AGENDA B-9
JUNE 2005

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver DO for
Executive Director

ESTIMATED TIME
1 HOUR

DATE: May 26, 2005

SUBJECT: Protected Resources Report

ACTION REQUIRED

Receive report on Protected Resources issues and take action as necessary.

BACKGROUND

A. Whale Information Update

Marine Mammal Commission Killer Whale Workshop

On April 19-21, 2005 the Marine Mammal Commission (MMC) convened a workshop on the "Ecological Role of Killer Whales in the North Pacific Ocean". The workshop was held because of a directive the MMC received from Congress to "review available evidence regarding the theory that rogue packs of killer whales are wiping out discrete populations of the most endangered marine mammals". A copy of the agenda for the meeting is attached as Item B-9(a).

Killer whale experts and researchers from academia, state and federal agencies, and private groups from the U.S. and Canada addressed this issue by focusing on the state of knowledge of killer whales and their role in the North Pacific ecosystem in these general topic areas:

- Ecotype, population structure, and abundance
- Movement patterns
- Predation and diet composition
- Bioenergetics

The group also received a report on a recent incursion of killer whales into Hood Canal in Washington and the consequent effect on the resident harbor sea population in Hood Canal.

The workshop included time to review and discuss evidence of killer whale predation on marine mammals, the effects of this predation on prey populations, and research needs. A second follow-up workshop will be convened in August to focus on killer whale management and research. The MMC will submit a report on the results of these workshops to Congress.

Note: The current Alaska Marine Mammal Stock Assessment (Angliss and Lodge 2004)[1] recognizes two stocks in Alaska: eastern North Pacific northern resident and eastern North Pacific transient. During the MMC workshop, participants noted that a third killer whale ecotype may eventually be recognized in the North Pacific, the "offshore" ecotype, but data are lacking on its distribution, abundance and feeding behavior to more firmly identify this group at this time.

Alaska Cetacean Survey

The National Marine Mammal Laboratory has chartered a vessel for a research cruise to document killer whale abundance and distribution in the GOA and BSAI and North Pacific right whale distribution and movement patterns in the southeastern Bering Sea. The cruise will occur from May 31 through July 11, 2005. Killer whale data will be collected primarily in the central and eastern Aleutian Islands and the Alaska Peninsula areas and will involve gathering information on killer whales inside and outside Steller sea lion critical habitat. The right whale research will focus on attaching satellite tags to some animals and documenting location and movements using acoustic recording instruments. A copy of the cruise plan is attached as Item B-9(b).

B. Steller Sea Lion Recovery Team

The Steller Sea Lion Recovery Team will meet August 15-19, 2005 in Homer to review and finalize the draft Steller Sea Lion Recovery Plan. Dr. Bob Small, Chairman of the Recovery Team, reports that most sections of the plan are now completed, although the Recovery Team still needs to work on the recovery criteria and some section narratives. A revised Table of Contents for the SSL Recovery Plan is attached as Item B-9(c). When the draft Recovery Plan is available, the Council may wish to review and comment on the Plan; copies will be made available to the Council when the Plan is released.

C. Board of Fisheries/Council Joint Meeting on State Pollock Fishery

In early 2005, the Council was notified by the Alaska Board of Fisheries (BOF) that the BOF intended to consider a request to open certain State waters to a pollock trawl fishery. Some of these State waters are currently closed under Federal Steller sea lion protection regulations. On February 25, 2005, the Council and BOF met jointly to receive a briefing from NMFS and Council staff on some of the potential issues surrounding a proposed State pollock fishery in SSL closed areas. At that time the BOF was considering opening some State waters, but had not yet approved a fishery. At its March 7-13 meeting, the BOF took action on a proposal, but tabled their motion until October 2005 pending a review by the Joint Protocol Committee.

During the April 2005 Council meeting, the Council received a request from the BOF to review the tabled motion (attached as Item B-9(d). The Council reviewed some of the issues surrounding the proposed State pollock fishery, including particularly concerns over the possibility the action would trigger reinitiation of formal Section 7 consultation on the Federal groundfish fisheries for pollock, Pacific cod, and Atka mackerel. In response to the BOF request, particularly in light of the concerns the Council has previously expressed about a new SSL formal consultation, the Council formed a committee, comprised of Council and BOF members, to review the recent BOF action.

The Interim Joint Protocol Committee met May 25, 2005 to discuss the proposed action. The Committee reviewed the BOF proposals and discussed some of the issues associated with the proposals including how the proposed State pollock fisheries might affect the current SSL Biological Opinion and whether

[1] Angliss, R.P. and K.L. Lodge. 2004. Alaska Marine Mammal Stock Assessments, 2003. NOAA Technical Memorandum NMFS-AFSC-144. 230 p.

the proposed fisheries might trigger reinitiation of formal Section 7 consultation on the Council's P. cod, Atka mackerel, and pollock fisheries. The Committee agreed to continue to work on these proposals and to develop possible alternatives. The Committee outlined data needs and a schedule of meetings to continue work on the proposals. Minutes of the Committee's meeting will be provided to the Council soon.

D. Trawl Closure Request from St. George

The Council and NMFS have received a letter from the St. George Traditional Council regarding their March 30 request for larger trawl fishery closures around certain Steller sea lion haulouts on St. George Island. This letter is attached as Item B-9(e). The St. George Traditional Council's letter responds to some of the public testimony received at the April Council meeting. NMFS staff will be available to brief the Council on this issue.

On May 25, 2005 the St. George Traditional Council sent a follow-up letter to the Council requesting that the Council consider, at its June 2005 meeting, the previous request for a review and possible reconsideration of expanded trawl closures around haulouts on St. George Island. The May 25 letter is Item B-9(f).

E. Seabird Information Update

NMFS/US Fish & Wildlife Service Annual Seabird Meeting

On May 11-12, 2005 seabird researchers with the NMFS and U.S. Fish & Wildlife Service met at the Alaska Fisheries Science Center to discuss issues of mutual interest, including reviews of seabird incidental take reduction in Alaskan longline and trawl fisheries. An agenda for that meeting is attached as Item B-9(g). Information of interest to the Council will be provided at the Council's June meeting or in a follow-up Council mailing.

The meeting attendees noted that there is continued public interest in the incidental take of seabirds, particularly albatrosses, in Alaska longline fisheries. The group also discussed the lack of seabird injury and mortality data from the unobserved halibut fishery. The Council is currently considering changes in the observer program that could include requirements for observers in this fishery.

Exempted Fishing Permit to test IWG

The Council previously approved granting an Exempted Fishing Permit (EFP) to the North Pacific Longline Association (NPLA) to test Integrated Weight Groundline longline gear as a seabird avoidance measure. The EFP is in final review in the NMFS Alaska Region, and information on issuance of the permit to NPLA should be available at the June Council meeting. Thorn Smith will provide an update during the public comment period.

Item B-9(a)
June 2005

DRAFT Agenda
Review of Available Information on the
Ecological Role of Killer Whales in the North Pacific Ocean
Marine Mammal Commission

April 19-21, 2005
Red Lion Hotel on Fifth Avenue
Seattle, WA

Congress' directive to the Marine Mammal Commission is to "review available evidence regarding the theory that rogue packs of killer whales are wiping out discreet populations of the most endangered marine mammals."

The objectives of this workshop are (1) identify key questions regarding the ecological role of killer whales, (2) review available evidence pertaining to those questions, and (3) identify important gaps in our understanding of the ecological role of killer whales.

Tuesday, April 19th - San Juan Whidbey Room

8:30 – 9:00	**Arrival and Coffee**
9:00 – 9:15	**Introductions and Opening Remarks**
9:15 – 9:45	**Causes and Ecological Consequences of Ecotypic Population Structure in Killer Whales (Lance Barrett-Lennard)**
9:45 – 10:00	**Clarifying Questions**
10:00 – 10:30	**Movement Patterns of North Pacific Transient Killer Whales (Marilyn Dahlheim)**
10:30 – 10:45	**Clarifying Questions**
10:45 – 11:00	**Break**
11:00 – 11:30	**Population Biology of Killer Whales and their Prey (Paul Wade)**
11:30 – 11:45	**Clarifying Questions**
11:45 – 12:15	**Food Habits of North Pacific Killer Whales: A Review (Craig Matkin) and Chemical Aspects of Feeding Ecology of Killer Whales (Peggy Krahn)**
12:15 – 12:30	**Clarifying Questions**

12:30 – 2:00 Lunch (on your own)

2:00 – 2:30	**Killer Whales and Ocean Food Webs (Jim Estes)**
2:30 – 2:45	**Clarifying Questions**

2:45 – 3:15	**Killer Whale Energetics: How the Balance Between Energy Demand and Intake Can Affect Marine Mammal Prey Populations in the North Pacific (Terrie Williams)**
3:15 – 3:30	**Clarifying Questions**
3:30 – 3:45	**Break**

Tuesday, April 19th - San Juan Whidbey Room

3:45 – 4:15	**Guerillas in the Midst: Observations and Comments on Prey Specialization in Killer Whales and Their Role in Marine Ecosystems (Bob Pitman)**
4:15 – 4:30	**Clarifying Questions**
4:30 – 5:00	**Thoughts on Ecosystem Dynamics with Terrestrial Carnivore Loss and Replacement (Joel Berger)**
5:00 – 5:15	**Clarifying Questions**
5:15 – 5:30	**Closing Remarks and Adjourn**

Wednesday, April 20th - San Juan Whidbey Room

8:30 – 9:00	**Arrival and Coffee**
9:00 – 9:15	**Introduction to the Day's Activities**
9:15 - 9:45	**Case Study Presentation: Transient Killer Whales in Hood Canal (Steve Jeffries, Josh London)**
9:45 – 10:00	**Guidance for Regional Breakout Groups**
10:00 – 12:00	**Breakout Groups by North Pacific Geographic Regions** *(San Juan Whidbey Room* **- Gulf of Alaska through the Bering Sea,** *Lopez B Room* **- British Columbia through southeast Alaska,** *and Vashon Room* **- California through Washington)**

- **What do we know (agree on) about killer whale predation on marine mammals within the region?**
- **What can we infer about the ecological role(s) of killer whale predation in the region, and how confident are we in those inferences?**
- **What research is necessary to improve our understanding of the potential impacts of killer whales on other marine mammals in the region?**

12:00 – 1:30 Lunch (on your own)

1:30 – 3:00 **Plenary Discussion**

Reports from Geographic Region Breakout Groups

Discussion of Areas of Convergence and Divergence

3:00 – 3:15 **Break**

3:15 – 3:30 **Guidance for Research Needs Breakout Groups**

Wednesday, April 20th - San Juan Whidbey Room

3:30 – 5:00 **Breakout Groups for Research Needs Discussion by Subject Area** *(San Juan Whidbey Room* - **Ecosystem Connections,** *Lopez B Room* - **Killer Whale Population Biology,** *and Vashon Room* - **Killer Whale Nutrition and Energetics***)*

- **What are the key questions in each subject area?**
- **What research is required to address these questions?**
- **What research is currently being conducted?**
- **What resources would be needed to carry out the research?**

5:00 **Adjournment**

Thursday, April 21st - San Juan Whidbey Room

8:30 – 9:00 **Arrival and Coffee**

9:00 – 10:30 **Reports from Subject Area Breakout Groups**

10:30 – 10:45 **Break**

10:45 - 12:30 **Plenary Discussion**

- **Discussion of Subject Area Breakout Group Reports**
- **Process for Developing a Research Framework**

12:30 – 1:00 **Closing Remarks and Final Adjournment**

UNITED STATES DEPARTMENT OF C(
National Oceanic and Atmospheric Adr
NATIONAL MARINE FISHERIES SERVICE
ALASKA FISHERIES SCIENCE CENTER
NATIONAL MARINE MAMMAL LABORATORY
7600 Sand Point Way NE, Bin C15700
Seattle, Washington 98115-0070
TEL: (206) 526-4016 FAX: (206) 526-6615
E-MAIL: John.Bengtson@noaa.gov

Item B-9(b)
June 2005

May 25, 2005

MEMORANDUM FOR: Distribution

FROM: John Bengston (for)
Director, NMML

SUBJECT: Cruise Announcement (31 May to 11 July, 2005)
Alaska Cetacean Survey

Scientists from the National Marine Mammal Laboratory aboard the chartered vessel F/V *Alaskan Enterprise* will be conducting research on killer whale abundance and distribution in the Gulf of Alaska, Bering Sea and Aleutian Islands, and right whale distribution and movements in the southeastern Bering Sea. The cruise will be conducted from 31 May to 11 July, 2054. The principle investigator for the cruise is Dr. John Durban, who will be on board the vessel for the entire cruise. The F/V Alaskan Enterprise is a crabber-processor, 150 feet in length and 38 feet wide. A Scientific Research Permit has not been obtained for this cruise because the cruise does not involve fishing.

A copy of the cruise plan has been attached for your information.

The primary objective of this research is to determine the abundance, distribution and movements of killer whales, and to satellite tag and record acoustics of North Pacific right whales. The killer whale portion of the survey will focus on waters around the central and eastern Aleutian Islands and the north and south side of the Alaska Peninsula, and will involve operations in Steller sea lion critical habitat periodically throughout the cruise. There will be no fish sampling either inside or outside critical habitat during this survey. All marine mammal research conducted during this cruise is authorized under MMPA permit number 782-1719-00. For further information, contact Paul Wade (206-526-4021), John Durban (206-526-4539), or John Bengtson (206-526-4016), National Marine Mammal Laboratory, Alaska Fisheries Science Center, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115.

Attachment

Distribution:
F/AKC - D. DeMaster, J. Herring
F/AKC1 - G. Staufer, R. Nelson
F/AKC2 - P. Livingston
F/AKC4 - S. Ignell
F/AKR - J. Balsiger, K. Brix, S. Capron
F/EN - J. Passer, J. Kingeter (Juneau), M. Gonzales (Anchorage), K. Hansen (Kodiak)
USCG D17 - Commander (OLE/PPI)
ADF&G - W. Regelin
NPFMC - C. Oliver

Cruise Plan

2005 Killer Whale / Right Whale Survey
Western Gulf of Alaska, Aleutian Islands and SE Bering Sea

National Marine Mammal Laboratory, Alaska Fisheries Science Center, NOAA Fisheries
Seattle, Washington 98115

SUMMARY
This survey will constitute the fifth consecutive year of a study conducted by the National Marine Mammal Laboratory (NMML) to assess killer whale (*Orcinus orca*) population biology in the western Gulf of Alaska, Aleutian Islands and Bering Sea. The focus of the 2005 study will be movements and stock structure of killer whales in this area. The survey also includes the second year of a study of movements and habitat use of endangered North Pacific right whales (*Eubalaena japonica*) in the southeastern Bering Sea. The survey will be conducted aboard the F/V Alaskan Enterprise, which will be chartered by NMML from 31 May to 11 July, 2005. The chief scientist on the cruise will be Dr. John Durban. The survey will be divided into three legs, each with a specific focus:

- Leg 1 (31 May to 13 June) will depart from Kodiak and end in Dutch Harbor, and will focus on documenting the movement patterns of mammal-eating killer whales in the coastal waters of the Alaska Peninsula, eastern Aleutian Islands, and SE Bering Sea.
- Leg 2 (13 June to 27 June) will start and end in Dutch Harbor, and focus on determining the stock structure of both mammal-eating and fish-eating killer whales in coastal and oceanic waters around the central Aleutian Islands.
- Leg 3 (27 June to 11 July) will start and end in Dutch Harbor and will focus on locating North Pacific Right whales in the SE Bering Sea, for the purpose of documenting their movement patterns and habitat use.

BACKGROUND

Killer Whale Surveys
The documented declines of several pinniped species, notably Steller sea lions (*Eumetopias jubatus*), and sea otters (*Enhydra lutris*) in the western Gulf of Alaska, Aleutian Islands and Bering Sea have generated a range of hypotheses regarding possible causes. One recent hypothesis suggests that killer whale predation may be responsible for these declines (Springer *et al.* 2003). Evaluation and testing of this hypothesis requires empirical data on the abundance, distribution, movements, stock structure and feeding ecology of killer whales in this area. Although killer whale population size and stock structure is well documented for the waters of southeastern Alaska and Prince William Sound (Dahlheim *et al.* 1997, Matkin *et al.* 1999), relatively little data exist for killer whales in Alaskan waters west of Kodiak Island.

Between 2001 and 2003, the Cetacean Assessment and Ecology Program of NMML conducted wide-ranging ship-based surveys with an aim of providing comprehensive baseline information on killer whales in the waters of the Gulf of Alaska and Aleutian Islands. Specific research objectives included estimating killer whale abundance in coastal waters between the Kenai Fjords region of southcentral Alaska to the central Aleutian Islands using line-transect and mark-recapture techniques, examining distribution and movement patterns of killer whale groups, and determining the ecotype of killer whale groups using this area.

These surveys documented three distinct types of killer whales using these coastal waters in summer months. These types are analogous to the three "ecotypes", termed "resident", "transient", and "offshores", that have been described from the coastal waters elsewhere in the NE Pacific (Bigg *et al.* 1987, Ford *et al.* 1994). These distinct types of killer whales can be distinguished based on genetics, acoustics and morphology, and they also differ notably in their feeding ecology (Ford 1989, Ford *et al.* 1998, Barrett-Lennard 2000, Hoelzel *et al.* 1998, Saulitus *et al.* 2000). Residents are known to be fish-eaters, in contrast to transients that feed on marine mammals. Relatively few feeding observations have been made for the offshore type, but initial data would suggest that they may also be fish-eaters. Chemical analyses of skin and blubber biopsies collected by NMML from killer whales in the Gulf of Alaska and Aleutian Islands indicate that these dietary preferences of the ecotypes also exist in this area (Herman et al. in press).

In 2004, NMML focused killer whale survey effort on "hot spots" that were identified from the baseline data on killer whale distribution from the 2001-2003 surveys. Specifically, research effort was directed towards mammal-eating transient killer whales around the eastern Aleutian Islands, to try to collect further data on diet (through biopsy sampling and chemical analyses of tissue) and movements to understand predation pressure. This focused approach proved to be an effective way to maximize encounters and data collection from mammal-eating killer whales. In 2005, we will extend these focused studies during two killer whales legs. The first leg will build on our 2004 survey work by surveying the area around the Alaska Peninsula, eastern Aleutian Islands and Bering Sea, which appears to have a relatively high density of mammal-eating killer whales. The second leg will extend our research effort into less studied areas around the central Aleutian Islands, in an attempt to increase our understanding about stock structure and dict of killer whales in this remote area.

2005 killer whale research objectives:
Leg 1 (31 May to 13 June)
Killer whale survey around the Alaska Peninsula, eastern Aleutian Islands and Bering Sea

1) Maximize encounters with transient killer whales by focusing effort on identified hot-spots in the coastal waters around the eastern Aleutian Islands and the Alaska Peninsula. Visual survey methods will be employed, along with acoustic localization techniques.

2) Employ satellite and VHF telemetry to locate and follow killer whales that will be instrumented with satellite and VHF transmitters during tagging work by the North Gulf Oceanic Society in May 2005. The survey and telemetry work (1 and 2 above) will be combined to maximize the chance of locating whales, allowing us to spend more time on focal follows to collect observational data and tissue samples to examine killer whale predation behavior.

3) Collect tissue samples using remote biopsy techniques to continue our ongoing study of killer whale diet (through fatty acid, stable isotope and contaminant analyses) and stock structure (using molecular genetic approaches).

4) Photo-identification techniques will be used to extend the photographic catalogue of individual whales, which will be queried to plot distribution and movement patterns of identified pods and individuals.

Leg 2 (13 June – 27 June)
Killer whale survey around the central Aleutian Islands

1) Use visual and acoustic survey methods to locate both mammal-eating transients and fish-eating resident killer whales in the coastal and oceanic waters around the central Aleutian Islands.

2) Collect tissue samples using remote biopsy techniques to examine for differences in diet and stock structure between whales in the eastern and central Aleutian Islands, and between whales in offshore and coastal environments.

3) Photo-identification techniques will be used to build a photographic catalogue of individual whales from the central Aleutian Islands, and identify any direct movements of killer whales between the eastern and central Aleutian Islands, and between offshore and coastal environments.

4) Acoustic recordings will be made using sonobuoys, and acoustic data will be used alongside genetic data to determine the eco-type of killer whale pods, and to facilitate analyses of stock structure through dialect differences.

Right Whale Surveys

The North Pacific right whale is one of the most endangered species of whale in the world. The species was over-exploited in the mid-1800s, with estimates of up to 37,000 right whales killed in the North Pacific pelagic whale fishery from 1835-1909. Right whales received international protection in 1931 with the passage of the Convention for the Regulation of Whaling, which prohibited takes of right whales worldwide. Sighting records indicate that right whales were a small but recovering population in the eastern North Pacific by the 1950s (Brownell et al. 2001). However, illegal takes of right whales by commercial whaling vessels from the Soviet Union in the 1960s apparently reduced the population to a precariously low level (Brownell et al. 2001). Since that time, sightings of right whales have been extremely rare in the eastern North Pacific. A small number of right whales are also found in the western Pacific in the Sea of Okhotsk in summer, but these whales are thought to be a separate population from whales in the eastern Pacific (Brownell et al. 2001).

Prior to 1996, no one knew of a location in the eastern North Pacific where right whales could be reliably found. In July of that year, NMML scientists located two groups of right whales in the Southeast Bering Sea (Goddard and Rugh 1998). In response to that sighting, NOAA Fisheries initiated aerial and ship-based surveys. Since that initial detection, these surveys have found right whales in the same general vicinity of the Southeast Bering Sea on an annual basis between 1997 and 2002 (LeDuc et al. 2001, Moore et al. 2002). This area has been referred to as the "right whale box", as nearly all sightings have been within a rectangle bounded by 58 00 N to 56 30 N latitude and 62 20W and 166 50W longitude.

North Atlantic right whales and southern hemisphere right whales are known to congregate in coastal areas at lower latitudes in winter, particularly females with newborn calves. In contrast, a coastal wintering area has never been discovered for North Pacific right whales. Whaling records from the 1800s suggest right whales may winter in pelagic (offshore) areas in the North Pacific (Clapham et al. 2004). Since 1900, there have only been 15 documented sightings of right whales in winter (November through April) in the eastern Pacific, so little is known of their current winter distribution.

Additionally, little is known about the route that North Pacific right whales take on their migration south. This is potentially an important consideration for conservation and management. For example, right whales in the southeast Bering Sea must cross trans-Pacific shipping lanes at some point if they migrate south for winter. Also, we do not know the full extent of the habitat adjacent to the "box" that right whales use in the Bering Sea, or whether there are movements of right whales from the "box" to other feeding areas during summer. There have been a small number of detections of right whales in the Gulf of Alaska in summer (Waite et al. 2003; Mellinger et al. in press), where large numbers of right whales were taken in the 1800s on the "Kodiak" or "Northwest" whaling grounds (Shelden et al. in press). It is not known if these are whales that additionally spend time in the Bering Sea.

To fill these essential data gaps, the NMML conducted a two-week survey in August 2004 in the vicinity of the right whale box, with the aim of instrumenting right whales with satellite tags. Two

whales were tagged in August 2005, and one of the tags transmitted successfully for 59 days, providing unprecedented data on habitat use and movements of this whale in the SE Bering Sea. In 2005 we intend to build on this success by deploying additional satellite tags on right whales located in the SE Bering Sea.

2005 right whale research objectives:
Leg 3 (27 June to 11 July)

1) Locate North Pacific right whales in the SE Bering Sea using acoustic and visual survey techniques. Directional Frequency Analysis and Recording (DIFAR) sonobuoys will be deployed to detect right whale calls (e.g. McDonald and Moore, 2002) and direct the ship towards the whales.

2) Attach up to 5 satellite tags to different individual whales. Tags will be set to transmit every third day to maximize battery life, and provide the potential for long-term tracking over several months to study seasonal movement patterns as well as finer scale habitat use in the Bering Sea.

3) Collect tissue samples using remote biopsy techniques to enable molecular genetic identification of individuals, determine gender, and assess levels of relatedness and genetic diversity.

4) Collect individual identification photographs to match to an existing photographic catalogue of individuals to provide a minimum population count.

Other Cetacean Studies
All sightings of cetacean and pinniped species will be recorded during the cruise. In addition photo-identification and biopsy sampling will be conducted on a number of different species, notably humpback whales, fin whales, sperm whales and beaked whales, as part of ongoing work to assess abundance, stock structure and diet.

LITERATURE CITED

Barrett-Lennard, L.G. 2000. Population structure and mating patterns of killer whales as revealed by DNA analysis. Ph.D. thesis, Univ. British Columbia, Vancouver, B.C.

Bigg M, Balcomb K, Ellis G, and Ford J. 1987. Killer Whales: A study of their identification, genealogy, and natural history in British Columbia and Washington state. Phantom Press and Publishers, Inc, Nanaimo Canada

Brownell Jr., R.L., Clapham, P.J., Miyashita, T. and Kasuya, T. 2001. Conservation status of North Pacific right whales. Journal of Cetacean Research and Management, 2 (Special Issue), 269-286.

Clapham, P., Good, C., Quinn, S., Reeves, R.R., Scarff, J.E. and Brownell, Jr., R.L. 2004. Distribution of North Pacific right whales (Eubalaena japonica) as shown by 19th and 20th century whaling catch and sighting records. Journal of Cetacean Research and Management, 6, 1-6.

Dahlheim, M. E., D. K. Ellifrit, and J. D. Swenson. 1997. Killer whales of Southeast Alaska: A catalogue of photo-identified individuals. Day Moon Press, Seattle, Wash. 72 pages.

Ford, J. 1989. Acoustic behavior of resident whales (Orcinus orca) off Vancouver Island, British Columbia. Canadian Journal of Zoology 67: 727-745.

Ford, J.K.B., Ellis, G.M., Barrett-Lennard, L.G., Morton, A.B., Palm, R.S. and Balcomb, K.C. 1998. Dietary specialization in two sympatric populations of killer whales (Orcinus orca) in coastal British Columbia and adjacent waters. Canadian Journal of Zoology 76(8):1456-71.

Ford, J.K.B., Ellis, G.M. and Balcomb, K.C. 1994. Killer Whales. University of British Columbia Press, Vancouver

Goddard, P.D. and Rugh, D.J. 1998. A group of right whales seen in the Bering Sea in July 1996. Marine Mammal Science, 14, 344-349.

Herman, D., D. Burrows, P. Wade, J. Durban, R. LeDuc, C. Matkin and M. Krahn. In press. Feeding ecology and ecotype classification of eastern North Pacific killer whales from fatty acid, stable isotope, and organochlorine analyses of blubber biopsies. Marine Ecology Progress Series.

Hoelzel, A.R., Dahlheim, M. and Stern, S.J. 1998. Low genetic variation among killer whales (*Orcinus orca*) in the eastern north Pacific and genetic differentiation between foraging specialists. Journal of. Heredity 89(2):121-8.

LeDuc, R.G., Perryman, W.L., Gilpatrick Jr., J.W., Hyde, J., Stinchcomb, C., Carretta, J.V. and Brownell Jr., R.L. 2001. A note on recent surveys for right whales in the southeastern Bering Sea. Journal of Cetacean Research and Management, 2 (Special Issue), 287-289.

Macdonald, M.A. and Moore, S.E. 2002. Calls recorded from North Pacific right whales (Eubalaena japonica) in the eastern Bering Sea. Journal of Cetacean Research and Management 4(3): 261-266.

Matkin, C., G. Ellis, E. Saulitis, L. Barrett-Lennard, and D. Matkin. 1999. Killer whales of Southern Alaska. North Gulf Oceanic Society, Homer, Alaska. 96 pages.

Mellinger, D.K., Stafford, K.M., Moore, S.E., Munger, L. and Fox, C.G. in press. Detection of North Pacific right whale (*Eubalaena japonica*) calls in the Gulf of Alaska. Marine Mammal Science.

Moore, S.E., Waite, J.M., Friday, N.A. and Honkalehto, T. 2002. Cetacean distribution and relative abundance on the central-eastern and the southeastern Bering Sea shelf with reference to oceanographic domains. Progress in Oceanography, 55, 249-261.

Saulitis, E.L., Matkin, C.O., Barrett-Lennard, L., Heise, K. and Ellis, G.M. 2000. Foraging strategies of sympatric killer whale (Orcinus orca) populations in Prince William Sound, Alaska. Marine Mammal Science 16(1):94-109.

Springer, A.M., Estes, J.A., van Vliet, G.B., Williams, T.M., Doak, D.F., Danner, E.M., Forney, K.A. and Pfister, B. 2003. Sequential megafaunal collapse in the North Pacific Ocean: An ongoing legacy of industrial whaling? Proceeding of the National Academy of Sciences 100(21):12223-8.

Waite, J.W., Wynne, K. & Mellinger, D.K. 2003. Documented sighting of a North Pacific right whale in the Gulf of Alaska and post-sighting acoustic monitoring. Northwestern Naturalist, 84, 3

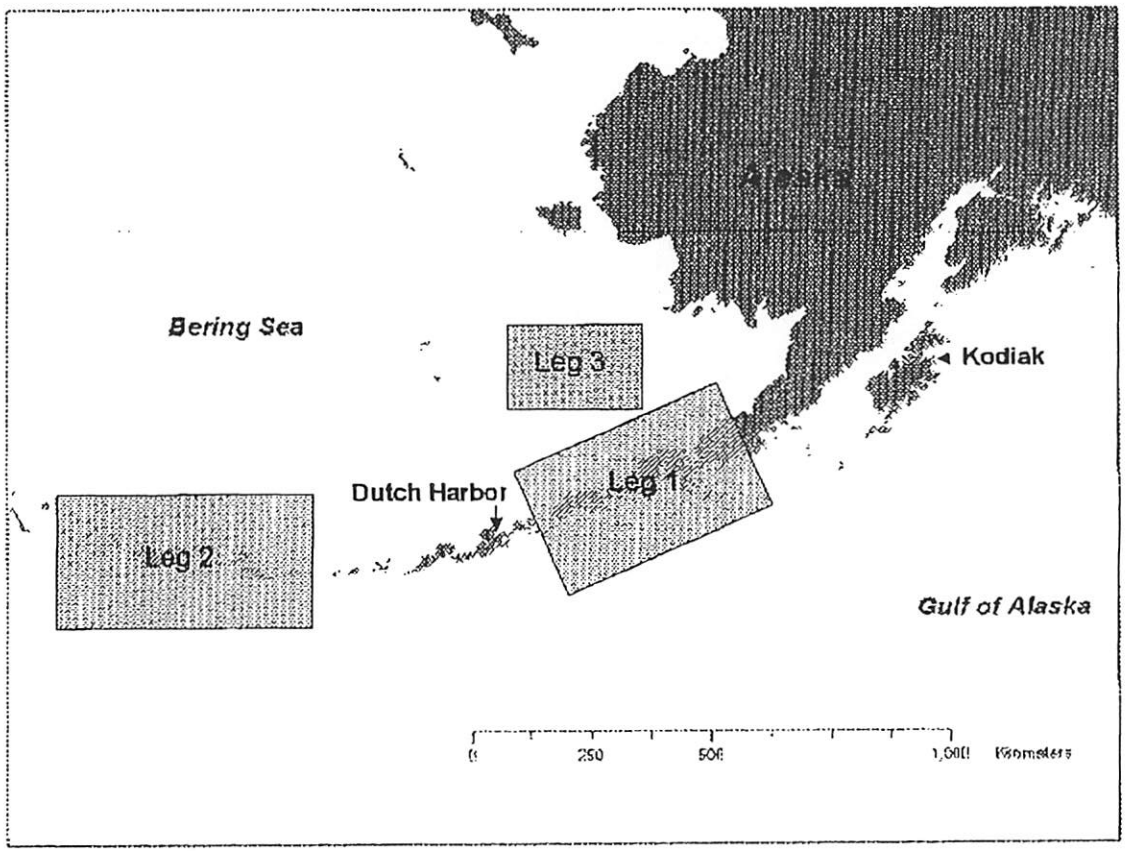


Figure 1: Map illustrating the general survey area and the main areas of survey focus for each of three legs planned for the 2005 survey. Leg 1 will take place from 31 May to 13 June, leg 2 from 13 June to 27 June, and Leg 3 from 27 June to 11 July.

DRAFT TABLE OF CONTENTS
REVISED STELLER SEA LION RECOVERY PLAN
(REVISED – 7 April 2005)

Item B-9(d)
June 2005

Alaska Board of Fisheries
Proposal 455, as amended
March 2005

Proposal 455 – Substitute Language

Amend 5 AAC 28.087 (Management plan for parallel groundfish fisheries) and other applicable regulations to the effect that the Commissioner's existing emergency order closing state waters to fishing for pollock, cod, and Atka mackerel surrounding various Stellar sea lion (SSL) rookeries and haulouts does not have to exactly "match federal fishery management measures for protecting Stellar sea lions."

More specifically, closures in state waters surrounding sea lion rookeries and haulouts in the following areas may be altered, and other regulations amended, as follows:

In the Aleutian Islands: from 174 to 178 degrees W. longitude, state waters surrounding SSL haulouts would be opened to fishing for walleye pollock, however, state waters within ten miles of SSL rookeries would be closed to pollock fishing. Also, fishing for pollock within state waters of the Aleutian Islands from 174 to 178 degrees W. longitude would be opened only to vessels equal to or less than 58 feet in length.

In the western Gulf of Alaska (South Alaska Peninsula): state waters within 20 miles, but outside a 10-mile radius, of Jude Island would be opened to pollock fishing. Also, fishing for pollock within state waters of the western GOA would be limited to only vessels equal to or less than 58 feet in length. Also, catcher vessels in the western GOA would be limited to daily deliveries of pollock of no more than 300,000 pounds (136 mt) and tender vessels would be limited to receiving or retaining onboard no more than 600,000 pounds (272 mt) of unprocessed pollock harvested in the western GOA per day.

In the central Gulf of Alaska (North Gulf District of the Cook Inlet area): from 149 and 150 degrees W longitude, state waters beyond a three-mile radius of SSL haulouts would be opened to pollock fishing under provisions of a Commissioner's permit.

The scenarios outlined above pertain to parallel fisheries for pollock in the Aleutian Islands, the western GOA, and the central GOA. Seasons, TACs, allocations, and other management actions, other than those specified above, would continue to parallel those imposed by the federal government. The federal government would actively manage harvests against federally-established TACs and allocations, would open and close seasons, would establish gear restrictions, etc. The state would not actively manage the harvests; rather, ADF&G would treat this fishery similar to other parallel fisheries through the global E.O.

This proposal will be deferred to the agenda of the October 2005 work session of the Board of Fisheries for further action. In addition, the board intends to refer this amended proposal to the Board/Council joint protocol committee for discussion and coordination with the North Pacific Fishery Management Council.

PRIBILOF ISLAND ALEUT COMMUNITY
of
St. George Island / Traditional Council

P.O. BOX 940 • ST. GEORGE ISLAND, ALASKA 99591 • (907) 859-2205 • TELEFAX (907) 859-2242

April 27, 2005

Stephanie Madsen
Chair
North Pacific Fishery Management Council
605 West 4th Street, Suite 306
Anchorage, AK 99501-2252

Dr. James W. Balsiger
Administrator
National Marine Fisheries Service
Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

Re: Steller Sea Lion Protection Measures on St. George Island

Dear Ms. Madsen and Dr. Balsiger:

On April 9, 2005, the North Pacific Fishery Management Council (NPFMC) voted to respond with the National Marine Fisheries Service (NMFS) to the March 30, 2005 request by the St. George Traditional Council for review, reconsideration, and, if warranted, expansion of Steller sea lion protection measures on St. George Island. In light of that decision, the Traditional Council reiterates its request and addresses the testimony that preceded the NPFMC decision.

On March 30, 2005, the Traditional Council requested "that the NPFMC review and reconsider the protection measures established for St. George Island Steller sea lion haul-outs and, if warranted, prohibit groundfish trawling within 0-10 nautical miles of these haul-outs." The Traditional Council first made this request to NMFS, which forwarded it to the NPFMC, on September 24, 2004. Six months and three NPFMC meetings have passed. In view of this delay, the Traditional Council requests that any response include the requested review, reconsideration, and potential expansion of protection measures on St. George Island.

The Traditional Council is also compelled to address some aspects of the testimony presented to the NPFMC on April 9, 2005. The absence of public discussion by the NPFMC of the basis for its decision leaves the Traditional Council to surmise that this testimony in opposition to its request provided at least some of the basis for the NPFMC decision.

Mr. Paul MacGregor of the At-Sea Processors Association testified that the NPFMC should not review and reconsider particular Steller sea lion protection measures because the NPFMC and NMFS plan to review all Steller sea lion protection measures in the future. The Traditional Council questions this assertion because, upon unanimous recommendation of the NPFMC,

NMFS revised numerous Steller sea lion protection measures on December 20, 2004 – nearly four months *after* the Traditional Council first brought its request to NMFS and the NPFMC. 69 Fed. Reg. 75865 (Dec. 20, 2004). Furthermore, NMFS justified this joint decision by stating that "Steller sea lion protection measures were expected to be periodically reviewed and potentially changed based on new information regarding Steller sea lions and the fishing industry." *Id.* at 75865-75866. It seems contradictory to now suggest that the smaller-scale review, reconsideration, and potential expansion of Steller sea lion protection measures on St. George Island must be delayed for what will likely be several years until the full review of Steller sea lion protection measures is complete.

Mr. MacGregor further testified that Steller sea lion haul-outs on St. George Island are only protected within 0-3 nautical miles - while other major haul-outs throughout the eastern Bering Sea are protected from Pacific cod and Pollock trawling within 0-10 nautical miles - because counts from 1976 to 1995 did not justify greater protection on St. George Island. The Traditional Council is unable to find support for this testimony in the Federal Register, nor is the Traditional Council able to find any consistent basis for excluding St. George Island haul-outs from greater protection.[1] Of perhaps greater importance, the inconsistent bases for these Steller sea lion protection measures consistently ignored the one constant – local traditional knowledge of the Aleut Community of St. George – that would have demonstrated that Steller sea lions use St. George Island haul-outs in numbers that warrant the greater protection afforded haul-outs throughout the eastern Bering Sea.[2] Based on these facts, the Traditional Council requests that

---

[1] *See* 58 Fed. Reg. 45269 (Aug. 17, 1993) (Dalnoi Point and South identified as "major" haul-outs included in critical habitat); 64 Fed. Reg. 3437, 3438-3439 (Jan. 22, 1999) (St. George Island haul-outs less protected "on the basis of ten Steller sea lion counts conducted since 1979"); 67 Fed. Reg. 956, 968 (Jan. 8, 2002) (St. George Island haul-outs less protected because "[n]o Steller sea lions were observed during the last NMFS survey of the Pribilof haulouts in 1991"); 67 Fed. Reg. 56692, 56703 (Sept. 4, 2002) (St. George Island haul-outs less protected because "[a]necdotal evidence from NMFS' scientists, subsistence users, and others indicates that these areas are used infrequently, mostly during the summer as males pass through the area") (proposed rule).

[2] As a general matter, the data underlying Steller sea lion protection measures on St. George Island is compromised by shortcomings the Traditional Council articulated to NMFS and the NPFMC on September 24, 2004:

> The spatial and temporal resolution of the NMFS count data is clearly not adequate to address seasonal use of St. George Island by Steller sea lions, especially during the winter. Six haul-out counts are listed for St. George Island in the NMFS Steller sea lion count database, (available online from the [National Marine Mammal Laboratory] website; updated 10/29/2002). Three of these counts are for the entire island, and 3 counts were recorded for 2 specific haul-out sites. The counts are from 1977, 1984 and 1989 and were all conducted between August 7-12. We also note that St. George Island winter count data from 1998-2002 are included in the June 2003 Supplement to the Endangered Species Act ˆ Section 7 Consultation, Biological Opinion and Incidental Take Statement of October 2001. These data are accompanied by a winter photo of Dalnoi Point showing several hundred Steller sea lions hauled out. However these data are not included in the NMFS Steller sea lion count database, and presumably were not included in discussions of the 2002 reduction of habitat protection in the Pribilof Region. In the introduction to this document, NMFS states that "Little information exists for the sea lion counts in the Pribilof Islands." We hope that this letter will help to correct this situation.

Letter from Anthony B. Merculief, Pres., St. George Traditional Council, to Kaja Brix, Dir., Protected Resources Div., NMFS (Sept. 24, 2004).

the NPFMC and NMFS clarify the historical basis for the lesser protections afforded Steller sea lion haul-outs on St. George Island and ensure that the NPFMC and NMFS base all future decisions affecting St. George Island on consistent and credible data.

Mr. MacGregor also testified that Dalnoi Point is the only haul-out on St. George Island left unprotected by the Pribilof Habitat Conservation Area. As the map the Traditional Council presented to the NPFMC on April 6 and 9, 2005 indicates, the 0-10 nautical mile zone around South and any other documented sea lion haul-out on St. George Island (*e.g.* Tolstoi Point) extends outside the boundaries of the Pribilof Habitat Conservation Area.

Lastly, Mr. MacGregor testified that evidence of Steller sea lions hauling out on St. George Island suggests that the population is recovering. As the Traditional Council testified on April 6 and 9, 2005, the disparity between data presented to the NPFMC as early as September 24, 2004 and data used to justify Steller sea lion protection measures indicates an incomplete database. No data suggests an increasing trend on St. George Island. It is impossible, moreover, to verify a trend without monitoring to determine the variability in counts on a diurnal and seasonal basis.

The Traditional Council will accept a response by the NPFMC and NMFS that (1) includes the requested review, reconsideration, and, if warranted, expansion of protection measures on St. George Island and (2) addresses the issues raised in this letter. The protective intent of this request is enhanced by the special obligations that the NPFMC and NMFS owe to the constituents of the Traditional Council. The Traditional Council noted on March 30, 2005 that Executive Order 12898 directs the NPFMC and NMFS to identify *and* address disproportionate impacts of the Bering Sea groundfish fishery on the Aleut Community of St. George Island. The Traditional Council also notes that the NPFMC and NMFS have a trust obligation to the Aleut Community of St. George Island that requires the NPFMC and NMFS to honor "moral obligations of the highest responsibility and trust" in their interactions with the Aleut Community of St. George Island. *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942). *See United States v. Mitchell*, 463 U.S. 206, 225 (1983). The Traditional Council expects the NPFMC and NMFS to fulfill these obligations by ensuring that any prospective response addresses the request reiterated here and the issues identified in this letter.

Thank you in advance for your attention to this matter. Please contact me if you need further information.

Sincerely,

Anthony B. Merculief
President

The September 24, 2004 letter incorrectly stated that the 2003 Steller sea lion protection measures had "reduce[d]" trawl closures around St. George Island when, in fact, the prior closure had been 3 nautical miles, except during the court-ordered injunction of August 2000. The Traditional Council corrected this error on October 5, 2004 and reiterated that "the primary issue we address in our letter is the level of protection accorded a major [Steller sea lion] haul-out in the Pribilof Islands, both past and present."

Cc: Members of the NPFMC
Kaja Brix, Director, Protected Resources Division, Alaska Region, NMFS
Larry Cotter, Chair, NPFMC Steller Sea Lion Mitigation Committee
Dr. John Bengtson, Director, National Marine Mammal Laboratory, NMFS
Dr. Doug DeMaster, Director, Alaska Fisheries Science Center, NMFS
Senator Ted Stevens
Senator Lisa Murkowski
Representative Don Young

PRIBILOF ISLAND ALEUT COMMUNITY

of

St. George Island / Traditional Council

Item B-9(f)
June 2005

P.O. BOX 940 • ST. GEORGE ISLAND, ALASKA 99591 • (907) 859-2205 • TELEFAX (907) 859-2242

May 25, 2005

Stephanie Madsen
Chair
North Pacific Fishery Management Council
605 West 4th Street, Suite 306
Anchorage, AK 99501-2252

Dear Ms. Madsen:

Beginning on September 24, 2004, the St. George Traditional Council has repeatedly requested that the North Pacific Fishery Management Council (NPFMC) and the National Marine Fisheries Service (NMFS) review, reconsider, and, if warranted, expand Steller sea lion protection measures on St. George Island. *See* Attachments. The purpose of this letter is to comment on the status of this series of requests and to invite the NPFMC to comment at its upcoming meeting on its progress in responding to these requests.

Most recently, on March 30, 2005, the Traditional Council requested that the NPFMC "review and reconsider the protection measures established for St. George Island Steller sea lion haul-outs and, if warranted, prohibit groundfish trawling within 0-10 nautical miles of these haul-outs." *See* Attachment. On April 9, 2005, the NPFMC decided to "respond" to the Traditional Council in an unspecified manner. As of the date of this letter, the Traditional Council has not received this response. The Traditional Council thus invites the NPFMC to comment at its June 2005 meeting on the proposed nature of its response and on its progress in preparing this response.

The Traditional Council has also been informed that the NPFMC may propose to combine the requested review and reconsideration into the process of considering potential openings of the state and federal Aleutian Islands pollock fishery. As indicated in its testimony at the April 2005 NPFMC meeting, the Traditional Council would neither expect nor welcome such a proposal. The Traditional Council has not requested additional protections, but rather the review, reconsideration, and potential correction of existing protection measures to reflect the incorporation of important information into the Steller sea lion database related to St. George Island. In other words, combining this request with an effort to open fisheries elsewhere in Steller sea lion critical habitat would be viewed by the Traditional Council as inappropriate and unrelated to the scientific data put forth to substantiate our original request.

As always, please contact me if you have any questions. Thank you in advance for considering these comments and for any comments you may offer at the upcoming meeting of the NPFMC.

Yours truly,

Anthony B. Merculief
President

Attachments

PRIBILOF ISLAND ALEUT COMMUNITY
of
St. George Island / Traditional Council

P.O. BOX 940 • ST. GEORGE ISLAND, ALASKA 99591 • (907) 859-2205 • TELEFAX (907) 859-2242

March 30, 2005

Stephanie Madsen
Chair
North Pacific Fishery Management Council
605 West 4th Street, Suite 306
Anchorage, AK 99501-2252

Dear Ms. Madsen:

On September 24, 2004, the St. George Traditional Council presented evidence to the National Marine Fisheries Service (NMFS) that significant numbers of Steller sea lions use St. George Island haul-outs during summer and winter. In contrast to the majority of Steller sea lion critical habitat designated under the Endangered Species Act, groundfish trawling is prohibited from only 0-3 nautical miles of these haul-outs because NMFS did not recognize this usage when it adopted Steller sea lion protection measures in January 2003. 67 Fed. Reg. 56692, 56703 (Sept. 4, 2002); 68 Fed. Reg. 204 (Jan. 3, 2003). In view of available evidence, the Traditional Council hereby requests that the North Pacific Fishery Management Council (NPFMC) review and reconsider the protection measures established for these haul-outs and, if warranted, prohibit groundfish trawling within 0-10 nautical miles of these haul-outs.

In 2003, the Traditional Council began surveying Steller sea lion haul-outs on St. George Island to substantiate local knowledge that Steller sea lions use haul-outs on St. George Island in numbers that may warrant a higher level of protection than afforded by existing protection measures. On September 24, 2004, the Traditional Council presented the data from these surveys to NMFS along with evidence that females with dependent pups and branded juvenile Steller sea lions from other parts of the species range use St. George Island haul-outs. These data are supported by a photograph and data in Figure I-3 and Table I-3, respectively, of the *Supplement to the Endangered Species Act – Section 7 Consultation Biological Opinion and Incidental Take Statement of October 2001* (*2001 BiOp Supplement*) documenting the use of the Dalnoi Point haul-out by at least 200 Steller sea lions in March 2002. Of equal importance, as indicated by the attachment to this letter, recent counts conducted by the Traditional Council corroborate these data.

On September 24, 2004, the Traditional Council requested that NMFS initiate

> a review and reconsideration of the [2003] Steller sea lion protection regulations . . . [and] that the 20 nautical [mile] protected zone around St. George Island

haul-outs be reinstated so that it is comparable to other Alaskan haul-out sites used by similar number of Steller sea lions.[1]

NMFS conveyed this request to the NPFMC prior to its December 2004 meeting, but the NPFMC did not discuss or act on the request.[2]

With this letter, the St. George Traditional Council requests that the NPFMC review and reconsider the Steller sea lion protection measures established for St. George Island and, if warranted, prohibit groundfish trawling within 0-10 nautical miles of these haul-outs. The Traditional Council has reduced its initial request for a 0-20 nautical mile prohibition in an effort to solve a challenge to Steller sea lion conservation in a manner acceptable to all parties. The size of this request is based on the importance of the 0-10 nautical mile zone to Steller sea lions and the relatively low level of groundfish trawling in this area.

NMFS has consistently stated that Steller sea lions are most sensitive to groundfish trawling within 0-10 nautical miles of haul-outs. In proposing the existing protection measures, for example, NMFS stated that, "[i]n most cases, the portion of critical habitat areas considered important for protection in 2002 and beyond is 0-10 nm of haulout and rookery sites with areas closer to shore considered more important for animals with less foraging skills or for females with pups." 67 Fed. Reg. at 56695. NMFS summarized the existing protection measures by stating on page 56 of the *2001 BiOp Supplement* that "[i]nside 10 nm conservation measures are very conservative except for catch off St. George Island." In sum, with few exceptions such as St. George Island, trawling is prohibited within the 0-10 nautical mile zone of Steller sea lion critical habitat to avoid adverse modification of critical habitat.

In contrast to the importance of the 0-10 nautical mile zone to Steller sea lions, relatively low levels of groundfish trawling occur in this zone. Table III-9 of the *2001 BiOp Supplement* indicates that pollock catch in St. George Island critical habitat increased nearly tenfold between 1999 and 2002, but that only 7.8% of the 2002 catch occurred in the 0-10 nautical mile zone. Perhaps more importantly, Table III-9 indicates that pollock catch in 2002 in the 0-10 nautical mile zone of St. George Island critical habitat amounted to only .2% of the eastern Bering Sea pollock catch. If current catch rates resemble those of 2002, a relatively low level of trawling would be displaced to establish Steller sea lion protection measures comparable to those established for Steller sea lion haul-outs throughout the eastern Bering Sea.

To conclude, available data warrants a review and reconsideration of the adequacy of the existing protection measures established for St. George Island Steller sea lion haul-outs and appears to warrant a prohibition on groundfish trawling within 0-10 nautical miles of these haul-outs. In view of these data, the Traditional Council seeks Steller sea lion protection measures on St. George Island that are comparable to the protections afforded Steller sea lion haul-outs

[1] The September 24, 2004 letter incorrectly stated that the 2003 Steller sea lion protection measures had "reduce[d]" trawl closures around St. George Island when, in fact, the prior closure had been 3 nautical miles, except during the court-ordered injunction of August 2000 which closed all Steller sea lion critical habitat to fishing. The Traditional Council corrected this error on October 5, 2004 and reiterated that "the primary issue we address in our letter is the level of protection accorded a major [Steller sea lion] haul-out in the Pribilof Islands, both past and present."

[2] Members of the NPFMC may have spoken about the factual error noted in footnote 1, but the NPFMC did not discuss or act on the request.

throughout the eastern Bering Sea. Please note, however, that the Traditional Council will oppose any protection measures that prohibit vessel transit or fishing by the St. George fleet within St. George Island critical habitat, or that otherwise harm subsistence rights or the local economy, as inconsistent with the protection measures established for Steller sea lion haul-outs throughout the eastern Bering Sea.

Implicit in this request is the recognition by the Traditional Council that existing Steller sea lion protection measures disproportionately impact the Aleut Community of St. George Island. Executive Order 12898 provides that

> [t]o the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.

The NPFMC is thus bound, to the greatest extent practicable and permitted by law, to identify and address the disproportionate environmental impacts of Steller sea lion protection measures on the Aleut Community of St. George Island.

To protect Steller sea lions and fulfill this mandate, the Traditional Council requests that the NPFMC review and reconsider the protection measures established for St. George Island Steller sea lion haul-outs and, if warranted, prohibit groundfish trawling within 0-10 nautical miles of these haul-outs. Please place this request in the notebook and on the agenda for consideration and action by the NPFMC at its April 2005 meeting. Thank you in advance for your prompt attention to this matter.

Sincerely,

Anthony B. Merculief
President

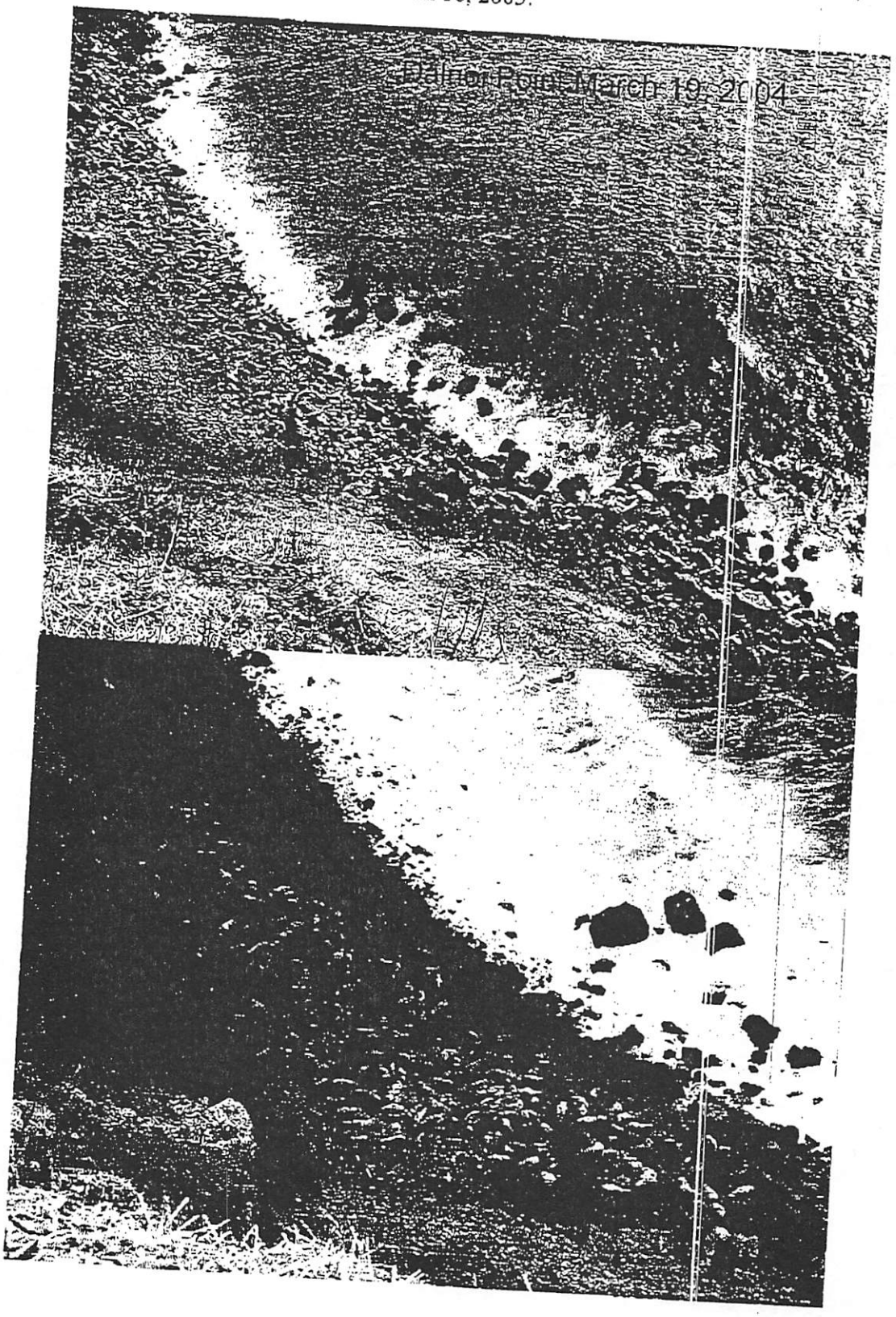
Attachment

Cc: Members of the NPFMC
Dr. James W. Balsiger, Administrator, Alaska Region, NMFS
Kaja Brix, Director, Protected Resources Division, Alaska Region, NMFS
Larry Cotter, Chair, NPFMC Steller Sea Lion Mitigation Committee
Dr. John Bengtson, Director, National Marine Mammal Laboratory, NMFS
Dr. Doug DeMaster, Director, Alaska Fisheries Science Center, NMFS

Table 1. Maximum counts of Steller sea lions at the Dalnoi Point haul-out on St. George Island from 2002 – 2005.

Site	Date	Count
DALNOI POINT	2/17/2002	200
DALNOI POINT	3/19/2004	439
DALNOI POINT	3/16/2005	265

Figure 1. Dalnoi Point. The photos show 439 Steller sea lions hauled out on March 19, 2004 (top) and 265 sea lions hauled out on March 16, 2005.



PRIBILOF ISLAND ALEUT COMMUNITY
of
St. George Island / Traditional Council

P.O. BOX 940 • ST. GEORGE ISLAND, ALASKA 99591 • (907) 859-2205 • TELEFAX (907) 859-2242

April 27, 2005

Stephanie Madsen
Chair
North Pacific Fishery Management Council
605 West 4th Street, Suite 306
Anchorage, AK 99501-2252

Dr. James W. Balsiger
Administrator
National Marine Fisheries Service
Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

Re: Steller Sea Lion Protection Measures on St. George Island

Dear Ms. Madsen and Dr. Balsiger:

On April 9, 2005, the North Pacific Fishery Management Council (NPFMC) voted to respond with the National Marine Fisheries Service (NMFS) to the March 30, 2005 request by the St. George Traditional Council for review, reconsideration, and, if warranted, expansion of Steller sea lion protection measures on St. George Island. In light of that decision, the Traditional Council reiterates its request and addresses the testimony that preceded the NPFMC decision.

On March 30, 2005, the Traditional Council requested "that the NPFMC review and reconsider the protection measures established for St. George Island Steller sea lion haul-outs and, if warranted, prohibit groundfish trawling within 0-10 nautical miles of these haul-outs." The Traditional Council first made this request to NMFS, which forwarded it to the NPFMC, on September 24, 2004. Six months and three NPFMC meetings have passed. In view of this delay, the Traditional Council requests that any response include the requested review, reconsideration, and potential expansion of protection measures on St. George Island.

The Traditional Council is also compelled to address some aspects of the testimony presented to the NPFMC on April 9, 2005. The absence of public discussion by the NPFMC of the basis for its decision leaves the Traditional Council to surmise that this testimony in opposition to its request provided at least some of the basis for the NPFMC decision.

Mr. Paul MacGregor of the At-Sea Processors Association testified that the NPFMC should not review and reconsider particular Steller sea lion protection measures because the NPFMC and NMFS plan to review all Steller sea lion protection measures in the future. The Traditional Council questions this assertion because, upon unanimous recommendation of the NPFMC,

NMFS revised numerous Steller sea lion protection measures on December 20, 2004 – nearly four months *after* the Traditional Council first brought its request to NMFS and the NPFMC. 69 Fed. Reg. 75865 (Dec. 20, 2004). Furthermore, NMFS justified this joint decision by stating that "Steller sea lion protection measures were expected to be periodically reviewed and potentially changed based on new information regarding Steller sea lions and the fishing industry." *Id.* at 75865-75866. It seems contradictory to now suggest that the smaller-scale review, reconsideration, and potential expansion of Steller sea lion protection measures on St. George Island must be delayed for what will likely be several years until the full review of Steller sea lion protection measures is complete.

Mr. MacGregor further testified that Steller sea lion haul-outs on St. George Island are only protected within 0-3 nautical miles - while other major haul-outs throughout the eastern Bering Sea are protected from Pacific cod and Pollock trawling within 0-10 nautical miles - because counts from 1976 to 1995 did not justify greater protection on St. George Island. The Traditional Council is unable to find support for this testimony in the Federal Register, nor is the Traditional Council able to find any consistent basis for excluding St. George Island haul-outs from greater protection.[1] Of perhaps greater importance, the inconsistent bases for these Steller sea lion protection measures consistently ignored the one constant – local traditional knowledge of the Aleut Community of St. George – that would have demonstrated that Steller sea lions use St. George Island haul-outs in numbers that warrant the greater protection afforded haul-outs throughout the eastern Bering Sea.[2] Based on these facts, the Traditional Council requests that

---

[1] *See* 58 Fed. Reg. 45269 (Aug. 17, 1993) (Dalnoi Point and South identified as "major" haul-outs included in critical habitat); 64 Fed. Reg. 3437, 3438-3439 (Jan. 22, 1999) (St. George Island haul-outs less protected "on the basis of ten Steller sea lion counts conducted since 1979"); 67 Fed. Reg. 956, 968 (Jan. 8, 2002) (St. George Island haul-outs less protected because "[n]o Steller sea lions were observed during the last NMFS survey of the Pribilof haulouts in 1991"); 67 Fed. Reg. 56692, 56703 (Sept. 4, 2002) (St. George Island haul-outs less protected because "[a]necdotal evidence from NMFS' scientists, subsistence users, and others indicates that these areas are used infrequently, mostly during the summer as males pass through the area") (proposed rule).

[2] As a general matter, the data underlying Steller sea lion protection measures on St. George Island is compromised by shortcomings the Traditional Council articulated to NMFS and the NPFMC on September 24, 2004:

> The spatial and temporal resolution of the NMFS count data is clearly not adequate to address seasonal use of St. George Island by Steller sea lions, especially during the winter. Six haul-out counts are listed for St. George Island in the NMFS Steller sea lion count database, (available online from the [National Marine Mammal Laboratory] website; updated 10/29/2002). Three of these counts are for the entire island, and 3 counts were recorded for 2 specific haul-out sites. The counts are from 1977, 1984 and 1989 and were all conducted between August 7-12. We also note that St. George Island winter count data from 1998-2002 are included in the June 2003 Supplement to the Endangered Species Act ^ Section 7 Consultation, Biological Opinion and Incidental Take Statement of October 2001. These data are accompanied by a winter photo of Dalnoi Point showing several hundred Steller sea lions hauled out. However these data are not included in the NMFS Steller sea lion count database, and presumably were not included in discussions of the 2002 reduction of habitat protection in the Pribilof Region. In the introduction to this document, NMFS states that "Little information exists for the sea lion counts in the Pribilof Islands." We hope that this letter will help to correct this situation.

Letter from Anthony B. Merculief, Pres., St. George Traditional Council, to Kaja Brix, Dir., Protected Resources Div., NMFS (Sept. 24, 2004).

the NPFMC and NMFS clarify the historical basis for the lesser protections afforded Steller sea lion haul-outs on St. George Island and ensure that the NPFMC and NMFS base all future decisions affecting St. George Island on consistent and credible data.

Mr. MacGregor also testified that Dalnoi Point is the only haul-out on St. George Island left unprotected by the Pribilof Habitat Conservation Area. As the map the Traditional Council presented to the NPFMC on April 6 and 9, 2005 indicates, the 0-10 nautical mile zone around South and any other documented sea lion haul-out on St. George Island (*e.g.* Tolstoi Point) extends outside the boundaries of the Pribilof Habitat Conservation Area.

Lastly, Mr. MacGregor testified that evidence of Steller sea lions hauling out on St. George Island suggests that the population is recovering. As the Traditional Council testified on April 6 and 9, 2005, the disparity between data presented to the NPFMC as early as September 24, 2004 and data used to justify Steller sea lion protection measures indicates an incomplete database. No data suggests an increasing trend on St. George Island. It is impossible, moreover, to verify a trend without monitoring to determine the variability in counts on a diurnal and seasonal basis.

The Traditional Council will accept a response by the NPFMC and NMFS that (1) includes the requested review, reconsideration, and, if warranted, expansion of protection measures on St. George Island and (2) addresses the issues raised in this letter. The protective intent of this request is enhanced by the special obligations that the NPFMC and NMFS owe to the constituents of the Traditional Council. The Traditional Council noted on March 30, 2005 that Executive Order 12898 directs the NPFMC and NMFS to identify *and* address disproportionate impacts of the Bering Sea groundfish fishery on the Aleut Community of St. George Island. The Traditional Council also notes that the NPFMC and NMFS have a trust obligation to the Aleut Community of St. George Island that requires the NPFMC and NMFS to honor "moral obligations of the highest responsibility and trust" in their interactions with the Aleut Community of St. George Island. *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942). *See United States v. Mitchell*, 463 U.S. 206, 225 (1983). The Traditional Council expects the NPFMC and NMFS to fulfill these obligations by ensuring that any prospective response addresses the request reiterated here and the issues identified in this letter.

Thank you in advance for your attention to this matter. Please contact me if you need further information.

Sincerely,

Anthony B. Merculief
President

The September 24, 2004 letter incorrectly stated that the 2003 Steller sea lion protection measures had "reduce[d]" trawl closures around St. George Island when, in fact, the prior closure had been 3 nautical miles, except during the court-ordered injunction of August 2000. The Traditional Council corrected this error on October 5, 2004 and reiterated that "the primary issue we address in our letter is the level of protection accorded a major [Steller sea lion] haul-out in the Pribilof Islands, both past and present."

Cc: Members of the NPFMC
Kaja Brix, Director, Protected Resources Division, Alaska Region, NMFS
Larry Cotter, Chair, NPFMC Steller Sea Lion Mitigation Committee
Dr. John Bengtson, Director, National Marine Mammal Laboratory, NMFS
Dr. Doug DeMaster, Director, Alaska Fisheries Science Center, NMFS
Senator Ted Stevens
Senator Lisa Murkowski
Representative Don Young

PRIBILOF ISLAND ALEUT COMMUNITY
of
St. George Island / Traditional Council

P.O. BOX 940 • ST. GEORGE ISLAND, ALASKA 99591 • (907) 859-2205 • TELEFAX (907) 859-2242

January 12, 2005

Kaja Brix
Co-Chair
St. George Island Co-Management Council
Alaska Region National Marine Fisheries Service
PO Box 21668
Juneau, AK 99802-1668

Andrew Malavansky
Co-Chair
St. George Island Co-Management Council
St. George Traditional Council Kayumixtax Eco-Office
P.O. Box 940
St. George Island, AK 99591

Dear Ms. Brix and Mr. Malavansky:

On September 24, 2004, the St. George Island Traditional Council presented evidence to the National Marine Fisheries Service (NMFS) that significant numbers of Steller sea lions use St. George Island haul-outs during summer and winter. *See* Attachment A. Groundfish trawling is prohibited from only 0-3 nautical miles of these haul-outs because NMFS did not recognize the frequent usage of these haul-outs when it adopted Steller sea lion protection measures in January 2003. *See* 67 Fed. Reg. 56692, 56703 (Sept. 4, 2002) ("Anecdotal evidence from NMFS' scientists, subsistence users, and others indicates that these areas are used infrequently, mostly during the summer as males pass through the area."). In light of the evidence presented to NMFS on September 24, 2004, the Traditional Council asked NMFS for

> a review and reconsideration of the [2003] Steller sea lion protection regulations .... [and] that the 20 nautical [mile] protected zone around St. George Island haul-outs be reinstated so that it is comparable to other Alaskan haul-out sites used by similar number of Steller sea lions.[1]

[1] The September 24, 2004 letter of the Traditional Council incorrectly stated that the 2003 Steller sea lion protection measures "reduce[d]" trawl closures around St. George Island when, in fact, the prior closure had been 3 nautical miles. The Traditional Council promptly corrected this error and reiterated that "the primary issue we address in our letter is the level of protection accorded a major [Steller sea lion] haul-out in the Pribilof Islands, both past and present." *See* Attachment C.

NMFS conveyed this request to the North Pacific Fishery Management Council (NPFMC) prior to its December 2004 meeting because, according to NMFS, "[r]egulatory changes of this nature are addressed by the [NPFMC]." *See* Attachment B. The NPFMC neither discussed nor acted on the request at its December meeting.[2] As a result, the Traditional Council, by authority of the Co-Management Agreement between the Traditional Council and NMFS, now raises this request with the St. George Island Co-Management Council for consideration and recommendation for action by NMFS and the NPFMC.

The Co-Management Agreement between the Traditional Council and NMFS establishes the Co-Management Council as the primary vehicle for conservation and preservation of Steller sea lions based on traditional knowledge and the best available science. *See* Attachment D. The Co-Management Council *shall* identify challenges to the conservation and preservation of sea lions *and* recommend solutions to those challenges. In light of the evidence presented to NMFS by the Traditional Council and the failure of the NPFMC to act on this request, the Traditional Council continues to "feel that the conservation of Steller sea lions in the Bering Sea and subsistence rights of the Aleut Community of St. George are not well served by [the 3 mile trawl closure around St. George Island]." The Traditional Council therefore asks the Co-Management Council, at its next meeting, to consider the evidence presented to NMFS on September 24, 2004 and recommend that NMFS and the NPFMC review, reconsider, and expand the trawl closure around St. George Island "so that it is comparable to other Alaskan haul-out sites used by similar numbers of Steller sea lions."[3]

Explicit in this request is a recognition by the Traditional Council that the "subsistence rights of the Aleut Community of St. George are not well served by [the 3 mile closure]." Executive Order 12898 provides that

> [t]o the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.

Exec. Or. 12898 (1994). NMFS and the NPFMC are thus bound, to the greatest extent practicable and permitted by law, to identify and address the disproportionate environmental impacts of Bering Sea groundfish fisheries on the Aleut Community of St. George Island. The Traditional Council expects NMFS and the NPFMC to fulfill this

[2] NPFMC members may have spoken about the factual error noted in footnote 1, but the NPFMC did not discuss or act on the request.

[3] As NMFS has stated, "[t]he Steller sea lion protection measures were expected to be periodically reviewed and potentially changed based on new information regarding Steller sea lions and the fishing industry." 69 Fed. Reg. 75865, 75866 (Dec. 20, 2004).

obligation by expanding the trawl closure to a size that is comparable to other Alaskan haul-out sites used by similar numbers of Steller sea lions.

We request that this issue be placed on the agenda for consideration and action by the Co-Management Council at its January 24, 2005 meeting. Thank you in advance for your prompt attention to this matter.

Sincerely,

Anthony B. Merculler
President

Attachments

PRIBILOF ISLAND ALEUT COMMUNITY
of
St. George Island / Traditional Council
P.O. BOX 940 • ST. GEORGE ISLAND, ALASKA 99591 • (907) 859-2205 • TELEFAX (907) 859-2242

24 September 2004

Kaja Brix, Director
Protected Resources, Alaska Region
National Marine Fisheries Service
PO Box 21668
Juneau, AK 99802-1668

Dear Ms. Brix,

Under the July 2001 Co-management agreement between the Aleut Community of St. George Island and the National Marine Fisheries Service (NMFS), the St. George Traditional Council, is responsible for co-management of the northern fur seals and Steller sea lions in and around St. George Island. In this capacity, we would like to request a review of the biological data and rational behind the September 4, 2002 decision to reduce the size of the trawl closures designed to protect Steller sea lion critical habitat in the Pribilof Islands. We feel that the conservation of Steller sea lions in the Bering Sea and subsistence rights of the Aleut Community of St. George are not well served by this decision. The Federal Register (Vol. 67, No. 171, p. 56703) notice on September 4, 2002 implementing this decision states:

> "Pollock directed fishing would be prohibited (a) 0-10 nm of all rookeries and haul-outs, except that four Pribilof haul-outs would be closed 0-3 nm, (b) in the BSPRA during the A season, and (c) by non-CDQ trawl catcher/processors in the CVOA during the B season (June 10-November 1) to reduce the rate and amount of harvest in critical habitat. NMFS has not undertaken Steller sea lion aerial surveys of the northern haul-outs in the Bering Sea. Anecdotal evidence from NMFS' scientists, subsistence users, and others indicates that these areas are used infrequently, mostly during the summer as males pass through the area. Therefore the Council considered these infrequently used areas to be of less importance for protection to 10 nm. The Pribilof Islands Conservation Zone described at § 679.22 (a)(6) is a trawl closure area that encompasses some of the Steller sea lion critical habitat areas."

The St. George Island Traditional Council has compiled relevant information to evaluate this action and in the context of both Steller sea lion conservation and co-management we find the decision troubling in several respects.

1) The spatial and temporal resolution of the NMFS count data is clearly not adequate to address seasonal use of St. George Island by Steller sea lions, especially during the winter. Six haul-out counts are listed for St. George Island in the NMFS Steller sea lion count database, (available online from the NMML website; updated 10/29/2002). Three of these counts are for the entire island, and 3 counts were recorded for 2 specific haul-out sites. The counts are from 1977, 1984 and 1989 and were all conducted between August 7-12. We also note that St. George Island winter count data from 1998-2002 are included in the June 2003 Supplement to the Endangered Species Act ^ Section 7 Consultation, Biological Opinion and Incidental Take Statement of October 2001. These data are accompanied by a winter photo of Dalnoi Point showing several hundred Steller sea lions hauled out. However these data are not included in the NMFS Steller sea lion count database, and presumably were not included in discussions of the 2002 reduction of habitat protection in the Pribilof Region. In the introduction to this document, NMFS states that "Little information exists for the sea lion counts in the Pribilof Islands." We hope that this letter will help to correct this situation.

2) The St. George Island Traditional Council has been unable to document any community members who were consulted as to the presence of sea lions at St. George haul-out sites.

3) While the Pribilof Islands Habitat Conservation Area does encompass a large amount Steller sea lion Critical Habitat in the Pribilof Islands region, the boundary is approximately 3 nautical miles from the southwest side of St. George Island, leaving a substantial portion of St. George Island Steller sea lion Critical Habitat unprotected under the current ESA mandated protection measures (Figure 1).

As co-manager of Steller sea lions in the waters surrounding St. George Island, the Traditional Council has collected and evaluated information on the presence of Steller sea lions on St. George haul-outs during 2002-04. These data are summarized in this letter. We will provide our full database of sea lion count data and photographic documentation upon request, and the STGTC looks forward to continued collaboration with NMFS on research to document the abundance and behavior of Steller sea lions on St. George Island. We are also in the process of compiling historic data and photographs on sea lion abundance for incorporation into the St. George Island database.

During 2002-04, significant numbers of sea lions were observed during March at three haul-out areas; Dalnoi Point (max. count 439 on 3/19/04), Murre Rock (max. count of 55 sea lions on 3/22/03), and Tolstoi Point (max. count of approximately 100-125 sea lions on 3/24/04). Sea lions were also observed during both winter and summer at these and other sites including; Kitasilax, East Reef, Northwest Rookery, South Rookery, Staraya Artil Rookery, Sea Lion rock and the St. George harbor. Figures 2-6 show the sites at which counts were conducted and document the use of these areas by Steller sea lions. The 2004 counts are our most complete haul-out census to date. The results indicate that large numbers of sea lions utilize several St. George haul-out areas during winter (Table 1), and that year around there are sea lions hauled out on our shores. The average

number of sea lions observed at St. George haul-out sites during March of 2004 (mean number = 137.3) is comparable to the Alaska-wide average for March haul-out counts in 1993 and 1999, the two years for which winter haul-out data were available (Sease and York 2003). The maximum number of sea lions observed at Dalnoi Point in 2004 exceeded the Alaska-wide average by four-fold.

The widespread use of St. George Island haul-outs during winter is significant in several regards. Steller sea lions nurse their pups throughout the winter, moving their pups to winter haul-outs following the summer breeding season (Raum-Suryan 2002, Loughlin et al. 2003). The photograph taken at Tolstoi Point on September 4, 2004 shows a pre-molt Steller sea lion pup, likely with its mother (Figure 4). This photograph documents that Steller sea lion females and their pups use the haul-out areas on St. George Island. We do not know if this pup was born at this site, however we have not ruled out the possibility that this may occur, given the historical record of large sea lion rookeries on the St. George Island. We do not believe that the presence of sea lion pups on St. George Island is an isolated event. The zoomed in photo of Dalnoi Point during March of 2004 also shows several possible mother pup pairs, however the post-molt status makes this difficult to determine without documenting nursing events. It is logical to assume, based on other studies of Steller sea lions, that female/pup pairs from Walrus Island move to other Pribilof Haul-out sites during the winter, especially when Walrus Island offers little protection from winter storms.

From a traditional knowledge aspect our local fishermen and subsistence users have reported every year since 1983 seeing and hearing large numbers of sea lions at Tolstoi and on around to East Cliffs. In the late 50' and early 60's there were lots of sea lions pups at Dalnoi Point, according to an Elder. There has never been a year when sea lions have not been seen hauled out on our island.

The presence of a branded juvenile (A247) from Ugamak Island at South rookery this year (Figure 6), in addition to other re-sights of branded sea lions at other Pribilof sites, also indicates that St. George Island may be an important haul-out site located within the northern extent of the Steller sea lions range coming from other parts of Alaska. Therefore, we feel that St. George Island is a very important haul for Steller sea lions every month of the year.

Based on the findings of our research under the co-management agreement, the Traditional Council of St. George Island is very concerned that allowing groundfish trawling to take place up to three miles from the south side of our island represents a continued threat to the survival of our local population of endangered Steller sea lions and may adversely impact their ESA designated critical habitat. The timeliness of this issue is accentuated by the recent results of the northern fur seal census, indicating an accelerated decline in the Pribilof fur seal population.

We will be putting more effort into research to document the distribution and behavior of Steller sea lions at St. George Island in coming months, however we feel that the findings presented in this letter are sufficient to warrant a review and reconsideration of the 2002

Steller sea lion protection regulations that reduced the critical habitat protection to 3 nautical miles. The Traditional Council of St. George Island would like to request that the 20 nautical protected zone around St. George Island haul-outs be reinstated so that it is comparable to other Alaskan haul-out sites used by similar numbers of Steller sea lions.

Sincerely,

Anthony B. Merculief
President

Cc:
Members of the North Pacific Fisheries Management Council
Senator Ted Stevens
Senator Lisa Murkowski
Representative Don Young
Evie Witten, WWF and the Pribilof Islands Collaborative

References

Loughlin, T.R., Sterling, J.T., Merrick, R.L., Sease, J.L., and York, A.E. 2003. Diving behavior of immature Steller sea lions (Eumetopias jubatus). Fishery Bulletin 101(3): 566-582.

Raum-Suryan, K.L., Pitcher, K.W., Calkins, D.G. Sease, J.L., and Loughlin, T.R. 2002. Dispersal, rookery fidelity, and metapopulation structure of Steller sea lions (Eumetopias jubatus) in an increasing and decreasing population in Alaska. Marine Mammal Science 18:746-764.

Sease, J.L. and York, A.E. 2003. Seasonal distribution of Steller's sea lions at rookeries and haul-out sites in Alaska. Marine Mammal Science 19:745-763.

Table 1. Counts of Steller sea lions on St. George Island during 2004 by the Island Sentinel

Site	Date	Count
Winter (October-March)		
DALNOI POINT	3/19/2004	439
KITASILAX	3/1/2004	1
MURRE ROCK	3/19/2004	24
TOLSTOI POINT	3/22/2004	85
Summer (April-September)		
EAST ROOKERY	6/14/2004	1
	7/19/2004	2
	8/16/2004	15
HARBOR	7/13/2004	6
	7/19/2004	3
KITASILAX	8/28/2004	18
MURRE ROCK	8/24/2004	21
NORTHWEST ROOKERY	7/6/2004	5
	7/14/2004	13
	8/16/2004	1
SEA LION ROCK	7/19/2004	2
SOUTH ROOKERY	8/17/2004	1
TOLSTOI POINT	9/4/2004	47

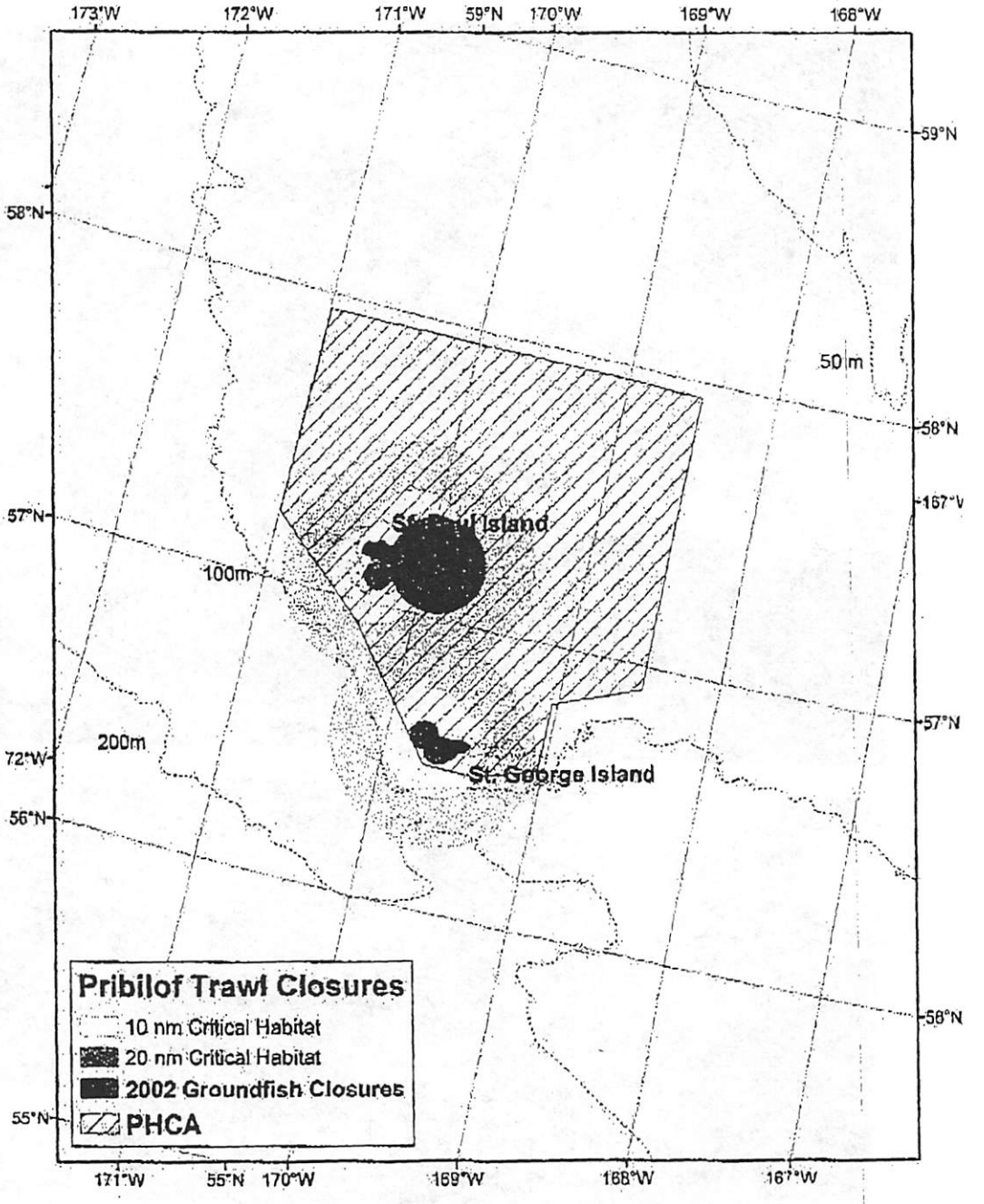


Figure 1. Pribilof Island Trawl Closures

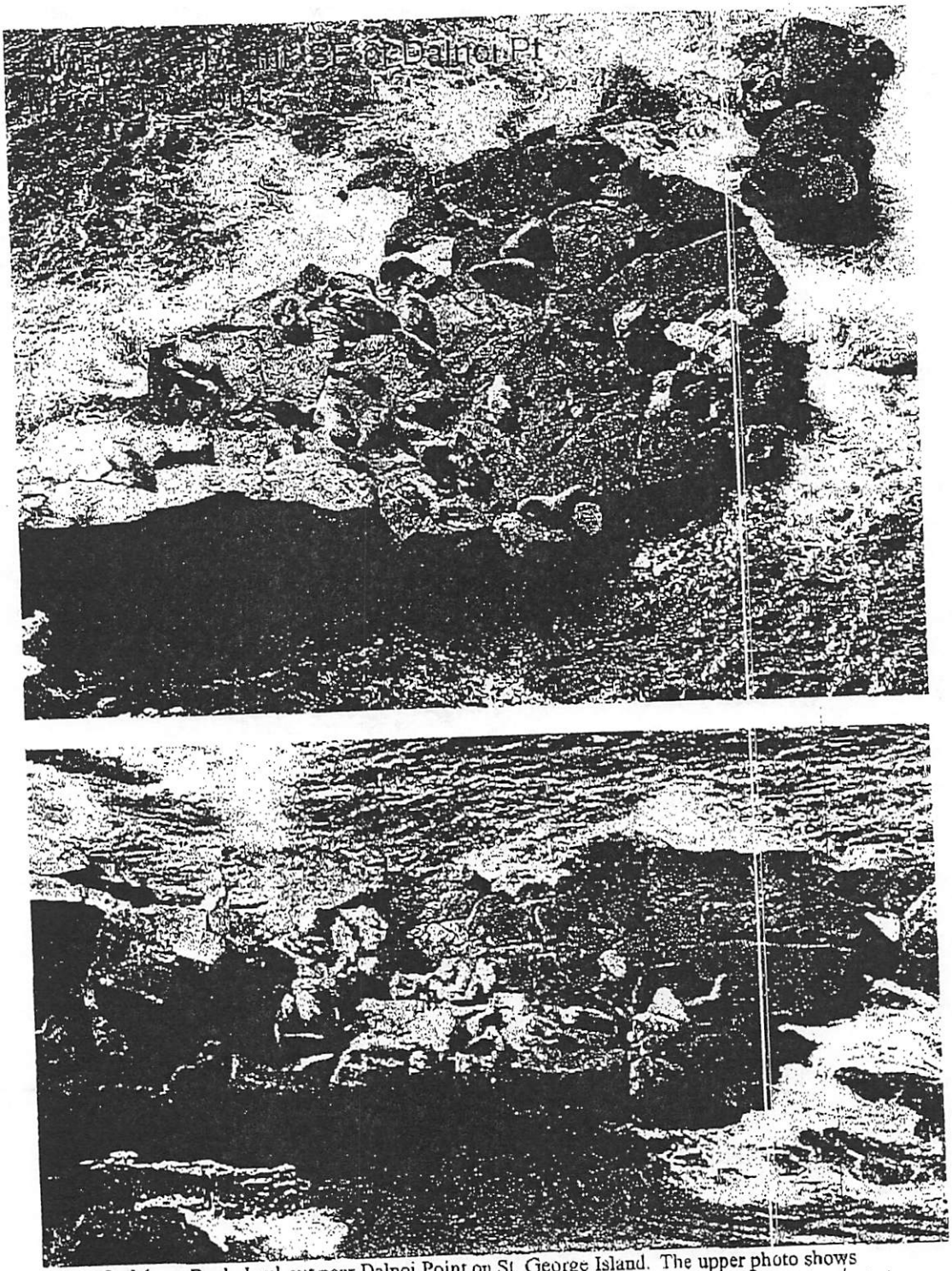


Figure 3. Murre Rock haul-out near Dalnoi Point on St. George Island. The upper photo shows approximately 24 animals hauled out on March 19, 2004. The lower photo shows 33 animals hauled out on May 19, 2004.

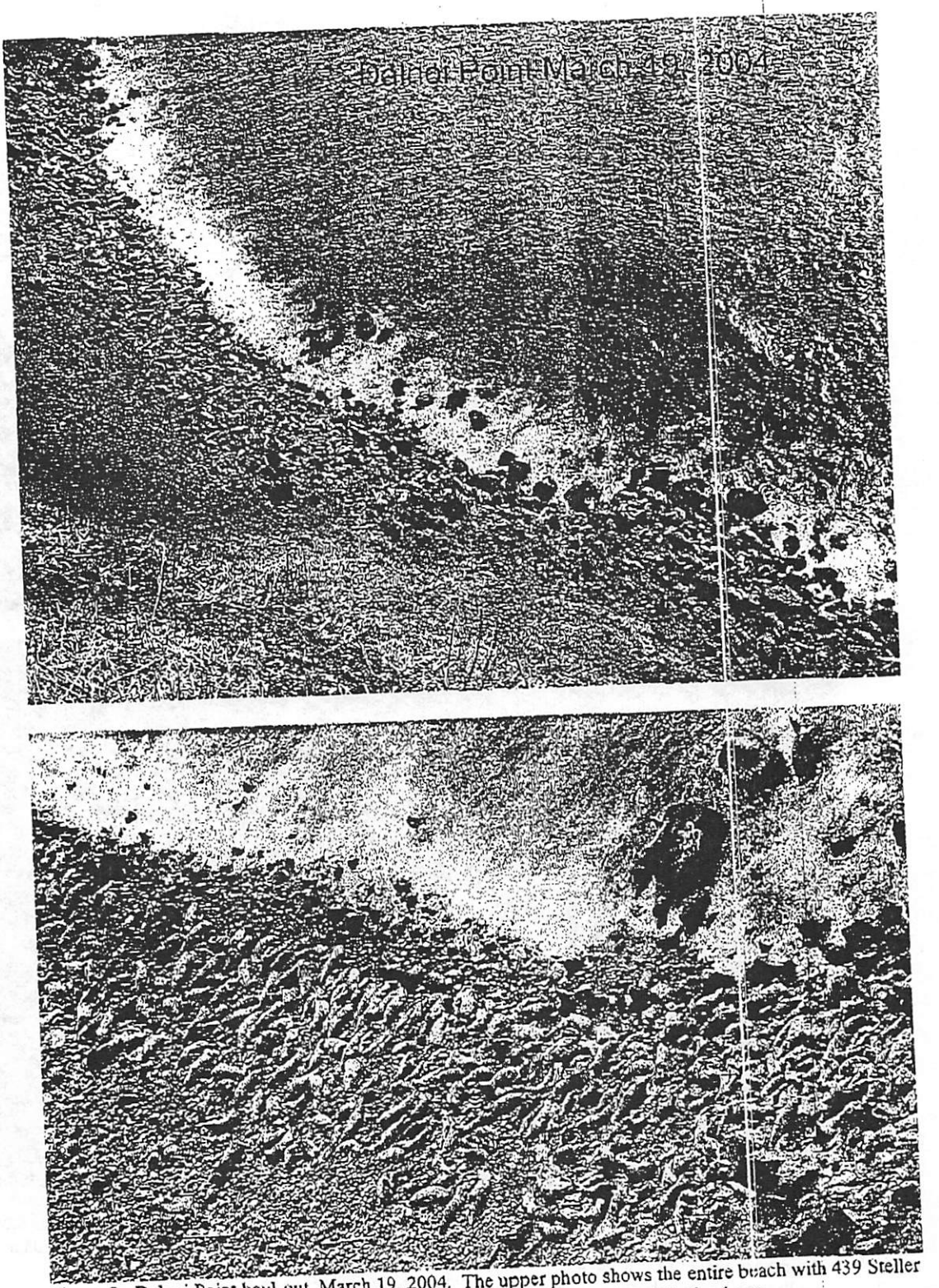


Figure 2. Dalnoi Point haul-out, March 19, 2004. The upper photo shows the entire beach with 439 Steller sea lions hauled out. The lower photo is zoomed in on the dense section of the haul-out.

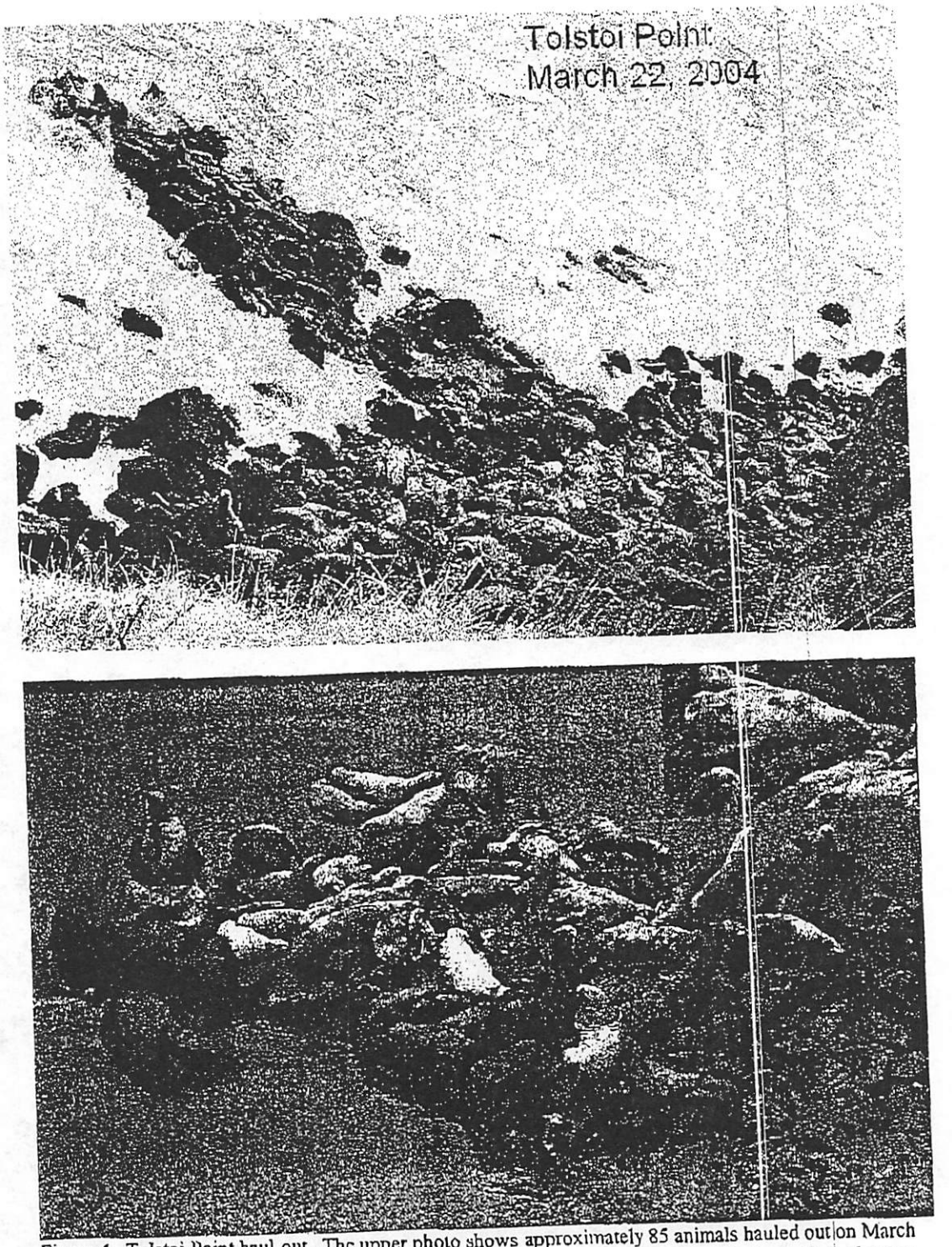


Figure 4. Tolstoi Point haul-out. The upper photo shows approximately 85 animals hauled out on March 22, 2004. The lower photo shows 47 animals hauled out on September 4, 2004. The inset photo shows a zoomed in view of the section of the photo shown by the red box. The smaller of the two animals is a Steller sea lion pup born in 2004, most likely moved to Tolstoi Point from Walrus Island.

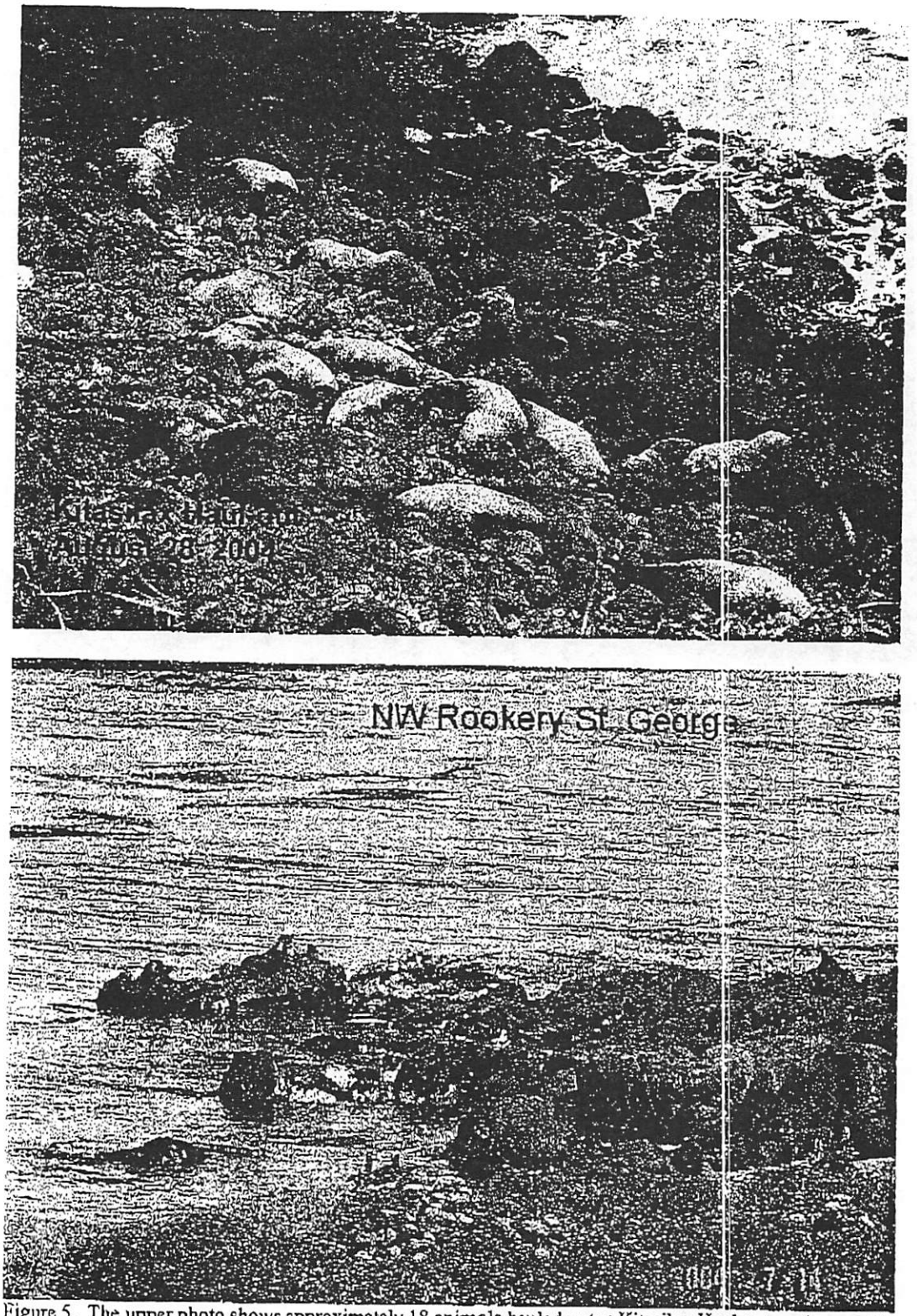


Figure 5. The upper photo shows approximately 18 animals hauled out at Kitasilax Haul-out on August 24, 2003. The lower photo shows 13 animals hauled out at NW rookery on September 4, 2004.

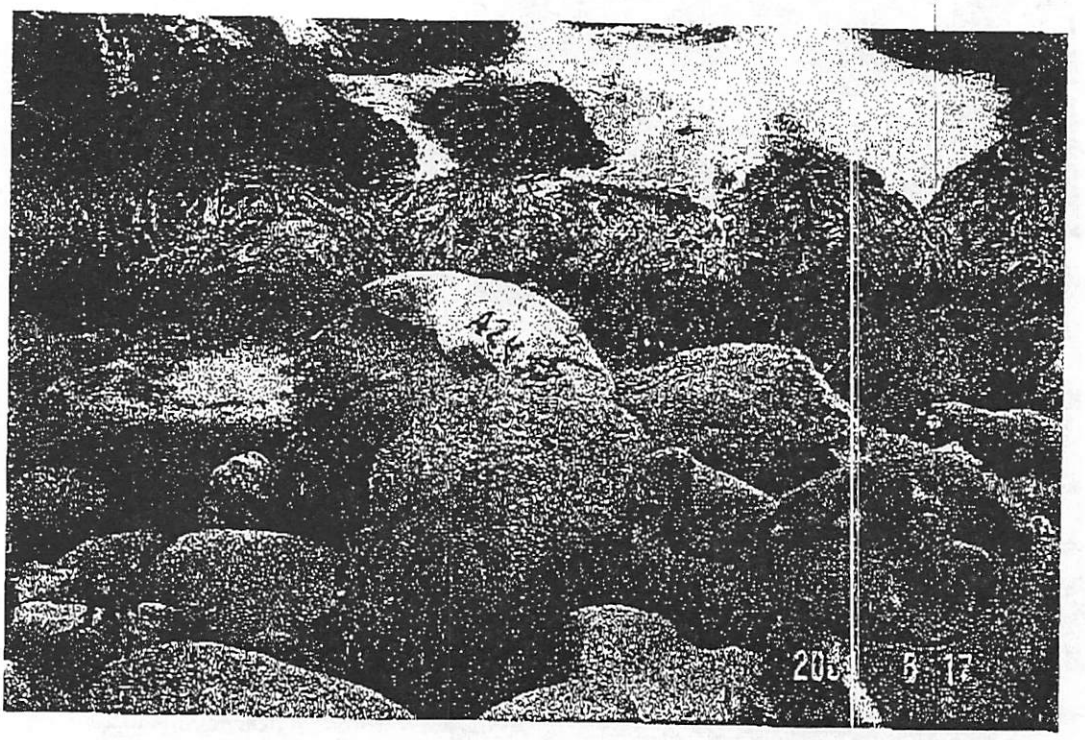


Figure 6. Branded Sea lion A247 at South rookery on St. George Island, August 17, 2004.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

Attachment B

December 1, 2004

Anthony B. Merculief
President
St. George Island Traditional Council
P.O. Box 940
St. George Island, AK 99591

Dear Mr. Merculief:

Thank you for your letter concerning the Steller sea lion protection zones around St. George Island haulouts. We appreciate the contributions of traditional knowledge collected by the Traditional Council, which you have provided in your letter. The Traditional Council requested that "the 20 nautical mile protected zone around St. George Island haul-outs be reinstated...." Regulatory changes of this nature are addressed by the North Pacific Fishery Management Council (Council). The National Marine Fisheries Service works in conjunction with the Council to address such issues and we have discussed this particular request with Council staff. The Council staff will be bringing the request to the attention of Council members at their upcoming meeting on December 8th, 2004 in Anchorage, AK. At that time it will be within the purview of the Council to make a decision on how to move forward.

We appreciate your interest in Steller sea lion conservation around the Pribilof Islands.

Sincerely,

Kaja Brix

Kaja Brix
Assistant Regional Administrator
for Protected Resources

cc: Chris Oliver, NPFMC

Attachment C, Oct 5 correction letter

Dear PIC members,

Thank you Karl, Paul and Larry, for your clarification and observations regarding the information included in the sea lion letter. We appreciate the value of your experience and knowledge in this process and hope that this will initiate a useful discussion regarding the protected status of Pribilof Island sea lion haul-outs. In particular, it is important to acknowledge that Larry Cotter has made this point in the past. It is difficult to follow and document the complicated history of Steller sea lion protection measures in recent years and such knowledge and insight into this process are a valuable resource.

Our consulting biologist, Bruce Robson sent the following information regarding the source of trawl closure information included in the letter:

> "The information regarding a reduction in the size of trawl closures was in reference to both the status of the Dalnoi Point haul-out as critical habitat with a 20 nm closure in 2000 and the 1999 Steller sea lion protection measures that put into effect a 10 nm trawl closure around most major haul-outs. This information was based on the summary of protection measures in the 2001 SEIS and Federal Register documentation. However, as their responses correctly point out, Dalnoi Point, although classified as a major sea lion haul-out did not receive this level of protection until the court-ordered injunction of 2000. I verified with NMFS that Dalnoi Point met the criteria that Paul discussed and was classified as a major haul-out. However I missed the fact that Dalnoi Point was not included in the 1999 protection measures that extended 10 nm protection to such areas. Obviously, this is an important clarification and clearly illustrates the value of seeking out the detailed knowledge of people like Karl, Paul and Larry in researching these issues. I take this lesson to heart."

The St. George Traditional Council wants to emphasize that the primary issue we address in our letter is the level of protection accorded a major SSL haul-out in the Pribilof Islands, both past and present. This does not appear to be based on a complete assessment of either existing traditional knowledge or the best available scientific documentation. As subsistence hunters and fishermen, St. George Island residents are able to document the presence of sea lions on our Island going back many generations. Also, photos and counts taken by NMFS researchers as far back as the 1970s document large numbers of sea lions hauled out in the Dalnoi Point area. From our perspective it appears that scientific information that documents large numbers of sea lions on our haul-outs and corroborates our traditional observations has existed throughout the history of sea lion protection measures up to the present time. We feel that it is important to address this issue immediately, given that NMFS has documented increased fishing pressure near our Island. Our request is that NMFS and the fisheries management community review the protected status of the St. George Island haul-outs and ensure that these vital areas are given a level of protection that is necessary given their importance to the local sea lion population and the residents of St. George Island. In this regard, we greatly appreciate your participation in this discussion and request that you join us in a careful consideration of this issue.

Thank you,

Anthony Merculief

Item B-9(g)
June 2005

DRAFT AGENDA
ANNUAL ALASKA NMFS/USFWS MEETING
SEABIRD ISSUES OF JOINT CONCERN
MAY 11-12, 2005
8:30 am to 5:00 pm
NMFS ALASKA FISHERIES SCIENCE CENTER
7600 Sandpoint Way, NE, Building 4, Seattle, WA

NMML Conference Room 2039

DAY 1—Wednesday, 8:30am

- Purpose of Meeting---Kim Rivera, NMFS; Greg Balogh, USFWS
- Introductions
- Review and approve agenda
- Summary of 2004 annual NMFS/FWS Meeting (handout only)

USFWS Biological Opinions:

- AK: Overview of Biological Opinions, Reasonable & Prudent Measures (2 BiOps, groundfish and halibut), Conservation Recommendations—Kim Rivera, NMFS; Greg Balogh, USFWS
- AK: Halibut tech memo, discuss in context of what's next and halibut biop---Shannon Fitzgerald, NMFS
- AK: Review schedule—are we on target?
- NWR: Status of section 7 consultation---Carrie Nordeen, NMFS; Dan Brown, USFWS

Current Research:

Mitigation of Bycatch

- Longline: Integrated weight EFP---WSGP
- Development of Mitigation Strategies: Pilot Project & Beyond--Collaborative Project with Trawl Catcher Processor Vessels---WSGP

LUNCH BREAK ~noon to 1:15pm

Characterization of Bycatch---Shannon Fitzgerald, NMFS

- NPRB Trawl Project—Shannon Fitzgerald, NMFS
- Risk Assessment Model of STAL/Trawl Interactions—Stephanie Zador, UW
- Ecosystem Approach to Seabird-Fishery Interactions In Alaska Groundfish Fisheries: Offal Project---Ann Edwards, UW

DAY 2---Thursday, 8:30am

Seabird Activities & Projects:

- START (Short-tailed Albatross Recovery Team)---Greg Balogh, USFWS
  - NPRB Project: At-sea capture and satellite tagging of 3 North Pacific albatross species
  - BFAL translocation project in Hawaii
  - Satellite transmitters of LAAL and BFAL in Hawaii
- Seabird Observations on Existing Surveys---WSGP, IPHC, ADFG, NMFS ---WSGP; Shannon Fitzgerald, NMFS
- Seabird Avoidance Measures designed for Small Boats—WSGP

- USFWS Streamer Line Project----Lightweight lines for smaller vessels---Allison Rice, University of Alaska Marine Advisory Program
- Annual SAFE Document Ecosystem Considerations chapter: general overview and goals, Jennifer Boldt, NMFS

I. LUNCH BREAK noon to 1:15pm

- Seabird section; status---Kathy Kuletz, USFWS; Shannon Fitzgerald, NMFS
- Seabird Carcass Collection Project—Chris Thompson, UW; Shannon Fitzgerald, NMFS; Kathy Kuletz, USFWS
- FSCS (Fisheries Scientific Computing System) Longline Survey Database Module---Kim Rivera, NMFS

Other Projects/Activities/Items:

- FY05 NMFS national seabird program budget---Kim Rivera, NMFS
- AK: Seabird observer notes---status and confidentiality issues; Kathy Kuletz, USFWS
- NWR/NWFSC: FY04/05 funded projects---surveys, research cruise bird data collection
- AK: Kodiak gillnet bycatch study—status; Kathy Kuletz, USFWS
- Farallon bycatch; Maura Naughton, USFWS

DRAFT

Interim Joint Protocol Committee, North Pacific Fishery Management Council and Alaska Board of Fisheries

Meeting on Board of Fisheries Proposals for Pollock Trawl Fisheries in State Waters
May 25, 2005

MINUTES

At its April 2005 meeting, the North Pacific Fishery Management Council received a request from the Alaska Board of Fisheries (BOF) to convene a joint BOF/Council meeting to discuss three BOF proposals for a State pollock fishery in Steller sea lion critical habitat areas currently closed to pollock fishing under Federal regulations. The Council and the BOF convened as a special Interim Joint Protocol Committee on May 25, 2005 to review the proposals (Agenda is attached), hear from the National Marine Fisheries Service on potential SSL concerns, and to set a work plan and schedule for further evaluation of these proposals.

Members of this Interim Joint Protocol Committee include Stephanie Madsen and Art Nelson as co-chairs and Dave Benson, Sue Salveson, Mel Morris, and Ed Dersham (absent on May 25).

Proposed State Pollock Fisheries

Earl Krygier, ADF&G, reviewed the history of development of the State pollock fishery proposals (see attached description of the proposals, Proposal 455, Substitute language), and illustrated the proposed areas that would be opened within State waters (see attached maps). Discussion of each proposal included the following issues:

1. Aleutian Islands

The Committee discussed how this fishery might be prosecuted given the legislation and current Federal regulations requiring the TAC be apportioned exclusively to the Aleut Corporation. Questions the Committee considered include could the Council set aside a portion of the AI TAC for a State AI pollock fishery or would it be a wholly separate State water fishery? How would the State manage the harvest of this TAC in the AI fishery?

The Committee requested more details on each proposal including proposed fish removal rates, harvest limits by area and time, etc. The Committee agreed to develop additional details for each proposal as appropriate in future work sessions. The BOF as a whole will look at the proposals developed by this Committee at the BOF's October meeting.

The Committee also noted that accommodation of a State pollock fishery in the AI might involve a mix of changes to both State and Federal regulations. It was recognized that if this Committee suggests changes in Federal regulations in Federal waters, these would be reviewed by the Council in October but such changes could not be implemented before 2007.

2. Jude Island

The State proposal focuses primarily on opening State waters around Pavlov Bay. The proposal includes retaining a 0-10 nm closure around Jude Island. The proposal includes a provision that the fishery could be conducted only by vessels <58' LOA with trip limits. Some discussion focused on reasons for the proposed vessel size restriction and trip limits; the BOF's intent is to slow pollock removal rates as a SSL mitigation measure. The Committee questioned whether the proposed trip limits would apply to all State waters in the Western GOA.

3. Seward Area

The State's goal is for a small fishery to be authorized in State waters to provide pollock for processing in Seward. This fishery has operated in previous years under a special Commissioner's Order. Discussion focused on how this fishery has been managed by the State in past years, what observer coverage was required (minimum of 75%), and what volumes of pollock were harvested. The Committee indicated further consideration of this and the other proposals would include issues such as observer coverage, VMS requirements, etc. Mr. Krygier noted that TAC for the Seward area State pollock fishery came off the Central GOA TAC.

State vs. Parallel Fisheries

The Committee discussed issues associated with State managed versus State parallel fisheries, and how Federal regulations apply to State waters. The State annually has issued an order that requires State parallel fisheries to comply with applicable Federal regulations. Of concern is how a State fishery in the AI region could be authorized given the mandatory apportionment of Federal TAC to the Aleut Corporation (Amendment 82 BSAI FMP). Council action would be required to change this provision.

Initial Comments from NMFS on BOF Proposals

Sue Salveson presented some issues associated with the current SSL Biological Opinion (BiOp) and some of the conditions under which the proposed State pollock fisheries might trigger reinitiation of formal Section 7 consultation under the Endangered Species Act. NMFS considers the 0-3 nm zone around haulouts and rookeries to be the most sensitive to disturbance and SSL prey removals. The Committee desires to develop proposals that will avoid formal consultation. The current BiOp (2001, supplemented in 2003) was prepared assuming there is no pollock fishery in State waters that are currently closed for SSL protection. Ms. Salveson noted that should formal consultation be required, this could require NMFS to make additional changes in Federal managed fisheries to compensate for a new State pollock fishery. The Committee discussed the parameters for triggering formal consultation, and how large a change would be required to pull that trigger. Ms. Salveson noted that the Agency would consider how "appreciable" the effect might be on SSLs as one measure in determining the need for formal versus informal consultation. NMFS needs more

information on the specifics of the proposed pollock fisheries to determine the effect on SSLs.

Ms. Salveson referenced a March 4, 2005 letter from NMFS to the BOF on the proposed State pollock fisheries (attached). In that letter, NMFS outlined additional information the Agency would require in order to review and provide comments on the proposals. Each proposal would have to be looked at individually and evaluated in light of its potential effects on SSLs. Chris McNulty, office of NOAA GC, further explained how the Agency is required to evaluate changes in fisheries that were considered under the 2001 BiOp and noted that trade-offs can be considered for proposed changes in current SSL regulations. Mr. McNulty also discussed some of the parameters NMFS would consider in determining how appreciable the effects of changes in SSL closed areas would be on SSLs.

Shane Capron further discussed the process for reinitiation of formal consultation and how this might be triggered. Much of this information has been previously outlined by NMFS in a letter to the Council's Steller Sea Lion Mitigation Committee (SSLMC) dated July 16, 2004. In that letter, NMFS outlined its concerns with a proposal submitted to the Council's SSLMC from the Aleut Enterprise Corporation for changes in the AI region pollock fishery.

Goals of the State

The Committee discussed whether the entire Federal TAC might be taken in the AI State water fishery; although this is a possibility, the State is currently not proposing harvests this high. The intent of the BOF proposals is to provide an opportunity for small vessel pollock fisheries near communities in the three areas. The Committee discussed the process for determining an appropriate TAC for each area, and noted that there are cumulative effects issues to consider. Ms. Madsen recommended that the Committee develop clear statements of the goals for each of the three proposals, and then the Committee might be able to work more effectively in developing refined proposals that meet these goals. Each of the proposals should have its own goal statement, and each proposal should be evaluated separately on its own merits.

Public Comment

The Committee accepted comments on the proposals and the Committee process. Three individuals provided comments: Clem Tillion for the Aleut Enterprise Corporation, Brent Paine for United Catcher Boats, and Sandra Moller for the Aleut Corporation. Mr. Tillion outlined the goals of the Aleut Enterprise Corporation are to develop a small vessel fishery and to support economic development in the Adak area. Mr. Tillion noted that these fishermen require enough open areas to provide them flexibility in choosing fishing grounds given the schooling behavior of pollock and the need for proximity to safe harbor refuge from adverse weather. Fishermen would need access to both 0-3 nm and outside State waters to follow moving schools of pollock. Mr. Tillion also recounted the Federal legislation that mandates a phased in small boat pollock fishery in the AI region. Mr. Paine cautioned the Committee about triggering formal consultation as it could affect a large ongoing fishery. Mr. Paine provided data on the value of the ongoing pollock fisheries in the BSAI area. Ms.

Moller supported the AI proposal, and agreed to help further develop a proposal that would be workable; she felt that the Committee should not necessarily avoid formal consultation if that is the outcome. Ms. Moller noted that the Aleut Corporation intends to use a mix of both small and large vessels to harvest the AI pollock TAC.S

Scope of Work for Committee

The Committee agreed to work together in a series of meetings to further develop the BOF proposals and determine whether Council action may be required for waters outside 3 nm. Ms. Madsen noted that if the Committee eventually wishes for Council action in Federal waters, the earliest a change can be made would be for the 2007 fishery. A State fishery could be developed much quicker, although the issue of formal consultation might result. The Committee developed a list of information it would like to review at the next meeting. NMFS, Council, and State staff will assemble this information:

- Historic commercial pollock harvests in the entire NPFMC AI management area covering the years 1996-1998, by zone around SSL haulouts and rookeries: 0-3, 3-10, 10-20 nm, and outside 20 nm. This data breakout is also requested for just the 174-178 degree W area of the BOF proposal.
- Pollock harvests by the Aleut Corporation in the AI regions for 2005.
- Bycatch composition and amounts in the pollock fisheries for the above categories.
- An overview of the current State and Federal Pacific cod fishery in the AI region – vessels participating, harvests by area and season, etc.
- The Aleut Enterprise Corporation proposal for opening two pollock fishing areas in the AI presented to the Council's SSL Mitigation Committee in September 2004 and the NMFS response to this proposal.
- The Federal legislation documents that required the Council to establish an AI pollock fishery with the TAC apportioned exclusively to the Aleut Corporation.
- Additional data on percentages of SSL critical habitat each proposal would involve by proposal area, management area, and the entire region.
- Vessel sizes involved in historic pollock harvests in the AI region, by zone (0-3, 3-10, 10-20 nm) (data to be provided by United Catcher Boats)
- Information on numbers of vessels with Federal licenses and endorsements fishing in the Central GOA.
- SSL telemetry data, SSL scat (diet) composition information, SSL pup weaning or other new information for rookeries and haulouts in the three proposal areas.
- SSL abundance and trends in each of the three proposal areas.
- A copy of BOF RC 30 (ADF&G comments on previous BOF pollock fishery proposal).
- Information from NOAA GC on how Amendment 82 might affect a proposed State pollock fishery in the AI region, particularly the legality of a non-Aleut Corporation vessel fishing for pollock in State waters.
- Number of vessels under 58' LOA with LLPs for trawl fishing in the AI and Western GOA proposal areas.
- Pollock bycatch amounts in other Federal fisheries in the three proposal areas for 2004 and 2005.

- Information/definition of "trip limits" as this term may apply to State and Federal fisheries, including current restrictions on tendering of groundfish catches.

The Committee established the following schedule of meetings. Start times and duration of each meeting are tentative:

- June 14-15 in Juneau (NMFS to identify a location); meeting to start in the afternoon of June 14
- July 14-15 in Anchorage (location TBA)
- August 29-30 in Anchorage (location TBA)

The Agenda for the next meeting, June 14-15, will include:

- A review of the above data and information
- Further consideration of each proposal; the three proposals will be considered separately by the Committee
- Consideration of the goals of each proposal (goals to be defined by the State) and the priority for each proposal
- Further development of details for each proposal; development of straw man alternatives for further Committee consideration

For further information, 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.

Interim Joint Protocol Committee, North Pacific Fishery Management Council and Alaska Board of Fisheries

Meeting on Board of Fisheries Proposals for Pollock Trawl Fisheries in State Waters
May 25, 2005
Hawthorne Inn Suites
Anchorage, Alaska

AGENDA

8:30 AM

Welcome, Opening Remarks, Approve Meeting Agenda

8:45 AM – 12:00 PM

1. Presentation of Board of Fisheries Proposal 455, Substitute Language, Maps
2. Remarks from National Marine Fisheries Service (reference March 4, 2005 letter)
3. Public Comment (amendment to Agenda)
4. Identify Scope of Work, Priorities, Staffing, and Information needs for Future Meetings
5. Develop Calendar of Meetings to Accomplish the Scope of Work

12:00 PM- 1:00 PM LUNCH

1:00 PM

Continue discussions, as needed

Adjourn

Proposal 455 – Substitute Language

Amend 5 AAC 28.087 (Management plan for parallel groundfish fisheries) and other applicable regulations to the effect that the Commissioner's existing emergency order closing state waters to fishing for pollock, cod, and Atka mackerel surrounding various Stellar sea lion (SSL) rookeries and haulouts does not have to exactly "match federal fishery management measures for protecting Stellar sea lions."

More specifically, closures in state waters surrounding sea lion rookeries and haulouts in the following areas may be altered, and other regulations amended, as follows:

In the Aleutian Islands: from 174 to 178 degrees W. longitude, state waters surrounding SSL haulouts would be opened to fishing for walleye pollock, however, state waters within ten miles of SSL rookeries would be closed to pollock fishing. Also, fishing for pollock within state waters of the Aleutian Islands from 174 to 178 degrees W. longitude would be opened only to vessels equal to or less than 58 feet in length.

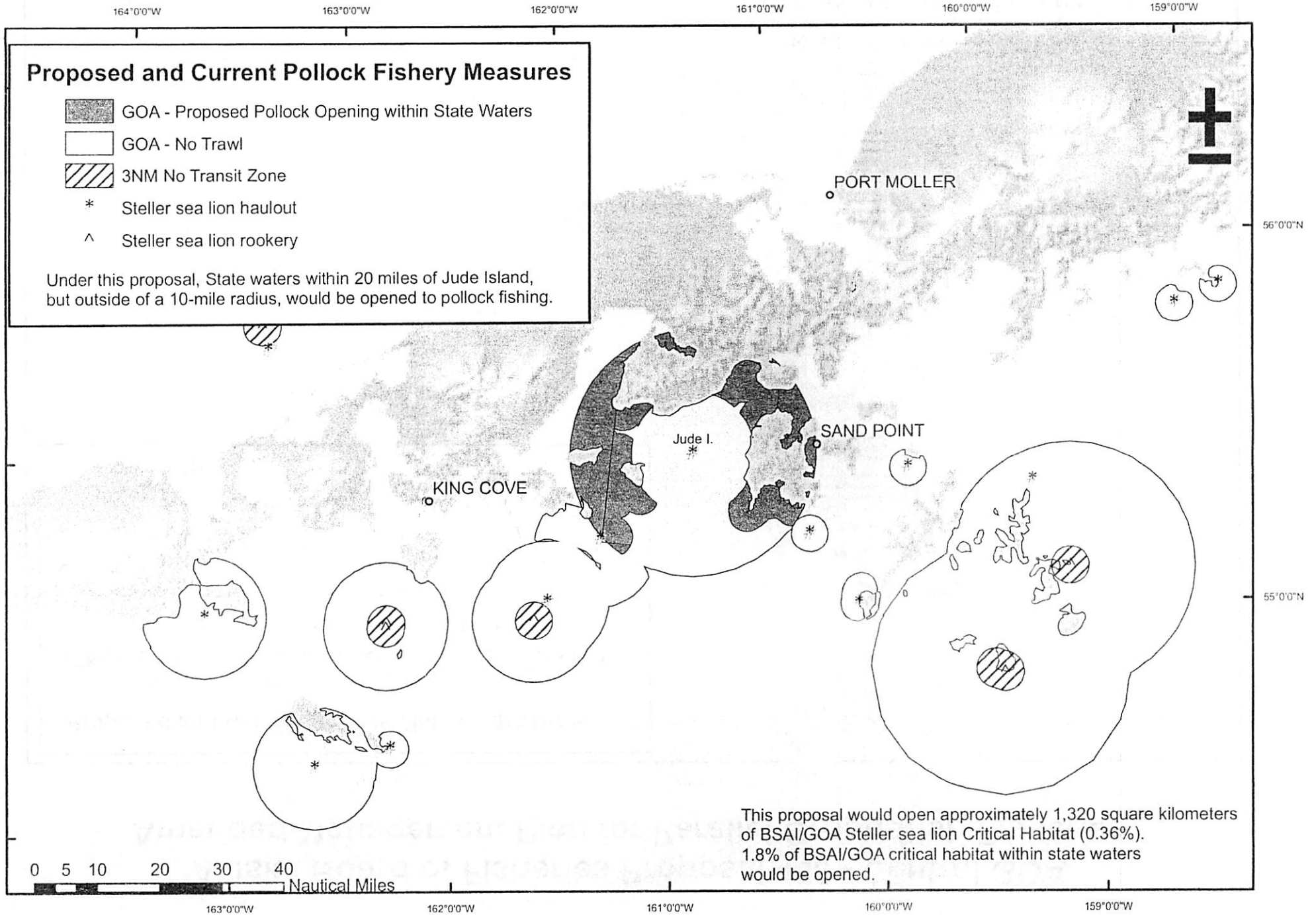
In the western Gulf of Alaska (South Alaska Peninsula): state waters within 20 miles, but outside a 10-mile radius, of Jude Island would be opened to pollock fishing. Also, fishing for pollock within state waters of the western GOA would be limited to only vessels equal to or less than 58 feet in length. Also, catcher vessels in the western GOA would be limited to daily deliveries of pollock of no more than 300,000 pounds (136 mt) and tender vessels would be limited to receiving or retaining onboard no more than 600,000 pounds (272 mt) of unprocessed pollock harvested in the western GOA per day.

In the central Gulf of Alaska (North Gulf District of the Cook Inlet area): from 149 and 150 degrees W longitude, state waters beyond a three-mile radius of SSL haulouts would be opened to pollock fishing under provisions of a Commissioner's permit.

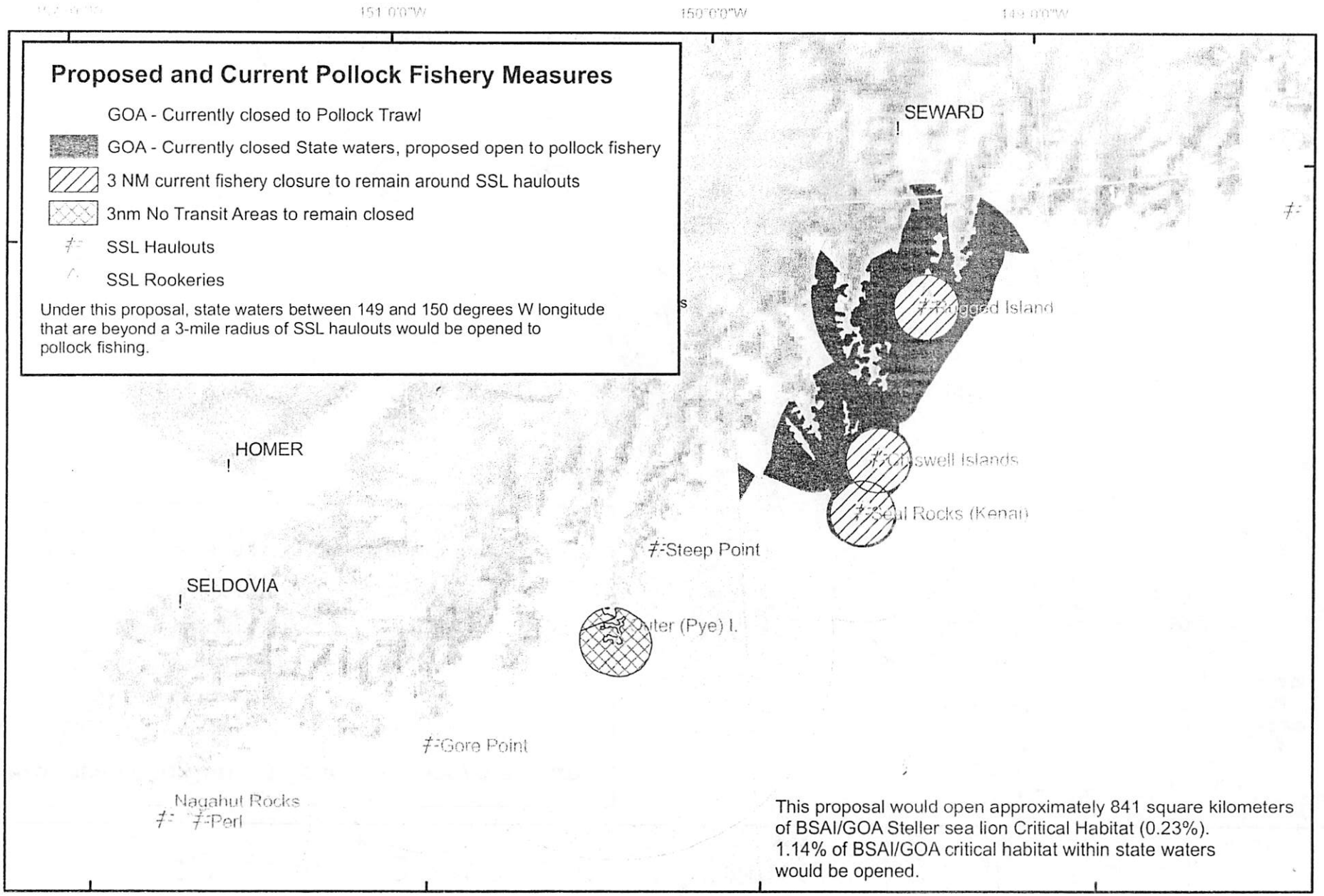
The scenarios outlined above pertain to parallel fisheries for pollock in the Aleutian Islands, the western GOA, and the central GOA. Seasons, TACs, allocations, and other management actions, other than those specified above, would continue to parallel those imposed by the federal government. The federal government would actively manage harvests against federally-established TACs and allocations, would open and close seasons, would establish gear restrictions, etc. The state would not actively manage the harvests; rather, ADF&G would treat this fishery similar to other parallel fisheries through the global E.O.

This proposal will be deferred to the agenda of the October 2005 work session of the Board of Fisheries for further action. In addition, the board intends to refer this amended proposal to the Board/Council joint protocol committee for discussion and coordination with the North Pacific Fishery Management Council.

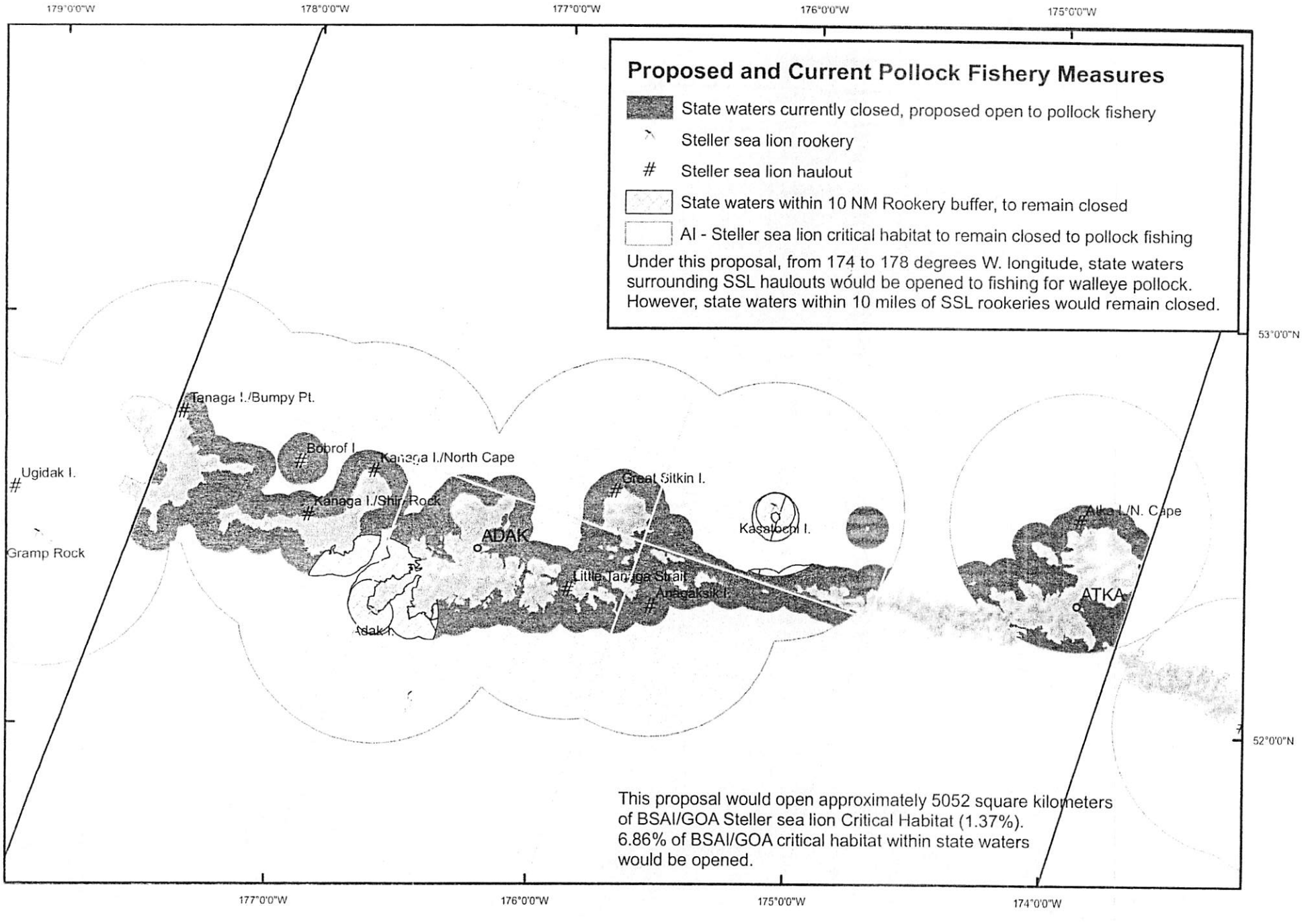
Alaska Board of Fisheries Proposal 455 - Western GOA
Amended Management Plan for Parallel Groundfish Fisheries



Alaska Board of Fisheries Proposal 455 - Central GOA
Amended Management Plan for Parallel Groundfish Fisheries



Alaska Board of Fisheries Proposal 455 - Aleutian Islands Amended Management Plan for Parallel Groundfish Fisheries



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668
March 4, 2005

Art Nelson
Chairman of the Alaska Board of Fisheries
900 West 5th Avenue, Suite 400
Anchorage, Alaska 99501

Dear Mr. Nelson:

This letter expresses the concerns of NMFS regarding a proposal being considered by the Alaska Board of Fisheries (BOF) to open a state trawl fishery for pollock in Steller sea lion protected areas. NMFS has reviewed Proposal 455. 5 AAC 28.087 'Management Plan for Parallel Groundfish Fisheries' submitted by the Alaska Department of Fish and Game, on behalf of the BOF. This proposal requests a revision to walleye pollock trawl fishing closures instituted for the protection of Steller sea lions in Alaska state waters, 0-3 nm from shore. Three areas are proposed for a state pollock trawl fishery: the Aleutian Islands between 170° and 180° W longitude, the Western Gulf of Alaska between 157° and 163° W longitude, and the Cook Inlet Management Area between 149° and 150° W longitude.

At the joint meeting of the BOF and the North Pacific Fishery Management Council (NPFMC) on February 25, 2005, NMFS informed the BOF and the NPFMC that, if adopted, this proposal would likely result in reinitiation of formal consultation for the NMFS 2001 Biological Opinion for Steller sea lion Protection Measures (BiOp), under Section 7 of the Endangered Species Act. Reinitiation of formal consultation is required when "...1) the amount or extent of incidental take is exceeded; 2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in the opinion; 3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in the opinion; 4) or a new species is listed or critical habitat designated that may be affected by the action" (50 CFR § 402.16).

BOF Proposal 455 clearly represents new information not considered in the NMFS 2001 BiOp. The "no jeopardy" and "no adverse modification of critical habitat" findings by NMFS were based on a proposed action that included management of the parallel fisheries for Pacific cod, pollock, and Atka mackerel according to federal regulations within waters managed by the State of Alaska (0-3 nm from shore). The BiOp specifically states: 'The proposed action would close most of this zone (from 0-3 nm around rookeries and haulouts) to directed fisheries for pollock, Pacific cod, and Atka mackerel, including State parallel fisheries.'

In 2004, NMFS reviewed a similar proposal by the NPFMC, on behalf of the Aleut Corporation, to establish a directed pollock trawl fishery for small boats (under 125' LOA). The proposal was to open a trawl pollock fishery in Steller sea lion critical habitat outside 3 nm but within 20 nm from rookeries and haulouts in two small areas near Adak and Atka Islands. NMFS reviewed the proposal in an informal consultation under the ESA and determined that the proposed action would result in a reinitiation of formal consultation of the 2001 BiOp. The proposal before the BOF encompasses a much larger area than the proposal submitted by the NPFMC, and includes areas of critical habitat that are believed to be of greatest importance to Steller sea lions (0-3 nm from shore). Thus, the BOF proposal would likely result in a similar conclusion by NMFS.

The current BOF proposal lacks details NMFS requires to determine if the action would result in reinitiation of a formal consultation of the 2001 BiOp. However NMFS has determined that the BOF proposal would open more than 93% of designated Steller sea lion critical habitat in state waters to trawl fishing for pollock in three regions within the range of the endangered western Steller sea lion population (Attachment A). The areas include numerous rookeries (25), haulouts (55), and the Seguam Pass Foraging Area that are critical to reproduction and survival of Steller sea lions. Although the proposal indicates that areas around rookeries would remain closed, this offers little protection during the winter months when animals are extensively using haulouts.

The BiOp explicitly states that trawl fishing is the most likely fishing activity to negatively impact Steller sea lions both indirectly by removing large quantities of pollock from foraging areas and directly by entanglement in fishing gear. A trawl fishery for pollock within the primary foraging zones of juveniles and adult females has a high potential to negatively impact both age groups. The 0-3 and 3-10 nm closure zones are believed to be the primary foraging areas for juvenile sea lions and adult females. Juvenile sea lions foraging in the Aleutian Islands and Western Gulf of Alaska spend between 80 and 98% of their time within 10 nm of shore (Attachments B and C). Furthermore, adult females also forage in this zone up to 40% of the time. Because they forage close to shore, juveniles and adult females have been defined as the most likely groups to be negatively impacted by competition with fisheries. A decline in juvenile survival has been identified as one of most likely causes for the population decline, and lower reproductive success of adult females due to reduced prey availability was identified as a possible cause for the decline. Low juvenile survival and reduced reproductive success of adult females due to reduced prey availability have also been identified as factors that could impede recovery.

NMFS' concern is that the protection measures currently in place for the endangered western Steller sea lion population would be changed by this BOF proposal. NMFS staff will be available at the BOF meeting in Anchorage, on Monday, March 7, to answer questions the BOF may have regarding NMFS' concerns regarding this proposal. However, variations to this proposal can only be evaluated by submitting the modified

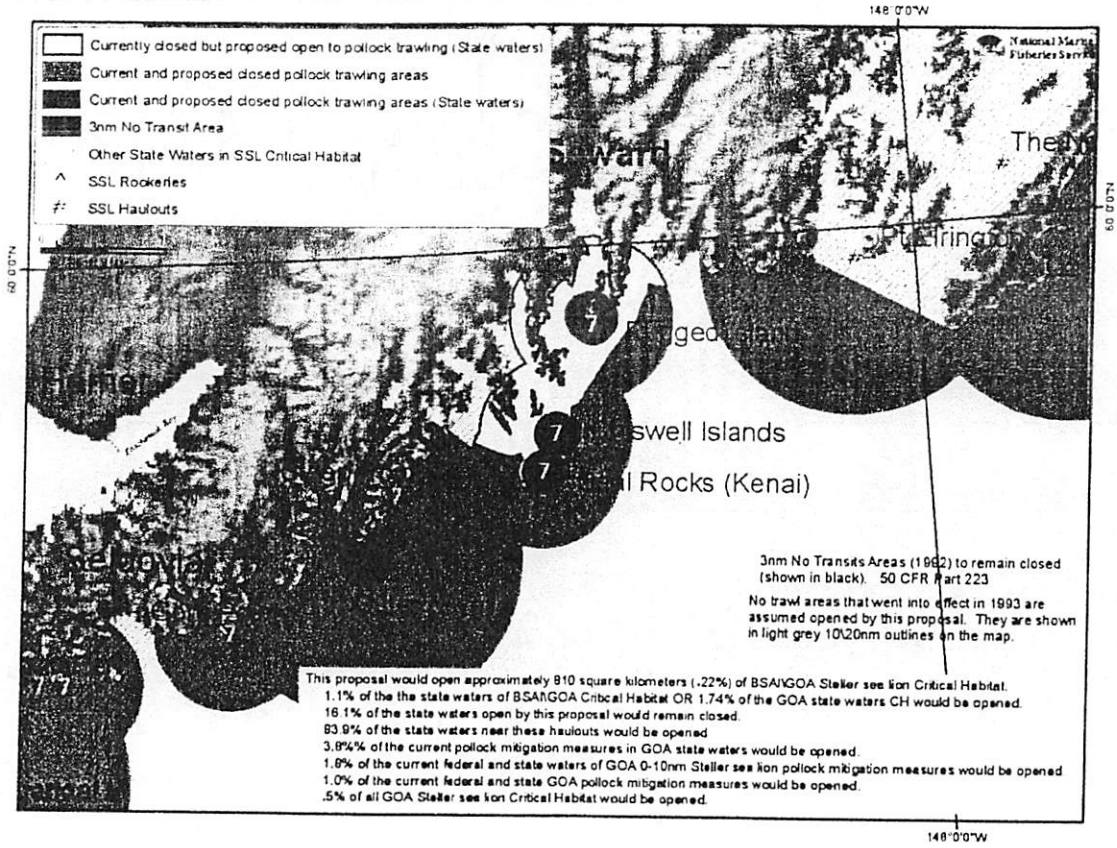
proposal to NMFS. Any proposal should include the information in Attachment D to allow NMFS to provide the best analysis of a proposed action.

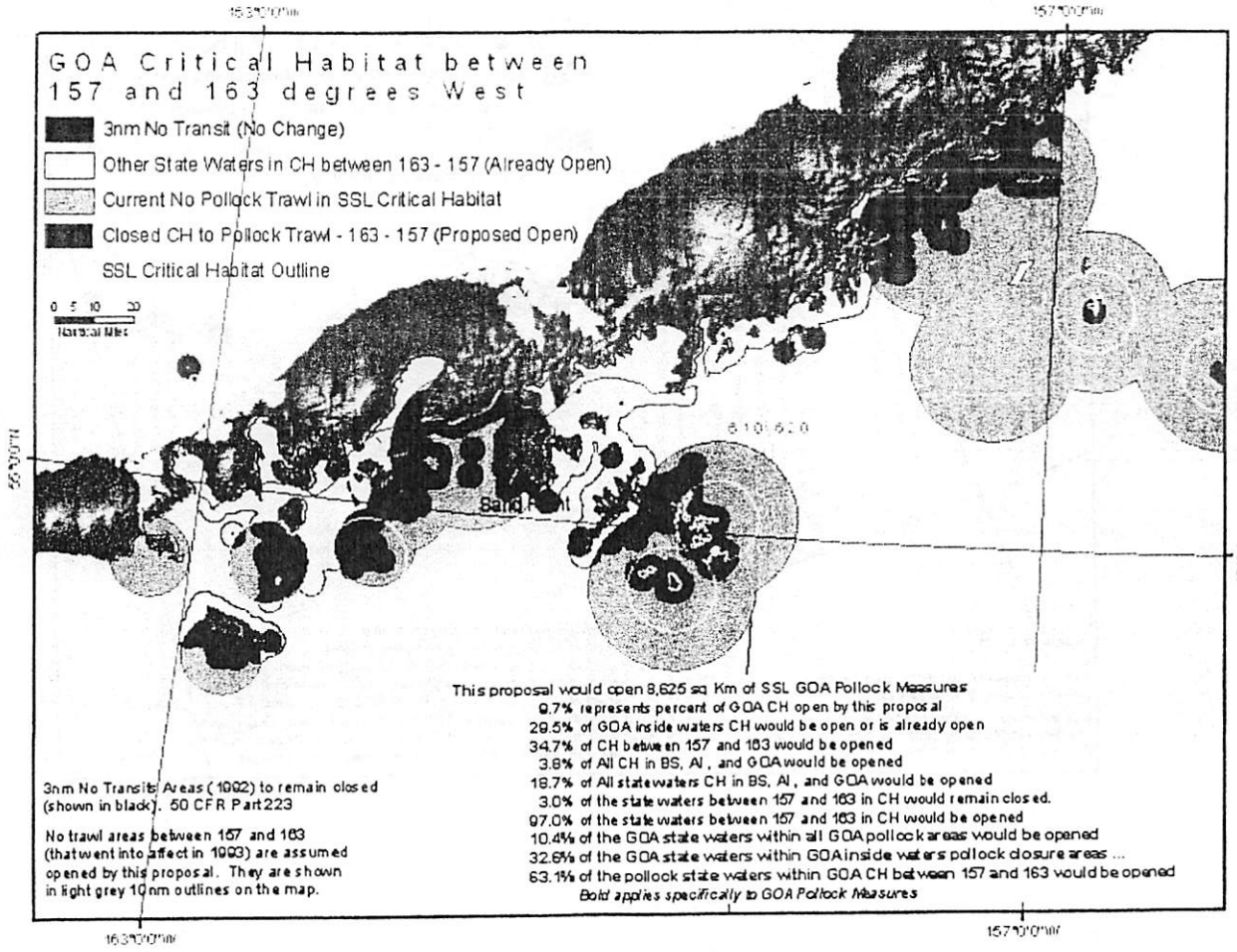
Sincerely,

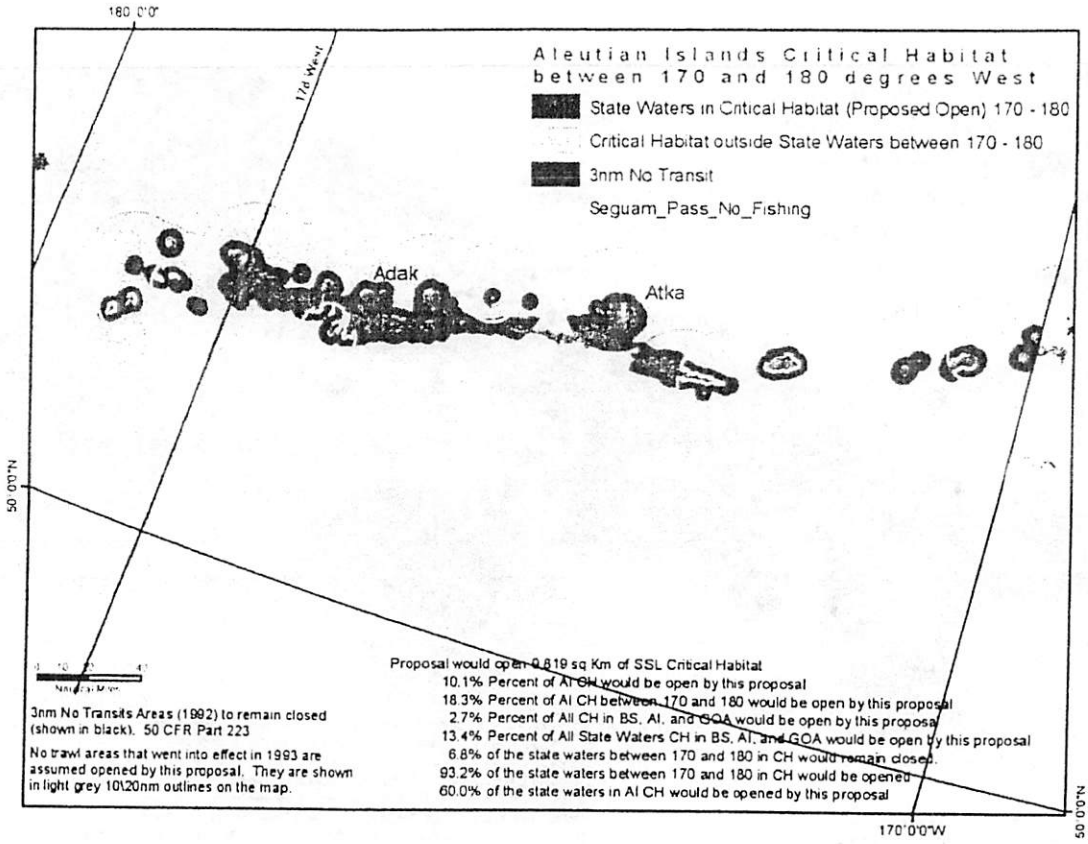
For James W. Balsiger
Administrator, Alaska Region

cc: Diane Cote
Bill Wilson

Attachment A. Steller sea lion Critical Habitat that will be opened to Alaska state trawl pollock fishery under BOF Proposal 455.




GOA Critical Habitat between
157 and 163 degrees West
3nm No Transit (No Change)
Other State Waters in CH between 163 - 157 (Already Open)
Current No Pollock Trawl in SSL Critical Habitat
Closed CH to Pollock Trawl - 163 - 157 (Proposed Open)
SSL Critical Habitat Outline
0 5 10 20
Nautical Miles
163°0'0"W
157°0'0"W
56°0'0"N
Sand Point
This proposal would open 8,625 sq Km of SSL GOA Pollock Measures
9.7% represents percent of GOA CH open by this proposal
29.5% of GOA inside waters CH would be open or is already open
34.7% of CH between 157 and 163 would be opened
3.6% of All CH in BS, AI, and GOA would be opened
18.7% of All statewaters CH in BS, AI, and GOA would be opened
3.0% of the state waters between 157 and 163 in CH would remain closed.
97.0% of the state waters between 157 and 163 in CH would be opened
10.4% of the GOA state waters within all GOA pollock areas would be opened
32.6% of the GOA state waters within GOA inside waters pollock closure areas ...
63.1% of the pollock state waters within GOA CH between 157 and 163 would be opened
Bold applies specifically to GOA Pollock Measures
3nm No Transits Areas (1992) to remain closed (shown in black). 50 CFR Part 223
No trawl areas between 157 and 163 (that went into affect in 1993) are assumed opened by this proposal. They are shown in light grey 10 nm outlines on the map.


180 0'0"
Aleutian Islands Critical Habitat
between 170 and 180 degrees West
State Waters in Critical Habitat (Proposed Open) 170 - 180
Critical Habitat outside State Waters between 170 - 180
3nm No Transit
Seguam_Pass_No_Fishing
Adak
Atka
50 0'0"N
3nm No Transits Areas (1992) to remain closed (shown in black). 50 CFR Part 223
No trawl areas that went into effect in 1993 are assumed opened by this proposal. They are shown in light grey 10\20nm outlines on the map.
Proposal would open 9,819 sq Km of SSL Critical Habitat
10.1% Percent of AI CH would be open by this proposal
18.3% Percent of AI CH between 170 and 180 would be open by this proposal
2.7% Percent of All CH in BS, AI, and GOA would be open by this proposal
13.4% Percent of All State Waters CH in BS, AI, and GOA would be open by this proposal
6.8% of the state waters between 170 and 180 in CH would remain closed.
93.2% of the state waters between 170 and 180 in CH would be opened
60.0% of the state waters in AI CH would be opened by this proposal
170°0'0"W
50 0'0"N

Attachment B. Percentage of foraging locations and figures of juvenile at-sea distribution from satellite telemetry studies of juvenile Steller sea lions foraging in areas proposed for opening to trawl pollock fishery under BOF Proposal 455.

Table 1. Number of locations and percent of those locations found 0-10 nautical miles (nm), 10-20 nm, and >20 nm from shore by individual juvenile Steller sea lions instrumented with satellite transmitters and dive recorders, 2000-2004. Adak Area data have not yet been analyzed for diving associated with locations. Other areas include only locations associated with diving at depths >4 m.

	0-10 nm		10-20 nm		>20 nm	
Location (Number of Animals)	n	%	n	%	n	%
Seguam Area (n=4)	249	80.6	1	0.3	59	19.1
Kodiak Area (n=34)	5946	97.9	97	1.6	33	0.5
Unimak Pass Area (n=25)	3535	97.6	45	1.2	41	1.1
Adak Area (n=6)	729	95.5	4	0.6	30	3.9

Attachment C. Foraging locations of juvenile Steller sea lions instrumented with satellite telemetry instruments near Seguam Island, Unimak Pass, Shumigan Islands (Figure 1), and Adak Island (Figure 2).

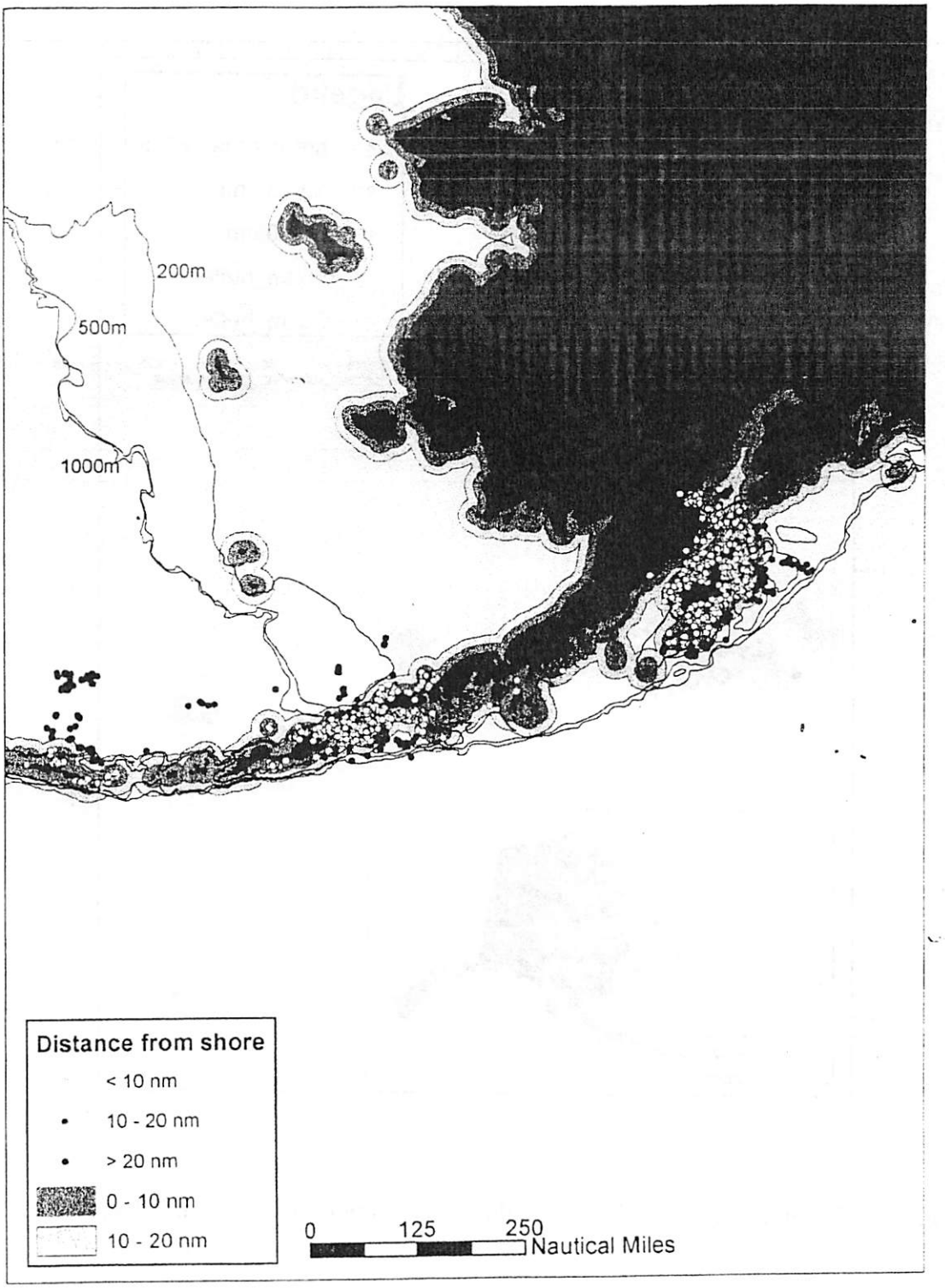


Figure 1. Locations associated with dives to greater than 4 meters recorded for 63 juvenile Steller sea lions in 2000-2002 near Kodiak and Unimak Islands, and Seguam Pass, Alaska.

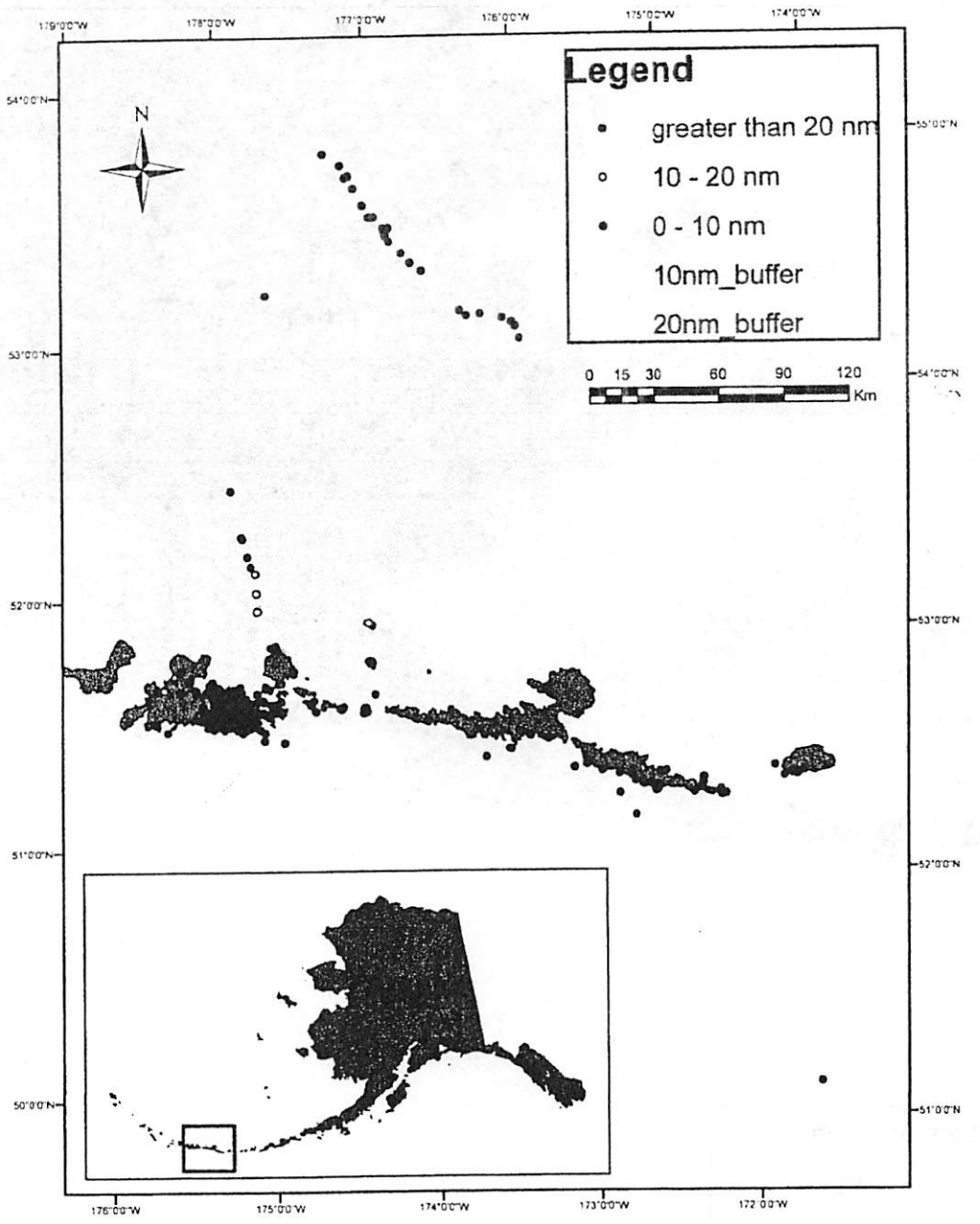


Figure 2. Locations recorded for 6 juvenile Steller sea lions in 2004 near Adak, Alaska.

Attachment D. Information needed by NMFS to evaluate proposals that may affect federally managed resources.

Information Required:

1. Geographic extent of fishery
2. What type, size, number, and harvest capacity of vessels
3. How much fish will be harvested and how will it be seasonally and annually apportioned
4. Methods for monitoring harvest
5. Limitations on participation in fishery
6. When will fishing occur (e.g. effort plan)
7. Type and method of harvest (e.g. concentrated roe fishery or spread over a year)

Brief description of proposal including:

1. Name of proposer
2. Date
3. Contacts
4. Fishery Management Plan that pertains to fishery (if applicable)
5. Brief statement of proposal
6. Objectives of proposal
7. Need and justification for proposal
8. Foreseeable impacts of proposal
9. Alternative solutions
10. Supportive data and information
11. Offsetting measures (What protection measures might be increased to offset proposed action?)

g:\PRMD\Letters\Mar 05\BOFletter030405.doc
s melin 3/4/05
jdr