

Public Testimony Sign-Up Sheet

Agenda Item D-6 Staff Tasking

needs to be @ 10:30

	NAME (PLEASE PRINT)	AFFILIATION
1	Stephen Taufen	Groundswell Fisheries Movement
2	Chuck McCallum	Lake and P&L. Bor.
3	Tony Veroni	"Crows" - Crewmen
4	Dave Fraser	Adak home owner
5	Gene LeDoux	Skipper - Crab
6	Julia Benney	A-G-B
7	Tare Wood	U.S. Ecofoods
8	Heather McCarty	CBSIFA
9	Chris Krenz	Oceana
10	ALEXUS KWACHKA	SELF
11	Dorothy Childers	Amic
12	TREVOR BROWN	KODIAK CHAMBER
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *Chris*
Executive Director

DATE: May 29, 2008

SUBJECT: Staff Tasking

ESTIMATED TIME
4 HOURS

ACTION REQUIRED

- (a) Review tasking and committees and provide direction.
- (b) Review PSEIS priorities workplan.
- (c) Receive report on improving AK native/community/stakeholder participation.

BACKGROUND

- (a) Committees and Tasking.

The list of Council committees is attached as Item D-6(a)(1). Item D-6(a)(2) is the three meeting outlook, and Item D-6(a)(3) and Item D-6(a)(4) respectively are the summary of current projects and tasking. In addition, the Council received a letter from the Unalaska/Dutch Harbor Fish and Game Advisory Committee requesting the Council to consider establishing a pollock trawl closure area in Unalaska Bay (letter attached as supplemental). The Council may wish to discuss tasking priorities to address these projects, as well as potential additions discussed at this meeting, given the resources necessary to complete existing priority projects.

- (b) Review PSEIS priorities workplan.

Consistent with the goals of adaptive management, the Council annually reviews its groundfish management policy. The Council's groundfish policy, including the approach statement and objectives, is attached as Item D-6(b)(1). It was adopted by the Council in 2004 following a comprehensive programmatic review of the fisheries.

The Council has developed a workplan to guide the full implementation of that policy in the management of the fisheries. This workplan was last revised by the Council in February 2007, and is attached Item D-6(b)(2). The Council reviews the status of this workplan at each meeting, and the status update is attached as Item D-6(b)(3).

At this meeting, the Council is scheduled to review the objectives and workplan, and if appropriate, make any changes. While changes to the workplan can be made at any time, changes to the objectives require an FMP amendment. It is worth noting, however, that the time for refreshing the programmatic groundfish FMP SEIS is beginning to approach, so any major changes in the FMP policy or objectives could appropriately be folded into that process, in due course.

To assist with your review, a brief report on the Council's progress on implementing the workplan is attached as **Item D-6(b)(4)**. The Council has discussed in the past the possibility of issuing a call for proposals focusing on the groundfish workplan. The Council may wish to take this into consideration at this meeting.

(c) Alaska Native, Community Outreach, and Stakeholder Participation.

At this June meeting, the Council is scheduled to review a revised discussion paper (attached as **Item D-6(c)(1)**) and have a more in-depth discussion of Alaska Native and community outreach and stakeholder participation. The intent of this effort is to develop an overall process for increasing community and Alaska Native participation during the development of fishery management actions, pursuant to the Council's workplan priority in the Programmatic SEIS. Two sets of approaches are discussed in this regard: 'ongoing' and 'project-specific' consultation. Ongoing consultation denotes a regular and consistent method of communication that is undertaken regardless of any particular proposed management action. The paper describes several of the ideas proposed under both approaches, with a particular focus on two ongoing approaches that were of interest to the Council in prior meetings: 1) a standing Council committee of Alaska Native and rural community representatives, which would meet on a regular basis to review Council issues; and/or 2) providing funding for one or two Council and staff members to travel to Alaska Native and rural communities to discuss ongoing issues.

The paper also highlights the Arctic FMP outreach plan to consult with Arctic and northwest communities and Native entities as an example of the type of project-specific approach that could be formally approved by the Council. The steps outlined in the project-specific approach, combined with ad-hoc committees as necessary, may allow for more focused, meaningful, and consistent consultation and collaboration with community and Native entities compared to the status quo, and thus make broad improvements relative to the Council's workplan priority in the PSEIS.

The intent is that a protocol will eventually be developed to expand both ongoing and project-specific consultation, as well as a process to document such activities. At this meeting, the Council may be in a better position to determine how to make further progress on these issues. The Council could take action at this June meeting to initiate one or more of these concepts, and/or it could task staff to develop a more focused discussion paper on one or two of the ideas the Council would like to further explore. Alternatively, the Council could initiate a small committee of a few Council members, similar to current efforts by the Gulf of Mexico Fishery Management Council, that can use a deliberative process to make recommendations to the whole Council on how to improve outreach and consultation efforts. Note also that the Council previously stated that it would like to reserve time on each June agenda for an update of these issues.

Tribal consultation is also the topic of a recent letter sent from Kawerak, Inc., to NMFS (**Item D-6(c)(2)**) and a subsequent letter to the Council dated May 26 (**Item D-6(c)(3)**). Kawerak, Inc., is an Alaska Native non-profit corporation providing social, educational, and economic services to residents of the Bering Straits region, the Board of Directors of which represents twenty Federally-recognized tribes. The letter and attached resolution detail concerns with the need for NMFS and the Council to conduct tribal consultation in relation to the BSAI salmon bycatch management action and the potential subsistence impacts of the Bering Sea pollock fishery.

Since receiving this letter, Chris Oliver contacted Robert Keith (Chairman, Kawerak, Inc.) to assure him that the letter was received and that the Council and NMFS are assessing how best to incorporate tribal consultation during the development of the salmon bycatch analysis. Mr. Oliver noted that it continues to be the Council's understanding that it is NMFS' legal obligation to undertake formal government to government consultation with Federally-recognized tribes, but that regardless, the Council intends to solicit and obtain as much input as possible on the salmon bycatch proposal from Alaska Native entities and other affected entities. In addition, as described above, the Council is currently developing an expanded outreach plan relative to its programmatic workplan priority, with the specific intent of improving participation and consultation with community and Alaska Native entities.

NPFMC Committees & Workgroups
(Revised May 29, 2008)

Council/Board of Fisheries Joint Protocol Committee

Updated: 8/10/07	Council: Dave Benson Sam Cotten Gerry Merrigan	Board: Larry Edfelt John Jensen Mel Morris
Staff: Jane DiCosimo		

Council Coordination Committee

[Designated and renamed by Magnuson Act reauthorization April 2007]

Appointed: 4/05 Updated: 8/10/07	CFMC: C: Eugenio Pinerio ED: Miguel Rolon	NPFMC: C: Eric Olson ED: Chris Oliver
	GMFMC: C: Tom McIlwain ED: Wayne Swingle	PFMC: C: Donald Hansen ED: Don McIsaac
	MAFMC: C: W. Peter Jensen ED: Dan Furlong	SAFMC: C: George J. Geiger ED: Robert Mahood
Staff: Chris Oliver	NEFMC: C: John Pappalardo ED: Paul Howard	WPFMC: C: Sean Martin ED: Kitty Simonds

Council Executive/Finance Committee

Updated: 8/10/07	Chair: Eric Olson Doug Mecum (NMFS)/Sue Salveson Dave Hanson Denby Lloyd (ADFG)/ Earl Krygier Roy Hyder Jeff Koenings (WDF)/Bill Tweit
Status: Meet as necessary	
Staff: Chris Oliver/Dave Witherell/Gail Bendixen	

Bering Sea Crab Advisory Committee

Appointed 4/25/07	Sam Cotten, Chair	Lenny Herzog
Revised 11/15/07	Jerry Bongen	Kevin Kaldestad
	Steve Branson	Frank Kelty
	Florence Colburn	John Moller
	Linda Freed	Rob Rogers
	Dave Hambleton	Simeon Swetsof
	Phil Hanson	Ernest Weiss
Staff: Mark Fina	Tim Henkel	

NPFMC Committees & Workgroups
(Revised May 29, 2008)

Bering Sea Salmon Bycatch Workgroup

Appointed: 3/07	Stephanie Madsen, Co-chair Eric Olson, Co-chair John Gruver Karl Haflinger Jennifer Hooper	Paul Peyton Becca Robbins Gisclair Mike Smith Vincent Webster (BOF)
Staff: Diana Stram		

Crab Interim Action Committee
[Required under BSAI Crab FMP]

Doug Mecum, NMFS Denby Lloyd, ADF&G Jeff Koenings, WDF
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Ecosystem Committee

Updated: 8/10/07	Chair: Stephanie Madsen Jim Ayers Sue Salveson/Jon Kurland Dave Benton Doug DeMaster Dave Fluharty John Iani
<u>Status</u> : Active	
Staff: Chris Oliver/David Witherell/Diana Evans	

Enforcement Committee

Updated: 7/03	Chair: Roy Hyder LCDR Lisa Ragone, USCG James Cockrell, F&W Protection Bill Karp, NMFS Earl Krygier, ADF&G Lisa Lindeman, NOAA-GC Jeff Passer, NMFS-Enforcement Sue Salveson, NMFS
<u>Status</u> : Active	
Staff: Jon McCracken	

Fur Seal Committee

Updated: 8/10/07	Chair: David Benson Larry Cotter Aquilina Lestenkof Paul MacGregor Heather McCarty Anthony Mercurief
<u>Status</u> : Active	
Staff: Bill Wilson	

NPFMC Committees & Workgroups

(Revised May 29, 2008)

GOA Groundfish Rationalization Community Committee

Appointed: 11/04 Staff: Nicole Kimball	Chair: Hazel Nelson Julie Bonney Duncan Fields Chuck McCallum	Patrick Norman Joe Sullivan Chuck Totemoff Ernie Weiss
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Halibut Charter Stakeholder Committee

Appointed: 1/06 Revised: 11/5/07 Staff: Jane DiCosimo	Chair: Dave Hanson Seth Bone Robert Candopoulos Ricky Gease John Goodhand Kathy Hansen Dan Hull	Chuck McCallum Larry McQuarrie Rex Murphy Peggy Parker Charles "Chaco" Pearman Greg Sutter
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IFQ Implementation Committee

Reconstituted: 7/31/03 Updated: 8/10/07 Staff: Jane DiCosimo	Chair: Jeff Stephan Bob Alverson Julianne Curry Tim Henkel Dennis Hicks Don Iverson	Don Lane Kris Norosz Paul Peyton <i>*Vacancy (1)</i>
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Non-Target Species Committee

Appointed: 7/03 Updated: 8/10/07 Staff: Jane DiCosimo, NPFMC/ Olav Ormseth, AFSC	Chair: Dave Benson Julie Bonney Ken Goldman Karl Haflinger Simon Kinneen Michelle Ridgway	Janet Smoker Paul Spencer Lori Swanson Jon Warrenchuk Dave Wood
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Observer Advisory Committee

Reconstituted: 1/06 Updated: 12/07 <u>Status</u> : Active Staff: Chris Oliver/ Nicole Kimball	Chair: Joe Kyle Bob Alverson Christian Asay Jerry Bongen Julie Bonney Todd Loomis Paul MacGregor	Tracey Mayhew Brent Paine Peter Risse Kathy Robinson <i>*Vacancy (2)</i>
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NPFMC Committees & Workgroups

(Revised May 29, 2008)

Pacific Northwest Crab Industry Advisory Committee

<p>Appointed: 2/07</p> <p>Staff: Diana Stram</p>	<p>Chair: Steve Minor Keith Colburn Lance Farr Phil Hanson Kevin Kaldestad Garry Loncon Gary Painter</p>	<p>Rob Rogers Vic Sheibert Gary Stewart Tom Suryan Arni Thomson, Secretary (non-voting)</p>
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Socioeconomic Data Collection Committee

<p>Appointed: 12/07</p> <p>Staff: Mark Fina</p>	<p>Glenn Reed (Chair) Bruce Berg Michael Catsi Dave Colpo Paula Cullenberg</p>	<p>Brett Reasor Ed Richardson Mike Szymanski Gale Vick</p>
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Steller Sea Lion Mitigation Committee

<p>Appointed: 2/01 Updated: 8/10/07</p> <p>[formerly SSL RPA Committee; renamed February 2002]</p> <p>Staff: Bill Wilson</p>	<p>Chair: Larry Cotter Jerry Bongen Julie Bonney Mel Morris John Gauvin John Henderschedt Daniel Hennen Sue Hills</p>	<p>Frank Kelty Terry Leitzell Dave Little Steve MacLean Stephanie Madsen Max Malavansky, Jr Art Nelson Beth Stewart</p>
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VMS Committee

<p>Appointed: 6/02</p> <p><u>Status</u>: Idle, pending direction</p> <p>Staff: Jane DiCosimo</p>	<p>Chair: Earl Krygier Al Burch Guy Holt Ed Page LCDR Lisa Ragone Lori Swanson</p>
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DRAFT NPFMC THREE-MEET OUTLOOK - updated 5/21/08

June 2, 2008 Kodiak, AK	September 29, 2008 Sheraton Hotel , Anchorage, AK	December 8, 2008 Hilton Hotel, Anchorage, AK
<p>Permit Fees: Discussion Paper GOA Rockfish Pilot Program Review: Report CGOA Rockfish EFP, Phase 1: Receive Report GOA fixed gear LLP recency: Initial Review GOA P cod sector split: Initial Review</p> <p>GOA sideboards for BSAI crab vessels: Initial Review</p> <p>GOA sideboards re GOA rockfish: Initial Review GOA sideboards for AFA CVs: Initial Review</p> <p>BSAI Crab Issues: 90/10 analysis update/Committee Rpt BSAI Crab Loan Program Fees: Initial Review/Final Action</p> <p>Am 80 sector cooperative criteria: Discussion paper</p> <p>Halibut Subsistence Rural Definition: Initial/Final Action</p> <p>Halibut Trawl Excluder EFP results: Report</p> <p>BSAI Chinook Salmon Bycatch EIS: Initial Review</p> <p>GOA Crab and Salmon Bycatch: Discussion paper</p> <p>Arctic FMP: Preliminary Review (Council only)(T) BS Habitat Conservation Gear Mods: Progress Report (T) VMS Exemption for Dinglebar Gear: Final Action</p> <p>4E Seabird Avoidance Measures: Final Action BSAI Crab OFL: Plan Team Report; Prelim SAFE report Other Species Mgmt: Committee Report; Action as nec. Research Priorities: Review and Adopt PSEIS Priorities: Review workplan Outreach/Stakeholder Participation: Report</p>	<p>SSLMC Report and Recommendations SSL dEIS: Select Prelim. Preferred Alternative SSL draft status quo BiOp: Review and Comment Permit Fees: Initial Review (T)</p> <p>Comprehensive Data Collection: Committee Report GOA fixed gear LLP recency: Final Action GOA P cod sector split: Final Action BSAI fixed gear parallel fisheries: Discussion Paper GOA sideboards for BSAI crab vessels: Final Action GOA sideboards re Am 80 PSC: Initial Review (T) GOA sideboards re GOA rockfish: Final Action GOA sideboards for AFA CVs: Final Action (T) AI Processor Sideboards: Initial Review (T)</p> <p>BSAI Crab 90/10 Amendment: Prelim. Review BSAI Crab 3-year review: Receive Report BSAI Crab St. George Protection: Final Action BSAI Crab EDR: Metadata & PNCIAC report Halibut/Sablefish IFQ 12 month skipper: Initial Review (T) Charter Halibut Catch Sharing Plan: Final Action</p> <p>CDQ Program: Update on Oversight Regulations</p> <p>BSAI Chum Salmon Bycatch: Discussion Paper</p> <p>Arctic FMP: Initial Review</p> <p>P. Cod area split (BS/AI): Update & Action as necessary</p> <p>BSAI Crab SAFE Report: Review and Approve Other Species Mgmt: Action as necessary</p> <p>Groundfish SAFE Report and Specifications: Initial Action</p>	<p>Permit Fees: Final Action (T)</p> <p>GOA sideboards re Am 80 PSC: Final Action (T)</p> <p>AI Processor Sideboards: Final Action (T)</p> <p>BSAI Crab 90/10 Amendment: Initial Review (T)</p> <p>Halibut/Sablefish IFQ 12 month skipper: Final Review (T) Observer Program: Discussion paper</p> <p>CDQ Program: Action as necessary</p> <p>BSAI Chinook Salmon Bycatch EIS: Final Action (T)</p> <p>Arctic FMP: Final Action</p> <p>Groundfish SAFE Report and Specifications: Final Action</p>

AI - Aleutian Islands
 GOA - Gulf of Alaska
 SSL - Steller Sea Lion
 BOF - Board of Fisheries
 FEP - Fishery Ecosystem Plan
 CDQ - Community Development Quota
 VMS - Vessel Monitoring System
 NOI - Notice of Intent
 (T) Tentatively scheduled

TAC - Total Allowable Catch
 BSAI - Bering Sea and Aleutian Islands
 IFQ - Individual Fishing Quota
 GHl - Guideline Harvest Level
 EIS - Environmental Impact Statement
 LLP - License Limitation Program
 SAFE - Stock Assessment and Fishery Evaluation
 PSC - Prohibited Species Catch
 HAPC - Habitat Areas of Particular Concern

Future Meeting Dates and Locations

June 2- , 2008 in Kodiak
 September 29- , 2008 in Anchorage
 December 8- , 2008 in Anchorage
 February 2 - , 2009 in Seattle
 March 30 - , 2009 in Anchorage
 June 1- , 2009 in Dutch Harbor
 October 1, 2009 in Anchorage, THURSDAY start, Council starts Saturday

Project timeline and major tasking for Council analytical staff. Updated 5/21/08							
Analytical Staff	June	July	August	September	October	November	December
Mark Fina, Sr. Economist CGOA Rockfish Program review BSAI crab 3 yr review BSAI Crab 90/10 package BSAI crab St George protection measures	Report				Report Prelim review Final Action		Initial Review
Jon McCracken, Economist BS&AI Pcod area split AI Processor Sideboards GOA sideboards for BSAI crab vessels GOA Sideboards: Am80	Final Action				Initial Review Initial Review		Final Action Final Action
Jeannie Heltzel, Fishery Analyst GOA P.cod sector split GOA fixed gear recency Fishery analyses assistance Data mgmt., AKFIN Liaison	Initial Review Initial Review				Final Action Final Action		
Jane DiCosimo, Sr. Plan Coord Halibut Charter allocation/compensation Halibut Subsistence Eligibility Halibut/sablefish 12 mo. hired skipper Other Species- BSAI Skates	Final Action			Groundfish PT 9/22-24	Final Action		Final Action
Diana Stram, Plan Coordinator BSAI Chinook Salmon bycatch EIS BSAI Chum Salmon bycatch GOA crab and salmon bycatch Scallop management Crab Overfishing Def./Management	Initial Review discussion paper PT Report/OFLs			Groundfish PT 9/22-24 PT 9/15-18	discussion paper SAFE Report		Initial Review Initial Review (T)
Bill Wilson, Protected Species Arctic FMP Marine Mammal issues Seabird Bycatch FMP Consultation	Prelim review Final Action				Initial Review		Final Action
Diana Evans, NEPA Specialist EAM and AI FEP VMS exemption for dinglebar gear GOA Sideboards: Rockfish Program NEPA assistance	Final Action Initial Review	AMEF meeting		FEP team meeting	Final Action		
Nicole Kimball, Fishery Analyst CDQ Projects Observer Program Community issues/assistance Halibut charter moratorium & community issues	Discussion paper				discuss oversight discussion paper		

2.2 Management Approach for the BSAI [GOA] Groundfish Fisheries

The Council's policy is to apply judicious and responsible fisheries management practices, based on sound scientific research and analysis, proactively rather than reactively, to ensure the sustainability of fishery resources and associated ecosystems for the benefit of future, as well as current generations. The productivity of the North Pacific ecosystem is acknowledged to be among the highest in the world. For the past 25 years, the Council management approach has incorporated forward looking conservation measures that address differing levels of uncertainty. This management approach has in recent years been labeled the precautionary approach. Recognizing that potential changes in productivity may be caused by fluctuations in natural oceanographic conditions, fisheries, and other, non-fishing activities, the Council intends to continue to take appropriate measures to insure the continued sustainability of the managed species. It will carry out this objective by considering reasonable, adaptive management measures, as described in the Magnuson-Stevens Act and in conformance with the National Standards, the Endangered Species Act (ESA), the National Environmental Policy Act, and other applicable law. This management approach takes into account the National Academy of Science's recommendations on Sustainable Fisheries Policy.

As part of its policy, the Council intends to consider and adopt, as appropriate, measures that accelerate the Council's precautionary, adaptive management approach through community-based or rights-based management, ecosystem-based management principles that protect managed species from overfishing, and where appropriate and practicable, increase habitat protection and bycatch constraints. All management measures will be based on the best scientific information available. Given this intent, the fishery management goal is to provide sound conservation of the living marine resources; provide socially and economically viable fisheries for the well-being of fishing communities; minimize human-caused threats to protected species; maintain a healthy marine resource habitat; and incorporate ecosystem-based considerations into management decisions.

This management approach recognizes the need to balance many competing uses of marine resources and different social and economic goals for sustainable fishery management, including protection of the long-term health of the resource and the optimization of yield. This policy will use and improve upon the Council's existing open and transparent process of public involvement in decision-making.

2.2.1 Management Objectives

Adaptive management requires regular and periodic review. Objectives identified in this policy statement will be reviewed annually by the Council. The Council will also review, modify, eliminate, or consider new issues, as appropriate, to best carry out the goals and objectives of this management policy.

To meet the goals of this overall management approach, the Council and NMFS will use the Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (PSEIS) (NMFS 2004) as a planning document. To help focus consideration of potential management measures, the Council and NMFS will use the following objectives as guideposts, to be re-evaluated, as amendments to the FMP are considered over the life of the PSEIS.

Prevent Overfishing:

1. Adopt conservative harvest levels for multi-species and single species fisheries and specify optimum yield.
2. Continue to use the 2 million mt optimum yield cap for the BSAI groundfish fisheries. [Continue to use the existing optimum yield cap for the GOA groundfish fisheries.]
3. Provide for adaptive management by continuing to specify optimum yield as a range.
4. Provide for periodic reviews of the adequacy of F_{40} and adopt improvements, as appropriate.
5. Continue to improve the management of species through species categories.

Promote Sustainable Fisheries and Communities:

6. Promote conservation while providing for optimum yield in terms of the greatest overall benefit to the nation with particular reference to food production, and sustainable opportunities for recreational, subsistence, and commercial fishing participants and fishing communities.
7. Promote management measures that, while meeting conservation objectives, are also designed to avoid significant disruption of existing social and economic structures.
8. Promote fair and equitable allocation of identified available resources in a manner such that no particular sector, group or entity acquires an excessive share of the privileges.
9. Promote increased safety at sea.

Preserve Food Web:

10. Develop indices of ecosystem health as targets for management.
11. Improve the procedure to adjust acceptable biological catch levels as necessary to account for uncertainty and ecosystem factors.
12. Continue to protect the integrity of the food web through limits on harvest of forage species.
13. Incorporate ecosystem-based considerations into fishery management decisions, as appropriate.

Manage Incidental Catch and Reduce Bycatch and Waste:

14. Continue and improve current incidental catch and bycatch management program.
15. Develop incentive programs for bycatch reduction including the development of mechanisms to facilitate the formation of bycatch pools, vessel bycatch allowances, or other bycatch incentive systems.
16. Encourage research programs to evaluate current population estimates for non-target species with a view to setting appropriate bycatch limits, as information becomes available.
17. Continue program to reduce discards by developing management measures that encourage the use of gear and fishing techniques that reduce bycatch which includes economic discards.
18. Continue to manage incidental catch and bycatch through seasonal distribution of total allowable catch and geographical gear restrictions.

19. Continue to account for bycatch mortality in total allowable catch accounting and improve the accuracy of mortality assessments for target, prohibited species catch, and non-commercial species.
20. Control the bycatch of prohibited species through prohibited species catch limits or other appropriate measures.
21. Reduce waste to biologically and socially acceptable levels.

Avoid Impacts to Seabirds and Marine Mammals:

22. Continue to cooperate with U.S. Fish and Wildlife Service (USFWS) to protect ESA-listed species, and if appropriate and practicable, other seabird species.
23. Maintain or adjust current protection measures as appropriate to avoid jeopardy of extinction or adverse modification to critical habitat for ESA-listed Steller sea lions.
24. Encourage programs to review status of endangered or threatened marine mammal stocks and fishing interactions and develop fishery management measures as appropriate.
25. Continue to cooperate with NMFS and USFWS to protect ESA-listed marine mammal species, and if appropriate and practicable, other marine mammal species.

Reduce and Avoid Impacts to Habitat:

26. Review and evaluate efficacy of existing habitat protection measures for managed species.
27. Identify and designate essential fish habitat and habitat areas of particular concern pursuant to Magnuson-Stevens Act rules, and mitigate fishery impacts as necessary and practicable to continue the sustainability of managed species.
28. Develop a Marine Protected Area policy in coordination with national and state policies.
29. Encourage development of a research program to identify regional baseline habitat information and mapping, subject to funding and staff availability.
30. Develop goals, objectives and criteria to evaluate the efficacy and suitable design of marine protected areas and no-take marine reserves as tools to maintain abundance, diversity, and productivity. Implement marine protected areas if and where appropriate.

Promote Equitable and Efficient Use of Fishery Resources:

31. Provide economic and community stability to harvesting and processing sectors through fair allocation of fishery resources.
32. Maintain the license limitation program, modified as necessary, and further decrease excess fishing capacity and overcapitalization by eliminating latent licences and extending programs such as community or rights-based management to some or all groundfish fisheries.
33. Provide for adaptive management by periodically evaluating the effectiveness of rationalization programs and the allocation of access rights based on performance.
34. Develop management measures that, when practicable, consider the efficient use of fishery resources taking into account the interest of harvesters, processors, and communities.

Increase Alaska Native Consultation:

35. Continue to incorporate local and traditional knowledge in fishery management.
36. Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate.
37. Increase Alaska Native participation and consultation in fishery management.

Improve Data Quality, Monitoring and Enforcement:

38. Increase the utility of groundfish fishery observer data for the conservation and management of living marine resources.
39. Develop funding mechanisms that achieve equitable costs to the industry for implementation of the North Pacific Groundfish Observer Program.
40. Improve community and regional economic impact costs and benefits through increased data reporting requirements.
41. Increase the quality of monitoring and enforcement data through improved technology.
42. Encourage a coordinated, long-term ecosystem monitoring program to collect baseline information and compile existing information from a variety of ongoing research initiatives, subject to funding and staff availability.
43. Cooperate with research institutions such as the North Pacific Research Board in identifying research needs to address pressing fishery issues.
44. Promote enhanced enforceability.
45. Continue to cooperate and coordinate management and enforcement programs with the Alaska Board of Fish, Alaska Department of Fish and Game, and Alaska Fish and Wildlife Protection, the U.S. Coast Guard, NMFS Enforcement, International Pacific Halibut Commission, Federal agencies, and other organizations to meet conservation requirements; promote economically healthy and sustainable fisheries and fishing communities; and maximize efficiencies in management and enforcement programs through continued consultation, coordination, and cooperation.

Groundfish Policy Workplan *(revised February, 2008)*

1. Prevent Overfishing

- a. continue to develop management strategies that ensure sustainable yields of target species and minimize impacts on populations of incidentally-caught species
- b. evaluate effectiveness of setting ABC levels using Tier 5 and 6 approaches, for rockfish and other species as appropriate
- c. continue to develop a systematic approach to 'lumping' and 'splitting' that takes into account both biologic and management considerations

2. Preserve Food Web

- a. encourage and participate in development of key ecosystem indicators
- b. reconcile procedures to account for uncertainty and ecosystem considerations in establishing harvest limits, for rockfish and other species as appropriate
- c. develop pilot Fishery Ecosystem Plan in the Aleutian Islands

3. Manage Incidental Catch and Reduce Bycatch and Waste

- a. explore incentive-based bycatch reduction programs in GOA and BSAI fisheries
- b. explore mortality rate-based approaches to setting PSC limits in GOA and BSAI fisheries
- c. consider new management strategies to reduce incidental rockfish bycatch and discards
- d. develop statistically rigorous approaches to estimating bycatch in line with national initiatives
- e. encourage research programs to evaluate population estimates for non-target species
- f. develop incentive-based and appropriate biomass-based trigger limits and area closures for BSAI salmon bycatch reduction, as information becomes available
- g. assess impact of management measures on regulatory discards and consider measures to reduce where practicable

4. Reduce and Avoid Impacts to Seabirds and Marine Mammals

- a. continue to participate in development of mitigation measures to protect SSLs through the MSA process, including participation in the FMP-level consultation under the ESA
- b. recommend to NOAA Fisheries and participate in reconsideration of SSL critical habitat
- c. monitor fur seal status and management issues, and convene committee as appropriate
- d. adaptively manage seabird avoidance measures program

5. Reduce and Avoid Impacts to Habitat

- a. evaluate effectiveness of existing closures
- b. consider Bering Sea EFH mitigation measures
- c. consider call for HAPC proposals on 3-year cycle
- d. request NMFS to develop and implement a research design on the effects of trawling in previously untrawled areas

6. Promote Equitable and Efficient Use of Fishery Resources

- a. explore eliminating latent licenses in BSAI and GOA
- b. consider sector allocations in GOA fisheries

7. Increase Alaska Native and Community Consultation

- a. Develop a protocol or strategy for improving the Alaska Native and community consultation process
- b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions

8. Improve Data Quality, Monitoring, and Enforcement

- a. expand or modify observer coverage and sampling methods based on scientific data and compliance needs
- b. explore development programs for economic data collection that aggregate data
- c. modify VMS to incorporate new technology and system providers

Groundfi Workplan

Priority actions revised in February 2007, status updated to current

General Priority (in no particular order)	Specific priority actions	Related to management objective:	Status (updated 5-22-08)	2008			2009				
				Jun	Oct	Dec	Feb	Apr	Jun	Oct	Dec
Prevent Overfishing	a. continue to develop management strategies that ensure sustainable yields of target species and minimize impacts on populations of incidentally-caught species	5	<i>Council action to set aggregate ABC/OFL for GOA in Apr 08</i> <i>'other species' breakouts being prioritized for BSAI and GOA in Jun 08</i>	█							
	b. evaluate effectiveness of setting ABC levels using Tier 5 and 6 approaches, for rockfish and other species	4	AFSC responding to CIE reviews as part of harvest specifications process								
	c. continue to develop a systematic approach to lumping and splitting that takes into account both biological and management considerations	5	on hold pending National Standard 1 guideline revisions								
Preserve Food Web	a. encourage and participate in development of key ecosystem indicators	10	ecosystem SAFE presented annually; AI FEP identified indicators for the Aleutians		█						█
	b. Reconcile procedures to account for uncertainty and ecosystem considerations in establishing harvest limits, for rockfish and other species	11	on hold pending National Standard 1 guideline revisions								
	c. develop pilot Fishery Ecosystem Plan for the AI	13	FEP brochure published Dec 07; further implementation being discussed by Ecosystem Committee	█							
Manage Incidental Catch and Reduce Bycatch and Waste	a. explore incentive-based bycatch reduction programs in GOA and BSAI fisheries	15	partially addressed in BSAI salmon bycatch EIS								
	b. explore mortality rate-based approaches to setting PSC limits in GOA and BSAI fisheries	20	partially addressed in BSAI salmon bycatch EIS								
	c. consider new management strategies to reduce incidental rockfish bycatch and discards	17									
	d. develop statistically rigorous approaches to estimating bycatch in line with national initiatives	14, 19	National Bycatch Report update in Dec 07								
	e. encourage research programs to evaluate population estimates for non-target species	16	Part of research priorities, adopted in June 2007								
	f. develop incentive-based and appropriate biomass-based trigger limits and area closures for BSAI salmon bycatch reduction, as information becomes available	14, 15, 20	EIS for caps and regulatory closure areas for Chinook, initial review in Jun 08; discussion paper on chum measures for Oct 08	█							
	g. assess impact of management measures on regulatory discards and consider measures to reduce where practicable	17	<i>partially addressed by GOA arrowtooth MRA analysis (Council action Oct 07)</i>		█						

Groundfish Workplan

Priority actions revised in February 2007, status updated to current

General Priority (in no particular order)	Specific priority actions	Related to management objective:	Status (updated 5-22-08)	2008			2009			
				Jun	Oct	Dec	Feb	Apr	Jun	Oct
Reduce and Avoid Impacts to Seabirds and Marine Mammals	a. continue to participate in development of mitigation measures to protect SSL through the MSA process including participation in the FMP-level consultation under the ESA	23	SSL committee recommendations on proposals for revised mitigation measures; NMFS is preparing a Biological Opinion, revising SSL recovery plan	██████████						
	b. recommend to NOAA Fisheries and participate in reconsideration of SSL critical habitat	23								
	c. monitor fur seal status and management issues, and convene committee as appropriate	24, 25								
	d. adaptively manage seabird avoidance measures program	22	final action seabird avoidance measures in 4E in Jun 08	██						
Reduce and Avoid Impacts to Habitat	a. evaluate effectiveness of existing closures	26	NMFS researching GOA closed areas (Sanak & Albatross), Council review in 2011							
	b. consider Bering Sea EFH mitigation measures	27	<i>Council action on measures in June 07</i> gear modification research discussion in Jun 08, Northern Bering Sea Research Plan to be developed	██						
	c. consider call for HAPC proposals on 3-year cycle	27	next HAPC process scheduled for 2009; SSC to review HAPC criteria before then				██████████			
	d. request NMFS to develop and implement a research design on the effects of trawling in previously untrawled areas	27	<i>Part of research priorities, adopted in June 2007</i>							
Promote Equitable and Efficient Use of Fishery Resources	a. explore eliminating latent licenses in BSAI and GOA	32	Council action on trawl LLP recency in Apr 08; GOA fixed gear latent licenses initial review Jun 08	██						
	b. consider sector allocations in GOA fisheries	32, 34	Initial review GOA Pcod sector allocations Jun 08	██						
Increase Alaska Native and Community Consultation	a. Develop a protocol or strategy for improving the Alaska Native and community consultation process	37	draft protocol presented in Feb 08, to be annually reviewed in June	██				██		
	b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions	37	draft protocol presented in Feb 08, to be annually reviewed in June	██				██		
Improve Data Quality, Monitoring and Enforcement	a. expand or modify observer coverage and sampling methods based on scientific data and compliance needs	38, 39	<i>Council action in April 2008 improving existing program</i> discussion paper on restructuring program, Oct 08	██						
	b. explore development programs for economic data collection that aggregate data	40	socioeconomic data committee to meet in Jun 08; <i>partially addressed in BSAI Amd 80</i>	██						
	c. modify VMS to incorporate new technology and system providers		final action on VMS exemption for dinglebar gear, Jun 08	██						

Status of Management Objectives from the Groundfish FMPs

FMP Policy Goal	Management Objectives from the Groundfish FMPs * indicates that objective is reflected on Council's workplan	Related Council actions (both completed, under consideration, and planned)
Prevent Overfishing	<ol style="list-style-type: none"> 1. Adopt conservative harvest levels 2. Use existing OY caps. 3. Specify OY as a range. 4. Periodic reviews of F₄₀ and adopt improvements *5. Improve management through species categories 	<ul style="list-style-type: none"> • Procedures for setting harvest levels and OY established in the FMP and management process • F₄₀ review in 2002 • Continuing Council project to review species categories; progress reflected on workplan
Promote Sustainable Fisheries and Communities	<ol style="list-style-type: none"> 6. Promote conservation while providing for OY 7. Promote management measures that avoid social and economic disruption 8. Promote fair and equitable allocation 9. Promote safety 	<ul style="list-style-type: none"> • These considerations are applied to all management actions
Preserve Food Web	<ol style="list-style-type: none"> *10. Develop indices of ecosystem health *11. Improve ABC calculations to account for uncertainty and ecosystem 12. Limit harvest on forage species. 13. Incorporate ecosystem considerations in fishery management 	<ul style="list-style-type: none"> • Ecosystem indices are considered and improved annually in ecosystem SAFE report, and AI FEP worked to improve indices for AI • Stock assessments improve annually, including with assistance from CIE reviews • Forage fish harvest limited in FMP • Ecosystem consideration given to all management actions; projects such as the AI FEP and ecosystem SAFE report continue to provide improvements
Manage Incidental Catch and Reduce Bycatch and Waste	<ol style="list-style-type: none"> *14. Continue and improve current incidental catch and bycatch program *15. Develop incentive programs for bycatch reduction *16. Encourage research for non-target species population estimates *17. Develop management measures that encourage techniques to reduce bycatch 18. Continue to manage incidental catch and bycatch through seasons and areas *19. Account for bycatch mortality in TAC accounting *20. Control prohibited species bycatch through PSC limits 21. Reduce waste to biologically and socially acceptable levels 	<ul style="list-style-type: none"> • Comprehensive system in place for BSAI and GOA bycatch management • Past and present work on BSAI bycatch reflected on the workplan, including salmon bycatch issues (which looks at incentive programs, PSC limits), retention standards, management measures to encourage innovative gear modifications/ techniques • GOA bycatch and associated observer issues on Council agenda • Council encourages research through annual research priorities • NMFS staff working on improving statistical methods for bycatch accounting as part of National Bycatch Report

FMP Policy Goal	Management Objectives from the Groundfish FMPs * indicates that objective is reflected on Council's workplan	Related Council actions (both completed, under consideration, and planned)
Avoid Impacts to Seabirds and Marine Mammals	22. Continue to protect ESA-listed and other seabirds *23. Maintain or adjust SSL protection measures 24. Encourage review of marine mammal and fishery interactions *25. Continue to protect ESA-listed and other marine mammals	<ul style="list-style-type: none"> • Workplan reflects continuing Council involvement in Steller sea lion issues • Workplan also monitors Northern fur seal status and management issues
Reduce and Avoid Impacts to Habitat	*26. Review and evaluate efficacy of habitat protection measures for managed species *27. Identify EFH and HAPC, and mitigate fishery impacts as necessary 28. Develop MPA policy *29. Encourage research on baseline habitat mapping *30. Develop goals and criteria for MPAs; implement as appropriate	<ul style="list-style-type: none"> • Comprehensive review of habitat measures through EFH EIS, mitigation measures adopted for GOA, AI, BS • Review of Alaska closed areas with respect to MPA criteria in 2005 • Council encourages research through annual research priorities
Promote Equitable and Efficient Use of Fishery Resources	31. Provide economic and community stability through fair allocation *32. Maintain LLP and initiate rights-based management programs 33. Periodically evaluate effectiveness of rights-based management programs 34. Consider efficiency when adopting management measures	<ul style="list-style-type: none"> • Considerations of fairness and efficiency applied to all management actions • Workplan currently focuses on latent license issues and sector allocations in GOA fisheries • Rockfish program review in June 2008
Increase Alaska Native Consultation	35. Incorporate local and traditional knowledge into fishery management 36. Consider ways to enhance local and traditional knowledge collection 37. Increase Alaska Native participation in fishery management	<ul style="list-style-type: none"> • Council added priority actions to workplan in February 2007; discussion paper to be presented in June 2008

FMP Policy Goal	Management Objectives from the Groundfish FMPs * indicates that objective is reflected on Council's workplan	Related Council actions (both completed, under consideration, and planned)
Improve Data Quality, Monitoring, and Enforcement	*38. Increase utility of observer data *39. Develop equitable funding mechanisms for the NPGOP *40. Increase economic data reporting requirements *41. Improve technology for monitoring and enforcement 42. Encourage development of an ecosystem monitoring program 43. Cooperate with NPRB to identify needed research 44. Promote enforceability 45. Coordinate management and enforcement programs with Federal, State, international, and local partners	<ul style="list-style-type: none"> • Improvements to the existing Observer Program adopted by Council in April 2008 • Issues related to restructuring program continue to be on Council's workplan and agenda • Economic data reporting requirements considered as part of Council management actions, committee addressing this issue • Video monitoring is being explored as a tool for monitoring and enforcement • Council encourages research through annual research priorities, cooperates with NPRB • Council encourages research through annual research priorities • Considerations of enforceability applied to all management actions • Council initiated and participates in Alaska Marine Ecosystem Forum, as well as maintaining other relationships with partner entities

**A potential approach to implementing the Council's Groundfish Policy Workplan priority:
Increase Alaska Native and Community Consultation**

Revised draft May 16, 2008

Introduction

The Council reviewed a discussion paper in February 2008 that was provided in response to one of the management objectives in the Final Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (Programmatic SEIS) (NMFS, August 26, 2004). The management objective (#37) is: "Increase Alaska Native participation and consultation in fishery management." This priority was reinforced by public comments received on the draft plan. While all of the management objectives resulting from the Programmatic SEIS are part of the Council's overall management policy, there are several that have been identified as priority actions through a workplan. One of the priority actions in the workplan is directly related to management objective #37. Note that this priority is not limited to Alaska Native interests, it includes communities in general:

Increase Alaska Native and Community Consultation

- a. *Develop a protocol or strategy for improving the Alaska Native and community consultation process*
- b. *Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions*

The paper provided in February 2008 outlined a draft approach to implementing the above workplan priority, as well as background on the current Council process and existing Federal policies and processes for Native (tribal) consultation that govern the actions of executive branch agencies. This paper is attached as **Appendix 1** for reference. Note that the primary Federal mandate for Native consultation is Executive Order 13175, which requires executive agencies¹ to establish regular and meaningful consultation and collaboration with Indian tribes² in the development of Federal policies that have tribal implications. "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. While the

¹ For the purpose of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 'agency' means any authority of the U.S. that is an 'agency' under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5). In 44 U.S.C. 3502(1): the term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include - (A) the General Accounting Office; (B) Federal Election Commission; (C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or (D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

² "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. Note, however, that Section 161 of the Consolidated Appropriations Act of 2004 (Public Law 108-199), as amended by Section 518 of the Consolidated Appropriations Act of 2005 (Public Law 108-447), extends the consultation requirements of Executive Order 13175 to Alaska Native corporations.

Council does not fall under the definition of executive agency for the purposes of E.O. 13175 and is not required to provide formal consultation with tribes, the impetus for this paper is the Council's independent desire to improve communication and consultation with communities and Alaska Native entities, per the programmatic workplan priority. Note that this does not mean that the Council could not be party to a consultation process undertaken by NMFS, but it does mean that the responsibility for consultation as required under E.O. 13175 remains with NMFS.

NMFS undertakes a formal consultation process with Federally-recognized tribal governments under E.O. 13175 during the development of proposed management actions. Almost half of all Federally-recognized tribes in the U.S. are located in Alaska. There are currently 229 tribal entities within Alaska that are Federally-recognized tribes, which are those officially recognized as such by inclusion in the list of "Indian Entities Recognized and Eligible to Receive Services from the U.S. Bureau of Indian Affairs." This list is updated annually.³

In addition, per amendments to the Consolidated Appropriations Act of 2005, Federal agencies are required to consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175. There are currently 13 Alaska Native Regional Corporations (ANRCs) and over 100 Alaska Native village corporations, as created under the provisions of the Alaska Native Claims Settlement Act (ANCSA). However, while NMFS has a special obligation to consult with ANCSA corporations and tribal governments under E.O. 13175, the agency typically sends a letter to more than 700 Native corporations, commissions, village councils, regional non-profit corporations, city governments, and boroughs to inform these entities of a proposed action and solicit feedback during the process. There is significant overlap among the 700 groups contacted by the agency in terms of represented regions and Native villages, however, the point is that it is a very large number of entities with which to consult.

In sum, the impetus for action by the Council is its own policy priority to improve Alaska Native and community consultation processes, as identified in the workplan resulting from the Programmatic SEIS. In February and April 2008, the Council expressed interest in several ideas proposed in the February 2008 paper to expand both formal and informal communication and consultation with communities and Alaska Native entities and ways to document such a process. The purpose of this updated paper is to discuss and further develop some of those concepts in order to make progress on an overall approach. While this paper expands on ideas discussed in the February 2008 paper, it deviates from the initial categorization of formal and informal consultation approaches. This paper instead categorizes the approaches as 'ongoing' and 'project-specific'.

In February, the Council stated that it would like to review progress on this effort at least annually, with a scheduled report at each June Council meeting. The intent is for the Council to review this paper at the June 2008 Council meeting, and take action as determined necessary. The suggestions in this paper should be considered a starting point for Council review.

Proposed approaches to expand 'ongoing' consultation

A short review of the Council's existing process relative to meetings and representation on committees, the Advisory Panel, and the Council itself, is provided in Appendix 1. Aside from its public meetings, the Council uses an email list, website, mailings, newsletters, etc., to regularly reach out to stakeholders, and recently created a handbook entitled "Navigating the North Pacific Council Process."⁴ The Council also participates in annual conferences and meetings throughout the North Pacific and beyond, when

³73 FR 18553, April 4, 2008.

⁴http://www.fakr.noaa.gov/npfmc/misc_pub/Navigating_NPFMC.pdf

appropriate. These are the Council's standard ways of communicating with the public about its purpose, agenda, and upcoming management actions.

Clearly, there are logistical and financial challenges for rural residents to participate in Council meetings that most regional councils do not face. As the majority of Alaska communities are not located on the road system, the cost and frequency of airline flights makes travel to meetings more time-consuming and expensive. Thus, even though Council meetings are open to the public, travel to the usual meeting sites (Anchorage, Seattle, Portland, Kodiak, Dutch Harbor, Sitka) is often cost-prohibitive to members of rural communities. This is important to note if only to qualify the common viewpoint that simply having open meetings enables public participation. While the Council has been responsive to rural and Alaska Native concerns when they are effectively raised at the Council meetings, the more relevant question is how to get those concerns to the table.

There are several possible ways to expand and improve upon the Council's efforts to provide ongoing consultation with potentially affected stakeholders, particularly communities and Alaska Native entities. For the purpose of this paper, 'ongoing' consultation and communication differs from 'project-specific' consultation in that it denotes a regular and consistent method of communication that is undertaken regardless of any particular proposed management action.

The following were discussed in February 2008 as possible ways to expand ongoing consultation:

- Create a standing committee of Alaska Native, rural community and Council representatives to discuss ongoing issues and convey information between parties.
- Provide funding for one or two Council members and staff members to travel to Alaska Native and rural communities to discuss ongoing issues and convey information between parties.
- Hire a Tribal/Communities Liaison or assign existing Council staff to oversee the above (and including the project-specific protocol discussed in the following section) and maintain ongoing and proactive relations with Alaska Native and/or community entities.
- Participate in national, regional, and local conferences pertaining to tribal and community fishing interests (e.g., the National Tribal Environmental Conference; Alaska's Fishing Communities: Harvesting the Future; Alaska Young Fishermen's Summit).

The four ideas above are potential ways to better engage communities and Alaska Native entities on a consistent basis, with the intent to provide meaningful two-way communication. They are not mutually exclusive. **One approach is to create a standing committee of Alaska Native and rural community representatives, which would meet on a regular basis to review Council issues.** Appropriate representation (e.g., key individuals in the community or regional leaders) on such a committee would provide the means to disseminate information back into the represented regions, as well as provide a liaison for communities to contact the Council.

Note, however, that all of the Council's existing committees are 'no-host', meaning travel and accommodations are not paid for by the Council. As mentioned previously, such expenses may currently prohibit many individuals from rural communities to volunteer for committee seats or attend Council meetings. However, understanding that participation on this type of committee would likely be much more effective than providing several minutes of public testimony at various Council meetings may spur the necessary interest, investment, and participation. In addition, the Council could consider hosting the committee meetings in various rural communities, such that a portion of members would not need to travel each time. Possibly committee members could also seek travel scholarships from their

representative regional or village Native corporation, or CDQ corporation, if applicable. Leveraging existing regional community and Native structures in order to fund travel for rural community residents may have merit.

Related to the issue of securing the appropriate individuals to represent the broad stakeholder groups present in communities is the need to ensure that the committee membership adequately covers the regions of Alaska. Alaska is commonly divided into the following regions, four of which are coastal: Southeast, Southcentral, Southwest, Interior, and Far North. These are huge geographic regions, however, each encompassing many major communities and hundreds of smaller ones. For example, the U.S. Census recognizes 349 Alaska communities, including both incorporated cities and Census designated places. The Alaska Fisheries Science Center recently identified and profiled 136 Alaska communities that have significant involvement in commercial North Pacific fisheries, and 125 in other U.S. states.^{5,6} In addition to geographic representation, it was noted earlier that there are currently 229 Federally-recognized tribal entities within Alaska, 13 Alaska Native regional corporations, over 100 Alaska Native village corporations, and many more commissions, village councils, and regional non-profit corporations. Determining adequate representation for these regions and Native entities, while maintaining a committee of workable size, will require a deliberative process should the Council decide to initiate such a committee.

A balanced, diverse group is necessary in order to create a highly effective committee, and to reduce the risk that an important perspective or interest is overlooked during the committee process. Some Council committees make recommendations to the Council by consensus, and others by majority vote. Council committees typically range from six to twelve members, with some exceptions. To be 'workable', a standing committee of community and Native representatives would likely need to stay within this general range. While it is a notable goal to ensure that all of the appropriate regions and groups are represented on this type of committee, it is often evident that very large committees cannot work efficiently or agree on a potential range of solutions. Meetings are necessarily longer and each person has less time to contribute, potentially resulting in participants feeling that their input is not given adequate attention. The Council would need to take on the difficult task of balancing the need for broad regional and Native representation with the need to limit committee size to a level that is efficient and productive. In effect, not every community or Alaska Native group could be directly represented. Because individual communities, even those located in the same geographic region, can have very different backgrounds, fishing interests, and public policy positions, it may be extremely difficult to constitute a committee that represents each of the major regions of Alaska, and its associated Native groups, in a meaningful way.

The second idea is to provide funding for one or two Council members and staff members to travel to Alaska Native and rural communities to discuss ongoing issues and convey information between parties. The idea is to provide an opportunity for two-way communication, and update community residents on Council actions and issues. This initiative differs from the committee approach in that it makes Council members and staff available in various rural communities, and any interested community members could attend. Thus, communities and the Council could benefit from interaction with a larger group of stakeholders from any one community or group of communities. In addition, this approach does not require community members to travel, or at least limits travel to a nearby community, and it allows

⁵"Community Profiles for North Pacific Fisheries – Alaska", by J.A. Sepez et al, U.S. Dept. of Commerce, NOAA Tech Memo. NMFS-AFSC-160, December 2005. "Community Profiles for West Coast and North Pacific Fisheries – Washington, Oregon and Other U.S. States", by K. Norman et al. U.S. Dept. of Commerce, NOAA Tech. Memo. NMFS-NWFSC-85, November 2007.

⁶ This document notes that while the profiles include information on recreational and subsistence fisheries, the selection process for determining the communities to profile was based solely on commercial fisheries data. Future efforts to update this document will include indicators of recreational and subsistence fisheries in order to select communities for profiling.

Council members and staff to experience and better understand a place that might otherwise be unrepresented in the Council process.

One of the questions associated with this approach is how to address the information or feedback gathered during these sessions. In order for this information to be disseminated to the rest of the Council and used to inform potential actions, it would need to be documented, organized, and presented to the Council, as part of the Council agenda. While part of the value of this approach is in the face-to-face meeting, and making Council members available to the residents of communities, another primary benefit (two-way communication) requires that the information gained reaches the rest of the Council and staff in a way that can be understood and used to inform policy decisions.

Resources and funding for such an effort may be an issue, depending on the number of communities targeted annually. For example, travel to many remote Alaska communities from Anchorage can range from \$500 - \$1,000, with some flights to the Aleutians exceeding \$1,000. Including other typical travel expenses, a trip for three Council/staff members could reasonably reach \$3,000, excluding any Council salaries. Under an example annual budget of \$12,000, approximately four communities (potentially one in each major coastal region of Alaska) could be visited per year. Thus, one of the disadvantages of this approach is the limited ability to visit any one community or region frequently. The benefit of bringing Council members to rural communities is balanced with the tradeoff of not being able to provide a regular presence in any one community. By comparison, with the appropriate representation, a standing committee would potentially allow for communication with all regions on a more regular basis. Both approaches could also be used in tandem, depending on funding and staff availability.

Both the committee approach and sending Council members out to rural communities will require additional staff resources, spurring the third idea of hiring a Tribal Liaison or reassigning existing Council staff to maintain ongoing and proactive relations with Alaska Native and/or community entities. Finding the appropriate contacts in communities, publicizing, coordinating and staffing meetings, preparing presentations, and producing follow-up reports take significant staff time, current staff for which are already allocated to other Council projects. Depending upon the frequency of meetings and/or the scope of communities visited, these approaches, combined with the project-specific consultation approaches in the following section, could necessitate a full-time staff member dedicated to these efforts, or the hiring of a consulting firm that specializes in this type of outreach. This issue is discussed further in the following section.

In sum, there are several details that would need to be addressed regarding these approaches:

- Representation on a standing committee (e.g., how to adequately represent the numerous appropriate regions, communities, and interests)
- Budget for sending Council members to rural communities
- Determining which communities would be visited and on what schedule
- How to compile and disseminate the information gathered during community meetings
- Staff resource issues

The issues outlined above may best be addressed by the Council, or a committee of Council members, in order to reach agreement on the details of a preferred approach. The Gulf of Mexico Fishery Management Council, for example, has recently initiated an Outreach and Education Committee, comprised of Council members and staff. The general purpose of the committee is to determine how the Gulf Council can improve outreach and education efforts.⁷

⁷Personal communication with Charlene Ponce, Public Information Officer, Gulf of Mexico Fishery Management Council, May 12, 2008.

Finally, the fourth approach envisions a renewed effort to participate in national, regional, and local conferences pertaining to tribal and community fishing interests (e.g., the National Tribal Environmental Conference; Alaska's Fishing Communities: Harvesting the Future; Alaska Young Fishermen's Summit, Alaska Federation of Natives Annual Meeting, Alaska Tribal Conference on Environmental Management, etc.). The Council has helped sponsor and staff the steering committee for two fishing community conferences in 2005 and 2006. These conferences provided a forum for community members to exchange ideas and discuss how to support Alaska's coastal communities, fishing and seafood businesses, as well as develop strategies to ensure the sustainability of fishing for the benefit of the next generation. Feedback from those meetings, in the form of post-conference evaluations, emphasized that there is great value in being able to meet and discuss issues with Council members and other policymakers in a relatively informal workshop setting. Broadening the Council's presence (e.g., attending, staffing a booth) to annual conferences that are targeted specifically to rural and/or Native communities may provide new opportunities for communication with stakeholders not otherwise regularly reached at the Council meetings. The benefit of this approach is the wide variety of community representatives attending such meetings. The costs would include staff time or hired consultants, travel, and meeting registration fees and/or information booth fees. This approach is also beneficial for providing information to communities. To receive information, the Council may choose to set up specific opportunities, such as workshops or focus groups hosted at the meetings, and a mechanism for reporting on the results.

Proposed protocol to expand 'project-specific' consultation

There are many ways to expand and improve upon the Council's efforts to provide consultation with potentially affected community and Alaska Native stakeholders during the development of a specific management action, beyond that already provided through the regular Council public process. This section differs from ongoing consultation in that it provides a standardized, step-wise approach to notifying and communicating with community and Native entities when a particular fishery management action is proposed that may uniquely affect those entities. The following were proposed in February 2008 as possible ways to expand project-specific consultation:

1. Develop a GIS database that links standardized geographic areas (e.g., ADF&G statistical areas, IPHC areas, Federal management areas, etc) to a list of potentially affected communities located in or adjacent to those areas, or with significant stakeholder interests in those areas. Further links could be developed between the geographic community and the Alaska Native and/or governing entities present in the community. This would allow a more standardized approach to identifying the specific subset of Alaska Native and other community entities that should be contacted and/or consulted with during the development of a management action in a particular geographic area.
2. Contact/survey the identified entities to solicit input as to how they prefer to be contacted should the Council need to contact or consult with them on a proposed management action.
3. Contact (by email, fax, or letter) and solicit input from entities identified as being potentially affected by the proposed action, prior to the development of the final suite of alternatives for analysis. Provide each entity with the brochure on the Council process (*Navigating the North Pacific Council Process*).
4. Convene personal meetings, video conferences, or teleconferences, as necessary and appropriate, during the scoping of the alternatives for analysis. This step may only be necessary when it is determined that a Federal action has significant, unique, or substantial direct effects on an Alaska Native entity or community.

5. Contact (by email, fax, or letter) and solicit input from entities identified as being potentially affected by the proposed action, prior to the Council's scheduled final action.
6. Create a section in or appendix to each analytical document (EA/RIR/IRFA or EIS/RIR/IRFA) provided to the Council that identifies the tribes and/or communities whose interests may potentially be affected by the proposed action. Include a summary of the process undertaken to solicit input from affected entities, including solicitations for input, public meetings, or the distribution of documents. A brief summary of the issues discussed at meetings should be provided and made available to decision makers. This ensures that the consultation process is part of the formal record.
7. Upon formation of a Council committee, workgroup, or plan team on a particular issue, consider representation from an affected Alaska Native and/or community entity or entities.

Note that #1, development of a GIS database, could be undertaken by Council staff absent approval of a formal approach to increasing consultation with communities and Alaska Native groups. Unless directed otherwise, staff will work on implementing such a database in order to better inform analysts and the public on the potential impacts of a proposed action. This type of database is intended to provide a standardized method for identifying potentially affected communities and community stakeholders, including Alaska Natives, during the development of a management action in a particular geographic area. The Alaska Fisheries Science Center has compiled a list of hundreds of addresses and e-mails for representatives of the communities profiled for their involvement in commercial fisheries. For Alaska communities, these points of contact include cities, tribes, village corporations, regional corporations, and boroughs. However, this list is in need of updating and maintenance.

Several of the other proposed approaches (#2 - #6) may need to be incorporated into a more formal approach toward meeting the Council's stated priority. These approaches together comprise a step-by-step process that could be undertaken each time a potentially significant management action is being developed that may affect communities and/or Alaska Native entities. The primary intent of these ideas is to identify affected community and Native stakeholders and take steps to ensure that they are provided meaningful opportunities to participate during development of management actions. Council concurrence on an outreach approach is necessary not only because it is appropriate to seek Council approval on this type of policy, but because such outreach efforts can considerably affect the timeline, staff resources, and cost associated with a project.

Finally, #7 proposes that, upon formation of a Council committee, workgroup, or plan team on a particular issue, the Council consider representation from an affected Alaska Native and/or community entity or entities. This idea is aligned with the Council's typical 'ad-hoc' committee process, in that a committee is formed when a specific action is initiated which warrants detailed development and review by a particular group of stakeholders. Committees are often formed at the initial stages of an analysis, and are tasked to make recommendations on the problem statement, the suite of alternatives to be analyzed, and the preferred alternative. Ensuring that community and/or Alaska Native representation is present on committees, on an issue by issue basis, is one way to enhance formal participation.

An ad-hoc committee will generate challenges related to representation similar to those discussed under the standing committee approach. However, it is also likely that the proposed management action that spurred the initiation of an ad-hoc committee affects a narrower geographic range and stakeholder group than would be necessary on a broad-based, State-wide, standing committee. Participation is also likely to be stronger when there is a focused action, and committee members can be chosen that have a direct interest in and knowledge of the area and action at hand. It may be more difficult to select committee members for a standing committee that reviews a multitude of Council issues that can have meaningful participation on each of those issues. Individuals that may well represent a broad group of stakeholders

may not be the same individuals that would best represent stakeholders that may be substantially, directly affected by a particular action.

Note, however, that ad-hoc committees are typically dominated by industry (and other) representatives due to their interest and expertise in the proposed action. Thus, community and/or Native interests would not necessarily be the primary voice on the committee, and may feel their views would be more effectively expressed through a committee that is more aligned with those interests overall (i.e., a standing committee). Essentially, the question is whether community and Native groups would be better served by being represented on a standing committee that may review Council issues on a periodic basis, including specific proposed actions, or on ad-hoc committees whose representation would be determined by the specific management action at issue. Both approaches have advantages and disadvantages, but representation on an ad-hoc committee that is formed at the initial stages of a proposed management action may allow for more meaningful contributions from community and Native stakeholders.

Example of project-specific consultation: Arctic FMP

The above proposed approach (#3 - #6) to project-specific consultation was tested during the development of the Arctic Fishery Management Plan (Arctic FMP). The Council approved an outreach plan for the Arctic FMP in order to solicit input from affected communities and stakeholders in a region in which the Council has limited previous experience. Council staff is responsible for overseeing this effort and maintaining ongoing and proactive dialogue with Native and rural communities as the Arctic FMP evolves. While the Council will receive a report on this outreach effort as part of initial review of the draft environmental analysis (EA) in October, a brief summary is provided here.⁸ The general sequence of outreach activities is as follows:

- Identify coastal communities within North Slope Borough, Northwest Arctic Borough, & Nome Census Area that are adjacent to the action area (Chukchi Sea, Beaufort Sea and Nome area).
- Identify regional and village corporations, community governments, or other community or Native entities in each of those communities (e.g., regional nonprofits, etc.).
- Initial contact will be made with Kawerak, Maniilaq Corporation, Northwest Arctic Borough, North Slope Borough, Alaska Eskimo Whaling Commission, and Eskimo Walrus Commission. Once the leadership for these groups is identified, develop contact information for each of those entities.
- Contact each of the above six organizations, plus additional regional groups or other groups associated with Arctic resource management or development, and explain the Council's proposed Arctic FMP. Seek recommendations for further outreach to members of these groups, including regional villages, Native organizations, Tribal organizations, IRA Councils, or other entities.
- Follow through with the recommendations obtained above. This may involve contact (by letter) and a request for input from each individual and entity identified as being potentially affected by the proposed action, prior to the release of the preliminary analysis. Letter contact may include:
 - One-page flyer on the Council's proposed Arctic FMP development
 - New brochure on Council process: *Navigating the North Pacific Council Process*
 - June 2007 Council motion on Arctic FMP

⁸Generally taken from the draft Environmental Assessment for the Arctic Fishery Management Plan, Appendix II: Outreach Program Summary.

- Other materials that may be appropriate for the recipients
- Convene meetings as necessary and appropriate during the development of the analysis. This step may only be necessary if it is determined that the action has significant, unique, or substantial direct effects on a particular community. This could also be prompted by strong desires from individual communities that they have an opportunity for face to face discussion of the proposed action outside of the Council meetings or FMP Team meetings.
- Contact (by email, fax, or letter) and solicit input from each entity identified as being potentially affected by the proposed action, prior to the Council's scheduled final action (June 2008).
- After a decision by the Council, follow-up with the potentially affected entities (by email, fax, or letter) as to the results of the Council's action. Convey that the Council's action is a recommendation to the Secretary of Commerce, and further input can be provided to the Secretary.
- Document this consultation process including a summary of the process undertaken to solicit input from affected entities, solicitations for input, summaries of public meetings, and documents distributed. Include a brief summary of the participants and issues discussed at meetings.

The draft EA for the Arctic FMP notes that initial contacts were made with individuals either known to Council staff or recommended to staff during public comment or letters sent to the Council. From these initial contacts, additional persons and organizations were identified with whom further contact might be appropriate. Some initial contacts were made by email, others by phone or personal visits. Early opportunities for informing the public of the Council's intent for Arctic fishery management were during the December 2006, April 2007, and June 2007 Council meetings, at which times interested members of the public either testified or discussed with staff and Council members their particular interests in the Arctic. During the October 2007 Council meeting, additional clarification was provided for the proposed alternatives to be analyzed, and additional public comment was received. The Council was provided an update on outreach efforts at its December 2007 meeting, at which additional public comment was received.

Subsequently, a list of potential entities in villages of the northwest and Arctic regions was prepared, and specific individuals were identified for each entity. The Council's Ecosystem Committee recommended, and the Council concurred, that only specific individuals in entities that represented groups of villages be contacted first. The objective was to discuss with regional leaders the most appropriate way to increase participation and to help get the information out to the various individual villages, IRA Councils, or other organizations. A comprehensive discussion of the outreach plan, the main contacts made, the nature of the discussions, and any resulting recommendations are provided in the Arctic FMP EA the Council will review in October 2008. **Appendix 2** to this paper provides a list of travel and meetings attended as part of the Arctic FMP outreach plan.

A preliminary evaluation of the outreach process undertaken for the Arctic FMP suggests that it is relatively successful in terms of the scope of contacts made, the various methods used to contact individuals and groups, and participation at meetings. However, the staff time necessary to support such a process is not insignificant. Staff estimates that finding and making initial contacts took about 51 hours of staff time, and primary travel to communities and presentations took about 85 hours. Follow up contact and outreach as the analysis for the Arctic FMP is reviewed and finalized through the Council process is

expected to take another 40 to 80 hours.⁹ In addition, the amount of time necessary to make initial contacts and organize meetings would likely have been greater had the analyst not had professional experience and personal contacts in the region. This particular staff member has about thirty years experience working in the Arctic, which was of substantial value in this effort.

Issues with the project-specific approach

The situation with the Arctic FMP may be somewhat unique, in that the primary analyst was available and sufficient time was allotted to fulfill the outreach plan. In most cases, there would likely be a significant tradeoff in terms of staff time dedicated to outreach versus completing the analysis in a specified timeframe. With the responsibility of making community and Native consultation a priority comes the practical reality of increased time necessary prior to final action. A case in point is the current Bering Sea Chinook salmon bycatch management EIS that is currently under development and subject to a challenging timeline, with initial review scheduled for this June Council meeting. Had the primary analysts also been tasked to undertake the type of outreach plan developed for the Arctic FMP and proposed in this paper prior to the initial draft, the draft EIS could not have been completed for the June meeting. Thus, while the proposed salmon bycatch action likely warrants a specific outreach plan, the need to take action quickly makes it a more difficult undertaking. The Council and the public need to be aware that project timelines would likely be extended in order to incorporate these efforts.

Related to this issue is how to staff such an effort for the project-specific approach, given existing staffing and schedule constraints. As noted in the Arctic FMP example, the lead Council analyst also carried out the outreach plan. Unless new staff is hired or existing staff are reassigned, the lead analyst on each project would necessarily also head and maintain the outreach efforts associated with their particular project, the time for which is potentially significant. Even if new staff is hired or existing staff is reassigned such that their primary duties are community and Native consultation, the primary analysts would need to be involved to some extent in order to provide presentations and details on the proposed action that an outreach specialist or tribal liaison would not be able to provide. Thus, hiring or reassigning staff to specifically focus on these efforts would substantially lessen the responsibility of the analysts but not remove it completely.

Another of the fundamental questions related to the project-specific approach is how to determine which projects warrant a focused, but comprehensive outreach effort, such as was undertaken for the Arctic FMP. Clearly, this decision would need to be made on a subjective basis, but several general criteria could be considered. For example, is the proposed action likely to have substantial direct effects on one or more Alaska Native entities or communities? Does the proposed action occur in or affect communities that are not typically engaged in the Council process? Will the proposed action uniquely affect a particular community or Alaska Native stakeholder group? These are all general criteria that could be explored to determine whether a proposed regulatory or FMP amendment calls for a more extensive outreach effort than would otherwise be provided through the regular Council public process.

Summary

The Council currently has an open and public process by which it initiates, develops, and recommends fisheries management policy to the Secretary of Commerce. This process is open to all stakeholders, including community representatives and Native entities, and is detailed in a previous paper on this issue (see Appendix 1). However, the Council has identified improving community and Native consultation

⁹Estimates from Council staff member, Bill Wilson. These estimates exclude staff time dedicated to focused presentations and/or workshops (i.e., those not particular to any community, Native, or regional interest) and time spent informally discussing the Arctic FMP with interested stakeholders at Council meetings, etc.

and participation as a policy priority in its programmatic workplan, approaches for which are the focus of this paper. The Council has been responsive to rural and Alaska Native concerns when they are effectively raised at the Council meetings. The more relevant question is how to get those concerns to the table.

Two sets of approaches have been discussed in this regard: 'ongoing' and 'project-specific' consultation. Ongoing consultation denotes a regular and consistent method of communication that is undertaken regardless of any particular proposed management action. This paper describes several of the ideas proposed under both approaches, with a particular focus on two ongoing approaches that were of interest to the Council in prior meetings: 1) a standing Council committee of Alaska Native and rural community representatives, which would meet on a regular basis to review Council issues; and/or 2) providing funding for one or two Council and staff members to travel regularly to Alaska Native and rural communities to discuss ongoing issues.

The Arctic FMP outreach plan to consult with Arctic and northwest communities and Native entities was highlighted as an example of a project-specific approach that could be formally approved by the Council. Recognizing the constraints and challenges, the project-specific approach undertaken for the Arctic FMP appears relatively successful, and its success can be better evaluated as the project evolves. Overall, the steps outlined in the project-specific approach, combined with ad-hoc committees as necessary, may allow for more focused, meaningful, and consistent consultation and collaboration with community and Native entities compared to the status quo, and thus make broad improvements relative to the Council's workplan priority in the PSEIS.

Finally, concerns and tradeoffs have been identified with each of the proposed approaches, including the requirements for additional staff or consultant time and funding. Thus, while many individual projects may warrant a specific outreach plan, the Council and the public should recognize that project timelines may need to be extended in order to incorporate these efforts.

There are several potential avenues to make further progress on these issues. The Council could take action at this June meeting to initiate some or all of these concepts, and/or it could task staff to develop a more focused discussion paper on one or two of the ideas the Council would like to further explore. Alternatively, the Council could initiate a small committee of a few Council members, similar to the Gulf Council's efforts, that can use a deliberative process to make recommendations to the whole Council on how to improve outreach and consultation efforts.

APPENDIX 1: Discussion paper presented at February 2008 Council meeting

A potential approach to implementing the Council's Groundfish Policy Workplan priority: Increase Alaska Native and Community Consultation

Introduction

The Council revised its BSAI and GOA groundfish management policy in 2004, following a comprehensive programmatic review of the fisheries. The policy contains a management approach and 45 objectives, which are categorized by goal statements. Three of the management objectives exist under the heading "Increase Alaska Native Consultation":

- 35. Continue to incorporate local and traditional knowledge in fishery management.*
- 36. Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate.*
- 37. Increase Alaska Native participation and consultation in fishery management.*

The Record of Decision on the Final Alaska Groundfish Fisheries Programmatic SEIS (NMFS, August 26, 2004) states that "The goals and policies for Alaska Native consultation and participation in fishery management under the Preferred Alternative in the Programmatic SEIS would increase from current levels by expanding informal and formal consultation between NOAA Fisheries and the Council, and Alaska Native participants and tribal governments. Local and Traditional Knowledge would be more formally incorporated in fishery management and additional data would be collected." (p. 25). The Record of Decision also notes that: the alternatives analyzed in the PSEIS consider all of the statutory requirements and Executive Order (E.O.) mandates relevant to fisheries management, including E.O. 13084 (Consultation and Coordination with Indian Tribal Governments). The Record of Decision notes that the Preferred Alternative policy responds to E.O. 13084 by explicitly recognizing that Alaska Native consultation is an important part of the decision-making process (p. 27).

While all of the management objectives resulting from the Programmatic SEIS are part of the overall management policy, there are several that have been identified as priority actions at this time. The Council thus adopted a workplan of priority actions to implement its overall management policy. The status of the workplan is updated at every Council meeting, and the workplan was last updated by the Council in February 2007. The management objectives related to local and traditional knowledge (#35 & #36) are not identified in the workplan at this time and are not directly addressed in this paper. However, one of the priority actions in the workplan is to increase Alaska Native and community consultation, which is directly related to management objective #37:

Increase Alaska Native and Community Consultation

- a. Develop a protocol or strategy for improving the Alaska Native and community consultation process*
- b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions*

Current Council process

Currently, the Council notifies and consults with affected stakeholders, including Alaska Native and coastal community representatives, through public notice of meetings. The Statement of Organization, Practices, and Procedures (June 2007) for the Council states that timely notice of each regular meeting, hearing, and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting is also published in the Federal Register.¹⁰ These are the primary mechanisms to make the public, including Alaska Native and community entities, aware of the specific issues being addressed by the Council.

The Council itself is comprised of 11 voting members, and 4 non-voting members. The eleven voting members include the Commissioner of the Alaska Department of Fish and Game, Director of the Washington Department of Fish and Wildlife, Director of the Oregon Department of Fish and Wildlife, the Alaska Regional Administrator of NOAA Fisheries, five members appointed by the Secretary from the State of Alaska, and two members appointed by the Secretary from the State of Washington.

The four non-voting members include the Alaska Regional Director of the U.S. Fish and Wildlife Service, the Commander of the Seventeenth Coast Guard District, the Executive Director of the Pacific States Marine Fisheries Commission, and a representative of the U.S. Department of State. Aside from these parameters, there is no seat is guaranteed to any gear type, fishery, geographic area, or Native Alaska organization. Currently, one of the Alaska appointees to the Council is an Alaska Native from a Community Development Quota (CDQ) group, which represents several rural communities from the Bristol Bay region primarily comprised of Alaska Natives. For the past fifteen years, the composition of the Council has included one Alaska Native.

In fulfilling the Council's responsibilities and functions, Council members may meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information, or make decisions regarding material before them. Each regular meeting and each emergency meeting is open to the public, and interested persons may present oral or written statements regarding the matters on the agenda at meetings, within reasonable limits established by the Chair. Current Council policy on oral testimony limits individuals to three minutes, and organizations to six minutes, per agenda item (SOPP, 2007). Written testimony can be provided prior to the Council meeting; if it is within established limits (typically received at least one week prior), it is copied and provided in the Council's written meeting materials.

The Council also appoints an Advisory Panel (AP) of recognized experts (a maximum of 20) from the fishing industry and several related fields. AP members represent a variety of gear types, industry and related interests as well as a spread of geographic regions of Alaska and the Pacific Northwest having major interest in the fisheries off Alaska. The Council relies on the AP for comprehensive industry advice on how various fishery management alternatives will affect the industry and local economies, on potential conflicts between user groups of a given fishery resource or area, and on the extent to which the United States will utilize resources managed by the Council's fishery management plans.

While no particular seat is guaranteed to any gear type, fishery, geographic area, or Native Alaska organization, the Council SOPP recognizes that: "The AP membership should represent a broad geographic spread both for Alaska and the Pacific Northwest. Representation for the three states should

¹⁰The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or such notice must be given at least 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c) of the Act, in which case public notice shall be given immediately.

be in the same proportions as those of the voting membership of the Council...The AP membership should represent a variety of interests within the fishing industry and others with interests in maintaining and managing Council fisheries. While it is hoped that major gear types from the harvesting sector will be broadly represented, as with geographic representation, no particular seat is guaranteed to a gear type or fishery.”¹¹ The Council does not designate seats for particular stakeholders, recognizing that issues and priorities change over time. Currently, the AP members represent a broad geographic area, and include several members who may give voice to Alaska Native and community concerns, such as a Gulf of Alaska small coastal community representative, a member of a Community Development Quota (CDQ) group representing rural, western Alaska communities in the Norton Sound region, and a Native Alaskan from the Aleutian Islands.

The Council may also appoint standing and ad hoc committees from among the voting and non-voting members as it deems necessary for the conduct of Council business. The Council Chair may also appoint to these committees industry representatives or other participants to address specific management issues or programs (SOPP, 2007). In cases in which a defined sector, community, or other entity is potentially affected by the proposed action, the Council attempts to ensure that the affected entities are represented on the committee or working group appointed to make recommendations to the Council on that particular issue. Committee appointments are voluntary, non-paid positions that require submission of an application/nomination prior to consideration for acceptance.

Federal policies & processes for Native and community consultation

There is an extensive list of Federal laws, treaties, executive orders, policy directives, and Federal regulations that place legal responsibilities for addressing community and tribal interests on executive branch agencies. The relationship between the U.S. government and Federally-recognized Indian tribes is considered to be government-to-government in nature. These orders indicate that United States and its agencies, including NOAA, acknowledge the governmental powers of the recognized tribes, and that such power stems not from a delegation of U.S. authority, but from a pre-existing state of sovereignty.

For example, the National Environmental Policy Act (NEPA) establishes a framework of public and tribal involvement in land management planning and actions. NEPA also provides for consideration of historic, cultural, and natural aspects of our environment. Specifically, places of cultural and religious significance to tribes are to be considered by Federal agencies in policy and project planning.

The following sections highlight two key executive orders pertaining to the consideration of Native/tribal community interests during the development of Federal regulations, policy, or legislation. These sections are followed by examples of tribal policies implemented by three Federal agencies: the Department of Commerce, the Environmental Protection Agency, and the U.S. Army Corps of Engineers.

Executive Order 12898

Executive Order 12898, approved on February 11, 1994, also pertains to tribal entities and communities. The E.O. states that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. Among groups specifically singled-out for impact assessment are Native Americans. (Note that E.O. 12898 also covers groups that are not necessarily Federally-recognized tribal entities.) In addition, included is a provision that states that each Federal agency responsibility set forth under the order shall apply equally to Native American programs (Section 6-606). The provision

¹¹Statement of Organization, Practices, and Procedures of the North Pacific Fishery Management Council, Draft June 10, 2007, p. 6.

further states that the Department of the Interior, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

Executive Order 13175

Executive Order 13084¹² was approved in May 14, 1998, in part to ensure that each agency has an effective process to permit elected officials and other representatives of Indian tribal governments¹³ to provide meaningful and timely input in the development of regulatory policies on Federal matters *that significantly or uniquely affect their communities*. This executive order was replaced by E.O. 13175 on November 6, 2000, in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies *that have tribal implications*. "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have *substantial direct effects* on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The definition of "Indian tribe" did not change under E.O. 13175.

Among other things, E.O. 13175 establishes policymaking criteria to which Federal agencies must adhere, to the extent permitted by law, when developing and implementing policies that have tribal implications. The order also includes a section on consultation, requiring that each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.

Department of Commerce Tribal Policy

As stated previously, the relationship between the U.S. government and Federally-recognized Indian tribes is considered to be government-to-government in nature. Recognition of this relationship is a matter of Federal policy, including for the U.S. Department of Commerce (DOC). The DOC approved an internal policy in recognition of the unique status of U.S. tribal governments in 1995: *American Indian and Alaska Native Policy*¹⁴. This policy pertains to Federally-recognized tribes, which are those officially recognized as such by inclusion in the list of "Indian Entities Recognized and Eligible to Receive Services from the U.S. Bureau of Indian Affairs."¹⁵ This list currently includes 225 Alaska Native entities within the state of Alaska.

The DOC's policy pertaining to actions dealing with American Indian and Alaska Native governments includes seven policy principles. Two of those in particular apply to the consultation process. One principle "acknowledges the trust relationship between the Federal government and American Indian and Alaska Native Tribes as established by specific statutes, treaties, court decisions, executive orders, and regulations." In keeping with this fiduciary relationship, DOC will consult with tribal governments prior to implementing an action when developing legislation, regulations, and/or policies that will affect the natural and/or environmental resources of tribes. The second principle states that DOC "will consult with tribal governments before making decisions or implementing programs that may affect tribes to ensure

Chapter 1¹²Executive Order 13084 - Consultation and Coordination with Indian Tribal Governments [Federal Register: May 19, 1998 (Volume 63, Number 96)].

¹³"Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

¹⁴<http://www.census.gov/prod/cen2000/d-3288.pdf#Page=34>

¹⁵Federal Register: July 12, 2002 (Volume 67, Number 134), Page 46327-46333.

that tribal rights and concerns are addressed.” In sum, DOC will seek tribal input on policies, programs, and issues that may affect a tribe.

EPA Tribal Policy

Following publication of the President’s Federal Indian Policy in 1983,¹⁶ the Environmental Protection Agency (EPA) developed and published a “Policy for the Administration of Environmental Programs on Indian Reservations” on November 8, 1984. The purpose of the statement was to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position on the relationship of the Federal government to tribal governments. The statement sets forth nine principles to guide the EPA in dealing with tribal governments and in responding to the problems of environmental management *on American Indian reservations* in order to protect human health and the environment.¹⁷

In addition, the EPA has formalized several approaches to consultation with tribal governments in response to E.O. 13175, which requires consultation and coordination in the development of Federal policies that have tribal implications. One of the ways in which the EPA has implemented the intent of this order is through the establishment of an EPA-Tribal Science Council in 2000.¹⁸ The EPA-Tribal Science Council, comprised of tribal and EPA representatives, provides a mechanism through which the EPA can understand the tribes’ highest priority scientific issues at a national level and an opportunity for tribes to influence the EPA’s scientific agenda. It appears to be a successful approach not only to a consultation process, but also to sharing local traditional knowledge with EPA scientists in order to contribute to improved environmental protection overall. As part of this effort, the EPA initiated a series of workshops, seminars, and projects that involve tribes in forming a framework for integrating tribal knowledge into EPA risk assessment and decision-making.

U.S. Army Corps of Engineers Tribal Policy

A third example is the approach used by the U.S. Army Corps of Engineers (Corps). The Corps has established several Tribal Policy Principles. In August 2001, regulations were established for the Northwestern Division covering the policy, responsibilities, and implementation of the Corps’ Tribal Policy Principles. One of these is “*Pre-decisional and Honest Consultation: The Corps will reach out, through designated points of contact, to involve tribes in collaborative processes designed to ensure information exchange, consideration of disparate viewpoints before and during decision making, and utilize fair and impartial dispute resolution mechanisms.*”

In effect, consultation is achieved through an effective communication process in which government officials engage in regular and meaningful discussions with representatives of Indian tribal governments. For example, the Corps engages and involves tribes in collaborative processes designed to facilitate the exchange of information and to effectively address effects of Federal actions and policies on tribal interests and rights. The Corps commonly documents this consultation process through an appendix to the relevant feasibility studies or environmental impact statements.

The appendix, typically entitled “Tribal Coordination and Consultation,” serves to identify potentially affected tribes whose interests may be affected by proposed Federal actions in the NEPA document. This document also describes the process undertaken to consult and coordinate with affected tribes, including

¹⁶The Federal Indian Policy (published January 24, 1983) supported the primary role of tribal governments in matters affecting American Indian reservations. The policy stressed two themes: 1) that the Federal government will pursue the principle of Indian “self-government”, and (2) that it will work directly with tribal governments on a ‘government-to-government’ basis.

¹⁷<http://www.epa.gov/indian/1984.htm>

¹⁸Cirone, Patricia, 2005. ‘The Integration of Tribal Traditional Lifeways into EPA’s Decision Making’, *Practicing Anthropology* Vol 27. No. 1, 20 – 24.

public meetings, distribution of draft documents and other background materials, and solicitation of input from tribes on how they want the Corps to fulfill plans for future consultation. A brief summary of the issues discussed at each of these meetings is provided and made available to decision makers.

Approach to implementing the Council's Groundfish Policy Workplan priority: Increase Alaska Native and Community Consultation

The Council's workplan priority to increase Alaska Native and community consultation is intended to be implemented through the two specific goals outlined above. In addition to the stated priority in the workplan, the need for an approach to improve the consultation process has been highlighted recently in the development of the Arctic Fishery Management Plan. Prior to its June 2007 meeting, the Council received letters from the Native Village of Kotzebue, and the Maniilaq Association, which represents twelve communities located in Northwest Alaska.¹⁹ The correspondence from these entities noted concern with the Council's lack of communication with communities living adjacent to the Arctic EEZ about the potential development of an Arctic FMP. Their comments on potential alternatives for an Arctic FMP were combined with a request for the Council to pursue "full consultation and input from affected communities and residents"²⁰, as well as a request to be considered for a role on an Arctic Plan Team to further develop an Arctic FMP.²¹

There are several possible approaches to developing: 1) a protocol for improving Alaska Native and community consultation, and 2) a system for documenting this participation. Several conceptual approaches are outlined below:

Proposed protocol to expand formal consultation:

- Create criteria to determine whether a Federal action has substantial direct effects on one or more Alaska Native entities or communities.
- Develop a GIS database that links standardized geographic areas (e.g., ADF&G statistical areas, IPHC areas, Federal management areas, etc) to a list of potentially affected communities located in or adjacent to those areas. Further links could be developed between the geographic community and the Alaska Native and/or governing entities present in the community. This would allow a more standardized approach to identifying the Alaska Native and other community entities that should be contacted and/or consulted with during the development of a management action in a particular geographic area.
- Contact/survey the identified entities to solicit input as to how they prefer to be contacted should the Council need to contact or consult with them on a proposed management action.
- Contact (by email, fax, or letter) and solicit input from each entity identified as being potentially affected by the proposed action, prior to the development of the final suite of alternatives for analysis. Provide each entity with the upcoming brochure on the Council process (*Navigating the North Pacific Council Process*).
- Convene meetings or teleconferences, as necessary and appropriate, during the scoping of the alternatives for analysis. This step may only be necessary when it is determined that a Federal

¹⁹Member villages of the Maniilaq Association include Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak, and Pt. Hope.

²⁰Letter from H. Bolen, Maniilaq Association to S. Madsen, NPFMC. May 25, 2007.

²¹Letter from A. Whiting, Native Village of Kotzebue to S. Madsen, NPFMC. May 25, 2007.

action has significant, unique, or substantial direct effects on an Alaska Native entity or community.

- Upon formation of a Council committee, workgroup, or plan team on a particular issue, consider representation from an affected Alaska Native and/or community entity or entities.
- Contact (by email, fax, or letter) and solicit input from each entity identified as being potentially affected by the proposed action, prior to the Council's scheduled final action.
- Hire a Tribal Liaison or assign existing Council staff to oversee this protocol and maintain ongoing and proactive relations with tribal communities (many natural resource management bodies have tribal liaisons).

Proposed protocol to expand informal consultation:

- Provide travel funds for Alaska Native entities and community participation in Council meetings addressing an action specific to these entities.
- Create a standing committee of Alaska Native, rural community and Council representatives to discuss ongoing issues and convey information between parties.
- Participate in national, regional, and local conferences pertaining to tribal and community fishing and environmental interests (e.g., the National Tribal Environmental Conference; Alaska's Fishing Communities: Harvesting the Future; Alaska Young Fishermen's Summit)

Proposed documentation:

- Create a section in or appendix to each analytical document (EA/RIR/IRFA or EIS/RIR/IRFA) provided to the Council that identifies the tribes and/or communities whose interests may potentially be affected by the proposed action. Include a summary of the process undertaken to solicit input from affected entities, including solicitations for input, public meetings, or the distribution of documents. A brief summary of the issues discussed at meetings should be provided and made available to decision makers. This ensures that the consultation process is part of the formal record.
- Hire a Tribal Liaison or assign existing Council staff to document the Alaska Native entities or organizations that provide written responses/testimony on proposed actions. Update the GIS database as necessary with this information, so as to keep a comprehensive database of all potentially affected entities.

Summary and potential Council action

There are several possible approaches the Council could take to implement its workplan priority to improve the Alaska Native and community consultation process and documentation of such a process. A protocol to expand both formal and informal consultation could be approved by the Council and implemented in an iterative manner, in accordance with the type of management action being considered by the Council at the time. The suggested protocol in this paper should be considered a starting point for Council review.

APPENDIX 2: Arctic FMP outreach summary – list of contacts, meetings, and travel

Travel

Barrow: November 2007, January 2008, April 2008

Kotzebue: December 2007, February 2008

Nome: October 2007, January 2008?

Fairbanks: October 2007

Main Contacts²²

Arctic Community or Native Organizations:

Craig George & Dr. Robert Suydam, North Slope Borough, Dept. of Wildlife Management, Barrow

Richard Glenn, Vice President, Arctic Slope Regional Corporation, Barrow

Barrow Arctic Science Consortium

Ukpeagvik Inupiat Corporation

Naval Arctic Research Laboratory

Bobby Schaefer, Northwest Arctic Borough, Kotzebue

Caleb Pungowiyi, Maniilaq Association, Kotzebue

Alex Whiting, Environmental Specialist, Kotzebue IRA and Native Village of Kotzebue, Kotzebue

Vera Metcalf, Executive Director, Eskimo Walrus Commission, Nome

Loretta Bullard, President, Kawerak, Inc., Nome

Charlie Lean, retired ADF&G Fishery Manager, Norton Sound Economic Development Corporation, Nome

Reggie Joule, Representative for District 40T, Alaska Legislature, Juneau

Christine Hess, Chief of Staff, Alaska Legislature, Juneau

Agencies:

Lyman Thorsteinson, Center Director, U.S. Geological Survey, Western Fisheries Research Center, Seattle

Jim Menard, Area Management Biologist, Norton Sound and Port Clarence Districts, ADF&G, Nome

U.S. Coast Guard, Kodiak Air Station, Kodiak

Bureau of Indian Affairs, Alaska Region, Juneau

Other Contacts

Media:

Steve Taufin, Alaska Report, Kodiak

Casey Kelly, KMXT Radio, Kodiak

Richard Beck, University of Cincinnati, Barrow Arctic Science Consortium

Janelle Everett, KBRW Radio, Barrow

Ryan Pate, KOTZ Radio, Kotzebue

Oil and gas industry:

Dr. Diane Sanzone & Dr. Bill Streever, BP Exploration (Alaska) Inc., Anchorage

Caryn Rea, Conoco-Phillips, Anchorage

Marilyn Crockett, Director, Alaska Oil and Gas Association, Anchorage

²²These were people contacted directly by Council staff and most received a presentation or personal meeting. Almost all of the direct contacts suggested other contacts and/or forwarded the information to other interested stakeholders via email.

Conservation organizations:

Dr. Christopher Krenz & Jim Ayers, Oceana, Juneau
Janice Searles, Oceana, Portland, OR
Bubba Cook, World Wildlife Federation, Anchorage

Other Presentations²³

U.S. Arctic Research Commission meeting, Nome
North Slope Science Initiative, Anchorage
Kawerak, Inc., Board of Directors Meeting, Nome
Eskimo Walrus Commission, Annual Meeting, Nome
Northwest Arctic Borough Assembly Regular Meeting, Kotzebue
Northwest Arctic Borough Planning Commission & North Slope Borough Planning Commission, Special Meeting, Joint Planning Commission, Barrow
Alaska Federation of Natives, Annual Meeting, Fairbanks, October 2007²⁴
Arctic Issues Workshop, Center for Naval Warfare Studies, Naval War College, Newport, RI, April 2008
Environmental Implications Workshop, Arctic Marine Shipping Assessment, Protection of the Marine Environment Working Group/Arctic Council, San Francisco, CA, April 2008

²³In addition to email contacts, phone conversations, and personal meetings with individuals or groups, more formal presentations of the Arctic FMP development program were made to specific groups and workshops were attended.

²⁴Council staff shared an informational booth with the U.S. Fish & Wildlife Service's Tribal Grants Program and the Federal Subsistence Management Program.



TEL: (907) 443-5231 • FAX: (907) 443-4452

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Ms. Sue Salvesson, Assistant Regional Administrator
National Marine Fisheries Services
Sustainable Fisheries Division, Alaska Region
PO Box 21668
Juneau, AK 99802

April 21, 2008

Re: Proposed Bering Sea habitat conservation area (0648-AW06)

Dear Ms. Salvesson,

Kawerak, Inc. is an Alaska Native non-profit corporation providing programs and services to people of the Bering Strait/Norton Sound region. We represent twenty Tribal governments in this region. The proposed Bering Strait habitat conservation area has the potential to greatly impact our communities and subsistence lifestyles.

Kawerak supports the decision to create a northern Bering Sea conservation area which would then be protected from the habitat destruction that bottom trawling causes. The existence of a healthy and intact habitat for our subsistence resources, and the prey that they depend on, is of vital importance to our communities.

Tribal Consultation:

Kawerak is extremely concerned, however, that the National Marine Fisheries Services and the North Pacific Fisheries Management Council did not conduct appropriate Tribal Consultation prior to defining the boundaries of this conservation area. The Federal Register notice for this proposed regulation both identifies the fact that consultation is required and acknowledges that the Council worked with the "fishing industry and environmental organizations" to determine the boundaries of the area, as well as convening a "workgroup," including some subsistence resource users, during the boundary creation process. Kawerak recognizes and appreciates that some subsistence users were involved in the process, but we do not view that as Tribal Consultation.

Policy number 5 of the Department of Commerce's American Indian and Alaska Native Policy directs the Department "consult and work with tribal governments before making decisions or implementing policy, rules or programs that may affect tribes to ensure that tribal rights and concerns are addressed." It is not up to the Council or NMFS to decide when to begin consultation; it must begin before decisions are made. *NMFS and NPFMC need to create suitable and binding Tribal Consultation protocols immediately. See the attached Kawerak Resolution 2008-03.*

Protected Areas:

Our communities would like the protected areas surrounding St. Lawrence Island, St. Matthew Island and Nunivak Island/Kuskokwim Bay to be enlarged. Over 80,000 Spectacled Eiders winter South of St. Lawrence Island. Additionally Kawerak requests the areas around Diomedes Islands and King Island be considered protected areas. We are concerned about the area known as the "the wedge," located east of St. Matthew Island. It is clear that the trawling industry is very

interested in moving in to this particular area. We support the local communities' recommendations to protect "the wedge" from commercial bottom trawl fishing. Kawerak requests this area be permanently protected from bottom trawling.

Northern Bering Sea Research Area:

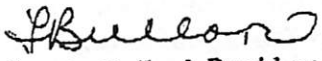
Additionally, any research plans or policies regarding fishing exemptions in the conservation area should be created with input from tribes. All 'research' trawling must be constrained to the minimum necessary and should be conducted in a way that will minimize damage to the sea floor.

As Kawerak has previously noted in testimony before the Council, impacts to Bering Sea habitat and the subsistence species our communities depend on is not just an issue of economic survival, but is also an issue of family, community and cultural survival.

We believe there is a lack of information regarding our resources, including marine mammals, migratory birds and fish. We would like to see the information on which decisions are based, including a list of the specific species which may be impacted as well as current population, migration patterns, biology and habitat use.

If you require any additional information, please contact Julie Raymond-Yakoubian, Social Scientist, at 907-443-4273 or jraymond-yakoubian@kawerak.org.

Sincerely,
KAWERAK, INC.


Loretta Bullard, President

Enclosure



KAWERAK, INC. • P.O. Box 948 • Nome, AK 99762

TEL: (907) 443-6231 • FAX: (907) 443-4452

**KAWERAK
RESOLUTION 2008-03**

**A RESOLUTION REQUESTING GOVERNMENT TO GOVERNMENT CONSULTATION
REGARDING SALMON BY-CATCH IN THE BERING SEA POLLOCK FISHERY**

**WHEREAS, the St. Lawrence Yupik, Yup'ik and Inupiat people of the Bering Strait Region
people depend on salmon to meet their subsistence, economic and cultural needs; and**

**WHEREAS, the St. Lawrence Yupik, Yup'ik and Inupiat people of the Bering Strait Region are
represented by twenty federally recognized tribal governments; and**

**WHEREAS, Kawerak, Inc. is the Alaska Native Regional Non-profit organization authorized by
the Bering Strait Region's twenty federally recognized tribes to advocate for the protection of
their customary and traditional hunting and fishing practices; and**

**WHEREAS, Kawerak, Inc. is charged to strengthen and increase the effective power of
participating tribal members in regulatory decision making pertaining to fish and wildlife
resource management; and**

**WHEREAS, the North Pacific Fishery Management Council (NPFMC) is currently conducting
an environmental impact assessment of by-catch of salmon by the Pollock fisheries in the Bering
Sea which will result in a Environmental Impact Statement; and**

**WHEREAS, the by-catch of salmon resulting from the Pollock fishery has a direct impact on the
Bering Strait Region's salmon resource; and**

WHEREAS, the NPFMC is a component of a federal Commerce Agency; and

**WHEREAS, the Department of Commerce American Indian and Alaska Native Policy of 1995
and Secretarial Order of 1997 directs all Commerce agencies, bureaus and their components to
carry out government to government consultation with Alaska Native Tribes; and**

**WHEREAS, none of the twenty Bering Strait Region tribes have been invited to participate in a
government to government consultation on the subsistence impacts of the Bering Sea Pollock
fishery; and**

**WHEREAS, the twenty Bering Strait Region tribes wish to have the opportunity to participate in
a government to government consultation on the subsistence impacts of the Bering Sea Pollock
fishery.**

**NOW THEREFORE BE IT RESOLVED, Kawerak, Inc. requests the NPFMC formally
recognize the Department of Commerce American Indian and Alaska Native Policy of 1995 and
Secretarial Order of 1997 which directs all Commerce agencies, bureaus and their components to
carry out government to government consultation with Alaska Native Tribes; and**

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BE IT FURTHER RESOLVED, NPFMC immediately develop tribal consultation protocols; and

BE IT FURTHER RESOLVED, NPFMC add a Tribal Liaison to their staff to carry out the consultation protocols; and

BE IT FINALLY RESOLVED, NPFMC ensure the timeline for processing the Environmental Impact Statement of the Bering Sea Pollock fishery be extended to allow for tribal consultation.



Robert Keith, Chairman

Certification:

I, the undersigned Secretary of Kawerak, Incorporated, hereby certify that the foregoing resolution was adopted by the Kawerak Board of Directors at a duly convened meeting on April 11, 2008.


Ellen Richard, Secretary



TEL: (907) 443-5231 • FAX: (907) 443-4452

SERVING THE
VILLAGES OF:
BREVIG MISSION
COUNCIL
DIOMEDE
ELIJAH
GAMBELL
GOLOVIN
KING ISLAND
KOYUK
MARYS IGLOO
NOME
SAVOONGA
SHAKTOOLIK
SHISHMARF
SOLOMON
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
VALES
WHITE MOUNTAIN

Chris Oliver, Executive Director
North Pacific Fisheries Management Council
605 W. 4th Avenue
Anchorage, AK 99501

May 26, 2008

Re: Comments to the Council regarding salmon bycatch (Major issue C-2), the Arctic Fisheries Management Plan (D-1a), and Tribal consultation (D-6c)

Dear Mr. Oliver,

Kawerak, Inc. is an Alaska Native non-profit corporation providing programs and services to people of the Bering Strait/Norton Sound region. We represent twenty Tribal governments in this region. Several actions currently under review by the Council have the potential to greatly impact our communities and subsistence lifestyles.

Salmon Bycatch, C-2

Kawerak provided testimony regarding the salmon bycatch EIS to both the Advisory Panel and the Council at the April 2008 meeting (enclosed). As no updated documents have been released, our comments remain essentially the same and are summarized below.

- Appropriate Tribal consultation has not been carried out
- A hard cap should immediately be implemented
- The EIS timeline should be modified so that Tribal consultation can be carried out
- Protocols should be developed outlining the process of Tribal consultation that the Council will follow

At the April 2008 Kawerak, Inc. Board meeting our Board of Directors also passed a resolution incorporating these comments (enclosed). Kawerak strongly believes that this is a critical issue for our communities and calls on the Council to be extremely cautious and to give weight to the needs of subsistence resource dependent communities.

Arctic Fisheries Management Plan, D-1b

Kawerak supports the creation of an Arctic Fisheries Management Plan. With the rapid change that is occurring in the Arctic we need to be pro-active.

The management plan should close all waters north of Bering Strait to commercial fishing for all species, including forage species. The plan should indicate that existing small or subsistence fisheries will not be affected. Residents of the region are concerned about the potential effects of commercial fishing on their subsistence fishing and hunting.

Any conditions for future commercial use of the area under the jurisdiction of the plan should require detailed studies. We believe there is a lack of information regarding our resources, including marine mammals, migratory birds and fish.

All aspects of the development and implementation of such a plan should include government-to-government Tribal consultation. We would like to note that consultation should not be limited to Tribes living at or north of the Bering Strait. Tribes in the Norton Sound region, and even further south, may be significantly affected by actions in the Chuckchi Sea. The Council needs to have clear protocols to identify

affected/interested Tribes (these protocols would necessarily be part of overall Tribal consultation protocols; see below).

Tribal Consultation, D-6c

Kawerak would like to, again, request that NMFS and NPFMC immediately create suitable and binding Tribal Consultation protocols.

Kawerak has seen a draft paper (N. Kimball, 7/18/07) outlining possible consultation procedures. We have several comments on this document. The draft appears to have been based off of the 2004 BSAI and GOA groundfish management policy "goal statements." Kawerak recommends that Tribal consultation protocols be developed on the basis of relevant Executive Orders (EO 12898, Environmental Justice; EO 13175 Tribal Consultation and Coordination), the Department of Commerce American Indian and Alaska Native Policy (1995), and Secretarial Order on government-to-government consultations (1997).


Kawerak strongly agrees with the proposed action of hiring a Tribal Liaison. Other Federal entities have used Tribal Liaisons with great benefit to both the entities and the Tribes involved. We recommend that a Liaison be hired as soon as possible.

Another matter of concern regarding this draft is the continued placement of "community" concerns alongside those of Tribes. We would like to emphasize that Federally Recognized Tribes have the status of sovereign nations and are not simply another interested party. We recognize the importance of community and other stakeholder interests, but Tribal concerns should not be addressed in the same context as that of "communities." Doing so dilutes the importance of Tribal concerns.

We recommend that the Council adopt consultation policies from other agencies that are proven to succeed rather than creating an entirely new way of carrying out your government-to-government responsibilities.

If you require any additional information, please contact Julie Raymond-Yakoubian, Social Scientist, at 907-443-4273 or jraymond-yakoubian@kawerak.org.

Sincerely,
KAWERAK, INC.


Loretta Bullard, President

Enclosures

UNALASKA/DUTCH HARBOR
FISH AND GAME ADVISORY COMMITTEE
PO BOX 162 UNALASKA, AK 99685

May 9, 2008

Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501

RECEIVED
MAY 15 2008
N.P.F.M.C.

Subject: B-Season Pollock trawl closer in Unalaska Bay; this is a portion of the Bering Sea Pollock Restriction Area.

Dear Mr. Olson: ^{Eric}

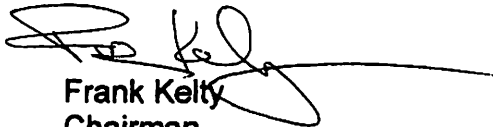
As Chairman of the local Unalaska/ Dutch Harbor Fish and Game Advisory Committee, the Unalaska Fish and Game Advisory board has instructed me to write letters to you; Mr. Robert Mecum, NOAA Acting Administrator, Alaska Region; and to Mr. Mel Morris, Chairman State of Alaska Board of Fisheries. The Advisory committee would like to have a trawl closer considered in the Unalaska Bay area from a point at (54°00.314'N. lat 166°37.674 W long.) to Priest Rock (54°00.487 N. lat.166°22.900W.long). This area is a part of the Bering Sea Pollock Restriction Area and is only open to Pollock trawling by catcher vessels during the Pollock B season from June 10th to November 1st of each year; we would propose that this area in Unalaska Bay be closed permanently to trawling.

Trawling inside of Unalaska Bay has been an issue for local residents in this community for many years. I would like to point out that this area has not been an area that the Pollock trawl fleet has used traditionally or depended on. In the last few years, as Pollock stocks have moved further to the North, and Pollock catches have declined in areas near Unalaska and Akutan Islands, we have seen trawlers come into Unalaska Bay to top off a load, or to see if they might get lucky and get a tank of fish. The concern for the local residents is that the influx of large trawlers into this very small area during the summer time will impact local residents who are engaged in commercial, subsistence, and personal-use fishing activities in the Unalaska Bay area. The concerns we have heard are of salmon bycatch by these trawl vessels that are trawling adjacent to some of the bay's most productive river systems, just as the returns of Reds, Pinks and Silvers Salmon are coming into the Unalaska Bay area. This area isn't very large, and there really isn't a lot of room for many different fishery activities to take place at the same time. Furthermore, almost all commercial fishing in Unalaska Bay area is being done by vessels in the 58-foot and under class.

We feel that a closer of this size in the Unalaska Bay area shouldn't be major inconvenience to the Pollock fleet; just a few catcher vessels during the B season come into this area. I should also point out that most of the Pollock catcher vessels that deliver to Unalaska processing plants have already heard about the local concern regarding trawling in Unalaska Bay and have quit working the area a few years ago.

We have enclosed map of the area for your review, and we thank you for the consideration of this request, and if you need further information or have questions my contact numbers are listed below.

Sincerely



Frank Kelty
Chairman

Unalaska/Dutch Harbor Fish and Game Advisory Committee

CC: Robert Mecum, NOAA Acting Administrator, Alaska Region
Mel Morris, Chairman State of Alaska, Board of Fisheries
Denby Lloyd, Commissioner Department of Fish and Game

Contact Numbers for Frank Kelty
Unalaska/Dutch Harbor Fish and Game Advisory Committee
PO Box 162
Unalaska, AK 99685
E-Mail fkelly@ci.unalaska.ak.us
Phone 907-581-7726

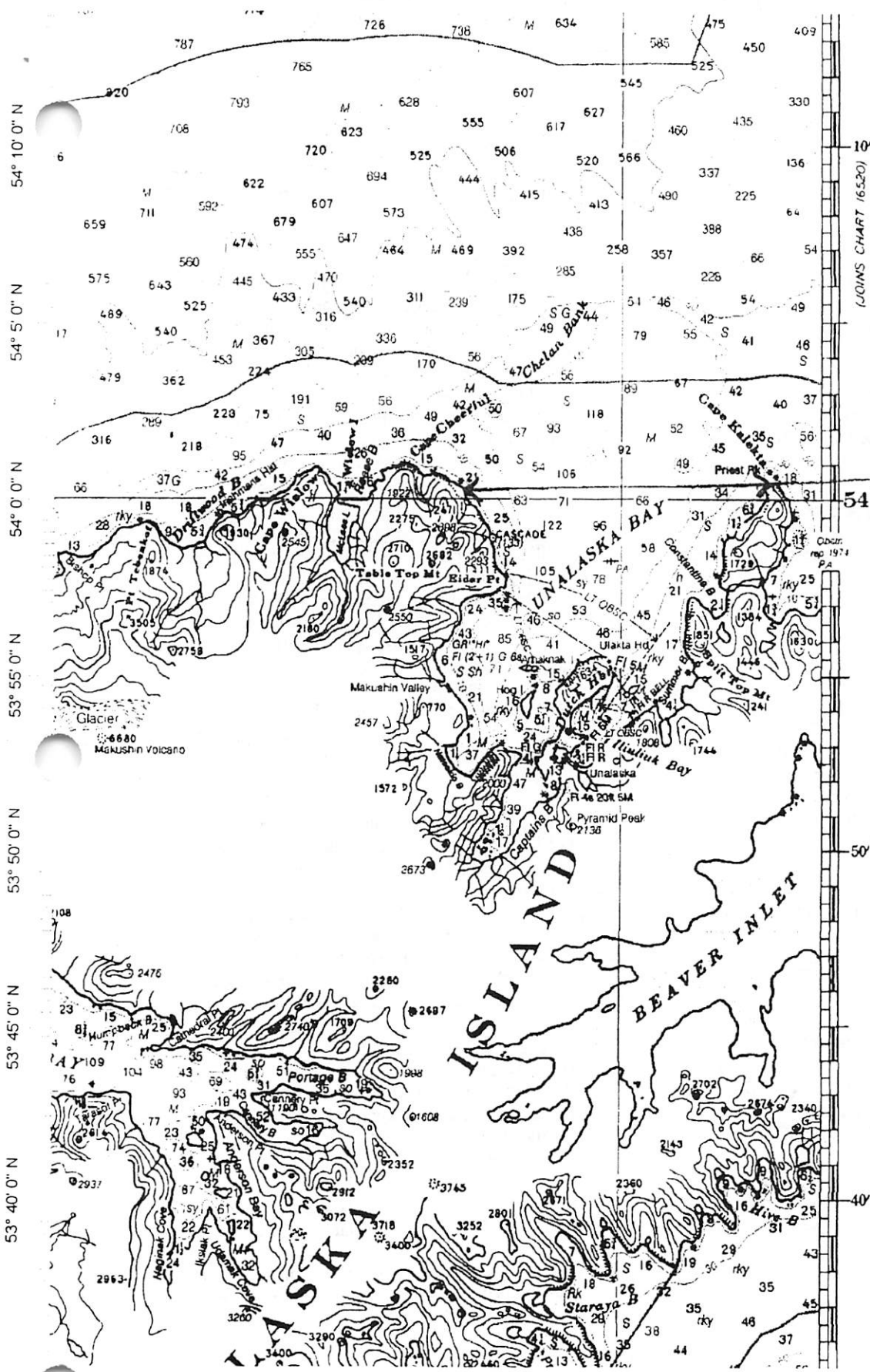


Chart Name: UNALASKA I TO AMUKTA I
 Chart ID: 16500 1
 Top Left: 54° 13' 47" N 166° 57' 42" W
 Bottom Right: 53° 35' 15" N 166° 3' 0" W

§ 679.22 Closures

§ 679.22 Closures.

(a) BSAI

(1) Zone 1 (512) closure to trawl gear.

No fishing with trawl gear is allowed at any time in reporting Area 512 of Zone 1 in the Bering Sea subarea.

(2) Zone 1 (516) closure to trawl gear.

No fishing with trawl gear is allowed at any time in reporting Area 516 of Zone 1 in the Bering Sea Subarea during the period March 15 through June 15.

(3) Red King Crab Savings Area (RKCSA).

Directed fishing for groundfish by vessels using trawl gear other than pelagic trawl gear is prohibited at all times, except as provided at § 679.21(e)(3)(ii)(B), in that part of the Bering Sea subarea defined as RKCSA in Figure 11 to this part.

(4) Walrus protection areas.

From April 1 through September 30 of any fishing year, vessels with a Federal fisheries permit under § 679.4 are prohibited in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315, and around Cape Peirce (58°33' N. lat., 161°43' W. long.).

(5) Catcher Vessel Operational Area (CVOA)

(i) Definition. The CVOA is defined as that part of the BSAI that is south of 56°00' N lat. and between 163°00' W long. and 167°30' W long., and north of the Aleutian Islands (Figure 2 to part 679).

(ii) Catcher/processor restrictions. A catcher/processor vessel authorized to fish for BSAI pollock under § 679.4 is prohibited from conducting directed fishing for pollock in the CVOA during the B pollock season defined at § 679.23(e)(2)(ii), unless it is operating under a CDP approved by NMFS.

(6) Pribilof Island Area Habitat Conservation Zone. Trawling is prohibited at all times in the area defined in Figure 10 to this part as the Pribilof Island Area Habitat Conservation Zone.

(7) Steller sea lion protection areas, Bering Sea subarea

(i) Bogoslof area

(A) Boundaries. The Bogoslof area consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55°00' N lat./170°00' W long., and 55°00' N lat./168°11'4.75" W long.;

(B) Fishing prohibition. All waters within the Bogoslof area are closed to directed fishing for pollock, Pacific cod, and Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b), except as provided in paragraph (a)(7)(i)(C) of this section.

(C) Bogoslof Pacific cod exemption area.

(1) All catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear for directed fishing for Pacific cod are exempt from the Pacific cod fishing prohibition as described in paragraph (a)(7)(i)(B) of this section in the portion of the Bogoslof area south of a line connecting a point 3 nm north of Bishop Point (54°01'25" N lat./166°57'00" W long.) to Cape Tanak (53°33'50" N lat./168°00'00" W long.), not including waters of the Bishop Point Pacific cod fishing closures as described in Table 5 of this part.

(2) If the Regional Administrator determines that 113 mt of Pacific cod have been caught by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area described in paragraph (a)(7)(i)(C)(1) of this section, the Regional Administrator will prohibit directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area by notification published in the *Federal Register*.

(ii) Bering Sea Pollock Restriction Area.

(A) Boundaries. The Bering Sea Pollock Restriction Area consists of all waters of the Bering Sea subarea south of a line connecting the points 163°0'00" W long./55°46'30" N lat., 165°08'00" W long./54°42'9" N lat., 165°40'00" W long./54°26'30" N lat., 166°12'00" W long./54°18'40" N lat., and 167°0'00" W long./54°8'50" N lat.

(B) Fishing prohibition. All waters within the Bering Sea Pollock Restriction Area are closed during

§ 679.22 Closures

the A season, as defined at § 679.23(e)(2), to directed fishing for pollock by vessels named on a Federal Fisheries Permit under § 679.4(b).

(iii) Groundfish closures. Directed fishing for groundfish by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within 3 nm of selected sites. These sites are listed in Table 12 of this part and are identified by "Bering Sea" in column 2.

(iv) Pollock closures. Directed fishing for pollock by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within pollock no-fishing zones around selected sites. These sites are listed in Table 4 of this part and are identified by "Bering Sea" in column 2.

(v) Pacific cod closures. Directed fishing for Pacific cod by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl, hook-and-line, or pot gear is prohibited within the Pacific cod no-fishing zones around selected sites. These sites and gear types are listed in Table 5 of this part and are identified by "BS" in column 2.

(vi) Atka mackerel closures. Directed fishing for Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl gear is prohibited within Atka mackerel no-fishing zones around selected sites. These sites are listed in Table 6 to this part and are identified by "Bering Sea" in column 2.

(vii) Steller sea lion conservation area (SCA)

(A) General. Directed fishing for pollock by vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, motherships in the offshore component, or directed fishing for CDQ pollock, is prohibited within the SCA until April 1 when the Regional Administrator announces, by notification in the *Federal Register*, that the criteria set out in paragraph (a)(7)(vii)(C) of this section have been met by that industry component.

(B) Boundaries. The SCA consists of the area of the Bering Sea subarea between 170°00' W long. and 163°00' W long., south of straight lines connecting the following points in the order listed:

55°00' N lat. 170°00' W long. ;
55°00' N lat. 168°00' W long. ;

55°30' N lat. 168°00' W long. ;
55°30' N lat. 166°00' W long. ;
56°00' N lat. 166°00' W long. ; and,
56°00' N lat. 163°00' W long.

(C) Criteria for closure

(1) General. The directed fishing closures identified in paragraph (a)(7)(vii)(A) of this section will take effect when the Regional Administrator determines that the harvest limit for pollock within the SCA, as specified in § 679.20(a)(5)(i)(C) is reached before April 1. The Regional Administrator shall prohibit directed fishing for pollock in the SCA by notification published in the *Federal Register*.

(2) Inshore catcher vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will prohibit directed fishing for pollock by vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1. The Regional Administrator will estimate how much of the inshore seasonal allowance is likely to be harvested by catcher vessels less than or equal to 99 ft (30.2 m) LOA and reserve a sufficient amount of the inshore SCA allowance to accommodate fishing by such vessels after the closure of the SCA to inshore vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will prohibit directed fishing for all inshore catcher vessels within the SCA when the harvest limit specified in § 679.20(a)(5)(i)(C) has been met before April 1.

(8) Steller sea lion protection areas, Aleutian Islands subarea

(i) Seguam Foraging area.

(A) The Seguam foraging area is all waters within the area between 52°N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

(B) Directed fishing for pollock, Pacific cod, and Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited in the Seguam Foraging area as described in paragraph (a)(8)(i)(A) of this section.

(ii) Pollock Closure. Directed fishing for pollock by vessels named on a Federal Fisheries Permit under

Council Project Summary May 21, 2008

Council Projects	Projected Weeks	Council/ NMFS %	Comments
Groundfish Fishery Issues			
GOA P. cod Sector Splits	4	90/10	Initial review in June (Jeannie)
GOA fixed gear recency	4	90/10	Initial review in June (Jeannie)
GOA Sideboards for BSAI crab vessels	6	90/10	Initial review in April (Jon)
GOA Sideboards for Am 80	2	90/10	Initial review in October (Jon)
GOA Sideboards for CGOA rockfish	2	90/10	Initial review in June (Diana Evans)
GOA Sideboards for AFA CVs	4	90/10	Initial review in June (contractor)
Other species management	6	40/60	Committee report in June (Jane/NMFS)
GOA O.species ABC and OFL	2	90/10	Being prepared for SOC review (Diana E)
Observer Program (changes to existing program)	2	80/20	Being prepared for SOC review (Nicole/NMFS)
CGOA Rockfish post-delivery transfers	0	80/20	Being prepared for Secretarial Review (NMFS/Mark).
Trawl LLP Recency	2	90/10	Being prepared for SOC review (Nicole/Jeannie/NMFS)
GOA arrowtooth MRA	0	30/70	Being prepared for Secretarial Review (NMFS/Jon).
Pacific cod BS and AI split	2	90/10	Discussion in Oct 2008 (Jon/Nicole/NMFS)
Am 80 post-delivery transfers and rollovers	0	80/20	Being prepared for SOC Review (Jon/NMFS)
GOA pollock trip limits	0	80/20	Being prepared for Secretarial Review (NMFS).
AI Processing Sideboards		90/10	Initial Review in October (Jon)
Paralell waters licensing and reporting		80/20	Discussion in Oct 2008 (Jeannie/NMFS)
CGOA Rockfish pilot program review	0	80/20	Receive report in June (Mark/NMFS)

Halibut Fishery Issues

Halibut Charter Moratorium	2	90/10	Being prepared for Secretarial Review (Jane/Nicole/NMFS/contractor)
Halibut Charter 2C/3A Catch Sharing Plan	2	90/10	Final Action in October (Jane/contractor/NMFS)
Halibut Charter Share Based Solutions/Permit Endorsements	?	90/10	Committee Recommendations in Dec 2007 (Jane/contractor)
Halibut Charter 2C GHM Measures	0	90/10	Final rule published 3/19/08 (NMFS)
Halibut Charter 3A GHM Measures	1	90/10	Final Action in October 2008 (Jane/contractor/NMFS)
Halibut Subsistence Eligibility	3	90/10	Initial Review in June (Jane/Nicole/NMFS)
Halibut/sablefish IFQ 'constructive loss'	3	50/50	Initial Review in October (T) (Jane/NMFS)
IFQ Omnibus 5	0	90/10	Awaiting final rule (NMFS)

AGENDA D-6(a)(3)
JUNE 2008

Crab Fishery Issues

Crab Overfishing definition revision	0	50/50	Proposed rule published 3/19; comments due 5/19 (NMFS)
BSAI Crab Custom Processing	1	90/10	Being prepared for Secretarial review (NMFS)
BSAI Crab C-Share 'Active Participation'	2	90/10	Being prepared for SOC review (Mark/NMFS)
BSAI Crab C-Share 90/10 exemption	0	90/10	Proposed rule published 3/21; comments due 5/20(NMFS)
BSAI Crab Post-delivery Transfers	1	80/20	Being prepared for Secretarial review (NMFS)
BSAI Crab Arbitration regulations	2	80/20	Being prepared for SOC review (Mark/NMFS)
BSAI Crab Loan Program Fees	3	0/100	Initial/Final Action in June (NMFS)
BSAI Crab St. George Protection Measures	2	80/20	Final Action in October (Mark/NMFS)
BSAI Crab Rationalization Program 3-year review	12	80/20	Review in October 2008 (Mark/NMFS/contractor)
BSAI Crab 90/10 Evaluation	12	90/10	Review in October 2008 (Mark/NMFS/contractor)
BSAI Crab Advisory Committee	?	90/10	Report in June (Mark/NMFS)

CDQ Issues

CDQ: After the fact transfers	2	10/90	Reg. am. being prepared for SOC. (Nicole)
CDQ Cost-Recovery	?	10/90	Discuss in future meeting (NMFS/Nicole)
CDQ Amendment 71/22 (remaining MSA provisions)	?	50/50	Discuss in future meeting (Nicole/NMFS)
CDQ: Regulation of harvest (MSA provision)	4	10/90	Being Prepared for Secretarial Review (Nicole/NMFS)

Bycatch Issues

GOA Salmon and Crab Bycatch Controls	?	80/20	Discussion paper in June (Diana S.)
BSAI Salmon Bycatch EIS	12	70/30	Initial Review in June (Diana S./other)
Non-target (other rockfish, other flatfish, o. species) development	?	60/40	Committee report in October (Jane/NMFS).

Ecosystem Issues

Bering Sea habitat conservation	0	50/50	Awaiting final rule (NMFS)
Relax VMS requirement for vessels fishing dinglebar gear	1	20/80	Final Action in June (NMFS/Diana E)
Stakeholder/ AK Native/ Community Outreach	1	90/10	Discuss in June (Nicole)
Aleutian Islands Fishery Ecosystem Plan	0	90/10	FEP team mtg/workshop in Aug (T) (Diana E.)
Arctic Fishery Management Plan	8	90/10	Initial Review in October (Bill, Diana E/NMFS/NOAA GC)
SSL SSLMC/dEIS	10	30/70	Review in October (Bill/NMFS)
Seabird avoidance measures in 4E	4	40/60	Final Action in June (NMFS/Bill)