

North Pacific Fishery Management Council

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Approved Richard B. Lauber
Date Jan 4, 1996

MINUTES

**117th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
April 19-24, 1995
Hilton Hotel
Anchorage, Alaska**

The North Pacific Fishery Management Council met April 19-24, 1995, at the Hilton Hotel in Anchorage, Alaska. The Advisory Panel and Scientific and Statistical Committee began their meetings on Monday, April 17, 1995. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Richard Lauber, Chairman
Morris Barker for Robt. Turner
CAPT Bill Anderson for RADM Rufe
Linda Behnken
David Fluharty
Dave Hanson
Ron Hegge

Walter Pereyra, Vice Chair
Bob Mace for R. Rosen
Steve Pennoyer
Steve Rideout for Dave Allen
Dave Benton/Earl Krygier for Frank Rue
Robin Samuelsen
Clem Tillion

NPFMC Staff

Clarence Pautzke, Executive Director
Darrell Brannan
Marcus Hartley
Jane DiCosimo
David Witherell

Chris Oliver, Deputy Director
Helen Allen
Gail Bendixen
Linda Roberts

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Support Staff

Lisa Lindeman, NOAA-GCAK
Ron Berg, NMFS-AKR
Earl Krygier, ADFG
Steve Meyer, NMFS Enforcement
Jay Ginter, NMFS-AKR
Seth Macinko, ADFG
Sue Salvesson, NMFS-AKR
Lew Queirolo, AFSC
Galen Tromble, NMFS-AKR

Jessie Gharrett, NMFS-AKR
Sally Bibb, NMFS-AKR
Kim Rivera, NMFS-AKR
John Lepore, NMFS-AKR
Bill Karp, AFSC
Don Wadhams, AFSC
Joe Terry, AFSC
Kaja Brix, NMFS-AKR

Scientific and Statistical Committee

Terry Quinn, Chair
Bill Aron
Doug Eggers
Doug Larson
Rich Marasco

Keith Criddle, Co-Chair
Marc Miller
Jack Tagart
Al Tyler
Hal Weeks

Advisory Panel

John Bruce, Chair
Ragnar Alstrom
Dave Benson
Al Burch
Bruce Cotton
Dan Falvey
Dave Fraser

Scott Highleyman
Spike Jones
Stephanie Madsen
Pete Maloney
Hazel Nelson
Doug Ogden
Dean Paddock

Beth Stewart, Vice Chair
John Roos
John Sevier
Mick Stevens
Gary Westman
Robert Wurm
Lyle Yeck

Other Attendees

The following people signed the attendance register:

Lance E. Farr
Steve Grabacki
Mark Earnest
Lennie Gorsuch
Brian Bigler
Bob Walsh
Jeff Stephan
Shirley Margandt
Alexander Galanin, Sr.
John Iani
Tom Hanlon

Phyllis Carnilla
Denise Fredette
Debby Swenson
Bill Jacobson
Betsy Knutson
Joe Plesha
Gordon Blue
Greg Baker
Agafon Krukoff
Lou Fleming
Jim McManus

Perfenia Pletnikof
Tim Smith
Chris Pallister
Ellen Lockyer
John Doody
Arni Thomson
Dick Tremaine
David Harville
Andy McCracken
Capt. Vince O'Shea
Steve Davis

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Other attendees, cont'd

Robert Irvin
Larry Hendricks
Gilda M. Shellikoff
Jack Hill
Jacob Stepetin
Bill Wells
Michael Ireland
Mark Kandianis
Tom Mineo
Steve Hughes
Thorn Smith
Larry Cotter
Art Goddard
Chuck & Lois Burrece
Bob Storrs
D.H. Flanagan
Mike Atterberry
Margaret Hall
Norman Cohen
Bill Myhre

Francis J. O'Hara, Jr.
A. Philemenoff
Bill Quinn
Val Holmer
Erik Noet
Linda Kozak
Mary Grisco
Robert Czeisler
Donna Parker
Tom Suryan
Shari Gross
Ed Glotfelty
David Wilson
Craig Cross
John Henderschedt
Bill Foster
Ron Peterson
Rick Morgan
Vince Curry
Joe Kyle

Emil Berikof
Corey Wilson
John Pipkin
David Allison
Karl Ohls
Michael Lake
Paul Seaton
Roger Woods
Lisa Polito
Ann Touza
Paul MacGregor
Cary Swasan
Dan Albrecht
Doug Vincent-Lang
Bob Trumble
Steve Aarvik
S. Torika
Joe Sullivan

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

A. CALL TO ORDER/APPROVAL OF AGENDA/MINUTE(S) OF PREVIOUS MEETING(S)

The meeting was called to order at approximately 8:15 a.m. on Wednesday, April 19, 1995, by Chairman Lauber.

Agenda. The agenda was approved as submitted with some schedule changes.

Minutes of the December 1994 meeting were approved as submitted.

B. REPORTS

B-1 Executive Director's Report

Advisory Panel. Harold Sparck submitted his resignation from the AP to Chairman Lauber on April 6, 1995, because of illness. Chairman Lauber, on Mr. Sparck's recommendation, appointed Ragnar Alstrom, Vice President of Yukon Fisheries Development Corp. and General Manager of the Alakanuk Native Corporation, to fill the position pending confirmation of the Council at this meeting. The Council unanimously approved the appointment of Mr. Alstrom for the remainder of 1995.

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The Council also confirmed the re-election of John Bruce and Beth Stewart to serve as chair and vice-chair, respectively, of the AP for one year.

MFCMA. The Council did not discuss reauthorization issues because a lack of time and the fact that mark-ups of the draft bills have not yet occurred. However, Wally Pereyra cautioned the Council that current drafts include measures the he feels would compromise the Council's ability to manage the fisheries under its jurisdiction. Many of the restrictive changes proposed are a result of activities in other regions and he suggested the North Pacific Council should be prepared to convince Congress that many of the stringent provisions proposed for the Act are not necessary.

June SSC Meeting. Council members were advised that several SSC members have a conference during the dates set for the June meeting. They will meet instead in Anchorage June 8-9, and will not meet in Dutch Harbor. There will be a SSC representative at the Dutch Harbor meeting to present their reports and answer Council questions.

B-2 ADF&G Report

Earl Krygier reported on fisheries managed by the State of Alaska under delegated authority since the last Council meeting.

BSAI King and Tanner Crab Fisheries. The Bering Sea *C. opilio* Tanner crab fishery opened on January 15, 1995, with a pre-season guideline harvest level (GHL) of 55.7 million pounds, approximately half of the 1994 GHL. A total of 255 vessels, including 19 catcher processors, registered to fish in the 1995 fishery, which lasted 34 days, producing a total catch of over 73 million pounds with an exvessel value of over \$180 million.

The Board of Fisheries passed new regulations during their meeting of March 17-18 which will require observers onboard all catcher vessels participating in the Dutch Harbor brown and the Adak red and brown king crab fisheries. The action was prompted by the early closure of the 1994/95 Adak red king crab fishery for poor performance. Additional observer coverage is the only means to provide the Department with inseason fishery data on these stocks and to provide stock assessments which have been unavailable for these fisheries. The Board also adopted changes to their petition policy which would allow petitions requesting reconsideration of recent Board action to be assessed solely on the merit of the petition, rather than restricting Board evaluation to specific submittal criteria.

Salmon Troll Fishery. Approximately 13,000 chinook salmon have been harvested during the 1994/95 winter troll fishery. This season's fishing effort is the lowest in recent years, resulting in a decreased harvest. The Biological Assessment for the Southeast Alaska Chinook Salmon fisheries is currently being drafted for the 1995 Section 7 consultation and should be submitted shortly.

Southeast Alaska Demersal Shelf Rockfish Fishery. The Southeast Alaska demersal shelf rockfish fishery was closed on March 15 due to management concerns caused by overlapping IFQ and directed DSR fishing. The directed fishery will remain closed until November 15 when it may reopen depending on the amount of bycatch taken in the IFQ fishery and the remaining DSR TAC. On April 5, State waters (0-3 miles) in the Gulf of Alaska were closed to sablefish fishing when it was presumed that the average recent years' harvest had been taken. State waters in the Bering Sea and Aleutians will remain open until the average recent years' harvest has been taken.

During March the Board adopted regulations allowing the Department to modify inseason, individual, group or species bycatch levels by emergency order. To invoke the regulation, one of three conditions must be met: (1) a need for consistency between State and Federal bycatch regulations in areas of overlapping jurisdiction; (2) a resource conservation concern; or (3) to prevent waste of an unavoidable bycatch. The season would close, then immediately reopen under the bycatch rules. The Board also adopted regulations defining a landing, directed fishing, bycatch and other terms that will help establish State and Federal regulatory consistency.

B-3 NMFS Management Report

Ron Berg reported on the status of groundfish fisheries through April 1, 1995. He also reported on the status of current regulatory actions, as follows:

Pribilof Island trawl closure (BSAI Amendment 21a). Final regulations were effective January 20, 1995.

GOA and BSAI 1995 Specifications. Final regulations were effective February 8, 1995.

Exemption of sablefish hook and line gear from 1995 closures in GOA/BSAI; exempt jig gear in BSAI. Final regulations were effective March 15 and April 3, respectively.

Pollock deep skin fillet PRR revision. Final rule being prepared by Regional Office.

IFQ omnibus regulatory changes. Final regulations being reviewed in Washington, DC (WDC) office of NMFS.

Close part of Zone 1 fishing to protect female red king crab in rock sole fisheries. Emergency rule effective January 20 through April 25.

Close Federal waters off Alaska to scallop fishing. Emergency rule effective February 23 through May 30; to be extended through August 28.

BSAI 5-block trawl closure August 1-31 and establish a 42,000 non-chinook salmon cap (BSAI Amendment 35). Proposed regulations being reviewed by WDC.

Directed fishing standards. Proposed regulations being reviewed in WDC.

Groundfish/crab vessel moratorium (Revised Amendments 23/24/4). Proposed regulations being prepared by Regional Office. (Submitted to Council office during Council meeting week.)

Authorize voluntary retention of salmon for foodbank program (Amendments 26/29). Proposed regulations being prepared by Regional Office.

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Allow one-time trade of sablefish & halibut quota shares between GOA and BSAI management areas (Amendments 32/36). Proposed regulations being prepared by Regional Office.

Allow processing of non-IFQ species on vessels & disallowed catcher vessel halibut IFQ on freezer vessels (Amendments 33/37). Proposed regulations being prepared by Regional Office.

Scallop FMP/vessel moratorium. Proposed regulations being prepared by Regional Office.

Recordkeeping/reporting requirements. Proposed regulations being prepared by Regional Office.

Require processors to use scales to weigh pollock caught in pollock fisheries. Proposed regulations being prepared by Regional Office.

Cod end mesh size restrictions. Proposed regulations being prepared by Regional Office.

Seamount fishing regulations. Proposed regulations being prepared by Regional Office.

The Council also received a report from Sally Bibb on the proposed regulations to require total catch measurement in the groundfish fisheries. NMFS hopes to have the proposed rule published this summer and published by December 1995; in 1996 industry would be notified of the requirements, and the regulation would go into effect in January 1997.

B-4 Enforcement Reports

U.S. Coast Guard

International. The masters of two Russian vessels spotted illegally fishing within the U.S. EEZ last July have been punished; the Master of one vessel has had his certificate of Fishing Master suspended and the Master and First Mate of the other vessel were stripped of their ranks in the Russian fishing fleet and had their certificates rescinded, essentially making them unemployable as maritime officers. No activity has been reported in the Donut Hole, and little activity reported last year with regard to high seas driftnetting.

Domestic. The Coast Guard has monitored the BSAI/GOA pollock and other groundfish openings, as well as this year's *opilio* opening and the IFQ fisheries. One hundred and seventy-five random boardings have shown a relatively high rate of compliance with domestic fisheries regulations - less than 10% of all boardings during the period December 1, 1994 and March 31, 1995 resulted in enforcement actions. Eleven fishery violations and 28 safety violations were issued. Between January 1 and March 31, 1995, there were eight commercial fishing vessel sinkings off Alaska resulting in eight lives lost; 26 lives were saved from these eight sinkings.

NMFS Enforcement Report

During the period November 19, 1994 through April 12, 1995, NMFS opened a total of 76 investigations and the USCG initiated 19. Further actions were taken on 248 pending cases; 22 were closed as unfounded, four were closed due to lack of evidence, and 5 were dismissed for other reasons. Three investigations were suspended and 6 cases were referred to other regions or agencies. Thirty-one cases were handled with written warnings, 5 were handled with summary settlement payments totaling \$5,125, 75 were settled through voluntary abandonment

with forfeited proceeds and property valued at \$87,210, and 42 cases were referred to NOAA General Counsel. General Counsel issued 32 Notices of Violation, assessing a total of \$154,069 in penalties; a total of 29 Notices were settled by General Counsel with penalties totaling \$128,809.

NMFS Alaska Enforcement Division, in conjunction with the Coast Guard held public meetings throughout the state to explain and answer questions about the new IFQ regulations . Through April 12, approximately 300 to 350 IFQ landings have occurred. Dockside boardings and plant inspections are occurring at approximately a 75% rate. Twenty-two investigations have been conducted to date with approximately half of those still under investigation; 9 have been dismissed to date.

B-5 International Fisheries

Ambassador David Colson briefed the Council on current international fishery activities of interest to the North Pacific, including the Straddling Stock Conference held recently in New York. Mr. Colson told the Council that he believes that current agreements, such as the Central Bering Sea Convention on pollock stocks, will be protected under any agreements developed under the Law of the Sea or Straddling Stocks conventions.

C. NEW AND CONTINUING BUSINESS

C-1 Oil and Gas Lease Sale

The Council reviewed information on a proposed oil lease sale in the Cook Inlet Planning Area and received a presentation from Joel Hubbard and Ray Emerson of the Minerals Management Service. Comments by NMFS and the U. S. Fish & Wildlife Service were also provided.

Report of the Scientific and Statistical Committee

Recognizing the importance of commercial and recreational fisheries in Cook Inlet, the SSC recommended that in addition to the protection zone alternatives suggested by the MMS, the Council consider an additional alternative which would include all of the protection zones in Alternatives IV-VII of the EIS. The SSC noted that even with protection zones in place there could be adverse impacts outside the lease sale area should there be a development phase and recommended the Council have an opportunity to comment further if an oil development phase is ever proposed.

The Advisory Panel did not address this issue.

COUNCIL DISCUSSION/ACTION

Linda Behnken moved to ask the Executive Director to send a letter to Minerals Management Service expressing the concern of the Council regarding the potential impact of lease sale 179 on fish, marine mammal and seabird populations and call attention to the comments submitted by NMFS, and particularly those of the U.S. Fish and Wildlife Service, requesting that they be addressed in the analysis. The motion was seconded by Dave Benton and carried without objection.

C-2 Inshore-Offshore Allocations and Pollock CDQs

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The EA/RIR for reauthorization of the Inshore-Offshore amendment was completed and mailed to the Council on April 7. The Council was scheduled to review and approve the EA/RIR for release to public review.

Report of the Scientific and Statistical Committee

The SSC recommended the analysis be released for public review after addressing some minor concerns. One such concern related to development of conclusions. The SSC also recommended that the document be modified to contain a statement of assumptions and limitations of the analysis. See the SSC Minutes (Appendix II to these minutes) for more detailed comments.

Report of the Advisory Panel

The Advisory Panel recommended the Council approve the analysis for public review with the following additions:

- (1) Add gross revenue for the CDQ catch to Table 9.3 (p. 226).
- (2) Develop catch per week (in the BSAI) data to determine whether or not catch rates increase in the inshore sector when the offshore sector closes.
- (3) Provide information on the distribution of catch within the harvest sector at the TH1, TH2, and TH3 levels.

COUNCIL DISCUSSION/ACTION

Bob Mace moved to send the EA/RIR for the proposed reauthorization of the BSAI inshore-offshore and pollock CDQ programs out for public review, with final approval scheduled for the June Council meeting. The motion was seconded by Linda Behnken and carried unanimously.

Mr. Mace clarified that the motion does not include the three recommendations of the Advisory Panel because staff has indicated that the necessary data are not readily available. With regard to the SSC recommendations, it was suggested that staff try to respond where possible. The Council did not wish to delay release of the document for public review. It was suggested that other concerns mentioned in public testimony or by Council members, e.g., price changes, be explained in a cover letter to the document to elicit any relevant comments.

C-3 License Limitation Program

At the December 1994 meeting the Council and AP refined the list of elements and options for a license limitation program for public review. However, some of the options were different enough from previous options considered that the Council felt further analysis and public review were warranted. An analysis of highlighted options was prepared and released on March 9, 1995. The Council was scheduled to choose a preferred alternative at this meeting and approve the package for Secretarial review.

Report of the Scientific and Statistical Committee

The SSC reviewed the Supplemental Social Impact Assessment (SSIA) and the analysis of options highlighted by the Council. The SSC did not offer advice on a preferred license limitation scheme, but commented on the SSIA and the staff's analysis. Detailed comments are found in the SSC's minutes (Appendix II to these minutes). With regard to the two highlighted qualifying periods, the SSC noted that they see "little gain in net economic

benefits resulting from license limitation. In fact, the large number of qualifying vessels may actually cause an acceleration of fishery effort relative to the status quo and cause a reduction in net economic benefits." They also stated that "the advantages of license limitation relative to the moratorium have to do with the fact that more restrictions are placed on where and for what species vessels can fish; [which] may make fisheries easier to manage and reduce the chance of large accumulations of effort in small areas or for certain species."

Report of the Advisory Panel

The Advisory Panel considered each element and option for both the groundfish and crab license programs and provided the Council with preferred options in areas where a consensus could be reached. That document is contained in the Advisory Panel minutes, Appendix III to these minutes. A minority report signed by three members of the panel stated that they opposed the license limitation because it does not address the original problem statement for comprehensive rationalization.

COUNCIL DISCUSSION/ACTION

The Council spent over two days discussing the elements and options for groundfish and crab licenses. They were able to narrow options but did not approve a final preferred alternative at this meeting.

Steve Pennoyer pointed out that he is still concerned about the Council's direction toward a license limitation program and how it relates to the Council's future overall comprehensive rationalization program. He agrees with comments from the public and the Advisory Panel that one system may not work well for all fisheries and areas and he will have a difficult time voting for a license program unless the Council has indicated their plans for a future comprehensive system. He also pointed out that analyses, the SIA and EA/RIR, indicate that license limitation, by itself, does very little to solve most of the problems in the original problem statement. A license system in conjunction with other systems might address them more fully, but other programs have not yet been developed or analyzed. The license limitation program as now proposed appears to allow more effort than in recent years, and could allow capital stuffing, and increases in effort by individual vessels. Mr. Pennoyer also told the Council that any system will require transfer of personnel and money from other programs and areas because of budget and personnel limitations being imposed on NMFS and that there will have to be ample justification and assurance that the program will be effective in managing and protecting the fisheries under the Council's jurisdiction. He stressed that any final action by the Council should clearly discuss the types of things the Council may do beyond license limitation because current information seems to indicate that license limitation alone will not solve the current problems in the fisheries.

Dr. Pereyra said he would have preferred to continue with the Council's initial decision to proceed with IFQs, making necessary modifications and exemptions as the program was developed. He feels the current program does not address the waste and bycatch problems, some safety issues and the instability issue, allows for capital stuffing, and allows for increased expansion in the fisheries which is not wanted or needed at this time. He recommended the Council take a close look at the AP's recommendation to carefully consider that some fisheries and/or areas may not be best served by implementation of a license limitation system as is currently being analyzed and that they may need to consider options other than a license limitation program for management of those fisheries and/or areas.

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Bob Mace moved to adopt, as a framework motion, the Advisory Panel's recommendations with regard to the groundfish license limitation program. The motion was seconded by David Benton.

The Council worked through the options and elements, choosing preferred options where possible. Over 20 motions and amendments were made. The Council's final action is attached to these minutes in Appendix IV. **The final motion, as amended, carried without objection.**

The Council followed the same process for the crab license limitation program. Over 15 motions and amendments were made. The Council's final action is attached to these minutes in Appendix IV. **The final motion, as amended, carried without objection.**

The options and elements were approved for public review. Additional analyses will be required before the document can be released for public comment. However, comments will be solicited on the approved elements and options through publication in the Council's newsletter, with the additional analyses available shortly before the June Council meeting.

[A transcript of actual motions and Council discussion has been prepared and included in the administrative record for this action.]

C-4 Sablefish and Halibut IFQs

Due to lengthy deliberations on other issues, the Council deferred discussions of the IFQ Industry Implementation Team report, early sablefish opening in the Aleutians, and status of other amendments to the June meeting.

Phil Smith, NMFS-RAM Division provided a progress report on the status of IFQ fisheries. One area of concern noted was the possibility that some IFQ permit holders may be buying a small percentage, i.e., 1%, of a vessel to thwart the Council's anti-leasing intent. The RAM Division asked for clarification of the Council's original intent regarding the anti-leasing provisions. RAM Division staff also met with the IFQ Industry Implementation Team to discuss implementation issues of mutual interest.

During the meeting the Council received a letter from Alaska Governor Tony Knowles expressing his concern about the halibut and sablefish IFQ program and its impact on Alaska's fishing families and communities. He told the Council that he has instructed the State's departments of Commerce and Economic Development, Labor, Revenue, Community and Regional Affairs, and Fish and Game to begin collecting data on the impact of the program. Governor Knowles requested that the Council thoroughly monitor and review the program to document and evaluate its effects and to ensure immediate and ongoing evaluation of the program. The Advisory Panel and the Scientific and Statistical Committee did not address this agenda item.

COUNCIL DISCUSSION/ACTION

Regarding the anti-leasing provisions of the IFQ program, the Council agreed with the RAM Division's interpretation of the program provisions and **Linda Behnken moved to approve the RAM Division's recommendation. The motion was seconded by Robin Samuelsen and carried without objection.** The Division will amend its practices and require that prior to issuing a card to a non-IFQ permit holder, the USCG Abstract of Title must be submitted and the IFQ permit holder must be listed on the Abstract.

The Council also instructed the Executive Director to send a letter to NMFS requesting they consider requiring the name of a lender on the bottom of the original quota share certificate and to require the signature of that lienholder before subsequent transfer of that quota share.

Regarding Governor Knowles' letter, the Council instructed the Executive Director to send the Governor information available to date on the IFQ program and to assure him that NMFS will be monitoring and evaluating the program and reporting to the Council on a regular basis. It was pointed out that it may take two or three years under the program before actual effects can be reliably assessed.

C-5 Moratorium

The Council was scheduled to review the Proposed Rule for the revised moratorium. The proposed rule was submitted to the Executive Director during the meeting, but had not yet been published in the *Federal Register*. However, Council members were advised that this would not preclude them from addressing any moratorium-related issues at this meeting. One issue raised involved the Norton Sound crab fisheries. The small vessel exemptions and the CDQ vessel exemptions incorporated in the moratorium do not address vessels which may have entered the Norton Sound "super-exclusive" fisheries in 1993 and 1994. If the moratorium is approved as currently structured, some of those vessels would be prohibited from fishing the Norton Sound area in federal waters.

The Advisory Panel and Scientific and Statistical Committee did not address this agenda item.

COUNCIL DISCUSSION/ACTION

Some Council members were concerned about the exclusion of vessels described above, particularly because several are vessels that were involved in "pioneering" the fishery. David Benton suggested the Council should withdraw the moratorium for further consideration at the June meeting.

David Benton moved to rescind the previous action to send the moratorium to the Secretary. The motion was seconded by Linda Behnken, and carried, 7 to 4, with Barker, Fluharty, Mace, and Pennoyer voting against.

David Benton moved to not send the moratorium forward for Secretarial review and to agenda the topic for full review at the June Council meeting

Bob Mace moved a substitute motion to send the moratorium forward without further revision. The motion was seconded by Wally Pereyra and carried without objection.

C-6 Observer Program

The Council was scheduled to receive a status report on implementation of the user fee program and review specifics of the solicitation process as well as technical and policy issues with regard to the overall research plan.

The SSC did not address this agenda item.

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Report of the Advisory Panel

The AP had extensive comments, which are copied here directly from their minutes:

1. The AP recommends that the Council initiate rulemaking to incorporate the Adak and Dutch Harbor king crab catcher vessels in the Research Plan for 1995 in order to prevent double payment by these vessels. We understand that the Board of Fisheries has required 100% observer coverage for these vessels. The AP believes that 30% observer coverage (or some level below 100%) may be more appropriate for the Dutch Harbor and Adak brown king crab fishery.
2. The AP recommends that the Council initiate action to implement the recommendations of the Insurance Technical Committee.
3. The AP recommends that the Council task the Observer Oversight Committee with developing a methodology for prioritizing observer deployment within the constraints of the program, and with examining and reporting on the steps that should be taken when the demands on the program exceed the program's resources. The AP would also like to see the Observer Oversight Committee examine the issue of developing supplemental and voluntary observer coverage as it may apply to bycatch control programs, including the possibility of amendments to the MFCMA.
4. The AP recommends that the Council request a third party independent audit of the methodology for statistical data collection in the Observer Program.
5. The AP recommends that the Council request the NMFS RFP for observer contractors be reviewed by an outside reviewer, perhaps Council staff, a state agency or NOAA General Council, to assure that the RFP will meet the following goals:
 - a. Allow annual changes in observer coverage levels in any fishery.
 - b. Require that the contractor spread coverage out over time and area in a fishery, not just provide coverage when requested by the vessel.
 - c. Allow observers to be transferred among vessels without regard to which contractor is responsible for the vessel. (For example, if a vessel needs coverage and the vessel's company does not have an observer available, can the vessel use an available observer from another contractor?)
 - d. Provide for cost effectiveness.

It is the AP's intent that this review be completed prior to May 1, the date the bids are due, and should changes be required, an amendment be issued to the RFP.

Finally, the AP strongly recommends that the Council take every means necessary to encourage the administration to lift the hiring freeze that is now beginning to have severe impacts on the National Marine Fisheries Service. The AP is particularly concerned about the impacts on the observer program.

COUNCIL DISCUSSION/ACTION

Steve Pennoyer acknowledged that there are portions of the Research Plan that are not quite what the Council envisioned. Implementing such an observer program, the largest and most complex in the country, for fisheries that are larger and more complex than most in the country, has presented some very difficult challenges in developing regulations. Not everyone will be satisfied. And, the Council is adding a lot of extras to the program, i.e., the VIP program, crab research, halibut viability, number of salmon, etc. Mr. Pennoyer stressed that he felt the concerns expressed by the Council, AP and some industry members are being addressed and that there is no need to delay the program.

Dave Fluharty submitted a multiple-action motion, as follows:

(1) Initiate a regulatory amendment to include the Adak and Dutch Harbor brown king crab vessels in the Research Plan, that the level of coverage necessary for statistically reliable data be set in consultation with appropriate parties, to be in place for 1995 and beyond. The motion was seconded by Steve Pennoyer.

This portion of the motion carried with Robin Samuelsen abstaining.

Linda Behnken pointed out that her understanding is that 100% coverage may not be necessary in this fishery and that ADF&G should look at the appropriate level of coverage necessary for statistically reliable data.

(2) The Council encourages NMFS to implement the recommendations of the Insurance Technical Committee. This portion was seconded by Linda Behnken, and carried without objection.

Steve Pennoyer stated that he feels the concerns of the Council and the ITC are being addressed. There is no disagreement over the appropriate level of insurance for observers, only how to achieve that end. The Insurance Technical Committee wants it in the RFP, the NMFS contract officer prefers to allow contractors to specify their plans within the RFP bidding process.

(3) The Council asks the Observer Oversight Committee to develop a methodology for prioritizing observer deployment within the constraints of the program, and with examining and reporting on the steps that should be taken when the demands on the program exceed the program's resources; and that the Council ask the OOC and NMFS to examine the issue of developing supplemental and voluntary observer coverage as it may apply to bycatch control programs. The motion carried without objection.

Regarding the concern over timing of observer deployment, i.e., the RFP cites a 60-day advance notice, NMFS staff stressed that the intent is to maintain as much flexibility as possible, but planning ahead is also very important to deployment of observers.

The issue of supplemental or voluntary coverage for additional observer needs not covered by the 2% fee was also discussed. Mr. Benton stated that he felt the original Magnuson Act language accommodates the need for additional coverage and that it is a question of interpretation. Mr. Pennoyer said that NMFS believes that the Act restricts the total to 2%.

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(4) The Council requests the SSC to devise a peer review of NMFS' current programs for collection, analysis and reporting of data in the Observer Program , the results of the review to be reported to the Council. The motion was seconded by Linda Behnken and carried without objection.

The intent is that the SSC recommend technical people for a peer review, not conduct the review themselves.

(5) The Council establish a committee to work with NMFS to ensure that the contracts address the issues raised by the AP in their April 22, 1995 minutes, points (a) - (d), with the addition that they consider the emergency replacement of observers and point of hire. The committee would work with NMFS and ADF&G to attempt to resolve issues raised in public testimony and during Council proceedings, with resolution of these concerns to be accomplished before the contract is awarded in September. The motion was seconded by Robin Samuelsen and carried without objection.

The Committee would be asked to consider all concerns that have been raised during the discussion of the Research Plan and the observer contractor RFP process. It was pointed out that any major changes in the RFP would require a delay that may not allow implementation of the Research Plan on January 1, 1996 as scheduled.

Earlier in the discussions of the observer plan, Steve Pennoyer had pointed out that current hiring freezes and budget cuts will make implementing new programs difficult and necessitate moving staff from one program to another in some instances.

Dave Benton moved to send a letter to Asst. Administrator Roland Schmitten regarding the FTE freeze, and a letter to the House and Senate Appropriations Committees regarding the need for adequate funding of fishery management programs. The motion was seconded by Linda Behnken and carried with Pennoyer abstaining.

Bob Mace suggested that it is important to point out to Congressional representatives that fishermen from Washington and Oregon, as well as Alaska fishermen, are involved.

Robin Samuelsen moved to request the OOC to consider the issue of the minimum number of observer contractors, i.e., 4 instead of 3 as the RFP currently calls for. The motion was seconded by Linda Behnken and carried without objection.

Bob Mace moved that the submission date for the RFP be delayed until after the June Council meeting and that NMFS initiate a regulatory amendment that would extend the current Observer Program for 1996 if necessary. The motion was seconded by Wally Pereyra, and carried, 9 to 2, with Fluharty and Pennoyer voting no.

Steve Pennoyer cautioned Council members that delaying issuance of the RFP until the end of June will most likely make implementation of the Research Plan in January of 1996 impossible and the current Observer Program is slated to end December 31, 1995. Collection of fees for the program also will be discontinued at the end of 1995. The absence of an observer program will make it difficult, if not impossible, to manage the quotas. He stressed that he felt the concerns of the Council could be addressed without delaying the program.

C-7 Halibut Charterboat Management

The Council received a brief oral legal opinion from Lisa Lindeman, NOAA General Counsel, regarding the authority of the State of Alaska to manage the halibut fisheries, with respect to the halibut sports fishery. Ms. Lindeman advised that because halibut are managed by the International Pacific Halibut Commission under an international treaty, any regulation must be federally mandated; the State of Alaska could not, on its own, develop and enforce separate halibut regulations. A written opinion will be provided to the Council at a later date.

The Council also received written materials outlining staff progress on development of a management program for recreational halibut fisheries off Alaska. This was an information-only agenda item and the Council took no action.

C-8 Bycatch and Discard Reduction

The Council received a written legal opinion on due process with regard to the Harvest Priority proposal. Discussion papers on Harvest Priority, seasonal allocation of rock sole TAC, and Increased Retention/Increased Utilization also were provided for Council review. However, because of lack of time the Council deferred this agenda item until a future Council meeting.

C-9 Endangered Species Review

ADF&G is assisting NMFS in the preparation of a biological assessment of ocean salmon fisheries and their impact on Snake River fall chinook listed under the Endangered Species Act. The assessment was to be reviewed by the Council; however, it has not been completed. In the absence of an agreement under the Pacific Salmon Treaty, NMFS plans to consider management of Alaskan and PFMCO ocean fisheries for chinook salmon in the aggregate.

The Council also was scheduled to receive an update on the possible listing of the Steller sea lion as an endangered species, however there was no new information available at the time of the meeting.

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David Benton moved that the Council authorize the Regional Director, NMFS, to review the State of Alaska's proposed 1995 Southeast Alaska chinook management regime and to make findings in its behalf. The Regional Director shall determine whether the State's proposed 1995 chinook management regime satisfies the Council's requirements for continued deferral under the provisions of the Salmon Fishery Management Plan. Verification that these conditions have been met should be certified by the Regional Director in a letter to the Council prior to the start of the fishery. If the Regional Director is unable to make such certification he shall notify the Council and propose emergency rules to satisfy federal obligations under the Pacific Salmon Treaty, the objectives of the Salmon FMP, the Magnuson Act, and other applicable law. The motion was seconded and carried without objection.

Bob Mace expressed disappointment with the lack of progress on the Pacific Salmon Treaty negotiations.

D. FISHERY MANAGEMENT PLANS

D-1 Scallop Management

In February the Council held an emergency teleconference after a vessel not registered with the State of Alaska fished for scallops in the EEZ after the State's harvest guideline of 50,000 lbs had been taken. The Council concurred with NMFS' recommendation to issue an emergency order to close the EEZ off Alaska to scallop fishing to prevent further uncontrolled harvests. The Council was scheduled at this meeting to review the situation and decide how to proceed. NMFS recommended an interim fishery management plan that would continue the closure until a more comprehensive scallop management regime can be developed and implemented.

In January, the Council requested information on costs of including the scallop fishery in the Research Plan. Under a fully federal FMP, incorporation of this fishery in the plan would be essential. Assuming average annual landings of 1.2 million pounds and an exvessel price of \$6/ lb, total exvessel revenue will average \$ 7.2 million per year. At a maximum 2% research plan fee, \$144,000 would be collected from the scallop fishery under the research plan. ADF&G currently mandates 100% observer coverage, and estimates that fishing seasons would total about 3 months, with 18 vessels participating. This equates to 54 observer months, or 1,620 observer days. At \$220 per day for observer coverage, the scallop fishery will cost the research plan about \$356,400, leaving a net loss of \$212,400, which must be subsidized by other fisheries.

A review of crab bycatch recommendations also was on the agenda. The limits in the Bering Sea are set annually on a percentage of total survey crab abundance. The Council approved the following percentages in January: *C. opilio*, 0.003176%, and *C. bairdi*, 0.13542%, which equate to about 300,000 *opilio* and 360,000 *bairdi* based on the 1994 survey crab abundance. For red king crab, the Council notified the public that a percentage with a range of 0.00176 - 0.0176% was being considered for final approval at this meeting. These percentages equate to approximately 500 to 5,000 red king crab given current population size.

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FMP. The absence of a valid FMP presents a significant potential for a conservation problem in this fishery, however the complete closure of the fishery will likely result in foregone revenues of over \$6 million annually.

The SSC urged that an attempt be made to identify a way to allow a constrained fishery that would allow collection of data on the scallop resource. The SSC recommended that ADF&G, NMFS, and industry members begin discussions of alternative strategies to meet important research needs.

The SSC indicated that the current draft FMP lacks a clear statement describing how GHUs are calculated. Until additional data become available, the SSC believes that the GHUs specified in the November 30, 1993 draft FMP should be used. The SSC also pointed out that any operational FMP must give serious consideration to effort limitation, i.e., ITQ systems.

Observer Coverage. The SSC stated there is a clear need for observer coverage of the scallop fleet to begin collection of necessary biological and fishery information, and that the principal management agency finally determined should decide how that is to be accomplished.

Crab Bycatch. The SSC noted that bycatch amounts that occur based on the numbers recommended should not create any conservation concern at this time.

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FMP. The AP recommended the Council move forward with the interim FMP and that the Council encourage Alaska's Congressional delegation to amend the Magnuson Act to ensure that no further gaps in regulatory presence will result in unregulated fishing in the EEZ. The AP recommended the FMP should include federal regulations that govern Category 2 management measures.

Crab Bycatch. The AP recommended that the *opilio* and *bairdi* crab bycatch caps be set at the levels identified in the action memo: *opilio*, 0.003176% and *bairdi*, 0.13542%. and that the bycatch cap for red king crab be set at 3,000 crab, to be available:

- Option 1: from the beginning of the season, or
- Option 2: half of which would be available at the beginning of the season. If the cap is reached, the scallop season will close for two weeks and then reopen for harvest of the remaining scallop quota and the release of the remaining crab cap.

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Earl Krygier moved to approve the AP recommendation to adopt an interim scallop fishery management plan closing the EEZ off Alaska to scallop fishing for one year, beginning August 28, 1995. The motion was seconded by Steve Pennoyer and carried without objection.

Responding to requests to have a limited fishery between the expiration date of the emergency rule and the implementation of the interim FMP, Steve Pennoyer said there would be no regulations in place to avoid the same situation of unregulated fishing by vessels not registered with the State.

The Council expressed its intent that a new management regime which would allow regulated fishing be prepared, approved and implemented as soon as possible to mitigate the hardship on the fleet.

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Linda Behnken moved to release the draft federalized FMP for public review, with final action as soon as possible. The motion was seconded by Robin Samuelsen and carried without objection.

Steve Pennoyer said that NMFS would prefer that the State maintain oversight of the fishery; however, unless the Magnuson Act is changed, it cannot be done without the possibility of unregulated fishing as happened in February. He pointed out that the State has managed the fishery and has the mechanisms in place to continue as before, while NMFS does not have the manpower or budget to manage the fishery without jeopardizing other programs. Earl Krygier said that the State may not be willing to manage the fishery if it is totally "federalized," leaving the State with no regulatory power. Steve Pennoyer reiterated that it is NMFS' intent that the fishery be managed by the State by delegated authority and that the current federalized plan is an interim measure until Congress can resolve the issue of State authority in Federal waters.

Linda Behnken moved to approve the AP's recommendation with regard to crab bycatch caps. The motion was seconded by Earl Krygier. The motion was subsequently amended by friendly amendment to add a second alternative option to set the bycatch cap for red king crab at 500 crab and carried without objection. These options are to be released for public review before a preferred alternative is chosen by the Council at their June meeting.

D-2(a) Chinook Salmon Bycatch

The Council was scheduled to consider final approval of chinook salmon bycatch measures in the Bering Sea/Aleutian Islands. The Council also received an update on the activities of the Salmon Research Foundation during the first quarter of 1995.

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The SSC pointed out that the chinook salmon bycatch occurs over a broad area and during times of the year when the groundfish product quality is high and that consequently a small block area is not available where significant reductions of chinook salmon bycatch would occur with time/area closures without imposing potentially large costs on the groundfish fishery. The time-area closure concept is likely to become unworkable very quickly because of the large number of actual and potential bycatch allocation issues before the Council. The SSC suggested that the current voluntary program be allowed time to collect enough data to determine whether a plan amendment is required. The SSC also recommended that the bycatch model used in the analysis be reconfigured and updated. Improvements on the model will provide critical information for other bycatch issues as well as chinook, i.e., chum salmon, crab, halibut and other bycatch species.

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The Advisory Panel recommended the Council maintain status quo at this time and not implement any time-closures. The AP pointed out that they believe that the ongoing work of the Salmon Foundation should be given a chance to produce results for Council review. The AP further recommended that the interrelationship of all closures, particularly time-area closures, should be evaluated prior to adding more. Closures can displace the fleet into areas of higher bycatch.

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Dave Benton moved to adopt alternative 2, with a cap of 48,000 chinook salmon; the nine-block closure area is represented in Figure 1-166 on page 231 of the EA/RIR. The motion was seconded by Linda Behnken and carried, 7 to 4, with Barker, Fluharty, Mace, and Pereyra voting no.

It was clarified that reaching the cap of 48,000 chinook salmon would trigger a closure of the nine-block area during the period of January 1 - April 15; the area would then reopen to trawling on April 16.

D-2(b) Crab Bycatch Issues

The Council received an analysis of Bristol Bay red king crab protection areas and a written report of the Joint Groundfish and Crab Plan Teams on crab rebuilding. However, because of a lack of time, no action was taken. The Council did request that at a future meeting, ADF&G brief the Council on crab management and possible effects of pending budget cuts. The Council will consider the Bristol Bay red king crab protection areas at the June Council meeting. SSC and AP comments on this agenda item are found in their minutes, Appendices II & III, respectively.

D-2(c) POP Rebuilding

The Council was to discuss whether to adjust the Gulf of Alaska Pacific ocean perch rebuilding plan and whether to set the 1995 POP total allowable catch at a rate different from the current rebuilding plan, however because of lack of time, the subject was delayed to the September Council meeting. The SSC's comments on this item are found in the SSC Minutes, Appendix II to these minutes.

D-2(d) Grid Sorting

The Council received for preliminary review a draft EA/RIR/IRFA for deck sorting of Pacific halibut in the non-pelagic trawl groundfish fisheries in the Gulf of Alaska and Bering Sea/Aleutian Islands. Because of a lack of time, the subject was delayed to the September Council meeting. The SSC's comments on this item are found in the SSC Minutes, Appendix II to these minutes.

D-2(e) Electronic Reporting

The Council received a draft EA/RIR for initial review of a regulatory amendment to implement hardware requirements for all processors of groundfish to facilitate electronic reporting of fisheries data by observers. There were no AP or SSC comments on this subject.

COUNCIL DISCUSSION/ACTION

Ron Berg moved to send the analysis out for public review. The motion was seconded and carried without objection.

D-2(f) BSAI Pollock Midwater Trawl Fishery

In December 1994 Council member Wally Pereyra suggested the Council should consider limiting pollock trawling in the BSAI to pelagic fishing as a way to reduce bycatch and waste. The Council received a written

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report on discard rates in the fishery, using data from the 1992-94 fisheries. It was pointed out that the Council already has the ability to limit the fishery to midwater by apportioning the pollock TAC between the pelagic and bottom trawl pollock fisheries during the annual specifications process. No action was taken at this meeting.

E. FINANCIAL REPORT

There was no financial report at this meeting.

F. PUBLIC COMMENTS

There were no further public comments.

G. CHAIRMAN'S REMARKS AND ADJOURNMENT

Chairman Lauber adjourned the meeting at approximate 4:46 p.m. on Monday, April 24, 1995.