

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director



ESTIMATED TIME
1 HOUR

DATE: January 28, 1997

SUBJECT: Crab Management Issues

ACTION REQUIRED

- (a) Summary of Board/Council consultation relating to crab.
- (b) Discussion of issues raised by PNCIAC.

BACKGROUND

Council and Board of Fisheries Meeting

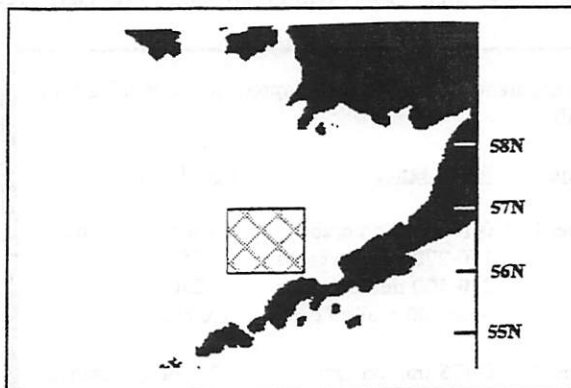
In October 1993, NMFS and ADF&G approved a "State/Federal Action Plan for Management of Commercial King and Tanner Crab Fisheries" to foster improved coordination and cooperation with respect to crab management. As a result of the plan, a consultation group consisting of Council and board members was formed to meet publicly on an annual basis to discuss crab issues. The last meeting in January 1996 focused on the status of Bering Sea crab resources, and subsequent rebuilding actions taken by the Council and Board. A summary of 1996 Council actions to protect crab is provided as Item D-1(a). Actions taken by the Board in 1996 relative to crab management are summarized in Item D-1(b).

PNCIAC Issues

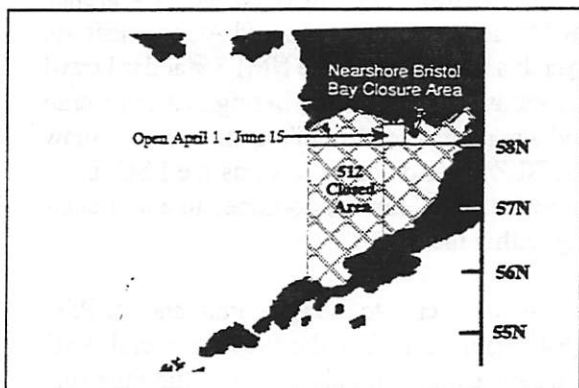
The Pacific Northwest Crab Industry Advisory Committee provides a special means of access to the regulatory process for persons residing outside Alaska. The PNCIAC operates under the authority of the Council, and, under the Crab FMP, occupies the same consultative role on pre-season and in-season management measures as all other existing State of Alaska Fish and Game advisory committees. Minutes of the January 6, 1997 meeting are included as Item D-1(c). Chairman Garry Loncon or Secretary Arni Thomson will be on hand to discuss PNCIAC concerns and recommendations.

Summary of 1996 NPFMC Actions to Conserve Crab

Amendment 37: In June 1996, the Council took final action on several measures to protect the Bristol bay red king crab stock from possible impacts due to groundfish fisheries. First, the Council adopted a year-round closure to non-pelagic trawling in the Red King Crab Savings Area (162° to 164° W, 56° to 57° N). An extended duration of the closure period provides for increased protection of adult red king crab and their habitat. To allow some access to productive rock sole fishing areas, the area bounded by 56° to 56°10' N latitude would remain open during the years in which a guideline harvest level for Bristol Bay red king crab is established. A separate bycatch limit for this area would be established at no more than 35% of the red king crab prohibited species catch (PSC) limits apportioned to the rock sole fishery.



To protect juvenile red king crab and critical rearing habitat, the Council recommended that all trawling be prohibited on a year-round basis in the nearshore waters of Bristol Bay. Specifically, the area east of 162° W (i.e., all of Bristol Bay) would be closed to trawling, with the exception of an area bounded by 159° to 160° W and 58° to 58°43' N that would remain open to trawling during the period April 1 to June 15 each year. It was



felt that such a closure area would protect known areas of juvenile red king crab habitat while at the same time allow trawling in an area that can have high catches of flatfish and low bycatch of other species. The area north of 58°43' N was closed to reduce bycatch of herring, and also of halibut, which move into the nearshore area in June. In addition to establishing nearshore trawl closure areas, the Council also recommended that NMFS rescind regulations allowing trawling for Pacific cod in the area off Port Moller, as these regulations are out of date given the current status of red king crab and scientific knowledge of critical habitat.

The third management measure adopted by the Council was a reduction of PSC limits for red king crab taken in trawl fisheries. Specifically, the Council recommended adoption of a stairstep-based PSC limit for red king crab in Zone 1. PSC limits would be based on abundance of Bristol Bay red king crab as shown in the adjacent box.

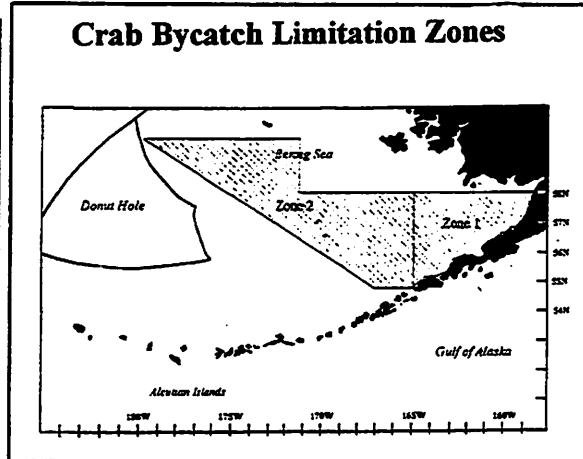
Amendment 37 PSC limits for Zone 1 red king crab.	
<u>Abundance</u>	<u>PSC Limit</u>
Below threshold or 14.5 million lbs of effective spawning biomass (ESB)	35,000 crabs
Above threshold, but below 55 million lbs of ESB	100,000 crabs
Above 55 million lbs of ESB	200,000 crabs

Discussion of crab bycatch management highlighted the need for additional information and future assessment of management actions. The Council recommended that all vessels (including vessels using pot and longline gear) fishing for groundfish in the Red King Crab Savings Area and the 159° to 160° W area require 100% observer coverage. In addition, the Council recommended that closure areas and crab PSC limits be re-evaluated on a regular basis because crab abundance and distribution change over time.

Amendment 41: In September, the Council approved an agreement negotiated by affected industry groups regarding PSC limits for C. bairdi Tanner crab taken in BSAI trawl fisheries. Under the agreement, PSC limits for bairdi in Zones 1 and 2 will be based on total abundance of bairdi crab as indicated by the NMFS trawl survey. Based on 1996 abundance (185 million crabs), the PSC limit for C. bairdi in 1997 will be 750,000 crabs in Zone 1 and 2,100,000 crab in Zone 2. Crab bycatch accrued from January 1 until publication of the final rule (expected by April 1997) will be applied to revised bycatch limits established for specified fisheries.

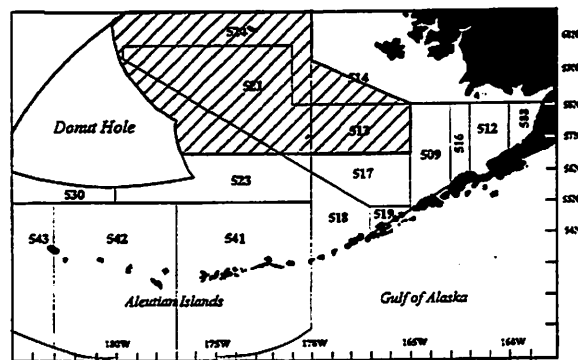
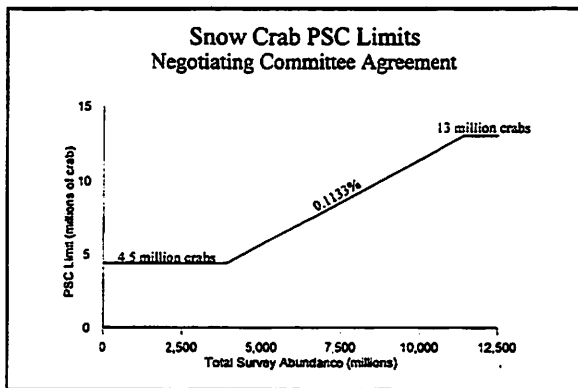
Amendment 41 PSC limits adopted for bairdi Tanner crab.

Zone	Abundance	PSC Limit
Zone 1	0-150 million crabs	0.5% of abundance
	150-270 million crabs	750,000
	270-400 million crabs	850,000
	over 400 million crabs	1,000,000
Zone 2	0-175 million crabs	1.2% of abundance
	175-290 million crabs	2,100,000
	290-400 million crabs	2,550,000
	over 400 million crabs	3,000,000



Amendment 40: In December, the Council approved an agreement negotiated by affected industry groups regarding PSC limits for C. opilio snow crab taken in BSAI trawl fisheries. Under proposed Amendment 40, PSC limits for snow crab will be based on total abundance of opilio crab as indicated by the NMFS standard trawl survey. For 1998 and thereafter, the snow crab PSC cap will be set at 0.1133% of the Bering Sea snow crab abundance index, with a minimum PSC of 4.5 million snow crab and a maximum of 13 million snow crab. Snow crab taken within the "Snow Crab Bycatch Limitation Zone (SCBLZ) would accrue towards the PSC limits established for individual trawl fisheries. Upon attainment of a snow crab PSC limit apportioned to a particular trawl target fishery, that fishery would be prohibited from fishing within the SCBLZ.

For 1997 only, all snow crab bycatch in areas ^{513,} 514, 521, 523, and 524 will accrue to the PSC limit, and the PSC limit will be increased by 10%. Based on 1996 survey abundance (5,425 million crabs), the 1997 snow crab PSC limit will be 6,760,000 crabs. Snow crab bycatch accrued from January 1 until publication of the final rule (expected by July) will apply to all fisheries that take snow crab in 1997.



Agenda Item: B-2



ALASKA DEPARTMENT OF FISH AND GAME
REPORT TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

April 17, 1996

Fisheries managed under delegated authority of the State of Alaska since the last council meeting include crab, salmon and demersal rockfish.

BERING SEA/ALEUTIAN ISLANDS KING AND TANNER CRAB FISHERIES: During March 10-16, the Alaska Board of Fisheries (Board) met to discuss and adopt regulatory changes to the Bering Sea and Aleutian Islands (BSAI) king and Tanner crab fisheries, and the departments crab observer program. After receiving numerous oral staff reports (see attached), the Board took public testimony from various Fish and Game Advisory Committees, including the Pacific Northwest Industry Advisory Committee (PNCIAC), crab fishermen, processors, and other crab support industry representatives.

The Board adopted or amended BSAI crab regulations dealing with:

- 1) **District/registration area boundary changes:** combined the Adak and Dutch Harbor registration areas into one new area called the Aleutian Registration Area. This change allows the department to manage the brown king crab stocks formerly separated at 171° West longitude by the Adak and Dutch Harbor registration lines, as one stock, and allows the brown king crab fleet to fish the entire registration area under one permit card.
- 2) **Crab seasons:** changed the opening date of the Adak king and Tanner crab fishery from November 1 to September 1 to coincide with their action of combining the Adak and Dutch Harbor registration areas into one new registration area.

3) Closed waters: continued the 10 mile subsistence closed waters regulation around King Island, and the closure east of 163° West longitude to *C. bairdi* Tanner crab fishing if the Bristol Bay red king crab fishery is not opened to commercial fishing.

4) Gear modifications: with the adoption of the new Aleutians brown king crab registration area, adopted regulations requiring brown crab pots be long lined in the area east of 171° West longitude. In addition, four escape rings are required in brown king (5.5 in) and Tanner crab pots (*C. bairdi* 5.0 inch, *C. opilio* 3.75 inch) in the BSAI crab fisheries.

5) Bristol Bay red king crab harvest strategy: establishes a threshold of 8.4 million mature female crabs, and an effective spawning biomass of 14.5 million pounds threshold. The mature male harvest rate is 10% when the population is above threshold and the effective spawning biomass is below 55 million pounds, and 15% when the effective spawning biomass is above 55 million pounds. The maximum harvest rate on legal-sized crabs is 50%.

In an effort to reduce handling of non-target crabs during a Bristol Bay red king crab fishery, the Board asked the department to analysis a size limit reduction from 6.5 to 6 inches and submit an agenda change request during the fall of 1996.

6) Tank check and delivery times: changed tank inspection and delivery requirements for the Bering Sea king and *C. opilio* crab fisheries.

7) Pot storage: addresses vessel safety considerations, increased pot storage around the Pribilof Islands to 35 fathoms 14 days before and after the *C. opilio* season. In addition, additional pot storage to 50 fathoms is allowed in the new Aleutian Island registration area for brown king crab longline gear.

8) Observer Program: allows observers to legally board and observe the catch of vessels delivering to floater processors; allows observers to obtain GPS coordinates of pots being sampled in the Adak and Dutch Harbor fisheries; require proof of Coast Guard vessel safety compliance before an observer is placed onboard a vessel; and requires that each contractor provide a minimum of 65% of their observer deployment days be with certified (experienced) observers. The Board requested the department consider alternatives to the present program and bring the issue back during the 1996/97 meeting cycle.

An industry working group was formed to review the Bering Sea *C. opilio* Tanner crab fishing seasons and bring the issue back to the Board during the 1996/97 meeting cycle. The Board also approved a resolution (see attached) encouraging the Council to take appropriate action to close the Bristol Bay red king crab savings area year-round to non-pelagic trawling and to close all near shore waters of Bristol Bay east of 162° West longitude to all trawling (see attached).

The Bering Sea *C. opilio* Tanner crab season opened on January 15, with a preseason harvest guideline of 55 million pounds. A total of 235 vessels registered, but due to a strike by the fishermen over price, actual fishing by the entire fleet did not occur until January 25. The 1995/96 season closed on February 29 with a total harvest of approximately 65 million pounds valued at over \$86 million, down from the \$180.0 million from the previous season when the fleet harvested 75 million pounds..

SALMON TROLL FISHERY: To date, a total of approximately 7500 Chinook salmon have been landed in the Southeast Alaska winter troll fishery that will close April 14. Catch per landing has generally been lower than the 1989-94 average. Fishing effort during the winter months has been low, likely due to a combination of severe weather, lower than average Chinook abundance, mediocre fish prices, and participation in other fisheries.

SOUTHEAST ALASKA DEMERSAL SHELF ROCKFISH FISHERY: On March 15, all DSR areas closed. A total of 84 vessels landed 272 mt in the Southeast Outside waters with an additional 6 mt taken in the internal state waters. Lingcod is open in some waters outside three miles, and to date 13 vessels have landed 24,000 pounds in the directed fishery and 116,800 pounds have been landed as longline bycatch, primarily from the DSR fishery. Lingcod reopens inside three miles on May 1, and because of federal groundfish moratorium rules and the low salmon prices this year, a large influx of new participants is expected.

**ORAL SHELLFISH STAFF REPORTS
ALASKA BOARD OF FISHERIES MEETING
ANCHORAGE, MARCH 10 -18, 1996**

1. **Biological Perspectives on Crab Management in Alaska and Crab Nomenclature; by Gordon Kruse, Fisheries Scientist, ADF&G, and Dan Urban, Fisheries Biologist, ADF&G.**
2. **Department of Law Report on the Federal Bering Sea-Aleutians Islands King and Tanner Crab Fisheries Management Plan; by Bonnie Harris, Assistant Attorney General, Department of Law.**
3. **The Commercial King and Tanner Crab Fisheries in the Bering Sea Management Area; by Rance Morrison, Fisheries Biologist, ADF&G and Douglas Pengilly, Fisheries Biologist, ADF&G.**
4. **The Commercial King and Tanner Crab Fisheries in the Aleutian Islands Management Area; by Robert Gish, Fisheries Biologist, ADF&G.**
5. **The Commercial King and Tanner Crab Fisheries in Kodiak and the Alaska Peninsula; by David Jackson, Fisheries Biologist, ADF&G.**
6. **History of the State of Alaska Onboard Observer Program, 1986-1995; by Michael Ward, Fisheries Biologist, ADF&G.**
7. **Vessel Safety Concerns in Bering Sea Commercial Crab Fisheries; by LCD Chris Hones, USCG.**
8. **Overview of Statewide Crab Research; by Gordon Kruse, Fisheries Scientist , ADF&G.**
9. **Overview of Westward Region Bering Sea/Aleutians Crab Research; by Douglas Pengilly, Fisheries Biologist, ADF&G.**
10. **An Overview of Handling Mortality; by Gordon Kruse, Fisheries Scientist , ADF&G.**
11. **Review of Incidental Red King Crab Bycatch in the Bering Sea Tanner Crab Fishery Between 1990 and 1995; by Don Tracy, Fisheries Biologist, ADF&G.**
12. **Effectiveness of 3-inch High Tunnel Eye Openings in Reducing Capture Rates of Red King Crab in Tanner Crab Fishing Pots; by Don Tracy, Fisheries Biologist, ADF&G.**
13. **Overview of the Recommended Harvest Strategy for Red King Crabs in Bristol Bay; by Peggy Murphy, Biometrician, ADF&G.**
14. **Adak Red and Brown King Crab Pot Limits; by Ken Griffin, Fisheries Biologist, ADF&G.**
15. **Review of Norton Sound King Crab Fishery; by Charlie Lean, Fisheries Biologist, ADF&G.**

**RESOLUTION TO THE NORTH PACIFIC FISHERIES MANAGEMENT
COUNCIL REGARDING BOTTOM TRAWL RESTRICTIONS
IN BRISTOL BAY TO PROTECT RED KING CRAB**

This resolution is made this 19th day of March 1996 by the Alaska Board of Fisheries for presentation to the North Pacific Fishery Management Council.

WHEREAS, the North Pacific Fishery Management Council (NPFMC) has delegated the responsibility for conservation and management of Bering Sea and Aleutian Islands king and Tanner crab stocks to the State of Alaska under the provisions of the Bering Sea and Aleutian Islands King and Tanner Crab Fishery Management Plan (FMP);

WHEREAS, the most recent scientific information available on stock abundance from the National Marine Fisheries Service (NMFS) 1995 survey indicates that mature female king crab abundance in the Bering Sea is below the minimum threshold for allowing a directed fishery, and that overall stock abundance is at its lowest point since the fishery was closed after the stock collapse of 1983;

WHEREAS, the Alaska Department of Fish and Game has closed the Bristol Bay (Area T) red king crab fishery for the last two (2) years;

WHEREAS, NPFMC, the Alaska Board of Fisheries (board), and the Alaska Department of Fish and Game (department) are formulating a rebuilding plan for king crab stocks of the Bering Sea, and they are reviewing all sources of mortality and effects of life history;

WHEREAS, the board has adopted a new harvest strategy for the red king crab fishery in an effort to rebuild these stocks;

WHEREAS, NPFMC has direct control over the groundfish and scallop fisheries in the Exclusive Economic Zone (EEZ) off the coast of Alaska and the harvest of those fisheries involve on-bottom mobile trawl and dredge gear that take crab as bycatch;

WHEREAS, the board has closed all state waters within the Bristol Bay Area to all trawling;

WHEREAS, the board heard testimony and reviewed technical papers relative to damage to crab stocks and crab habitat from bottom trawl operations, and it is highly probable that bottom trawling damages crab stocks, crab habitat, and living substrata upon which juvenile king crab are dependent for survival;

WHEREAS, one of the objectives of the Bering Sea Groundfish Fisheries Management Plan is minimizing the impact of groundfish fisheries on crab and other prohibited species;

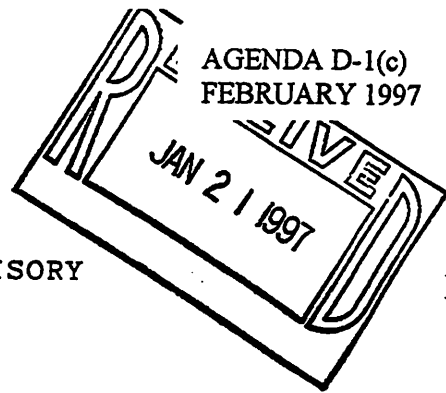
WHEREAS, NPFMC, the board, and the department are all concerned about reducing the impacts of trawling and dredging as an aid to rebuilding king crab stocks;

WHEREAS, these concerns led to the creation of the Crab Protection Zone and the Red King Crab Savings Area, which serve as refuges for crab stocks from effects of trawling;

WHEREAS, the board recognizes that these two protection areas do not adequately protect the necessary crab stocks and habitats;

THEREFORE, BE IT RESOLVED that the Alaska Board of Fisheries, in its concern to stimulate rebuilding of the Bristol Bay red king crab stocks, does hereby make a priority recommendation to the North Pacific Fisheries Management Council to take appropriate action in 1996 to:

1. Close the Bristol Bay Red King Crab Savings Area year-round to non-pelagic trawling;
2. Close all nearshore areas east of 162° in the eastern Bristol Bay area to all trawling, which encompasses all known juvenile king crab habitat in Bristol Bay.



January 6, 1997

MINUTES OF THE PACIFIC NORTHWEST CRAB INDUSTRY ADVISORY
COMMITTEE

Leif Erickson Lodge Hall, Seattle, Washington

AREA/SPECIES: Bering Sea/Aleutian Islands king and tanner
crab fisheries.

Committee present: Garry Loncon, Chairman, Royal Aleutian
Sfds.; Rob Rogers, Icicle Sfds.; Kevin Kaldestad, F/V
Aleutian Mariner; Dave Benson, Tyson Sfds.; Gary Stewart,
F/V Polar Lady; Clyde Sterling, Peter Pan Sfds.; Gary
Painter, F/V Trailblazer; Phil Hanson, UNISEA Inc.; Arni
Thomson, Alaska Crab Coalition, Secretary.

Committee not present: These committee members were not
present, only because they had scheduled departures for
the Bering Sea opilio fishery, Joe Wabey, F/V Arctic Eagle,
Robert W. Miller, F/V Northern Cascade.

ADF&G staff: Bob Clasby, Dir. Commercial Fisheries; Pete
Probasco, Supervisor, Westward Region; Al Spallinger,
Westward Region Shellfish Biologist; Doug Pengilly,
Shellfish Research.

NMFS staff: Not present.

NPFMC staff and members: David Fluharty

Industry present: Ron Sherin, Barbara J; Paul Rachey,
Eclipse Gear Works; Kris Fanning, Entrance Point; Chuck
Hosmer, Courageou/Baranof; Bart Eaton, Trident Sfds; Tom
Casey, AFCG; Ken Tippet, Alaska Boat Co.; Scott Mattulich,
Wash. State Univ.; Kristian Poulsen, North Sea; Sig J.
Hansen, Northwestern; Vidar Warness, Polar Sea; Koll Hagen,
Unicrab; Lance Nylander, Dungeness Gear Works; Jim Goldade,
Seattle Ship Supply; Rick Mezich, Fierce Allegiance; Bob
Scofield, Dorian Metal Fab.; Tom Parks, Katie K; Vince
Curry, PSPA; Al Chaffee, Yardarm Knot; Dan Matsen, Shaman;
Shawn Jones (?), Shellfish; Bill Widing, Aleutian Beauty;
Mary LeDoux, Norquest/Dragnet Fisheries; Brad Warren,
Pacific Fishing Magazine; Roger Thomas, Deception; Elgin
Olrogg, Seafirst Bank; Jim Michaels, Seafirst Bank; Chris
Martin, Seafirst Bank; Peter Kinchla, Courageous/Baranof.

CALL TO ORDER, Garry Loncon, Chairman, 9:15 AM

ANNOUNCEMENTS:

** The Board of Fisheries will meet from March 9 - 20th to
review a limited number of shellfish proposals for possible
changes in regulations. The meeting will be held at the
West Coast International Inn in Anchorage, near the airport.

** A special meeting with ADF&G staff and BSAI crab vessel owners, fishermen, processors and representatives to discuss management options for the Bristol Bay red king crab fishery will be held in Anchorage, Alaska, February 3, 1997. The meeting will be held at the Holiday Inn, Ketchikan Room, beginning at 8:30 AM and continuing through the remainder of the day. The purpose of the meeting is to discuss the ADF&G petition accepted by the Board of Fisheries regarding management options for the Bristol Bay red king crab fishery.

** At 7:00 P.M. on Monday, February 3, 1997 at the Westward Hilton in Anchorage, ADF&G is sponsoring a work session on the proposed regulations for management of the CDQ crab fisheries scheduled to begin in January 1998 with the opilio fishery. The public is invited to participate in the workshop. The Board of Fisheries will be reviewing and adopting regulations for the CDQ fisheries at the March 9-20th meeting at the West Coast International Inn. A copy of the proposed CDQ regulations, a sample permit form and the agenda change requests are available by calling the ADF&G Commercial Fisheries Management and Development Division in Juneau at (907) 465 4210 (Ken Griffin & John McNair).

ISSUES/DISCUSSION:

ADF&G PETITION FOR MANAGEMENT OF BRISTOL BAY KING CRAB FISHERY:

ADF&G comments:

P Probasco: ADF&G is concerned about slowing down the fishery and anticipates a big increase in effort in 1997. With 200 boats in the fishery this fall, it was a four day fishery and it went 50% over the GHL. We need to slow down the fishery, and manage it within the GHL. ADF&G does not see pot limits as the only solution to the problem. ADF&G is here today to initiate dialogue with the industry and to work with industry to develop solutions.

G Loncon: What is wrong with the tools available now? The fishery simply performed beyond the expectations of ADF&G and industry. Slowing the fishery down is management friendly but not resource friendly. Pot limits in the long run are not resource friendly; the perception is the petition sounds the alarm of a crisis. Setting up a downward sliding scale of pot limits linked to small GHLs will result in increasing pot lifts, discards and subsequent handling and bycatch mortality. PNCIAC does not see a crisis in the management of the red king crab fishery. The crisis is in the condition of the bairdi resource.

P Probasco: We are concerned about next year and an increase in effort and the need to get better control of effort to prevent going over the GHL.

A discussion ensues about inseason catch reporting accuracy. Apparently the fleet quit reporting after the closure announcement. This impaired the accuracy of the reporting.

The present situation of 48 hour advance notice of closure and the regulation mandating that all gear be unbaited at time of closure impedes shutting the fishery down on short notice.

A Thomson: On behalf of the ACC, he expresses concern over the allocative nature of pot limits and they are being proposed as the primary solution in the petition. He makes reference to ACC's recent experiences with the Norton Sound and Kodiak king and tanner crab fisheries where small pot limits created small boat fisheries and disenfranchised the traditional fleet. It appears to the ACC, that part of the solution is to improve upon the voluntary catch reporting system.

G Stewart: He suggests that the fleet be able to leave gear on the grounds--baited, to allow for very short notice of closure and fleet catch reporting right up to the time of closure.

R Clasby: Very concerned that we are working with slim margins and we need to be very cautious. What can be done to enable fisheries at low GHGs. Recognizes allocation and bycatch problems. Maybe we should just shoot with fixed time periods and search for industry input on shortest economically viable time period.

S Hansen: Suggests reporting every 12 hours instead of every 24 hours to keep better tabs on the catch.

P Probasco: We could look at 12 hour catch reporting and we do not need 100% of the fleet reporting. It could be done rapidly and systematically through MCI reporting.

G Loncon: Suggests that ADF&G provide the fleet with a standardized format for reporting prior to the season opening. Seems that setting up a real time system and some compliance level of reporting could be very helpful.

G Painter: It appears that ADF&G wants to reduce the pot limits in the Bristol Bay king crab fishery for whatever reasons. Come November first, I want my vessel to go fishing whatever it takes. If that means supporting reduced pot limits, so be it, I support reducing the pot limits so I can go fishing.

P Probasco: In response to several industry recommendations for a 48 to 72 hour pre-season bait-up as one of the alternatives to reducing pot limits, he states that ADF&G has concerns about pre-bait-up. There are some enforcement issues and it might make management more difficult because

the gear actually begins fishing when it is baited and set.

G Loncon: Lets pursue the bait-up idea; it allows sorting on the bottom and reduces bycatch and handling. How could we make it work?

B Clasby: 48 hour bait-up would effectively result in no less than a five day fishery. It likely won't work for small GHLS.

K Tippett: To address ADF&G conservation concerns in regards to staying within the GHL, I would suggest the pre-announced closure notice, accelerated daily catch reporting--followed by rapid data analysis after closure, then a mop-up fishery in 12 hour increments to harvest the shortfall in the GHL, if there is one. This is being done in some of the federal groundfish fisheries in the Gulf of Alaska and the Bering Sea.

T Casey: Our group does not recognize there is a discard mortality problem and the most recent scientific reports by Tom Shirley (U. of A.) and Bob Otto (NMFS) show almost no mortality from pot lifts and discards. ADF&G should do whatever it takes to have a fishery. Our group wants a fishery on November first no matter what, and we support reduced pot limits if thats what it takes to have a fishery at five million pounds or less.

K Poulsen: To look at the pot limit as a solution to an overcapitalization problem is erroneous, particularly when we have a depressed resource. Reduced pot limits will increase mortality. Recent preliminary studies by Otto et. al indicate mortality likely is high to even slightly injured crabs due to predation by sand fleas. The results of laboratory experiments mentioned by Casey and the zero mortality estimates do not incorporate predation effects and Tom Shirley notes that in his report.

B Scofield: If indeed ADF&G feels they need to reduce the number of pots on the grounds to slow down the fishery, what levels would they recommend for GHLS of 7 and 5 million pounds?

ADF&G responds that they cannot answer that question at this time, that it is under consideration at this time.

Some additional discussion ensues about discard and handling mortality.

K Kaldestad: The reauthorization of the MSFCMA last year now includes a new National Standard that mandates minimizing bycatch and the mortality from bycatch. It seems that reducing pot limits which will increase the rate of discards will run counter to the new bycatch standard.

Then ADF&G is asked what their position is on whether or not discarding is a significant source of mortality?

D Pengilly: ADF&G does recognize discarding of crabs as a mortality problem when it involves large numbers of pre-recruits, juveniles and females and CPUE is very low, as occurred with the St. Matthews Is. fishery in 1996.

K Kaldestad: ADF&G is quoted in the Dutch Harbor Fisherman following the St. Matthew fishery, that the primary reason for closing the fishery substantially below the GHL was because of discard mortality from pot lifts. This is inconsistent with the ADF&G petition calling for reduced pot limits for Bristol Bay. I support status quo on pot limits and a pre announced closure notice.

T Casey: A pre announced closure will likely result in leaving 1-2 million pounds of king crab on the grounds, thus we support the alternative of reducing pot limits to maximize the harvest.

D Benson: In focusing on the ADF&G petition, it is clear from the first and second priority alternatives, that ADF&G wants to reduce the pot limits in the Bristol Bay fishery. However, I am now hearing that this may not be the case. If industry comes up with other alternatives that will solve management's problem, would ADF&G be willing to withdraw its petition?

B Clasby: Although other alternatives being discussed here today may take care of the problem, we would need a consensus from industry to adopt the other alternatives rather than the pot limits. And no, we cannot withdraw the petition that has been filed.

G Painter: Referring to your petition of December 6, 1996, on page 4, you reference that you will be unlikely to manage a fishery below 12 million pounds without some changes, meaning a reduction of the pot limits based on GHLS. Do I clearly understand that ADF&G cannot open the Bristol Bay king crab fishery without some management changes if the GHL is under 12 million pounds?

P Probasco: No. That is not necessarily the case. We could open the fishery with a 5 million pound GHL--with a pre-announced closure--with no changes in existing management measures.

T Parks: I seriously question that there is a crisis here. The problem is too many boats and ADF&G is expecting more boats to come into the fishery in 1997. I would suggest that the upcoming limited entry program restrict the fishery to those who participated in 1996.

B Clasb̄y: ADF&G does not have limited entry jurisdiction over the fishery, the NPFMC does. The proposed program would have to be changed by them to achieve that.

G Loncon: I would like to recognize the importance of the recently adopted MSFCMA provisions regarding the fishing industry's need to reduce bycatch mortality. At this time I would like to summarize the PNCIAC recommendations to address the concerns of ADF&G in regards to the Bristol Bay king crab fishery so we can move on to the other agenda items:

1. Consider allowing the fleet to leave baited gear on the grounds after the season closure; this would allow for as little as a 12 hour notice of closure and more accurate inseason management. This could alleviate safety problems encountered at season closure with vessels rushing to get through their gear and get it unbaited and make the 24 hour landing requirement in bad weather. The MSFCMA also has a new National Standard to promote the safety of human life at sea. Returning to the grounds after offloading crab, the vessels will not be rushed and can engage in "careful release" of the crabs in the gear, by opening the pots at the railing, barely out of the water. Pots will not have to be brought on board for sorting or handling. Thousands of small crabs will have had time to sort out of the gear and will not be handled.
2. Revamp the existing voluntary MCI electronic catch reporting program by introducing a computerized format, reporting at 12 hour intervals and incorporating rapid analysis.
3. Use of pre-announced closure notice.
4. Allow a mop-up fishery in conjunction with the pre-announced closure in the event a substantial amount of the GHL is foregone.
5. Consider establishing a minimum threshold, below which it is not economically viable to conduct a fishery.

SUMMARY OF ADF&G OBSERVER PROGRAM "COST RECOVERY" PROPOSAL:

Doug Pengilly: Provides the industry with a summary of ADF&G's management needs for an observer program and clarifies that the observer program is not just an enforcement program. The current "Pay-as-you-go" third party contractor program will continue until 1999. The goal is to establish a state funded observer program, resource based, a percentage of the GHLs. (See the enclosed ADF&G memorandum, dated Jan. 3, 1997, Doug Pengilly to Pete Probasco, Summary of Board discussion on Shellfish Observer Program development.)

V Curry: Does ADF&G need legislative authority for the test fishery funding mechanism?

B Clasby: Yes. Legislature has been supportive up to now of test fish funding and they will likely support the new proposal.

D Pengilly: Costs should be fairly stable around \$2 million per year, based on costs over the recent years. I would foresee coverage levels remaining fairly stable.

We need to increase catcher boat coverage in king crab fisheries and the opilio fishery. We need to supplement information as a result of there being less and less catcher processors in the fisheries.

A Thomson: For the benefit of most of the industry representatives in this room who lack the necessary background on the new "Cost Recovery" crab observer proposal I would like to summarize for you the origin of the proposal.

First of all, I am a representative on the NPFMC Observer Oversight Committee that periodically reviews major changes to the groundfish and crab observer programs and most recently, this committee has been closely involved with the analysis of the 2% fee assessment program for crab and groundfish. This program which the NPFMC initially approved, has since been tabled in favor of continuance of the 3rd party contractor, pay-as-you-go program. The ADF&G cost recovery proposal, whereupon up to 2% of the value of the resource is dedicated to the observer program, is another form of an industry wide fee paying program.

Dedication of essentially 2% of the BSAI crab resources to to the State managed observer program essentially is a direct allocation of a federal resource to a state and raises legitimate legal questions under the MSFCMA.

Second, the origin of the ADF&G proposal began with an industry proposal solicited by the Board of Fisheries in March of 1996 in response to industry complaints about the excessive cost of 100% observer coverage on catcher boats involved in the hair crab, tanneri crab and brown crab fisheries. ADF&G presently recognizes only one level of observer coverage for management/data needs and that is 100%. This is in sharp contrast to the NPFMC groundfish program, which operates on 30% coverage for catcher boats. (See the attached industry observer proposal.)

Crab fishermen and the ACC developed a framework proposal for a statistical data gathering program that would satisfy ADF&G data gathering needs for catcher boats in the BSAI crab fisheries and that would reduce costs for catcher boats. It was basically a trip-based, rotating observer

program for catcher boats and vessel compliance could be linked to the permit for the fishery. If ADF&G needs flexibility in the range of coverage for catcher boats, then a range of 10% to say 50% and could be frameworked in a plan. However, the pay-as-you-go industry proposal has been discarded by ADF&G and it has been replaced with the cost recovery proposal, now the only alternative. I would suggest we keep the pay-as-you-program as an alternative.

B Clasby: Explains that ADF&G wants to develop a program that provides us with the necessary information to manage the crab fisheries. The State also wants the flexibility to set and adjust observer coverage levels on an annual basis. That is a key part of our proposal.

K Fanning: Given the declining state of the industry, we are at the limit in terms of costs we can bear as vessel owners and still remain in business. Levying an additional 2% cost on the industry could be unbearable. If ADF&G plans to adjust observer coverage under the Cost Recovery program, could they provide us with a revised plan and the costs of the program?

Industry representatives then asked further questions about the need for the Alaska Legislature to approve of the increase in test fund authority.

B Clasby: ADF&G does need increased authority from the Legislature to move ahead with the program. If the Legislature does not approve it, then the program won't be adopted by the Board of Fisheries.

D Pengily: ADF&G needs flexibility to adjust observer coverage from year to year according to the dynamics of the fisheries and our management needs.

A Thomson: ADF&G presently has the authority through the Commissioner's Permit system to reduce the costly 100% observer coverage on catcher boats in two problem fisheries, the Korean horsehair crab fishery and the deep water tanner crab fishery. However, the agency has shown little interest in adjusting the coverage levels, despite widespread complaints from fishermen and processors about costs.

G Loncon: I think the PNCIAC now has a better understanding of the cost recovery proposal and the implications of this type of observer program. However, I feel the PNCIAC needs to digest the information for a while before making any recommendations. I would like the members to think about recommendations on this program and I will poll you sometime before the March Board of Fish meeting.

Meantime, I would like to request that ADF&G develop their best estimates for observer coverage, fishery by fishery, for 1998, under the assumption that we would be operating

under the cost recovery program.

P Probasco: Agreed that it would be a good idea and that ADF&G could do that for the industry.

B Clasby: ADF&G is willing to work with industry on the observer program. We too wish to make improvements in the program that will be beneficial to overall management.

PROPOSAL TO REDUCE THE SIZE LIMIT FOR BRISTOL BAY KING CRAB TO SIX INCHES:

S Mattulich: I have been contracted by ADF&G to conduct a brief economic analysis of Russian king crab production and the implications of Russian production on the market for Bristol Bay king crab. At the outset, it appears that the timing of this proposal is bad, in that it will have negative implications on the market. The Russians have harvested the cream of the stock, in terms of the larger crabs, and they are now producing a lot of smaller sizes, that are close to 6 inches.

I would estimate that most of the crab produced in the Bristol Bay derby with a 6 inch size limit will be 6 inches. Harvesting 6 inch crab, under a GHJ that is based on number of animals, will reduce the total poundage harvested. I would estimate the negative price impacts would be severe enough that a two fold increase in production would be needed to compensate for lost revenue.

ADF&G reports that they have biological and economic analyses underway and they expect to have them ready for distribution by February 24th.

B Clasby: If industry is not ready to make a recommendation on this important issue by March of this year, we could postpone action by the Board of Fisheries until some time in the future.

K Poulsen: It is obvious from what Mattulich is saying that reducing the size limit will leave more larger crabs on the grounds for breeding larger females and this will have a positive long term effect on the future rebuilding of stocks and the resulting increase in quotas and market value of the resource. I hope this is addressed in the biological analysis.

S Mattulich: I recognize the potential biological implications to stock rebuilding, however, as I understand it, there needs to be more definitive research done on whether larger males are more aggressive breeders.

K Poulsen: Mattulich is overly focused on the short term in his analysis, but he should refocus on the long term economic benefits to the resource and the industry for this analysis to have validity.

A Thomson: Since this is an ACC proposal, I would like to clarify for the record that ACC submitted it with the purpose encouraging stock rebuilding by leaving more larger animals on the grounds for breeding, and reducing discards through increased CPUE during the harvest. We wish to thank ADF&G for committing extensive staff time to this important issue that could accelerate stock rebuilding if adopted.

G Loncon: This will conclude discussion on this issue. I feel the PNCIAC is uncertain as to how to vote at this time, and there is going to be more information available to us soon.

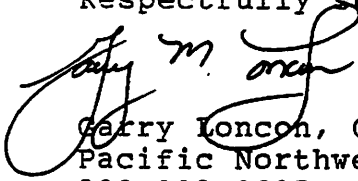
Therefore I am going to conduct a poll of the PNCIAC on this issue and other issues prior to the Board of Fisheries meeting on March 9th and then we will formulate our written comments.

Thank you all for coming and again we thank ADF&G for sending their representatives to Seattle as it has been very helpful and it has contributed a lot to our discussions.

If there are no further issues to discuss, we will adjourn.

The PNCIAC adjourned at 1:15 PM.

Respectfully submitted,



Gerry Loncon, Chair
Pacific Northwest Crab Industry Advisory Committee
206 283 6605 and Fax: 206 282 4572

SEC. 106. NATIONAL STANDARDS.

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

"(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

"(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea."

SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking "section 304(f)(3)" wherever it appears and inserting "paragraph (3)";

(4) in paragraph (1)(B), as amended—

(A) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(B) by inserting "North Carolina, and" after "except";

(C) by striking "19" and inserting "21"; and

(D) by striking "12" and inserting "13";

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

"(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(6) by indenting the sentence at the end thereof and inserting "(2)" before "Each Council"; and

(7) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council."

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

**Public Law 104-297
104th Congress**

An Act

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Sustainable Fisheries Act".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- ec. 1. Short title; table of contents.
- ec. 2. Amendment of Magnuson Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

- ec. 101. Findings; purposes; policy.
- ec. 102. Definitions.
- ec. 103. Authorization of appropriations.
- ec. 104. Highly migratory species.
- ec. 105. Foreign fishing and international fishery agreements.
- ec. 106. National standards.
- ec. 107. Regional fishery management councils.
- ec. 108. Fishery management plans.
- ec. 109. Action by the Secretary.
- ec. 110. Other requirements and authority.
- ec. 111. Pacific community fisheries.
- ec. 112. State jurisdiction.
- ec. 113. Prohibited acts.
- ec. 114. Civil penalties and permit sanctions; rebuttable presumptions.
- ec. 115. Enforcement.
- ec. 116. Transition to sustainable fisheries.
- ec. 117. North Pacific and northwest Atlantic Ocean fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

- ec. 201. Change of title.
- ec. 202. Registration and information management.
- ec. 203. Information collection.
- ec. 204. Observers.
- ec. 205. Fisheries research.
- ec. 206. Incidental harvest research.
- ec. 207. Miscellaneous research.
- ec. 208. Study of contribution of bycatch to charitable organizations.
- ec. 209. Study of identification methods for harvest stocks.
- ec. 210. Review of Northeast fishery stock assessments.
- ec. 211. Clerical amendments.

TITLE III—FISHERIES FINANCING

- ec. 301. Short title.
- ec. 302. Individual fishing quota loans.
- ec. 303. Fisheries financing and capacity reduction.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

- ec. 401. Marine fish program authorization of appropriations.

Oct. 11, 1996

[S. 39]

Sustainable
Fisheries Act.
16 USC 1801
note.



Red King Crab

Biology: Red king crab (*Paralithodes camtschaticus*) is widely distributed throughout the Bering Sea and Aleutian Islands, Gulf of Alaska, Sea of Okhotsk, and along the Kamchatka shelf. King crab molt multiple times per year through age 3 after which molting is annual. At larger sizes, king crab may skip molt as growth slows. Females grow slower and do not get as large as males. In Bristol Bay, fifty percent maturity is attained by males at 120 mm CL and 90 mm CL by females (about 7 years). Red king crab in the Norton Sound area mature at smaller sizes and do not attain maximum sizes found in other areas. In Bristol Bay, red king crab mate when they enter shallower waters (<50 m), generally beginning in January and continuing through June. Males grasp females just prior to female molting, after which the eggs (43,000 to 500,000 eggs) are fertilized and extruded on the female's abdomen. The female red king crab carries the eggs for 11 months before they hatch, generally in April. Red king crab spend 3 to 4.5 months in larval stages before settling to the benthic life stage. Young-of-the-year crab occur at depths of 50 m or less. They are solitary and need high relief habitat or coarse substrate such as boulders, cobble, shell hash, and living substrates such as bryozoans and stalked ascidians. Between the ages of two and four years, there is a decreasing reliance on habitat and a tendency for the crab to form pods consisting of thousands of crabs. Podding generally continues until four years of age (about 65 mm), when the crab move to deeper water and join adults in the spring migration to shallow water for spawning and deep water for the remainder of the year. Mean age at recruitment is 8-9 years. Natural mortality of adult red king crab is estimated at about 25% per year ($M=0.3$), due to old age, disease, and predation.

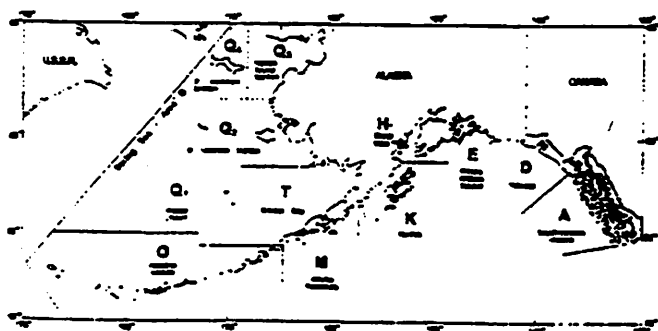
Management: King crab stocks in the Bering Sea are managed by the State of Alaska through a federal BSAI king and Tanner crab fishery management plan (FMP). Under the FMP, management measures fall into three categories: (1) those that are fixed in the FMP under Council control, (2) those that are frameworked so the State can change them following criteria outlined in the FMP, and (3) those measures under complete discretion of the State. During the 1970s and 1980s, preseason guideline harvest levels were set at 20-60% of legal male abundance based on several indicators of stock condition. Between 1989 and 1995, the State set guideline harvest levels for red king crab based on a mature male harvest rate of 20%, with a harvest cap of 60% of legal male abundance. In 1996, the harvest rate for Bristol Bay red king crabs was reduced to 10% of the mature males to allow stock rebuilding. A threshold of 8.4 million mature females, equating to an effective spawning biomass of 14.5 million pounds, has been established as a minimum benchmark for harvesting this stock. Maximum allowable fishing mortality for the mature male red king crab stock in Bristol Bay, as established by the FMP, is $F_{OFT} = F_{MSY} = F_{0.1} (=0.35)$. Current minimum legal size for Bristol Bay, Aleutian Islands, and Pribilof Islands red king crab is 165 mm, or 6.5 inches in carapace width. Minimum legal size for Norton Sound, St. Matthew, and St. Lawrence Island red king crab is 4.75" carapace width.

Management measures implemented for the BSAI king and Tanner crab fisheries, as defined by the federal crab FMP, by category.

Category 1 (Fixed in FMP)	Category 2 (Frameworked in FMP)	Category 3 (Discretion of State)
<ul style="list-style-type: none"> * Legal Gear * Permit Requirements * Federal Observer Requirements * Limited Access * Norton Sound Superexclusive Registration Area 	<ul style="list-style-type: none"> * Minimum Size Limits * Guideline Harvest Levels * Inseason Adjustments * Districts, Subdistricts and Sections * Fishing Seasons * Sex Restrictions * Closed Waters * Pot Limits * Registration Areas 	<ul style="list-style-type: none"> * Reporting Requirements * Gear Placement and Removal * Gear Storage * Gear Modifications * Vessel Tank Inspections * State Observer Requirements * Bycatch Limits (in crab fisheries) * Other

In addition to minimum size and sex restrictions, the State has instituted numerous other regulations for the Eastern Bering Sea crab fisheries. The State requires vessels to register with the state by obtaining licenses and permits, and register for each fishery and each area.

ALASKA KING CRAB MANAGEMENT AREAS



Areas established for king crab are shown in the adjacent figure. Norton Sound has been designated a superexclusive area, meaning that vessels fishing this fishery are not allowed in other fisheries, and vice-versa. A 10-mile area around King Islands has been closed to commercial crabbing for local subsistence reasons. Observers are required on all vessels processing crab in the Bering Sea and Aleutian Islands area. Season opening dates are set to maximize meat yield and minimize handling of softshell crabs. The season opening date for Bristol Bay red king crab fisheries is November 1. Beginning in 1996, the Aleutian Islands area (Adak and Dutch Harbor) opens September 1. The Norton Sound summer season opens on July 1, and a though-the-ice fishery occurs from November 15 to May 15. Pot limits have been established based on vessel size; the current pot

Pacific Northwest Crab Industry Advisory Committee

13 December, 1996

Larry Engel, Chairman
Alaska Board of Fisheries
P.O. Box 669
Cordova, Alaska 99574-0669

RE: Bristol Bay Red King Crab Fishery

Dear Mr. Chairman:

On December 9, 1996, I received Alaska Department of Fish and Game's (ADF&G) petition to the Alaska Board of Fisheries (BOF) regarding regulatory options to reduce the red king crab catch rate in the Bristol Bay fishery. ADF&G's proposal to establish a tiered pot limit based on the guideline harvest level is the result of the 1996's fishery performance and concerns for future fishery management. ADF&G's submission to BOF is under the umbrella of a conservation issue.

PNCLAC, via telephone interview vote, passed a measure to oppose ADF&G's proposal and requests the BOF not to consider this as an agenda item for the March 1997 meetings.

In the past, PNCLAC has demonstrated its' support for the efforts of ADF&G and BOF in establishing a conservative approach to rebuilding the red king stock in Bristol Bay. While we are certain that Bob Clasby and the entire ADF&G staff are sincere in maintaining the long-term health of the crab resource, PNCLAC differs on the effectiveness of pot limits as a "conservation tool."

Members of PNCLAC, during a telephone poll, voiced considerable concern regarding the expeditiously drawn proposal and petition to BOF. There exists an established framework for the submission of proposals to BOF, which allow for proper industry scrutiny and public comment. Several PNCLAC members, had difficulty in determining what emergency exists to prompt such a controversial proposal.

Pacific Northwest Crab Industry Advisory Committee

13 December, 1996

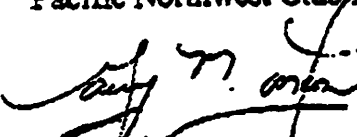
The proposal is allocative in nature and its implementation will result in a reduction of gear soak times. It is necessary for gear to soak to allow sorting on the ocean floor, which is the intent of regulatory modifications that have been made to gear in recent years. Failure to allow the gear to soak, results in an increase in pot lifts and handling mortality. A greater retention of the targeted species, in this case legal red king crab, and less handling of juveniles and females is truly a conservation method. The adoption of a pot limit is counter-productive to the reduction of sorting and handling mortality.

PNCIAC recommends to BOF to reject ADF&G's proposal to implement a pot limit for the Bristol Bay red king crab fishery. In no way does this recommendation suggest a change in PNCIAC's commitment to conservation measures.

Thank you for your consideration.

Sincerely,

Pacific Northwest Crab Industry Advisory Committee


Garry M. Loncon
Chairman

cc: ADF&G: Bob Clasby



ALASKA CRAB COALITION

3901 Leary Way (Bldg.) N.W., Suite #6 • Seattle, WA 98107 • (206)

December 12, 1996

VIA FAX (907-424-5762) & MAIL

Mr. Larry Engel, Chairman
Alaska Board of Fisheries
P.O. Box 669
Cordova, Alaska 99574-0669

Re: Bristol Bay Red King Crab Fishery
Our File No.: 2363-8472

Dear Mr. Chairman:

The Alaska Crab Coalition recently received a petition from the Alaska Department of Fish and Game related to the Bristol Bay red king crab fishery. The Department's proposal would establish a multi-tiered pot limit in which pot limits are established for more than two ranges of guideline harvest levels, rather than the two-tiered approach suggested in 5 AAC 34.825. The Department characterizes its proposal as a "conservation" proposal and asks the Board to accept its petition and schedule review of the proposal for the March 1997 Board of Fisheries' meeting.

The Alaska Crab Coalition requests the Board not to consider this proposal. In essence, the Department's proposal would restructure the Bristol Bay pot limit and is an unnecessary action. The Department can manage the existing Bristol Bay red king crab fishery with the tools that it already has such as season closures, continued partial area closures, and improved inseason catch reporting. The pot limit proposal suggested by the Department is neither an emergency conservation measure nor necessary. Instead, it is an allocation proposal and the result of implementing the proposal would be to increase crab mortality of red king crab in Bristol Bay.

While the Bristol Bay harvest came in about 70% above the mid point of the preseason guideline harvest level, this has not necessarily created an overharvest situation. A reduction in pot limits will result in a decrease in soak time. This decrease in soak time will not allow the gear to sort on the bottom and therefore, the handling and discard of crab will increase. The increase in discarding and handling will result in an increase in mortality, and will create conservation problems. Crab handling and discard mortality has been identified as a problem in the revised harvest strategy for Bristol Bay king crab adopted by the Board in 1995.

Mr. Larry Engel, Chairman
Alaska Board of Fisheries
December 12, 1996
Page 2

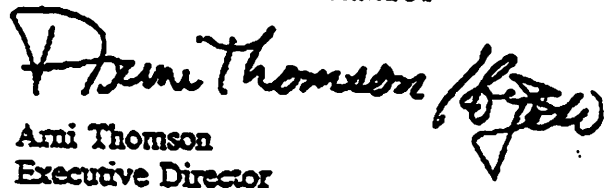
The unexpected abundance of Bristol Bay king crab is very likely due to the implementation of conservation measures that have been in place for almost 3 years. An expanded no trawl protection area has been in place for 2 years, and a prohibition on a directed king crab fishery in place for almost 3 years. The high catch per unit effort that has recently been recorded by the Department indicates that the conservation efforts implemented by the NPFMC, the Department, and the crab fleet are paying off. There was a higher abundance of mature crab available in 1996 than was unexpected by either industry or the Department. Again, better inseason catch reporting of crab landings will improve conservation concerns instead of the proposed pot limit. Now is not the time to completely restructure the pot limit program in Bristol Bay when existing measures will continue, we believe, to result in higher and healthier crab populations in Bristol Bay.

Again, we strongly recommend that the Board not implement or adopt or consider the Department's recent proposal on implementing pot limits for the Bristol Bay red king crab fishery. And, we strongly urge the Board to reject the Department's proposal and not schedule the Department's proposal for the March 1997 Board meeting.

Please call if you have any questions.

Very truly yours,

ALASKA CRAB COALITION


Ami Thomson
Executive Director

c via fax: Laird Jones
Bob Clasby
Pete Probasco

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF FISH AND GAME

COMMERCIAL FISHERIES MANAGEMENT
AND DEVELOPMENT DIVISION

P.O. BOX 25526
JUNEAU, ALASKA 99802-5526
PHONE: (907) 465-4210

December 18, 1996

Mr. Garry Loncon
Pacific Northwest Crab Industry
Advisory Committee
% Royal Aleutian Seafoods
Seattle, WA 98109

Dear Mr. ^{Garry}Loncon:

I have received a copy of your letter to the Alaska Board of Fisheries regarding the division's petition to reduce the catch rate of red king crab in the Bristol Bay fishery. The board accepted the petition and scheduled consideration at their March meeting in Anchorage.

The staff and I are extremely concerned about rebuilding the Bristol Bay red king crab stock. I am sure you and others in the industry are as concerned as well. If we are going to rebuild this fishery, while still conducting harvests at the current low guideline harvest levels, we need to be extremely cautious. The trawl survey is just as likely to over estimate abundance as it is to under estimate. Likewise, because of patchiness, CPUE from the first couple of days of the fishery is not a good second estimate of abundance. We need to either constrain the fishery to a set opening that assures the harvest will not exceed the GHL or reduce effort to a level that will allow some inseason assessment of abundance.

We are not wedded to pot limits as a solution. We are aware that there are allocative aspects to such limits, and that reduced limits are likely to change pot soak times, which in turn can effect CPUE. We are willing to work with industry to achieve a solution that does not place the resource in harm and makes economic sense. Towards that end, the Westward Region staff is planning an industry meeting sometime in February to address this issue.

Sincerely,



Robert C. Clasby
Director

cc: Paul Larson
Ken Griffin
Pete Probasco

Electronic Reporting

The Council approved a regulatory amendment to require groundfish processors in the Bering Sea, Aleutian Islands, and Gulf of Alaska to utilize an electronic record keeping and reporting system for NMFS-required documents. The proposed changes would replace conventional logbooks and associated NMFS reports with electronic versions. At-sea processors would be required to transmit in-season NMFS reports using Inmarsat satellite equipment and shore-based processors would be required to use modems and phone systems. The electronic reporting system would be implemented in two stages. Phase 1 would consist of electronic versions of the daily production, weekly production, and check-in/check-out reports and would be distributed to the groundfish processing industry for voluntary use in early 1997. Legal implementation of Phase 1 would take place in 1998. Phase 2 would consist of electronic logbooks, vessel activity reports, and product transfer reports. These will be developed in 1997 and 1998 with full legal implementation in 1999.

The Council appointed a committee composed of industry representatives and agency staff to work out the remaining software and hardware requirements of the program. That committee will meet in early February 1997 at the Alaska Fisheries Science Center in Seattle. Contact Nick Hindman at the NMFS Regional Office (907-586-7228) for more information.

DRAFT BOARD OF FISHERIES MOTION REGARDING 100% OBSERVER COVERAGE ON CRAB CATCHER BOATS- IN THE ADAK BROWN CRAB FISHERY; AREA J TANNERI/COUSEI FISHERY; AND BERING SEA HAIR CRAB FISHERY

MOTION: 100% OBSERVER COVERAGE FOR CATCHER BOATS IN THE ABOVE DEFINED FISHERIES WILL CHANGE TO A STATISTICAL DATA GATHERING PROGRAM EFFECTIVE JANUARY 1, 1997, UNLESS ADF&G PROVIDES JUSTIFICATION FOR CONTINUATION OF THE EXISTING COVERAGE LEVEL IN THE ABOVE FISHERIES BY OCTOBER 28, 1996.

PROGRAM DESCRIPTION:

Proposed biological data gathering onboard observer program for the above named fisheries, commencing January 1, 1997.

Statistical sampling would be set up on a fishery by fishery basis and the per cent of coverage would be fleet-based, not vessel by vessel, this gives flexibility to both fishermen and managers in meeting the general guidelines of the program.

The ADF&G Regional Office would make observer assignments.

The percentage of coverage could be expressed in a range, i.e. 20-30%, to give fishermen and managers flexibility to deal with the uncertainties of seasons, GHLS, weather, mechanical breakdowns, etc. The major objective is biological data gathering, not enforcement, thus flexible parameters will take stress off managers and vessel operators to meet basic program regulations. This will also contribute to a cooperative attitude from vessel operators.

The basic unit of the sample would be "the normal length of a fishing trip" and observers would rotate from vessel to vessel between trips. For the longer fisheries, brown crab and tanneri, the number of vessels could be adjusted every 30 days, depending on the number of vessels participating in the fishery. This again allows flexibility. Some stability in fleet size can be anticipated due to high costs of equipping vessels for deep water fisheries and the developing moratorium on new entrants into hair crab.

Registration in fishery would require participation in the observer program.

Observer coverage to be based on vessel size:

0 to 60 feet LOA	10%
60 to 125 feet LOA	20%
More than 125 LOA	30%

Payment for observers:

ADF&G would initiate industry bid process to identify "prime contractor" for each fishery for catcher boat program. Prime contractor would be required to set up escrow fund for pre-payment deposits, etc. "Observer Fund Pool."


Registration in fishery would require participation in "Observer Fund Pool." Prepayment for thirty day minimum participation could be required for tanneri, Adak brown crab.

Prepayment for "Observer Fund Pool" for the hair crab fishery could also be required determined based on GHJ and estimated season length, etc.

MEMORANDUM
STATE OF ALASKA, DEPT. OF FISH & GAME

3 Jan. 1997
(97-1)

TO: Pete Probasco
Regional Supervisor
Region IV, CFMDD, ADF&G
Kodiak

FROM: Doug Pengilly 
Shellfish Research
Region IV, CFMDD, ADF&G
Kodiak

cc: Paul Larson, Al Spalinger

SUBJECT: Summary of Board discussion on Shellfish Observer Program development

Pete, you have asked for a written summary of the results of Westward Region staff discussion with the Board of Fisheries (BOF) on Shellfish Observer Program proposal that occurred during the BOF's October 1996 Work Session. Following staff presentation of the proposal outlined in the October 17 1996 memo distributed to the BOF and Industry, the BOF agreed that:

1) The Mandatory Shellfish Observer Program for Westward Region crab fisheries will continue under the status quo until at least the Spring 1999 Board of Fisheries meeting on statewide king and Tanner crab (disregarding, of course, any unforeseen agenda change requests or petitions to the BOF). Specifically with regard to the issues raised at the March 1996 king and Tanner crab meeting, "continuing with the status quo" means:

- The observer program will continue under the present third-party contractor, pay-as-you-go system.
- 100% coverage in the Aleutians brown king crab fishery will continue by regulation.
- Observer coverage may continue to be included as a condition for participation in the Westward Region special-permit fisheries, including those for Bering Sea Korean hair crab and deep-water king and Tanner crab. Recognizing that coverage in these fisheries may be only 0% or 100% under the pay-as-you go system, mandatory observer coverage may continue at 100% for these fisheries.

Also, as is presently occurring under regulation, observers will remain on all vessels processing king or Tanner crab and on all vessels participating in the Aleutians red king crab fishery.

2) Between now and the Spring 1999 Board of Fisheries meeting on statewide king and Tanner crab, ADF&G will work to develop a program to fund the observer deployments on fishing and processing vessels participating in Bering Sea/Aleutian Islands king and Tanner fisheries and in the Westward Region special-permit crab fisheries. The avenue that ADF&G is pursuing to provide those funds is a cost-recovery fishing program directed on Bering Sea/Aleutian Islands king and Tanner crab stocks. ADF&G sees the establishment of a special dedicated fund to deposit the cost-recovery receipts as a necessary component of the cost-recovery fishing program.

3) Between now and the Spring 1999 Board of Fisheries meeting on statewide king and Tanner crab, ADF&G will also work to develop the administration of a state-funded observer program for crab fisheries in the Westward Region. The goal here is to develop a program that best meets ADF&G's objectives for observer coverage and addresses concerns voiced by the Board of Fisheries at past meetings. As well as developing the means for assigning, deploying, and tracking observers, ADF&G will work to develop the means for obtaining and paying observers. In that regard, ADF&G will consider alternatives that

include: ADF&G obtaining and paying for observers through third-party contractors; ADF&G obtaining and paying for observers through a "prime contractor"; or, ADF&G directly hiring observers as seasonal employees. Regardless of the means for obtaining and paying observers, ADF&G will consider the establishment of minimum salaries and other payroll compensations for observers and will explore means to assure that Alaska residents receive priority in hiring as observers.

4) It is the goal of ADF&G to develop the state-funded Westward Region crab fisheries observer program for implementation beginning with the 1999/2000 seasons on 1 September 1999.

5) ADF&G will report to the Board of Fisheries on an annual basis to apprise them on progress towards development of a state-funded observer program for Westward Region crab fisheries. At a minimum, we will report on this subject at the 1997 and 1998 October Work Sessions. If developments warrant, we would also report to the Board of Fisheries outside of the October Work Sessions, for example at a regular meeting on Miscellaneous Shellfish Fisheries. It will be the responsibility of ADF&G to report to the Board of Fisheries in a timely manner on any shortfalls in progress towards the goal of a 1 September 1999 program implementation.

6) Finally, at the Spring 1999 Board of Fisheries King and Tanner meeting, the Board will review regulations addressing observer coverage levels in Westward Region crab fisheries. If sufficient progress is made by ADF&G on development of a state-funded observer program, the Board of Fisheries will also consider proposals on the administration of the Mandatory Shellfish Observer Program in Westward Region crab fisheries and on the deployment of state-funded observers on fishing and processing vessels in all Bering Sea/Aleutian Islands king and Tanner fisheries and in all Westward Region special-permit crab fisheries.

Transcription of NPFMC Discussion
Re: Joint Protocol between Alaska Board of Fisheries
and the North Pacific Fishery Management Council
on Management of Fisheries Off Alaska

[In the interest of time and space, seeking recognition from the Chair and the granting of it are omitted from this transcript.]

February 7, 1997

Tape 42

Clarence Pautzke (NPFMC Executive Director): The next item that we had on your agenda according to the spreadsheet schedule was D-2, the Gulf of Alaska groundfish issues and not knowing how our consultation with the Board would come out, we set aside five hours for it. So, we had two items under there. One was the consultation process and passage of the joint protocol, discussion of that; and the second one was rolling closures for the sablefish longline survey. I will just take the first one; I don't think much needs to be said other than I have placed a copy of the joint protocol in your notebooks as D-2(a) so that you can look at it and. . . reviewed the points in that protocol during the meeting with the Board and covered the high points and unless you want me to read it for you I have nothing more to say about it.

Rick Lauber (Council Chair): Well, it's in the book. We can turn to it; it's labeled "Draft Joint Protocol."

Clem Tillion (Council member): . . . Lisa Lindeman [NOAA General Counsel], is there anything in here that. . . is she here? [Ms. Lindeman was out of the room]

Tillion: I just want to make sure there's nothing in here that violates any of our responsibilities and if not, I'm ready to go ahead.

Morris Barker (Council member): . . . We've been involved in this as well and we've raised a number of concerns on legal issues. We'd like an opportunity to speak with Counsel as well as have a caucus in our own group. I would suggest this be tabled and come back up again after lunch.

Lauber: All right, without objection we will table the Protocol until later this afternoon.

Tape 43

Lauber: Dr. Barker, are you ready to remove from the table your . . . ? Any objection to removing from the table the Joint Protocol? Hearing none, that agenda item is before us.

Pautzke: It's D-2(a) in your notebooks.

Dave Benton (Council member): Are there staff reports or any further public testimony or anything we need to do on this. . .

Lauber: No, there's nothing that I know of.

Benton: O.K., I'm prepared to make a motion.

Lauber: Mr. Benton, you have the floor.

Benton: Mr. Chairman, I would move that the Council adopt and authorize your signature to the draft Protocol developed by the joint Council/Board of Fish working group. And, if I have a second I'll speak to that.

Linda Behnken (Council member): Second.

[miscellaneous background comments that were not captured on tape]

Benton: . . .on Monday we had our joint meeting between the Board of Fish and the North Pacific Fishery Management Council. We had substantial discussion about this protocol. I don't think we need to go through that discussion in any depth again. I would point out, though, that the Board, I thought, was making a very significant gesture to the Council about their intent and desire to work cooperatively with the Council to ensure that our two respective jurisdictions are managing fisheries in a way that's coordinated and compatible. I think that the Protocol sets up a process which will address in the future the kinds of concerns that have arisen around this table and with the public and the industry regarding the Board of Fish's actions with regard to P. cod in the Gulf of Alaska. Frankly I think that if we had had this Protocol in place prior to that action it would have done a lot to ensure that the Board and the Council were more aware of the actions the other body was taking and would have hopefully alleviated some of the problems or concerns that have arisen from that action. I would point out that during our discussion a number of items were brought up in terms of clarifying our intent here. For example, looking at the agreement on page two, the very first line says this agreement will be reviewed by the both the North Pacific Fishery Management Council and the Board of Fisheries and revised as necessary. I believe we had discussion that that revision is by approval of both parties to the Protocol. Certainly Counselor had concerns about, under item 3a, both NOAA General Counsel actually and the Alaska Department of Law, for different reasons, the second sentence in 3a, management measures shall be consistent with National Standards of the Magnuson-Stevens Act and the laws of the State of Alaska and all other applicable law and I think it was very clear that the intent was that it would be as appropriate. In other words, that it was the respective laws that applied to the respective bodies so that the Council is obviously not bound by the laws of the State of Alaska and similarly the Board of Fish is responsible for the laws of the State of Alaska and their regulatory constraints. So it's the respective laws for the different bodies. The one item that was brought to my attention by the Alaska Department of Law and I would imagine that NOAA General Counsel would concur with this, is in item B2, the second sentence reads, "The North Pacific Fishery Management Council will also review fisheries management proposals that it receives that could have impacts on State programs and forward such proposals to the Board of Fish for consideration at an appropriate Board of Fish meeting." That's for their consideration and for purposes of making comments and not necessarily to take formal action on those proposals. It's not appropriate for either agency to take formal action trying to implement the other's proposals necessarily, but the intent here I think is to provide that information to the respective agencies and the opportunity to provide comments or any information that they want to provide on those proposals for consideration by the other Board or the other Council. Similarly, I think that's also true for the use of the word "consideration" in item B3 with regard to items that would be forwarded to the Council. In closing, I would urge that the Council adopt this. I think that the spirit here is one of fostering cooperation between the two management jurisdictions, that it be done in a manner that recognizes the responsibilities and legal constraints and obligations of both bodies, but that it would go a long way toward ensuring that the management regimes within State waters and the management regimes within Federal waters are put together and run in a manner that is compatible and in a coordinated fashion so that it will be good for the industry and good for the resource. Thank you.

Barker: . . .Washington participated in the drafting of this Protocol in good faith. I think upon opportunity to reflect on this I'd have to agree with Mr. Benton that we were looking for a way to work better with the State, however I think Washington has some significant problems with the process and its interpretation of the legality of that for the Council to be involved as it is currently constructed. I see no delegation of authority to the Council to enter into agreements with individual states which will reduce the harvestable biomass within the FMP area. Such action conflicts with the fundamental role of the Council. Their role is to prepare FMPs and subsequent amendments to those FMPs; the Council is intended to function as expert advisors. The Council cannot promulgate regulations and it does not have independent authority. The Council's purpose is to assist National

Marine Fisheries Service and the Secretary of Commerce. The Council's actions of entering into an agreement with Alaska appears to conflict with the North Pacific Fishery Management Council's role and purpose. As such, the action conflicts with the authority delegated under the statute provided by the Magnuson Act. And, this appears to be in excess of the Council's statutory authority. Furthermore, we have concerns about violations of National Standards 2 and 4. Under National Standard 2, provides for conservation and management measures shall be based upon the best scientific information available. To reduce a TAC based upon an Alaska regulated harvest outside of the Gulf of Alaska area would not be using the best scientific information available. This is not speaking to P. cod but by further actions in the future. National Standard 4 provides that conservation and management measures shall not discriminate between residents of different states and that allocation of fishing privileges shall be fair and equitable to all fishermen. I don't see that this is necessarily going to occur. I think I would close with an alternate motion to table this until further notice.

Wally Pereyra (Council member): Second.

Lauber: O.K., motion to table normally, as you know, is not debatable. However, I've ruled that I'm going to allow it and it's been approved previously as a standing order; we do allow debate. However, the debate is limited to the motion to table. Any discussion on the motion to table?

Pereyra: I think there's probably agreement around the table here that we're trying to. . .some mechanism whereby we can facilitate better communication with the Board of Fish or whomever, the Halibut Commission even as far as that goes, to allow us to do a better job of managing the resources that are under our jurisdiction, particularly those that are covered under our FMPs for which we have responsibility. So, I think the motion to table is probably appropriate because I think by tabling it, it gives us a chance maybe to go back and revisit this Protocol and put it in a form that maybe is more consistent with that. . .that important premise, so I would like to see us support the motion to table.

Lauber: Just a second. Dr. Barker, in conference with the Parliamentarian, we're maybe assuming something from your statement. A motion to table usually is used just for a temporary thing, as it was properly used this morning to put it over until today. The proper motion would be to postpone indefinitely, so substitute that for.

..

Barker: I so amend my motion.

Lauber: So the motion is to postpone indefinitely, and it's been seconded. And the same rules regarding debate, as far as I'm concerned, apply. Any other debate on the motion?

Robin Samuelsen (Council member): I was also on that committee and I see it in a whole different light than. . . [transfer to Tape 44; some discussion lost]. . . pollock in State waters, to the fishermen that will fish them in State waters, the State could allocate 50%, 75%, of the cod to cod fishermen in State waters. That's the mess that we got in before. I thought it was the charge of the committee to go and try to find a means that that body and this body could sit down. I've spent quite a bit of time with the Board talking about this and even after they voted on it they had major problems with it. But the element of surprise of both regulatory agencies, they felt to keep peace in the valley they'd sign off on it and they so much as said that when they were here. So, if we're going to table this indefinitely and those that vote for it, come March when the Board of Fish starts deliberating on proposals in the Bering Sea I don't want to see hands go up and Oh, they can't do that--cause they damn well can because they're a sovereign state. And that's all I'm going to say. I'm going to be opposed to the motion; if we're going to play Russian roulette let's realize the circumstances.

Bob Mace (Council member): I'm having some problems here. I think we're debating the motion rather than the. . .if we're going to debate the motion I'd like to speak to it.

Lauber: Go ahead.

Mace: This is a very difficult call to make and I am not a part of the group that met at noon; I'm speaking for myself individually. In my view, two entities attempting to manage a fishery resource that crosses jurisdictional lines is very . . . I think it's inappropriate and inefficient. And I think the Council recognized that when they delegated responsibility for crab management to the State with some of the rockfish species in the Southeast and we're talking about scallops now, and so I think it's a situation that has to go both ways. I think the Council is best able and has the expertise to manage groundfish and that we should be delegated that responsibility as we did in the reverse action with crab to the State. And so I can't support this particular motion in the form that it is.

Lauber: You mean the postponing motion?

Mace: No, you said that we were really . . .

Lauber: I see; I just wanted to clarify because your debate went one way. . .

Ron Berg (Alternate for Council member Pennoyer): I can't support the motion to postpone either. Following the Board of Fishery meeting in Wasilla we sent the Council a letter expressing our concern about what appeared to us to be a real unilateral action on the part of the Board of Fisheries by taking an action without going back to the Council to at least inform, to find out what the impacts might be and so forth. Although we have good communication between Fish and Game and our office and we had an inkling what the results of these proposals might be, we heard recommendations for cod of around 10% and so forth, but the Board of Fisheries went 15 and 20 and 25 and we thought it was a type of action that was just too unilateral. We believe that there ought to be a line of communication here between the Board of Fisheries and the Council and so I won't support the motion to postpone.

Tillion: I don't think that we have any choice. I think that to declare war here is just going to make fisheries management that much more difficult. What you're notifying with this motion if it passes is that you are not going to deal with the Board of Fish. I do not think you can postpone and not have a civil war and I think it's not beneficial to the fish and it's not good management and it's suicidal in its direction if you. . .

Pereyra: Point of information. After this motion are we then going to debate the main motion?

Lauber: Yes.

Pereyra: O.K., fine, I'll shut up.

Lauber: I hope that it probably will be mostly exhausted by then, but . . .

Kevin O'Leary (Council member): Following up on Robin's comments, I would just say that the State has a clear right to manage fisheries within three miles. They've done that. The Protocol establishes a means by which we can effectively interact with future decisionmaking process. It doesn't bind the Board of Fish to act in accordance with the members of the North Pacific Council's delegation to the committee and they can still do what they want, but it at least provides us an opportunity to provide them information and our expertise on subjects where appropriate. It also, I don't think, it doesn't bind the Council in any way from making comment as to the appropriateness of the Board action when they take it. I mean, if we feel that the Board's out of line we can certainly make comment to that effect or if we don't like the result of it. We're talking about setting up a program that we have an opportunity to affect in a positive way and interact and if we don't go down this road the potential for disaster in terms of what the perception of the Board is and our ability to affect Board policy is sending us down a very slippery slope and while I can understand some of the concerns that the members from Washington have, I believe that from the tenor of the committee meeting that we had that we can. . . we got an awful lot done in a fairly short amount of time when we were working cooperatively. If we don't work cooperatively I think the results of that may be very unhappy for everybody involved.

Dave Fluharty (Council member): I think that it's really important that this not be seen as a shot across anybody's bow, as an indication of a lack of interest in working out an arrangement with the Board of Fish. I think that we've seen that and I can see why some people would interpret it this way, but I think that there is a legitimate question here about what we've done and the way we've structured this agreement. I don't know how to express it. I think that there are concerns that need to be resolved before the Council engages in this. We haven't truly examined the effect on staff tasking, for example, that could come from this. Even though we have a committee that's set up that would work on items of mutual concern, there's a concern that I have that we're essentially volunteering staff. We haven't agreed, for example, in the Protocol to make this analysis that gets done stand up to our FMP amendment process and I think that's kind of the crux of where I see us needing to do further work on this agreement, with the same intent to do cooperative work, but to make sure that we have done what we're expected to do with respect to FMP amendments and so that we can't be challenged that issues that have come up. The second part I think is somewhat along the lines that Mr. Mace was talking, that we are in a position through this to have groups coming before the Council, if they're not satisfied with the Council's action, going to the Board of Fish, and vice versa. I think we've seen some of that in this week's meetings. I think that the potential for that is bigger than many of us can imagine or are willing to accept. So I think that there's some serious issues that can be resolved. They're not things that should interfere with the basic idea of developing an arrangement with the Board of Fish with respect to management. And, I think I would go so far to even say if it's appropriate with the Board of Fish it may also be appropriate with other fish & wildlife commissions from other areas because of the kinds of interest that all of us have in this. So, that's the reason why I would be willing to support this to gain time to really reflect, to make sure that we do this right because this is going to set a pattern for interaction over a number of years.

Lauber: Any further discussion? Ready for the question. Call the roll.
 We're voting on the motion to postpone indefinitely the Benton motion on the Protocol.

Pautzke:	Behnken	No
	Benton	No
	Fluharty	Yes
	Mace	Yes
	O'Leary	No
	Berg	No
	Pereyra	Yes
	Samuelsen	No
	Tillion	No
	Barker	Yes
	Lauber	No

Pautzke: Failed.

Lauber: Yes, Mr. Benton?

Benton: Now we're at debate on the main motion, is that correct?

Lauber: That's right.

Benton: Thank you, Mr. Chairman. I would like to respond if possible to a couple of the statements that have been made here. First, with regard to National Standards 2 and 4 that were raised by Mr. Barker. I would just like to point out that this Protocol is a process protocol, it's not a substantive protocol. I think it's been said before. With regard to National Standard 2, and use of the best scientific available, I think that this actually furthers the ability of attaining National Standard 2 across the jurisdictional boundaries. Without this Protocol there will not be a formal mechanism for the Council and the Board to interact. If the proposals that are before the Board are presented to the committee and then Council subsequent to this Protocol, then that provides the

opportunity and the mechanism for the Council to provide both its management concerns and interests to the information about that to the Board, but also any scientific information that's developed by the SSC, by the National Marine Fisheries Service, and by other bodies that advise this Council on scientific matters and provide that information to us. With regard to National Standard 4, I just want to point out that again these kinds of issues of allocation between fishermen and between groups and classes of interests would be provided through this mechanism and without this mechanism there's no process to take care of that issue; it would be sporadic at best. This provides a formalized way to address those concerns and bring them to the Board under the auspices of the Council so that would actually in my mind ensure that those considerations in National Standard 4 are taken care of or taken into account by the Board. I would point out that in the State, fishermen from both Alaska and other states come and fish inside State waters, that we have a limited entry program too, it's been in place for a long time, much longer than anything that this Council's adopted, holders of permits under that limited entry program reside in not only Alaska but Washington, Oregon, and numerous other states from the United States. Certainly I think you should consider that when you consider the issues that are raised in National Standard 4 because I think the State's limited entry program probably qualifies just as well as anything else with regard to National Standard 4. I don't see where this Protocol, because it is establishing a procedure for communication and interaction between the Board and the Council, in any way diminishes the authority or role of this Council to execute its duties. In fact I think it probably extends and compliments our obligations and duties under the Magnuson Act by ensuring that the actions that we take are based on the best information attainable and provides a mechanism for us to get that information from the Board on things that are going on in State in waters and management decisions that they're going to make. If we don't have this Protocol that information's not going to be available to the Council in a systematic way. So I guess I would just emphasize that this Protocol, I think, represents a major gesture by the State of Alaska and by the Board of Fisheries to try to work with this Council and all of its constituent groups and while Mr. Fluharty has said that it's not a shot across the bow, the apparent interest here is, at least demonstrated to me, that there's not that much interest in working with the State by rejecting a protocol such as this which is just a procedural protocol, it's not a substantive protocol.

Behnken: Just briefly speaking to the motion, I think this Protocol in front of us has been very carefully crafted. A lot of respect, appreciation for the work that went into it from the people who served on the committee and from the people who actually worked on the wording. I don't see it as a commitment to joint management so much as a commitment to communication, to sharing information, and to preventing the kind of unilateral action that caused these problems with Pacific cod. I think that unless we have this kind of agreement, that's what we're going to see. We're going to see groups playing one management body off the other. But with this agreement we can prevent that. We can head those kind of things off. I realize that there's some sort of tender issues here with State rights, but I think that unless we have this kind of agreement, really what's going to suffer is the resource and that's got to be our first concern and first commitment.

Fluharty: I think we've moved a long way from where we were in the December meeting when we got the group together. I don't think that we're quite there yet. Just an example of what my concern is, in terms of the FMP and the use of best available information, the Council must specify the alternatives that it is considering and it must evaluate those using best available information and there is a process and that is a Council process that's been used to resolve many of the same kinds of issues including those in State waters in the past. And so I guess what I'm seeing is, in the Protocol I don't see how the Council is assured that the decision that it makes or the discussion that we have obviously is not even necessarily a plan amendment at the time we're talking. We wouldn't have time to process one according to our procedures during the same time frame that we're talking about, and the Board of Fish is obviously, with respect to their jurisdiction, is not constrained by the same kinds of constraints that we have on the options that it considers. I won't say that we can only expect that the same kind of decision will pop out that we found with Pacific cod this last time, and that communication won't go a long way toward resolving those kinds of things, but there is a process. It's an FMP process; it has worked in the past, we don't need to substitute or to confuse Council activity and Board activities. I think that we can work something out so that we actually can work together. I have in mind a process that's closer to the Council process in terms of the way we reach an end result.

Samuelson: I think I finally understand where they're coming from. Mr. Berg, if we developed an FMP for cod in Gulf of Alaska and decided to delegate a certain percentage to the State, when would NMFS step in and, let's say we decided to give them 50% of the cod in the Gulf in State waters, and they're up at 65%, when would NMFS come in and preempt the State? I mean, that's what we're talking about; let's not make any bones about it. That's exactly what we're talking about.

Berg: I'm not going to be able to answer that. But, . . .

Lauber: Mr. Berg, no Council member is compelled to answer any question, and you just happened to be next, anyway, so go ahead and have the floor.

Samuelson: Well, since you can't answer my question, I don't think that there is anything we can do with an FMP if the State decides to have a fishery in its State waters. In 1992 we received our first letter from the small boat fishermen in the State. At that time we told them to go to the Board of Fish, we didn't have time, we had bigger fish to fry; it was low on our priority. They went to the State. I agree with Mr. Fluharty. The correct thing would have been for us to sit down, address their concerns, put it through the process, develop an FMP, give a direct allocation to the State and say here you are, go manage the fishery, you've got your fishery. But that didn't happen. We're a day late and a dollar short. And to think that an FMP is going to work on cod in the Gulf, we're kidding ourselves. And if we don't have an agreement before us and we're going to snub our nose at the Board of Fish, and by the way this agreement is a working document. We both agreed, and I want to thank Clarence for doing such a good job putting basically all of this document, most of the points in here on, because the Board of Fish came with their document, we came in with our document that Clarence wrote and we worked off Clarence's document. So I think the end result, you should realize it's not carved in stone. It's a working document, a communication document between the Board of Fish and the Council and it's for the conservation of the resource. That was our number one priority that we both agreed on and if we don't sign this document and snub our nose to the Board of Fish, after they reluctantly passed this agreement, because they have some major problems with it, but to keep, like I said earlier, to keep peace in the valley, they voted, 7 of them, to sign off on it. I'm looking forward to March. I might have to attend that Board of Fish meeting and like I said earlier, if major percentages come out of the Bering Sea because of our inaction to ship a message to the Board of Fish that, yes, we want to sit down. What we say doesn't bind you, what you say doesn't bind us, but we need to share the information because we're both managers of a highly migratory resources that's going in and out of our jurisdictional areas. And that's all I think we're trying to say here.

Lauber: It's kind of out of order, but Ms. Lindeman had her hand up. She may have something. . .

Lindeman: I just wanted to clarify one point because people have mentioned specifying a percentage in the groundfish FMP that you would then allocate to the State. The Council doesn't have the authority. . .you could set aside a percentage, but that wouldn't be binding on the State because you don't regulate inside State waters. O.K.?

Lauber: So, if we gave him 50 and they took 60, then they'd have 60.

Lindeman: They would have 60 unless the Secretary found that that 60 or some percentage . . . O.K., the preemption.

Lauber: I understand that. O.K., now we'll go back to the list. Mr. Berg.

Berg: A short response to Robin's question. I'm sure there's some measures out there that conflict with the goals and objectives of the Council's FMP, but I'm not going to say that this particular cod allocation . . .one of those. But I think the Protocol, getting back to that particular issue, I think it's sound policy and I think we don't view this Protocol as diminishing or extending the jurisdiction of either the State or the Council in either of their respective management boundaries. I think it does open up good lines of communication which is the intent of

the Protocol, which we would have been better off if it had been in effect prior to the Wasilla meeting. But, it's sound, I believe, and I'm going to support it.

Tillion: It's pretty hard when you've felt omnipotent for a number of years. We've been in charge of all the groundfish from the Japanese days and we started thinking that it was our God-given right. But the reason that we're facing this problem with the groundfish, the cod, is our own doing. We did it. We didn't take any action to protect the small-boat fleet that had been fishing along the coast. Four years ago, 12 trawlers came into the Gulf of Alaska and in 21 days took the cod quota and shut all our vessels down. Some of them never got going again. And if you think there's any sympathy from those that have been wiped out by our failure to take any action, it's not there. Last year our small-boat ITQ fleet was forced to throw over the rockfish and the codfish that they had caught even though we had passed one that said they were not to do so, because NMFS, through a mistake of one sort or another, had allowed an overharvest in another segment of the fleet. You can't explain this to the little guy sitting ashore who suddenly has a market for his fish and he knew he'd been cut bycatch; that's not what he thought he was going to have, but he could live with that; he had his markets. Suddenly it was taken away from him; his ITQs weren't as good as he thought they were. I'll tell you what. We did it. The Board took the only action they could take considering the way their people were being hammered due to our incompetence and now you don't want to deal with the outfit that you forced the fishermen to go to and what you're doing if you turn this down is saying to them, no, we'd rather fight with you and hope you do something that allows you to preempt the State. We're not going to preempt the State. There's enough of us on here that feels the Board of Fish, though I'd rather have done it here than have them do it, is doing the only thing they could do considering our inaction on this Council. So, now to not accept an agreement that at least allows us to talk with the Board who is closer to these little guys than we are obviously just means that we go blind to each meeting. And we'd better have some agreement, and the Board's going to meet in two weeks and if you think you can turn this down and not have that as an outright declaration of war, well, you're kidding yourself. If I was one of their members, in fact sitting here, I'd think it was a declaration of war. I think we have no choice but to sign this agreement, talk it over with the Board; it's not binding on us if we think that what they did is outright wrong for the biological resource itself we can take a different action. But right now I don't see that we have any choice but to sign this; we should sign it.

Pereyra: I have a little different view of the world, I guess, than others, as usual. I'm surprised to hear all of this admonition against us for not having taken action. I don't recall us ever having any kind of debate on providing some sort of an allocation formula in the Gulf of Alaska like we did in the Bering Sea to take those concerns into consideration. Certainly in the Bering Sea we did. We amended the FMP for the Bering Sea plan and we even went so far as to provide a 2% allocation for jig boats. And, I beg to differ with some of the previous comments, but the reason I wanted to say a few words is my concern in the Protocol comes in sort of a generic thing. I read this Protocol and the impression that I get is that what we're entering into is a co-management agreement. It's not a cooperative agreement. And I'm not opposed to having further dialogue with the State Board of Fish. I'm encouraged in having more dialogue. I want to see us have as much dialogue as necessary to make certain that we have coordinated understandings as to what the management requirements are going to be. If you go and look at this Protocol in detail, on item 3A, it talks about management measures shall be consistent with the National Standards of the Magnuson-Stevens Act" -- I can buy into that; and with the laws of the State of Alaska." I can't agree to a protocol that's going to require that my management measures be consistent with those of the State of Alaska; that's what it says here. Secondly, B1, it talks about the Council [Change to Tape 45] and the Board of Fish endeavoring to coordinate their proposed schedules to the greatest extent practical. I can't agree to a protocol that's going to require me to agree to some sort of schedule which is going to void some of the standards that we have in our process, some of the FMP standards. The EA/RIR process, it's very, very critical to our whole management cycle that we go through. This binds me into considering something that would go beyond that. In number 4, B4, it talks about in December the Council will review the stocks assessments, acceptable biological catch and harvest limits, consider proposals and other information received from the Board of Fish and task the staff with developing a discussion paper on potential impacts of the proposal if adopted. By whom, the Board of Fish? That's something that we certainly can't be responsible for. Number 5, it talks about final action of the Board of Fish will occur at their next groundfish meeting. This is before we've ever had any chance at all to get

involved in any kind of an EA/RIR. So, this is a co-management proposal on those issues that are of mutual concern and I beg to differ and I think that that is not consistent with the Magnuson Act and I can't support it for that reason. This isn't to fire a shot across the Board of Fish's bow, by a long shot. I want to work with them as much as we can.

Mace: I think differences of opinion are the spice of life and we certainly have them here, we have very diverse interests. But, this Council operates on the basis of majority rule and if our intent is to get 11 votes for this, I don't think that's going to happen. I know that you're going to get 7 votes for it, I'm pretty confident of that. And as far as I'm concerned as a Council member, I live on the basis of majority rule and as we go down the road I may have a lot of objections come along; I've already stated the ones that come to mind at the present time, but unless we've got some specific recommendations to change this, and I don't see much merit in going through that exercise now, I think we ought to vote on the issue. I know how it's going to come out.

O'Leary: Just one brief comment, Mr. Pereyra. When we were going through this, I don't think we went through this process with the idea that we were giving up our rights or they were giving up their rights. The way this sort of time schedule was laid out was an attempt to provide information in a timely manner back and forth in their decisionmaking process and our decisionmaking process. It wasn't laid out with an eye to preempting our decisionmaking process with regard to where our jurisdiction lies, or theirs. It was simply to reflect the realities of how the two processes work and how we could best affect each other's process with usable information.

Fluharty: I guess I agree with Mr. Mace. I don't know that we'll necessarily resolve all issues here and get a consensus on this document. I do think it's important, though, to be asking what is the communication problem that we're trying to solve. Because we have a regional council that's set up here and in everything that I've heard, and in the way that we've seen the Council acting, we do have a planned dominance by Congress of votes that represent this region that is served by the Board of Fish and I think that if the Council has deviated from the true concerns of citizens in Alaska, and it's very possible that we haven't paid enough attention, and it's my responsibility as much as it's someone who represents a constituency in Alaska to pay attention to this. I think that that may be a problem that we ought to look at our procedures and the way that we interact, but I don't see that that. . . I mean we could take the P. cod as a shot across our bow in terms of the way that we operate and re-work the way the Council works to accommodate more interests and to be more sensitive to these interests within our own set of procedures. So I see at least two major approaches: the protocol which we've endeavored to use, and our own procedures with modifications that would achieve the same result and I think that we've only considered one of these and I would ask that we in the meantime would look at both of them.

Lauber: Further discussion? Ready for the question. Call the roll on the motion, which is approval of the Protocol.

Pautzke:	Benton	Yes
	Fluharty	No
	Mace	No
	O'Leary	Yes
	Berg	Yes
	Pereyra	No
	Samuelsen	Yes
	Tillion	Yes
	Barker	No
	Behnken	Yes
	Lauber	Yes

Pautzke: Pass.

[Break]

Lauber: We're still under agenda item D-2. Mr. Benton?

Benton: Continuing on this agenda item, during the discussions that we had with the Board of Fish, a number of items came to light that probably should be put in the purview of the committee established by the Protocol. Again, we had quite a discussion about that, what those items would be, and some concerns that both the Board and the Council had. So, Mr. Chairman, I would move that we assign to the joint Board and Council workgroup, or committee, whatever we call them in this Protocol, the following issues as an initial assignment for their work. One, would be to review the concerns raised by the Advisory Panel, the Council, and that have been raised through public testimony regarding the allocation of Pacific cod in the Gulf of Alaska that was made by the Board of Fish. And, two, to review the schedules that were identified in the Protocol to ensure that they are indeed compatible with each other, between the Board of Fish and the Council process. And, three, to work on the definitions that are identified in the Protocol for the words "impacts" and "mutual concern" and any other definition they may feel need to be addressed. If I have a second I'll speak to that.

Behnken: Second.

Benton: With regard to the definitions, I think those are identified in the Protocol; we did have a discussion about them. I think that the committee with short deliberations can probably help us define, or put some definition around these terms and any other terms that the committee believes are appropriate and provide us with recommendations. With regard to the schedule, I think that the Council identified for the Board some possible scheduling issues and in particular the schedule for this calendar year and any actions the Board may be taking on groundfish allocations, but most specifically any action or information the Council wants to provide the Board with regard to the P. cod allocation in the Gulf of Alaska, any subsequent action the Board may take on that allocation, if they choose to review it, and that warrants some relatively quick action by the committee and the Council and a little bit out of phase with the schedule that's in the Protocol. But I believe they're going to review that schedule as well as just the long-term schedule. And then, with regard to the P. cod allocation, Mr. Chairman, we have received substantial amounts of public testimony, both at this meeting, the joint meeting and in previous meetings about the allocation of P. cod that the Board made. We have, I think, identified some management issues which the Board did not have before them, and I think that the Board was interested and willing to hear from the Council on this through the committee process. So I think that this would be a good work assignment for the committee. I would encourage us to think about receiving a report from the committee, perhaps by our April meeting, certainly no later than our June meeting, in order to be in sync with the Board process for their fall meeting and their need for making agenda change requests to take up any issues we want them to.

Pautzke: For clarification, did I hear you say that sometime really soon they might be reviewing the cod issue and so we need to get this committee together to talk about things, or are we looking at something in the fall for this?

Benton: In the fall. But in order to do that, I believe that the committee needs to meet and review these issues and probably provide the Council with some guidance either by the April, but no later than I would assume the June meeting so that we can take action on it in order to meet their deadlines for agenda change requests to take that issue up in the fall.

Fluharty: I would like to propose a, what I hope is a, friendly amendment to the list that Mr. Benton provided. The reason I do this comes out of the ecosystems committee where we're looking at what is called essential fish habitat. I know this is early on the Council agenda as well, but it does seem that this is an issue particularly with what the Magnuson Act says about the need for Councils must comment on anadromous essential fish habitat, and the question that we have about the cross-jurisdictional relationships between State waters and Federal waters in defining what is essential fish habitat. So it might be useful to put this on the agenda to bring them up to speed on what's going on and to see how they might like to participate and work with us because there's obviously a pretty significant set of issues here that are I would think of mutual interest.

Benton: I'd take that as a friendly amendment, Mr. Chairman.

Lauber: Any further discussion on the motion? Ready for the question? Is there any objection to the motion?
Hearing none, it passes. [Pereyra out of room for the vote.]

End of this discussion.