

Executive Director's Report

USFWS Director on hand

Rowan Gould, Regional Director for the USFWS, is scheduled to be on hand this morning during the USFWS report - this will give us all a chance to meet him, and him a chance to observe some of our process in action.

NOAA workshop on Crab Buyback program

Mike Sturtevant from NOAA Fisheries Financial Services Division is here in Anchorage and will be holding an informational workshop tonight to discuss aspects of the crab buyback program. That will be held in the AP meeting room starting at 6:00 pm. Mike will also be around today and Thursday to meet with folks individually.

Letter from NMFS RE Fur Seal EIS

B-1(a) is a copy of a letter recently sent from Dr. Balsiger to the Council's Fur Seal Committee Chair, Dave Benson, encouraging that Committee's role in review and comment on the draft Fur Seal EIS (reauthorizing fur seal harvest on the Pribilof Islands). The EIS is due out later this month, and the Committee could focus on any aspects of that EIS that relate to effects of fishing on the fur seal population. The letter also suggests a role for the Committee in development of the broader Fur Seal Conservation Plan. Any potential changes to fisheries resulting from that Plan could be addressed by the Committee, and would eventually come back through the Council process. The Committee minutes from their January 15 meeting are attached to the letter, and reflect that the Committee will next meet via teleconference, after receipt of the draft EIS, and they would also discuss their further involvement in the development of the Conservation Plan at that time.

SSL Blue Ribbon Panel

At previous meetings we discussed the possibility of issuing an RFP, or directly commissioning an independent panel of experts, to come up with an experimental design as recommended by the National Academy of Science/National Research Council in their 2002 report relative to Steller sea lion science and management. Internal staff discussion, including Council and AFSC staff, resulted in a preference to directly commission a small, independent panel; however, those same discussions have led us to recommend to the Council that we hold off on doing this, for the following reasons: (1) while not necessarily on the scale recommended by the NRC report, we do have ongoing fisheries interaction studies (open/closed areas) being conducted by the AFSC; (2) attempting to create further, large scale, open/closed areas could be very disruptive to the overall suite of approved management measures in place; (3) the delicate balance of ESA approved measures should generally be allowed remain 'constant' for a while (recognizing small adjustments being considered in the GOA); (4) commissioning the development of such an experimental design would not necessarily

result in the experiment being conducted (neither the Council nor NMFS can commit the funding or other resources for what would likely be a very expensive and long-term experiment); (5) we can reserve the funds earmarked for this study and consider later this year the appropriate timing for commissioning such a study. We will have further discussion of this issue later in the week at our Finance Committee meeting.

National Fisheries Conference Proceedings

We (mostly David Witherell!) are working diligently to get the proceedings compiled and published from our 'Managing our Nation's Fisheries' Conference held last November in Washington, DC. We have in mind a nice, hard-cover publication that will be widely distributed. Keynote speeches, regional presentations, and panel summaries will be included. Target for completion and printing of this book is early March. We have already been discussing the 'next conference', and while we cannot practically have these every year, we are thinking of spring 2005, though NOAA Fisheries leadership is suggesting a possible conference as early as fall 2004! Our Conference Organizing Committee is meeting by teleconference next week with NOAA representatives to further discuss a potential next conference. I will update you at our April meeting.

Alaska Board of Fisheries

B-1(b) contains the draft agenda and committee roadmap for the Board's February 15-26 meeting in Anchorage. This is the meeting where, among many other things, the Board will be discussing state waters groundfish options relative to our GOA rationalization initiative. The Board's Workgroup reports to date on that issue are contained under the C-1 agenda item and will be discussed when we get to that item. In February the Board will also be discussing groundfish proposals, including a few that are of interest to the Council (GOA state waters cod fishery and a proposal to establish a similar fishery in the Bering Sea). I have requested a brief update on those groundfish proposals under agenda item B-4 (the ADF&G Management report), in order to provide the Council with an opportunity to discuss and possibly provide comment to the Board prior to their consideration of these proposals later this month. Board Chair Ed Dersham is scheduled to be on hand to update the Council on this issue.

Enforcement Committee Report

The Council's Enforcement Committee met last night and discussed a number of issues related to pending Council actions, including: monitoring and enforcement concerns related to Amendment 80 (sector allocations and H&G co-ops); HAPC proposals; aspects of an AI pollock fishery; and, the crab rationalization program. A written report will be available later this week and we will address issues under the relevant agenda items.

EFH letter to NMFS

For your information, B-1(c) is a copy of a letter from Chair Madsen to NOAA Fisheries regarding potential revisions to the EFH guidelines, per the advance notice of proposed rulemaking from December. Our letter basically suggests that, due to how far down the road we are in our EIS

development, the guidelines not be altered at this time. To do so could be disruptive to our process, and possibly risk additional litigation. The letter further suggests that the existing guidelines should not be in regulation, but rather re-issued as advisory guidelines.

Four month calendar

B-1(d) is a four month calendar for reference, which includes major, known meetings and events of interest to the Council family.

Executive Sessions

I have scheduled an Executive Session for Saturday to deal with appointments to the Pacific Northwest Crab Industry Advisory Committee (PNCIAC), and to finalize 2004 appointments for the SSC. On Friday, the Council's Finance Committee will meet to review and discuss a number of budget and financial issues.

Symphony of Seafood

Just a reminder that the annual Alaska Symphony of Seafood will be held Saturday evening, February 7, at the 4th Avenue Theater from 5:30 to 8:30 pm. Tickets are \$35 and are available at Carr's Tix, Tickets.com, or by calling 800-478-7328. I am unsure whether tickets will be available at the door.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
222 W. 7th Avenue, #43
Anchorage, Alaska 99513-7577

AGENDA B-1(a)
FEBRUARY 2004

January 15, 2004

RECEIVED

JAN 16 2004

N.P.F.M.C.

Dave Benson
Chair, Fur Seal Subcommittee
c/o North Pacific Fisheries Management Council
605 W. Fourth St. Suite 306
Anchorage, AK 99501

Dear Mr. Benson:

The National Marine Fisheries Service, Alaska Region, (NMFS) has determined that the preparation of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) is necessary for the reauthorization of the fur seal harvest on the Pribilof Islands. This document and any associated regulations need to be completed by the fur seal harvest commencing in June 2004.

We recognize and encourage the Council's interest in fur seals on the Pribilof Islands as it relates to commercial fishing. With respect to the Council's Subcommittee involvement in the EIS process for the harvest reauthorization, we suggest that once the draft EIS is prepared (mid-February) NMFS could provide the draft for comment by the Council's Subcommittee. NMFS is also preparing a draft Conservation Plan for northern fur seals. The Council's Subcommittee could play a significant role in the development of this plan with respect to the effects of fishing on the fur seal population. The Conservation Plan will be more broad in scope than the harvest EIS and could be more extensive in its treatment of the potential interaction between fur seals and fishing. The preparation of the Conservation Plan may allow for additional analyses or examination of fishing as it relates to the fur seal population on the Pribilof Islands.

Thank you for your interest in fur seal management.

Sincerely,

James W. Balsiger
Administrator, Alaska Region



**North Pacific Fishery Management Council
Fur Seal Committee
January 15, 2004 Meeting**

Minutes

Chairman Dave Benson welcomed members of the Council's Fur Seal Committee to its second meeting. Committee members attending this meeting were: Chairman Dave Benson and Committee members Larry Cotter, Aquilina Lestenkof, Paul MacGregor, Anthony Mercurief, and Evie Whitten. Bill Wilson attended as NPFMC staff.

After introductions of the Committee, Wilson reviewed the discussions held at the December 11, 2003 meeting and the Committee's request to NMFS during that meeting for an update and a clarification on how NMFS will proceed with preparing the draft Environmental Impact Statement on renewing the fur seal harvest regulations. During the Committee's December 2003 meeting, NMFS presented some alternative approaches to preparing this EIS, and NMFS agreed to prepare a more clear statement of how this EIS will be prepared, what kinds of analyses it will contain, how the Council's Fur Seal Committee might help with the process for completing this EIS, and the schedule for its completion. This presentation from NMFS was the main agenda item for this January 15, 2004 meeting.

DEIS for Subsistence Harvest Regulations Renewal

Kaja Brix with the Protected Resources Division of NMFS (Alaska Region) presented a letter written from Dr. Jim Balsiger of NMFS to the Committee regarding how the Committee might interact with NMFS as they prepare the dEIS. Brix expanded on the letter by describing the alternatives to be addressed in the EIS, including a new alternative: to evolve management of fur seals on the Pribilof Islands to a full co-management scheme. Brix further reviewed the anticipated analyses that will be presented in this EIS. The EIS will focus on issues surrounding renewing the harvest regulations. Regarding cumulative effects, there likely will be no new analysis of fishery effects on fur seals in the EIS, but rather NMFS will use the analysis presented in the SSL protection measures EIS and in the EA prepared earlier in 2003 on renewing the fur seal harvest regulations.

Fishery Effects Analysis

Brix suggested to the Committee that the Council might consider engaging with NMFS in the preparation of a fishery effects analysis that would update and expand on the analysis contained in the SSL EIS. This analysis was prepared in the late 1990s, and there have been new data collected since then on fur seals, fishing patterns, and other considerations such as oceanographic and climate regime shift data. She further suggested that this effort might be tied to the process, that has already started, to update the Northern Fur Seal Conservation Plan (FSCP). NMFS would welcome Council input to this process, as

this would be a proactive action the Council could take to be forward-looking in terms of addressing potential issues associated with offshore fishery activities and fur seals. Given the finding in the SSL EIS that groundfish fisheries, coupled with recent climate regime shifts, may have a conditionally significant adverse impact on fur seals, it may be appropriate to revisit the information and data that led to that finding. And this might be done by the Council, through its Fur Seal Committee, in the context of revising the FSCP. Brix noted that the experience and insights the Council could bring to this effort could greatly improve the Plan.

The FSCP will contain recommendations for the long-term management of the Pribilof Islands fur seal population. The Tribal Governments of St. Paul and St. George are currently drafting an initial suite of measures. This document will be presented to NMFS in late February. This will form the core of the revised plan; NMFS will build on the Tribal recommendations in completing the Plan. Brix suggested that the schedule for completing the Plan could be flexible to accommodate Council input, should the Council wish to do so. The FSCP will contain research and management actions NMFS believes are necessary to remove fur seals from their depleted status and provide for sound and long term conservation of this species in the North Pacific. If the Plan suggests that changes in fisheries may be necessary for fur seal conservation, then these would eventually be presented to the Council for further action. By participating in the process of revising this Plan, the Council could be proactive by helping to define appropriate fishery management options and other conservation measures. Balsiger further suggested that perhaps the revised Plan might gain more support from Congress if a combined effort from the residents of the Pribilof Islands, NMFS, and the Council were taken in its preparation.

The Committee discussed this idea further, and generally was positively receptive to the idea of contributing to the revision of the Plan. Some Committee members suggested that this could be a mechanism the Council might use to revisit the conditionally significant adverse impact finding in the SSL EIS. Examination of new data and analyses of fisheries and fur seal populations may suggest that there are issues other than groundfish fisheries that may be influencing the fur seal population decline in the Pribilofs.

The Committee heard public comment and facilitated some further discussion of both the FSCP and the dEIS. Issues discussed included what might be appropriate Council input to the FSCP, and further discussion on how and to what extent NMFS plans to address concerns over fishing impacts on fur seals in the Bering Sea in the dEIS.

In summary, the next actions for the Fur Seal Committee are:

1. Review the dEIS when it is available, and meet to review any concerns over the contents of the dEIS and to draft a series of comments for Council approval; and
2. Discuss an appropriate level of further involvement in the NMFS efforts to revise the Fur Seal Conservation Plan. This discussion would include a review of potential data needs for conducting an updated analysis of fishery effects on fur seals.

DRAFT

Next Meeting

The Fur Seal Committee will likely meet next by teleconference. Benson suggested that the meeting will be called after the dEIS is available for comment and the Committee members have had time to read the document. Wilson will notify Committee members when the dEIS is available and query Committee members for a time for a teleconference to obtain Committee comments on the dEIS. The Committee can also discuss what steps it wishes to take next during that teleconference.

For questions or comments, contact Bill Wilson (bill.wilson@noaa.gov) at the NPFMC, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501. Phone: 907-271-2809, FAX: 907-271-2817.

~2nd DRAFT~

ALASKA BOARD OF FISHERIES
ALASKA PENINSULA/ALEUTIAN ISLANDS FINFISH and SUPPLEMENTAL ISSUES
February 15 – 26, 2004, Coast International Inn, Anchorage
TENTATIVE AGENDA

NOTE: This tentative agenda is subject to change throughout the course of the meeting.

This Tentative Agenda is provided to give a general idea to the public of the board's anticipated schedule. The board will attempt to hold to this schedule; however, the board is not constrained by this Tentative Agenda. Those of you who wish to testify must sign-up by the deadline. Public testimony will continue until those present at the meeting are heard; the board will continue working through its agenda immediately upon conclusion of public testimony. The following time blocks are only an estimate. Updated agendas will be posted in the meeting room, or call 1-800-764-8901 for a recorded message on daily progression through the meeting.

Sunday, February 15, 8:30 a.m.

OPENING BUSINESS

Call to Order; Introductions of Board Members and Staff
Board Member Ethics Disclosures

STAFF REPORTS

PUBLIC AND ADVISORY COMMITTEE ORAL TESTIMONY²

Deadline for SIGN-UP TO TESTIFY will be announced at the meeting. Public testimony will continue until those who are present at the meeting are heard.

Monday, February 16, 8:30 a.m.

Continue Public Testimony

Tuesday, February 17, 8:30 a.m.

Continue/Conclude Public Testimony and Organize for Committees

Note: The board's Gulf of Alaska Groundfish Rationalization Steering Committee will meet at the Millennium Hotel on Tuesday, February 17, immediately following committee organization.

Wednesday, February 18, 8:30 a.m.

COMMITTEE WORK³

Committee A: Gulf of Alaska Groundfish Rationalization (Committee of the Whole)

Thursday, February 19, 8:30 a.m.

COMMITTEE WORK³

Committee B: South Alaska Peninsula June Salmon

Committee C: AK Peninsula/Aleutian Island Herring

Friday, February 20, 8:30 a.m.

COMMITTEE WORK³

Committee D: North Alaska Peninsula Salmon

Committee E: AK Peninsula/Aleutian Island Salmon

ALASKA BOARD OF FISHERIES
February 15 – 26, 2004, Alaska Peninsula/Aleutian Islands Finfish, Anchorage
TENTATIVE AGENDA, continued

Saturday, February 21, 8:30 a.m.

COMMITTEE WORK³

Committee F: AK Peninsula/Aleutian Island Groundfish

Note: The committee on "Finfish Policies" has been cancelled.

Sunday, February 22, 8:30 a.m.

Board Committee Report Preparation and Distribution to the Public⁴

Monday, February 23 – Thursday, February 26, 8:30 a.m.

Reports from Committees⁴

BOARD DELIBERATIONS

Order of deliberations:

Halibut subsistence appeals⁵

Committees A thru F: The order of deliberations for the committees will be announced at the meeting

Proposal "C," the Bristol Bay General District Management Plan⁵

MISCELLANEOUS BUSINESS, including Petitions, Findings, Resolutions, Letters, Other

ADJOURN

SPECIAL NOTES:

1. This agenda is TENTATIVE and subject to change during the meeting. A list of staff reports and roadmap will be available at the meeting. Scheduled updates will be posted at the meeting, and can be obtained by calling the board's recorded message phone. Phone Number: 1-800-764-8901 [In Juneau call: 465-8901]
2. Advisory Committee representatives can present their reports either at the beginning or end of the "Oral Public Testimony." The advisory committee representative should notify the board secretary whether they prefer to present their report at the beginning or end of public testimony.
3. **Board Committees:** Following staff reports and oral testimony, the board has established a number of board committees to provide additional review of proposals. Grouping of proposals for board committees will be finalized at the meeting. Board committees are comprised of board members. The board selects public advisors to the board committee from qualified and interested members of the community(s). Advisory committee representatives are ex-officio advisors to all board committees. The **Purpose** of the board committee process is to: 1) broaden public participation in the regulatory process; 2) provide another forum for stakeholders to discuss resolution of contentious issues; 3) provide additional detailed information to the board relative to proposals.
4. The schedule for distributing Committee Reports, including the deadline for written comment on those reports, will be announced at the meeting.
5. The following two issues are NOT scheduled for committee work during this meeting: Halibut Subsistence Appeals, and Proposal C, the Bristol Bay General District Management Plan. The board will take oral and public testimony on these two issues, then will deliberate as indicated.
6. Individuals with disabilities who may need auxiliary aids, services, and/or special modifications to participate in this hearing and public meeting should contact Diana Cote at 907-465-4110 no later than February 3, 2004 to make any necessary arrangements.

REVISED !!!

**ALASKA BOARD OF FISHERIES
ALASKA PENINSULA/ALEUTIAN ISLANDS FINFISH AND SUPPLEMENTAL ISSUES
February 15-26, 2004
TENTATIVE COMMITTEE ROADMAP**

Proposed Schedule:

Approximately Wednesday, February 18: Committee A: GOA Groundfish Rationalization
Approximately Thursday, February 19: Committee B: South Alaska Peninsula June salmon
Committee C: AK Pen/Aleutian Is. herring
Approximately Friday, February 20: Committee D: North Alaska Peninsula salmon
Committee E: AK Peninsula/Aleutian Is. salmon
Approximately Saturday, February 21: Committee F: AK Pen/Aleutian Is. Groundfish

*****NOTE: The committee concerning "Finfish Policies" (Sustainable Salmon Fisheries Policy) has been cancelled.*****

Approximately Wednesday, February 18:

**Committee A: Gulf of Alaska Groundfish Rationalization (Committee of the Whole)
(1 proposal)**

Gulf of Alaska groundfish fishery rationalization: 257 (formerly ACR 24)

Approximately Thursday, February 19:

**Committee B: South Alaska Peninsula June salmon (Jensen, chair; A. Nelson; Morris)
11 proposals**

Change the Fishing Area:

Increase Open Waters in the South Unimak Fishery: 206

Change the Fishery Periods and Dates

Change the opening date of the fishery: 207

Change fishing period times and dates: 208

Change fishing period times and dates for seine and drift gillnet gear: 209

Change fishing periods to Monday – Friday: 210, 211

Change fishing period times and dates for set gillnet gear: 212

Return to Pre-January 2001 Regulations:

Return to the pre-January 2001 regulations: 213

Change the Salmon Ratios:

Establish chum-to-sockeye ratios in the seine and drift gillnet fisheries: 214

Change the June 10-24 set gillnet sockeye-to-chum ratio: 215

Change the post-June 24 set gillnet sockeye-to-chum ratio: 216

**Committee C: AK Peninsula/Aleutian Is. herring (R. Nelson, chair; Andrews; Bouse)
6 proposals**

Consider GPS for regulatory coordinates: 241

Close Aleutian Waters to herring where buildups of salmon occur: 242

Consider changes to prevent exceeding the allocation: 243

Allocate more herring to the gillnet fleet: 244

Change gillnet mesh size: 245

Create an exploratory herring fishery: 246

REVISED !!!

**ALASKA BOARD OF FISHERIES
ALASKA PENINSULA/ALEUTIAN ISLANDS FINFISH AND SUPPLEMENTAL ISSUES
February 15-26, 2004
TENTATIVE COMMITTEE ROADMAP
continued**

Approximately Friday, February 20:

**Committee D: North Alaska Peninsula salmon (Bouse, chair; Jensen; Morris)
9 proposals**

Change the Ilnik Section fishing periods: 229
Change fishing boundaries: 230
Establish closed fishing times or reduce gear depth: 231
Establish closed fishing times: 232
Reduce open waters when escapement goals are met: 233
Close the Three Hills Section: 234
Define the closed waters in the Nelson Lagoon Section: 235
Change the season dates of the Uria Bay Section: 236, 237

**Committee E: AK Peninsula/Aleutian Is. salmon (A. Nelson, chair; Andrews; R. Nelson)
21 proposals**

Summer Bay Lake closed waters to sport fishing: 197
Sport fish bag, possession, and size limits: 198
Consider subsistence salmon regulations: 199
Consider GPS for regulatory coordinates: 200
Define area boundary lines: 201
Define the closed waters at Lenard Harbor: 202
Eliminate the drift gillnet mesh size restrictions: 203
Change the drift gillnet mesh size: 204
Eliminate the drift gillnet filament requirement: 205
Post-June South Alaska Peninsula Fishery:
Change fishing period times and dates in post-June South Alaska Peninsula Fishery: 217
Remove the coho cap in post-June South Alaska Peninsula Fishery: 218, 219
Exempt set gillnet gear from the coho cap : 220
Clarify management options when the coho cap is approached: 221
Immature salmon thresholds in post-June South Alaska Peninsula Fishery: 223, 224
Clarify an allocative conflict between the post-June and the SEDM management plans: 222
Amend the estimate of sockeye salmon destined for Chignik to 60 percent: 225
Beginning August 20 close a portion of the fishery: 226
Cap the SE District post-July sockeye salmon harvest: 227
Base the Sept. – Oct. periods on coho, pink, chum, or sockeye: 228
Consider GPS for regulatory coordinates for Aleutian Islands salmon: 238
Consider GPS for regulatory coordinates for Atka-Amlia salmon: 239
Enable salmon cooperatives: 240

REVISED !!!

ALASKA BOARD OF FISHERIES
ALASKA PENINSULA/ALEUTIAN ISLANDS FINFISH AND SUPPLEMENTAL ISSUES
February 15-26, 2004
TENTATIVE COMMITTEE ROADMAP
continued

Approximately Saturday, February 21:

**Committee F: Ak Peninsula/Aleutian Is groundfish (Morris, chair; Jensen; R. Nelson)
21 proposals**

BSAI Groundfish:

Logbook requirement: 175

Landing requirement: 176

Establish state fishery: 177

South Alaska Peninsula Groundfish:

Open access: 178

Allocate entire TAC to state: 179, 180

Increase percentage of TAC to state: 181, 182

Establish jig allocation, superexclusive registration and trip limits: 183, 184

Establish jig allocation and trip limits: 185

Establish jig allocation: 186, 187

Reduce jig gear: 188

Establish jig trip limits: 189

Pot gear reopening: 190

Pot storage requirements: 191

Superexclusive registration: 192

Vessel registration: 193

Establish sections: 194

Logbook requirement: 195

Allowable gear: 196

*****NOTE: The "Finfish Policies" Committee has been cancelled.*****

Proposals 2, 3 and 4 were deferred from the November 2003 meeting. Proposals 2 and 3 were reviewed by the board's Recommendations Panel on Sustainable Salmon Fisheries Policy, with the intent to bring schedule final action on those proposals at the February 2004 meeting. The panel's recommendation is to request that the department's "EGPIT" team review the proposed changes, then bring the policy back to the board during the 2004/2005 meeting cycle. The panel therefore recommends that the board defer action on proposals 2 and 3.

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director



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

Telephone: (907) 271-2809

Fax: (907) 271-2817

Visit our website: www.fakr.noaa.gov/npfmc

January 23, 2004

Mr. Rolland A. Schmitten, Director
Office of Habitat Conservation
NOAA National Marine Fisheries Service, F/HC,
1315 East-West Highway,
Silver Spring, MD 20910

Dear Mr. Schmitten:

Thank you for the opportunity to provide comments on the advance notice of proposed rulemaking to consider revisions to the Essential Fish Habitat (EFH) guidelines. Our comments concern two issues: the timing of the notice relative to ongoing activities, and the potential, additional litigation that could result.

The North Pacific Fishery Management Council recently prepared a draft Environmental Impact Statement for EFH, based on the existing EFH guidelines, pursuant to *American Oceans Campaign et al. v. Daley et al.*. The joint stipulation filed with the court specified that, for the North Pacific region, NMFS must issue a Draft EIS by January 16, 2004, and Final EIS no later than June 1, 2005. The Draft EIS for North Pacific EFH, which totals about 2,500 pages, represents a Herculean attempt to address each and every requirement set forth in the existing EFH guidelines. We are concerned that changing the requirements at this time would be disruptive to the process, and may risk additional litigation. Should major changes to the guidelines be made, it may be impossible to revise and reissue the EIS accordingly, provide for an additional public comment period, and still produce a Final EIS before June 2005. We recommend that NMFS not revise the guidelines at this time, but instead completely withdraw the regulatory language as discussed below.

We are concerned about the guidelines being legal requirements, rather than advisory guidelines. The Magnuson-Stevens Act requires that "The Secretary shall...establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat..." We believe that Congress did not intend to give NMFS carte blanche authority to write the law on fish habitat conservation. Rather, conservation of fish habitat is simply another required provision of fishery management plans. Note that MSA (section 301(b)) states quite clearly that "The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans." We recommend that NMFS remove all regulatory requirements of the existing EFH guidelines, and re-issue as non-binding advisory guidelines. Not doing so may result in never-ending litigation, given the complexity and the vagueness of the existing EFH language.

Thank you for the opportunity to comment. If you have any questions, please feel free to contact me, or the Council's Deputy Director, David Witherell, at the Council office.

Sincerely,

A handwritten signature in black ink that reads "Stephanie D. Madsen".

Stephanie D. Madsen
Chair

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>February 2004</h1>					AGENDA B-1(d) FEBRUARY 2004	
1	2 AP/SSC Council Mtg Anchorage	3 AP/SSC	4 AP/SSC Council	5 AP/Council	6 AP/Council	7 AP/Council
8 Council 19 th Annual PSC Mtg 9 thru 13th Vancouver, BC	9 Council Western Groundfish Conference thru 13 th - Victoria, BC	10 Council	11	12	13	14
15 ABOF AK Per/AJ FinFish thru 29 th ASLO/TOS Ocean Research thru 20th-HI	16 President's Day	17 NEPA training (Staff - Juneau thru 19th)	18 NOAA Regional Integrated Science & Assess. thru 19 th - Anch	19	20	21
22	23	24	25	26	27	28
29						

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>March 2004</h1>						
	1	2 NPRB Science Panel thru 4 th - Seattle	3 NEPA training (Staff - Seattle - thru 5th)	4	5	6
7	8 Arctic Climate Impact Assessment workshop thru 9 th - AK SeaLife Center	9	10	11 34 th Annual Arctic Workshop- INSTAAR thru 13 th - Boulder, CO	12	13
14	15	16 NEPA training (Staff - Anch - thru 19 th) NPRB Advisory Panel Meeting	17 NPRB Meeting thru 19 th - Anch	18 CompFish Alaska thru 20 th - Kodiak	19	20
21	22	23	24	25	26	27
28	29 SSC/AP Council meeting - Hilton	30 SSC/AP	31 SSC/AP Council			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
April 2004						
				1 AP/Council	2 AP/Council	3 AP/Council
4 Council	5 Council	6 Council	7	8	9	10
11 Easter	12 Annual Chairman's/ED meeting thru 16th	13 NEPA Project Leader Training (Sea - thru 15th)	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
May 2004						1
2 ⁴ World Fisheries Conference thru 6 th - Vancouver, BC	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18 ⁷ North Pacific Rim Fisheries Conf. Thru 20 th - Busan, Korea	19 ⁵ Annual Congress of Arctic Social Studies thru 23 - Fairbanks	20	21	22
23	24	25	26	27	28	29
30	31					

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FEB - 2 2004

N.P.F.M.C.
**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE**

 Alaska Fisheries Science Center
 7600 Sand Point Way NE, Bldg. 4
 Seattle, WA 98115

JAN 30 2004

MEMORANDUM FOR: James W. Balsiger

THROUGH: Douglas P. DeMaster, Gary D. Stauffer and Rich J. Marasco

FROM: Robert S. Otto, Benjamin J. Turnock, and Anne B. Hollowed

SUBJECT: Status of Eastern Bering Sea Crabs Relative To FCMA Overfishing Definitions in 2003.

This memorandum reviews the status of Eastern Bering Sea crab stocks relative to the overfishing definitions in the 1998 Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). The FMP definition of overfishing consists of two components, whether a stock is considered to be overfished relative to its current abundance and whether overfishing is occurring with respect to the rate of fishing. This memo addresses both concerns. Technical concerns regarding the status determination are provided in the appendix to this memorandum.

According to the FMP, a stock is considered "overfished" if the stock's mature biomass falls below the minimum stock size threshold (MSST). The MSST is 50% of Bmsy defined as the mean total (male and female) observed mature biomass (spawning biomass (SB)) for the period from 1983 through 1997. A MSST is defined in the FMP for each of the six stocks in the Bering Sea that are surveyed annually by the National Marine Fisheries Service (NMFS). Pertinent statistics and guideline harvest levels (GHLs) resulting from joint NMFS and Alaska Department of Fish and Game (ADF&G) assessment of stock conditions and management planning documents that incorporate the 2003 EBS trawl survey are shown in the attached table.

As indicated by bold type, the table shows that two of six stocks were considered overfished based on the 2003 survey. Four stocks were listed as overfished in 2002. Tanner crab (*Chionoecetes bairdi*) and St. Matthew Island blue king crab (*Paralithodes platypus*) were overfished in 2002; however, they are now rebuilding, being above their MSST values in 2003. Tanner crab



and St. Matthew Island blue king crab in 2003 had point estimates of spawning biomass that were slightly above MSST, but remain at very low abundance relative to their historical levels. Due to imprecision and possible bias in point estimate of SB, there is considerable uncertainty that stock levels have actually exceeded MSST. Under current rebuilding plans and management strategies, no directed fishing was allowed for either stock during the 2003-2004 management cycle.

Although well above MSST, no directed fishing was allowed for Pribilof Islands red king crab (*P.camtschaticus*), because of concerns that there would be an unacceptably large incidental catch of the overfished Pribilof Islands blue king crab stock. The Bristol Bay red king crab stock showed some improvement as is reflected by increased spawning biomass and consequently increased GHL. A small fishery (20.8 million lbs retained catch) will be allowed for the overfished snow crab (*O. opilio*) stock under the terms of the rebuilding plan.

The FMP requires that the Secretary of Commerce be informed when a stock is overfished and that "the Secretary will notify the Council to take action to rebuild the stock or stock complex". This occurred with respect to Tanner crab in 1997 and a rebuilding plan was developed as soon as overfishing definitions were established in 1998. Severe declines in the St. Matthew Island Blue king crab stock and the EBS snow crab stock resulted in the SB values that fell below MSST in 1999 and also required Secretarial notification resulting in establishment of rebuilding plans in 2000. Rebuilding plans for these three overfished stocks have been approved by the Secretary and are all currently in force. The SB of EBS snow crab fell below MSST in 2002 and 2003. While continued conservation measures must be taken under the rebuilding plan, the plan's harvest strategy will allow a small fishery in 2004 (20.8 million lbs retained catch). The SB of Pribilof Islands blue king crab stock fell below its MSST in 2002 and continues below MSST in 2003. The Secretary notified the Council to take action relative to rebuilding the Pribilof Islands Blue King crab stock in 2002, and a rebuilding plan was drafted for Council discussion at the October 2003 meeting. No new actions by the Secretary are needed at this time.

The second component of the overfishing definition is to evaluate whether overfishing is occurring. The determination of whether overfishing has occurred, or is likely to occur, has been based on a comparison of Sustainable Yield (SY) with landed catch or GHL (Table 1). Based on the final wording of Amendment 7 to the Crab FMP, overfishing did not occur in 2002 or 2003.

cc: Crab Plan Team
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Appendix A

Issues concerning the overfishing determinations

The Crab plan team has undertaken revision and improvement of the biological reference points as was required by the FMP after five years. The Crab plan team assigned an interagency working group to review the definitions of biological reference points relative to crab. This group recognized inconsistencies in the wording of amendment 7 that need to be resolved. If required, revisions to the FMP would lead to FMP amendment(s) in approximately two years. The following is a summary of the issues raised by the interagency review team with regard to the overfishing definitions.

The wording of Amendment 7 is unclear with regard to exactly how overfishing should be evaluated. There are five technical concerns associated with the method currently used to define overfishing.

1. The overfishing definition that appears in the final wording of Amendment 7 differs from the wording in the EA for Amendment 7. The language in the EA defines overfishing for Bering sea king and tanner crab stocks on page 25 (EA for Amendment 7, dated February 1999):

"...overfishing is evaluated prior to the fishing season using two approaches. First by comparison of the estimated mature biomass to the minimum stock size threshold and second by comparison of the expected utilization rate to the maximum fishing mortality threshold. The expected utilization rate is the projected guideline harvest level divided by the estimate of legal male abundance."

The definition in the EA is more conservative than that stated in the final amendment due to the use of legal male abundance which will always be smaller than male and female mature biomass. The EA compares the MFMT with the retained catch(male only) relative to the legal male abundance, while the final amendment calculates an SY from the male and female mature biomass, without specifying what component of the catch to compare with SY. The final wording of Amendment 7 defines overfishing as "any rate of fishing mortality in excess of the maximum fishing mortality threshold, F_{msy} , for a period of 1 year or more." The final Amendment 7 says, "A fraction of the MB is considered sustained yield (SY) for a given year...". Where MB is the mature biomass. The MSY control rule is defined as, "...the mature biomass of a

stock under prevailing environmental conditions, or proxy thereof, exploited at a fishing mortality rate equal to a conservative estimate of natural mortality."

2. The method for calculating the GHL for male crabs that appears in the EA for Amendment 7 and in Table 1 compares retained male catch with a limit (SY) where $SY = F_{msy} * TMB$, and TMB is the total mature biomass of males and females. Comparing the GHL to SY does not account for bycatch or discard mortality.

3. The overfishing determination is based on the ratio of expected retained catch of males to the biomass of mature crabs (males and females combined). Male and female crabs experience different levels of fishing mortality. In a fishery that targets male crabs, the overfishing definition should consider sex specific rates of mortality to ensure that the spawning population retains a sustainable ratio of male to female crabs.

4. The calculation of $SY = F_{msy} * TMB$, which appears in the EA for Amendment 7 and in Table 1, though not in the final version of Amendment 7, assumes that the total mature survey biomass is the average biomass in the year (which it is not due to discontinuous growth), and that fisheries take place continuously throughout the year (they occur over a short period of time, currently about one week). A more accurate calculation is $catch = (1 - \exp(-F_{msy})) * B * \exp(-M * tf)$, where catch is the total catch (retained and discard) at F_{msy} , B is exploitable biomass at the time of the survey, and tf is the time in years from the survey to the fishery. The final version of Amendment 7 does not clarify the time of year when the rate should be estimated. Natural mortality occurs throughout the year, and the timing of the calculation can influence the result, while growth and recruitment occur after the fisheries and before the survey (from spring molting). F_{msy} is fixed in the FMP as equal to M, which is assumed to be 0.2 for all king crabs and 0.3 for all Tanner and snow crabs.

5. The final version of Amendment 7 does not clarify whether biomass levels should be based on survey estimates of the expected biomass or biomass generated from recent stock assessments (when available). For stocks with models, the model estimates of biomass are considered the best scientific information available and are used to calculate the GHL. To be consistent, the stock status determination should use model estimates where available.

We anticipate that the interagency working group will provide a thorough analysis of existing and alternative overfishing

definitions. This analysis will be presented to the Crab Plan Team in 2004. It is our expectation that the interagency working group's report will address the five issues identified in this memorandum. The working group will also evaluate other aspects of the FMP, including whether F_{msy} should be fixed and assumed equal to M , and whether B_{msy} and $MSST$ values should be model-based rather than fixed values estimated from survey biomass, as in the current FMP.

Table.

Status of eastern Bering Sea crab stocks relative to FMP overfishing definitions¹. Stocks in the overfished category are in bold type, italics type indicates stocks that are rebuilding.

Stock	2002/2003 Season				2003/2004 Season		
	MSST	SB	SY	Catch	SB	SY	GHL
<i>millions of pounds</i>							
Red King Crab:							
Bristol Bay	44.8	129.9	26.0	9.6	178.1	35.7	15.7
Pribilof Is.	3.3	16.2	3.2	0.0	14.5	2.9	0.0
Blue King Crab:							
Pribilof Is.	6.6	4.5	0.9	0.0	4.1	0.8	0.0
St Matthew Is.	11.0	5.1	1.0	0.0	12.8 ²	2.6	0.0
EBS Tanner crab	94.8	68.8	20.7	0.0	108.8	30.2	0.0
EBS snow crab	460.8	317.2	95.5	28.5	306.2	91.2	20.8

(1) Due to a change in computational procedures, new values of SB and SY were computed over the past several years. Although differences were very small here, it may not match those in last year's memorandum on this subject.

(2) Of this, 9.3 million pounds were females which is both statistically unreliable and of unlikely magnitude relative to the male SB.