers on catcher processors under the conditions described by the National Marine Fisheries Service, including support of an emergency rule. This was accepted as a friendly amendment by the maker of the motion.**

**MINUTES  
NPFMC  
NOVEMBER 1998**

It was clarified that this requirement would apply to all catcher processors in groundfish fisheries, not just co-op vessels.

In discussing the AP recommendation to limit co-op agreements to a certain number of years, Council members agreed that at this time the subject was only to be included in a discussion paper with pros and cons of any such restriction. In addition, the Council discussed possible deadlines for submission of agreements to the Council. It was agreed to add a measure requiring submittal of co-op agreements by December 1 each year, beginning with December 1, 2000. During discussion Council members also clarified that the discussion paper should address a provision that agreements would have to be re-submitted each year regardless of the length of the agreement and re-submitted during a fishing year if the contract is materially altered in order to be analyzed for possible spillover effects on other industry sectors.

Regarding an AP recommendation that would require disclosure of information on catch and bycatch by co-op participants, the Council agreed that provisions in S.B. 1221, section 210(A) & (B), including reporting information on a vessel-by-vessel basis as identified in sections 210(a)(1)(A)&(B), it was pointed out that the Act requires this, so it would not need to be included in the discussion paper. NMFS would be tasked to determine how this would be accomplished.

Linda Behnken's suggestion to request that NOAA General Counsel clarify the Council's ability to supersede Section 208(f) was also accepted as a friendly amendment, in order to determine whether the Council has the authority to supersede the provision restricting the ability of vessels within a co-op to deliver to processors that are not on the list of eligible processors.

In the AP recommendations under the category of "Catcher Processor Restrictions for 1999," (page 3 of the "Roadmap"), Mr. Benton recommended that, under the heading of "Groundfish," under paragraph 1, the words "pollock and" be removed, so that the paragraph would read, **Non-pollock groundfish caps for listed vessels will be established on the basis of the percent of groundfish harvests in the non-pollock fisheries in 1995, 96, 97 (for Pacific cod, 1997 only).** This was accepted as a friendly amendment.

Under paragraph 2, under "Groundfish," in the AP recommendation, Dave Benton moved to delete the words, "**for non-pollock target species.**" The motion was seconded by Linda Behnken and failed, 6 to 5, with Behnken, Benton, O'Leary, Samuelsen, and Lauber voting in favor.

**The main motion, as amended and clarified, carried with Benton objecting.**

Linda Behnken moved to place on the December agenda consideration of recent qualifying criteria the Council reviewed in October for the crab license limitation program. The motion was seconded by Robin Samuelsen and carried, 7 to 4, with Austin, Fluharty, Mace and Pereyra voting against.

Later in the meeting, Mr. Pereyra expressed concern with Council action regarding catcher processor restriction sideboards on other species. Removing pollock and restricting that action to the non-pollock fisheries would result in all of the non-pollock groundfish bycatch in the pollock fishery being eliminated from the total and could result in fisheries being closed prematurely because of the possibility that less bycatch would be provided for some species than was taken in the pollock fishery. Mr. Pereyra asked that this issue be dealt with in the analysis and when advised that this issue could not be resolved for the 1999 fishing year, Mr. Pereyra moved to reconsider previous Council action on S.B. 1221. The motion was seconded and failed, 8 to 2, with Pereyra and Fluharty voting in favor and Mace absent for the vote. A recap of the final motion is under Appendix IV to these minutes.

Marine Mammal Issues

**ACTION REQUIRED**

**Receive report from NMFS on Section 7 consultation on Steller sea lion/fisheries interactions and consider potential management measures.**

**BACKGROUND**

In October we were requested by NMFS to place this issue on the November agenda, to discuss possible management actions necessary to address Steller sea lion–fisheries interactions. At this time NMFS has not yet made a determination of ‘jeopardy’, nor have they forwarded any definitive measures for Council consideration. We do have a draft summary of the biological opinion (Section 7 consultation), which was mailed to you last week. In that mailing there were also three other papers regarding sea lion/pollock issues (Trites, Alverson, and Boyd). While NMFS has not forwarded specific measures for consideration, information distributed at the public workshops in October did contain some example measures being considered (Item C-2(a)). For your reference, we have also compiled a summary of previous Council actions that relate to sea lion/ecosystem protection under Item C-2(b).

As requested by the Council in October, information from the I/O3 analysis regarding CVOA fishing patterns and sea lion issues (Chapters 5 and 6 from that document) is included as a C-2 Supplemental item. Also recall that four of the proposals from the annual groundfish cycle (#s 15, 22, 23, and 24) were noted by the Council for consideration within the overall suite of alternatives to be considered. These are included as a C-2 Supplemental item. Comments to NMFS from the October public workshops are also contained as a C-2 Supplemental item. Comments to the Council on this issue are under Item C-2(c).

**The Council could discuss these issues and provide guidance to NMFS at this time. Emergency Rule guidance is included under Item C-2(d).**

**Report of the Scientific and Statistical Committee**

The SSC had extensive comments on this issue (please see full SSC Minutes, Appendix V to these minutes). The SSC recommended that several hypotheses provided during public comment be examined and stressed the need for monitoring programs to determine the efficacy of any management measures designed to protect the Steller sea lion.

**Report of the Advisory Panel**

The AP also had extensive comments on this issue (refer to the full AP Minutes, Appendix II to these minutes). They agreed with the SSC's recommendation for improved research and, in addition to specific points to be considered when adopting any emergency measures, the AP suggested formation of a workgroup of fishing industry and environmental representatives to develop a systematic and deliberative process for developing and modifying reasonable and prudent alternatives to mitigate sea lion/fishery interactions.

**DISCUSSION/ACTION**

Jim Balsiger, Acting NMFS Regional Administrator, told the Council that although NMFS has not yet finalized the Biological Opinion or completed the Section 7 consultation for the Steller sea lion issue, the Council still needs to explore ways to mitigate the possible effects of commercial fishing on the recovery of the Steller sea

**MINUTES  
NPFMC  
NOVEMBER 1998**

lion population off Alaska. The Council received an extensive staff report from Tim Ragen, NMFS-Alaska Region, on draft RPAs (reasonable and prudent alternatives) prepared by NMFS. These alternatives included expansion of current no-trawl zones around rookeries and haul-outs and spreading the fishing seasons out spatially and seasonally.

The Council heard extensive public comment and through a series of motions and amendments, approved the following statement:

**The Council recognizes a Section 7 consultation involves a fundamental shift in the burden of proof. The operative question is not whether the pollock fishery is a controlling factor in the decline of the Steller sea lion population, but rather whether there is a chance of the fishery impeding the recovery.**

**The Council recommends that if there's a jeopardy finding the RPAs adopted by NMFS be commensurate with the severity of the situation but as minimally disruptive to the industry as possible, paying particular attention to the issues of safety to small fishing vessels and communities that have been raised in the last few days. Further, that the Council recommends:**

- (1) Monitoring programs be implemented in conjunction with RPAs so that their efficacy can be determined and that future management be based on an experimental design that provides information about the interactions of fisheries and Steller sea lions.**
- (2) That the critical habitat areas be reexamined.**

**With regard to future research and Steller sea lion/fishery management measures, the Council proposes that the following five questions suggested by the SSC be the guides for future work:**

- (1) What is the distribution of fish in relation to areas that are used for fishing?**
- (2) What is the distribution of fish in fishing areas during and after fishing?**
- (3) How do sea lions use pollock in relation to pollock distribution?**
- (4) What does the answer to #3 mean in relation sea lion population dynamics?**
- (5) Does the fishery affect sea lions in other ways, e.g., disturbance?**

**The Council, through the Chair, will establish a balanced committee that includes members of the industry, members of environmental organizations, and members of sea lion research people, including the Steller Sea Lion Recovery Team to develop a systematic and deliberative process for developing any future work relative to the sea lion issue.**

[This was the end of the formal motion]

Then, during discussion, the following points were added as "friendly amendments":

- Convey materials from the meeting, including tapes, to NMFS.



**MINUTES  
NPFMC  
NOVEMBER 1998**

- In relation to the SSC comments on distribution of fish, highlight that this is really focusing on those species and those sizes of importance to the nutrition and health of the Steller sea lion.
- Include the list of hypotheses that the SSC recommended the biological opinion address:

Hypothesis 1. Physical oceanographic conditions in the eastern Bering Sea and North Pacific changed in the mid-1970s. This change influenced the productivity of several species.

Hypothesis 2. Among the species that declined were forage fishes high in fat, including capelin, herring, eulachon and sandlance.

Hypothesis 3. At the start of the fatty forage fish decline the W. Seller sea lion (SSL) stock was in high abundance. The forage fish decline initiated the subsequent decline in SSL.

Hypothesis 4. Walleye pollock numbers increased as the W. SSL decreased and became the major prey of SSL.

Hypothesis 5. Pollock as a prey item are less nutritious than forage fish, to the point that SSL in captivity show declines in health when fed solely on pollock. By implication feeding on pollock is contributing to the decline.

Hypothesis 6. The present fishery for pollock adversely affects the availability of prey limiting the ability of SSL to recover.

- The biological opinion should also address:
  - (a) Subsistence takes and information.
  - (b) The issue of Senate Bill 1221 and what effects that may have in the pollock fishery.
  - (c) Pollock bycatch in other trawl fisheries.
  - (d) Review of critical habitat for rookeries and haul-outs where greater than 200 animals have been seen, ever.
  - (e) Economic analysis of consequences of various RPAs, including the possibility that catch has been underestimated in previous years due to an adjustment in the density factor.
- Examine the PSC cap on herring and look at expansion of the current herring savings area.

**The motion carried unanimously, however Mr. Mace was not present for the vote.**

Dr. Fluharty asked that all relevant materials from this discussion be forwarded to Mr. Ragen for his use and consideration when finalizing the Biological Opinion.

Mr. Kyle asked that this issue be put on the agenda for both the joint Board of Fisheries/Council committee meeting in January and the Council/Board of Fisheries joint meeting in February.

The Council also discussed recent reports of illegal shooting of Steller sea lions. Capt. O'Shea indicated that enforcement and education efforts need to be increased. He indicated that the Coast Guard will review those efforts in their future reports to the Council. Dave Benton will convey Council concerns to ADF&G enforcement also.

**MINUTES  
NPFMC  
NOVEMBER 1998**

**ADJOURNMENT**

Chairman Lauber adjourned the meeting at approximately 12:10 p.m. on Friday, November 13, 1998. June 24, 1999