



**ADVISORY PANEL
Motions and Rationale
February 6-9, 2024 - Seattle, WA**

REPORT

February 6-9, 2024 – Seattle, WA

The Advisory Panel met Tuesday, February 6, through Friday, February 9, 2024, at the Renaissance Hotel, in Seattle, WA. The following members were present for all or part of the meetings:

Agayar, Tiffany
Briggie, Tamara
Burk, Eva Dawn
Carroll, Shannon
Evens, Nels
Gudmundsson, Gretar
Heuker, Tim

Johnson, Jim
Johnson, Mellisa
Kavanaugh, Julie
Laitinen, Rick
Lowenberg, Craig
Mann, Heather (Co-VC)
Howard, Lauren

O'Donnell, Paddy
Price, Landry
Radell, Chelsae
Ritchie, Brian (Chair)
Wilkins, Paul (Co-VC)
Zagorski, Suzie

C1 NSRKC

Motion

The AP recommends the Council adopt the 2024 NSRKC OFL and ABC as recommended by the SSC.

Motion passed: 21/0

Rationale in Favor of Motion:

- *The AP appreciates the continued diligence of the Crab Plan Team and SSC in developing models and assessing the status and dynamics of the BSAI crab stocks.*

C2 BBRKC Closures

Main Motion:

The AP recommends that the Council move this issue on to final action with the following additions to the purpose and need statement and range of alternatives (added language underlined):

The Bristol Bay red king crab (BBRKC) stock has declined and is currently at low levels, resulting in a closure to the directed fishery in 2021/22 and 2022/23. Estimated recruitment has been extremely low during the last 12 years and the projected mature biomass is expected to decline during the next few years. The best available science indicates the cause of the decline is a combination of factors related to continued warming and variability in ocean conditions.

Given the poor recruitment and low stock status of BBRKC, the Council intends to consider management measures focused on reducing BBRKC mortality ¹**and protecting BBRKC habitat** from groundfish fishing in areas that may be important to BBRKC and where BBRKC may be found year-round, which may help increase stock abundance and promote achievement of optimum yield from the directed BBRKC fishery while minimizing negative impacts to affected groundfish fleet operations as well as target and PSC species.

Alternatives:

Alternative 1: No action (status quo)

Alternative 2: Implement an annual closure of the Red King Crab Savings Area (RKCSA) to all commercial groundfish fishing gears. The existing closure for non-pelagic trawl gear is not changed under Option 1. Option 2 modifies the trigger to close the Red King Crab Savings Subarea (RKCSS) for non-pelagic trawl.

The closure would be in effect:

Option 1: If ADF&G does not establish a total allowable catch (TAC) the previous year for the Bristol Bay red king crab fishery.

Option 2: If the total area-swept biomass for BBRKC is less than ~~50,000-100,000 mt.~~

Suboption 1: 50,000 mt

Suboption 2: 100,00 mt

Option 3: Except for vessels participating in an approved agreement. The goal of this agreement is to reduce bottom contact and/or reduce crab mortality. These agreements would vary by sector and could include standards, such as using the best available technology to assess bottom contact for pelagic trawl gear. For Pacific cod with pot gear, the standards could include gear requirements that either exclude or allow escapement of crab, observer coverage, and bycatch limits.

Suboptions (apply to either Option):

²Suboption 1: Exempt hook-and-line gear from the closure

²Suboption 2: Exempt pot gear from the closure

Alternative 3: Implement a closure of NMFS Reporting Area 512 to fishing for Pacific cod with pot gear.

The closure would be in effect:

Option 1: If ADF&G does not establish a total allowable catch (TAC) the previous year for the Bristol Bay red king crab fishery.

⁴Option 2: If the total area-swept biomass for BBRKC is less than ~~50,000-100,000 mt.~~

Suboption 1: 50,000 mt

Suboption 2: 100,00 mt

Option 3: Except for vessels participating in an approved agreement. The goal of this agreement is to reduce crab mortality. This agreement could include standards such as gear requirements that either exclude or allow escapement of crab, observer coverage, and bycatch limits.

Alternative 4: Implement a seasonal closure from January 15 through June east of 164° N longitude north to the boundary of ADFG Area T to all commercial groundfish fishing gears. The same options and suboptions as Alternative 2 apply.

³Alternative 5: Implement a closure north of the RKCSA (one half of a degree N) to ~~mobile bottom contact gear (pelagic and non-pelagic trawl).~~ The same options and suboptions as Alternative 2 apply

⁵Alternative 6: Implement a hard cap for BBRKC in area 512 for the pot cod fishery

Main Motion as Amended Passed: 11/10

Amendment¹ (add **and protecting BBKRC habitat** to the purpose and need statement)

Amendment 1 passed: 12/9

Amendment³ (strike ~~mobile bottom contact gear (pelagic and non-pelagic trawl)~~ and add **the same options and suboptions as Alternative 2 apply**)

Amendment 3 passed: 14/7

Amendment⁴ (strike ~~50,000-100,000 mt~~ and add suboptions 1 and 2)

Amendment 4 passed: 18/3

Main Motion as Amended Passed: 11/10

Rationale in support of Amended Main Motion:

- *This motion provides a broader range of alternatives within the existing purpose and need statement and is responsive to PNCIAC's recommendations, as an advisory body to the Council, and to public testimony.*
- *PNCIAC's recommendations speak to allowing for gear innovation while reducing crab mortality and building some flexibility and accountability into the management system. The new Option 3 under Alternatives 2 & 3 with an "agreement" approach captures that.*
- *The new Alternative 4 would create a seasonal protection for molting and mating periods for BBRKC.*
- *The new Alternative 5 would create a closure to trawl gear north of the RKCSA in an area the analysis shows has higher bycatch of crab and could have population level effects.*
- *The primary goal of this action is to help the RKC stock rebuild to levels of higher abundance, and this motion creates a reasonable range of alternatives for a stock that is in crisis.*
- *The AP aims to keep all sectors fishing, including the directed crab fishery, sharing the burden of conservation and helping the red king crab stock rebuild and continue to remove crab predators with minimal impact to habitat and minimizing bycatch.*
- *Considering an area-swept threshold of 100,000 MT may provide a better opportunity for the stock to rebuild to a sustainable level before removing those protections.*
- *The analysis identified that the trawl performance standard is not an acceptable metric to monitor or discourage bottom contact. Option 3 in this motion allows for gear innovations and enforceable technologies providing the pelagic trawl sector the appropriate tools to fish close to the seafloor with limited to no bottom contact.*
- *This motion is responsive to the priorities of protecting females, optimizing mating opportunities, reducing habitat disturbance, and protecting core essential fish habitat for BBRKC.*
- *Support for continued action to address the long-term decline of the BBRKC stock should be a Council priority.*
- *AP members noted that the document states "In summary, it is likely that the action alternatives would provide some benefits to the BBRKC stock..." and felt that given the analysis, further consideration of alternatives was warranted and this was responsive to the precautionary principle.*

Rationale in opposition to Amended Main Motion:

- *Refer to rationale in support for Substitute Motion.*

Rationale in favor of Amendment 1:

- *Including habitat in the Purpose and Need statement is responsive to public testimony and provides clarity in addressing concerns over effects on habitat as outlined in the analysis and its conclusions.*
- *Habitat is an important aspect to the health and viability of our fisheries resources and is integrated into fisheries science and management.*
- *BBRKC are known to be present in and to have migratory patterns across the RKCSA. These stocks are at a serious level of conservation concern and this amendment may optimize mating opportunities, reduce habitat disturbance, and protect core essential fish habitat.*
- *During staff presentation it was noted that providing more specificity to the Purpose and Need for habitat protection would decrease the ambiguity in what denotes "reducing BBRKC mortality." Mortality can be due to habitat degradation or destruction, as much as it can be due to fishing effects and fishing gear interactions.*

- *The analysis highlights the most recent scientific data (per National Standard 2 requiring the use of the best available science) that identifies the area East of the 164 longitude line to be important to BBRKC through all life stages.*
- *Staff commented that specifying habitat in the Purpose and Need would likely not delay final action.*

Rationale in opposition to Amendment 1:

- *The Council had the opportunity to include habitat in the Purpose and Need after review of the last Initial Analysis, and made an explicit choice to not include it. The AP motion should be consistent with that choice.*
- *Habitat is addressed in the document as a required component of the analysis, but amending the Purpose and Need changes the focus of this action.*
- *The Essential Fish Habitat process, informed by the Fishing Effects Model, indicates that pelagic trawl, and the other regulated gears, have minimal and temporary impacts on the habitat important for BBRKC.*

Rationale in favor of Amendment 3:

- *Modification to the language maintains consistency throughout the alternative set. The added language mirrors the language included in Alternative 2 and 4 by the original maker of the motion.*
- *Having the same options and suboptions apply to Alternative 5 as Alternative 2 maintains consistency and ensures that all gear types are considered for potential closures rather than focusing on a specific gear group.*

Rationale in opposition to Amendment 3:

- *Removing predators from the BBRKC grounds is an important conservation measure. The pod pot fleet can do it efficiently with minimal habitat impact and total footprint of approximately 1/4 square mile.*

Rationale in favor of Amendment 4:

- *The Council previously selected 50,000 mt for analysis, and this was included in the current initial review. The Main Motion indicated that a 100,000 mt threshold should be analyzed, and this amendment clarifies that both values should continue to be analyzed.*
- *The amendment had the same effect as the original motion language. Supported in the spirit of compromise to ease concerns of some AP members.*

Rationale in opposition to Amendment 4:

- *No rationale provided*

The following substitute motion and amendments did not pass the AP:

Substitute Motion:

~~The AP recommends no further action on this item at this time.~~

Substitute Motion Failed: 10/11

Rationale in opposition to Substitute Motion that failed:

- *Some AP members felt that tabling the action at this time is not responsive to the urgency associated with protecting the BBRKC stock for the long term.*
- *Although the rationale provided during deliberations spoke to tabling the agenda item, the language of the amendment spoke to taking no further action.*
- *The document states "In summary, it is likely that the action alternatives would provide some benefits to the BBRKC stock,..."*

Rationale in support of the failed Substitute Motion:

- *There is significant uncertainty highlighted in the analysis regarding the magnitude of benefit to the BBRKC stock from the measures being considered, while at the same time there is very clear information in the analysis that demonstrates increased bycatch of chum, chinook, halibut and herring are likely effects of displaced effort.*
- *There is a large number of ongoing research projects aimed at determining where red king crab are located at all life stages, and there was public testimony that while the RKCSA are important to crab, the borders may need to be updated. Other ongoing research that will inform effective management measures for BBRKC savings include:*
 - *Pelagic Trawl Gear Assessment Project*
 - *Groundfish predation project*
 - *Bristol Bay Cam Sled Project*
- *There is ongoing work on unobserved fishing mortality for all gear types and this will be presented later in the year.*
- *A pot cod LAPP is being considered for the the over 60 vessels in the BSAI and supporters indicate that the program will include bycatch mitigation tools*
- *The intent of the Substitute Motion would not be to table the action indefinitely. This action could be reevaluated when ongoing and current research provides results to better understand where red king crab are in the winter and spring and other management actions are implemented.*
- *The Purpose and Need statement states the cause of the BBRKC declines is likely a combination of factors related to continued warming and variability in ocean conditions. Data in the analysis outlines that forwarding the action will not have a measurable benefit to the red king crab stock, and will increase bycatch of other important PSC species. Some AP members felt this was inappropriate at this time given the uncertainty.*
- *Some AP members felt there is no strong scientific evidence in the analysis that demonstrates the alternatives will meet the original Purpose and Need statement and result in crab savings.*
- *Some AP members noted there is evidence that static closures are not effective and the efficacy of the red king crab area for BBRKC at all stages of life history at this time is uncertain; dynamic closures can work if we have good information on crab location*
- *Increasing PSC catch should be avoided, especially for chum and chinook salmon. Some AP members felt the Council has indicated that avoidance and bycatch minimization of salmon species should be prioritized.*
- *There is currently a comprehensive network of static spatial closures for BBRKC protection in Zone 1 and there are significant unknowns about the efficacy of those closures, creating concern on whether perpetuating or adding to a system of static closures is the appropriate management tool.*
- *Analysis is clear that the groundfish fisheries regulated under this action occur during times of the year when BBRKC distribution is not well known. There is no comprehensive understanding of the degree of temporal or spatial overlap between the groundfish fisheries and different life stages of the BBRKC stock.*

- *With the ongoing research of the when and where of BBRKC specific to winter distribution, there is the potential for groundfish fisheries to develop a system to create dynamic spatial closures. Dynamic spatial closures are more responsive to the purpose and need statement of reducing BBRKC bycatch mortality than additional static closures and yield better outcomes for both the groundfish fisheries and BBRKC.*
- *Concern about the importance of area 512 to pot fleet and processors.*

Amendment² (strike suboptions from alternative 2)

Amendment 2 failed: 7/14

Rationale in opposition to Amendment 2 which failed;

- *Bottom contact from different gear types is highly variable. Though all gear types recognized in this paper do have bottom contact, the effects to habitat and crab are not consistent. These sub-options allow Council discretion to use the best available science to determine the importance of gear impact, by sector, or habitat.*
- *Hook and line gear has minimal impact on the seafloor and removal of pacific cod, a known crab predator, provides a benefit to the crab stock. Examination of exemption of that gear from the closure deserves to be included in the analysis.*
- *The Pcod fleet has demonstrated its ability to adhere to voluntary fleet-wide agreements.*
- *The Pcod fleet is currently developing gear intended to exclude crab with promising results.*
- *The Pcod fleet is currently using a hot spot reporting program and is pursuing a more robust reporting system.*

Rationale in favor of failed Amendment 2:

- *The addition of habitat to the Purpose and Need statement turns this Agenda item into a habitat conservation issue and as such it is appropriate to eliminate any exceptions for gear types that have bottom contact, not just trawl.*

Amendment 5 failed: 9/12

Amendment⁵ (add alternative: Implement a hard cap for BBRKC in area 512 for the pot cod fishery)

Rationale in opposition to Amendment 5 which failed:

- *The pot cod LAPP is the proper place to consider this type of management measure.*
- *AP members noted that the October 2022 discussion paper stated ‘Current management and monitoring of the BSAI Pacific cod pot gear fishery is not conducive to real time PSC reporting or bycatch closures that need to be managed on a fine time-scale’.*
- *Implementing a PSC hard cap for the Pcod pot sector in area 512 is premature given upcoming consideration of PCod LAPP program scheduled for June 2024. PSC caps are typically an element considered in such programs.*
- *DMRs for the Pcod pot sector are not based on direct research and have been in place since 2008. Reference: October 2022 D2 BBRKC Expanded Discussion Paper, pages 29-30.*
- *These DMRs are over-inflated and need revision. Intent to address the issue at Staff Tasking.*

Rationale in favor of failed Amendment 5:

- *Analyzing a BBRKC hard cap for the pot cod fishery in area 512 is appropriate considering significant takes over the last three years, with more than 374,000 animals taken as bycatch. At a 50% DMR, this equates to more than 187,000 dead male and female crab. Even at a 20% DMR, this still equates to almost 75,000 dead crabs.*
- *Because of the conservation concern over BBRKC, all efforts to minimize incidental take of BBRKC should be analyzed. Consideration of a hard cap on RKC is a way to reduce BBRKC mortality in the nearer term, while the process of developing a LAPP for the over 60 pot cod fishery continues.*
- *Although the Council will begin looking at a potential BSAI Pot Cod LAPP, that action would still be 5-6 years away from implementation even if it reaches that point; this amendment addresses how PSC can be minimized in the interim. While cooperative programs provide management tools for operating within a PSC cap, it is possible to voluntarily manage fleet behavior towards a PSC cap even when using extrapolated observer data in a partial coverage monitoring fishery, as the GOA trawl fisheries have done for decades.*
- *A hard cap for the pot cod fishery may incentivize additional gear innovation work for the pot cod fishery as well as spur additional work on discard mortality rates.*

C3 Cook Inlet Salmon

Motion:

The AP recommends the following total allowable catches (TACs) for the 2024 Cook Inlet salmon fishery in the EEZ. The AP used a 10% buffer to set TACs below the annual catch limits recommended by the SSC to account for management uncertainty for this new fishery to prevent catch in the EEZ from exceeding the annual catch limit.

Table 1: Proposed 2024 recommended harvest specifications for Cook Inlet EEZ Area salmon stocks. The *SSC recommended* minimum stock size threshold (MSST), preseason overfishing level (OFL), acceptable biological catch (ABC), annual catch limit (ACL), and *AP's recommended* total allowable catch (TAC) are in numbers of fish.

Stock	SSC Recommended					AP Recommended
	Tier	MSST	Preseason OFL	ABC buffer	ABC=ACL	TAC (10% buffer)
Kenai River Late-Run sockeye salmon	1	3,030,000	901,932	0.478	431,123	885,715
Kasilof River sockeye salmon	1	555,000	541,084	0.694	375,512	
Aggregate Other sockeye salmon	3	163,000	887,464	0.200	177,493	
Aggregate Chinook salmon	3	44,200	2,697	0.10	270	243
Aggregate coho salmon	3	38,800	357,688	0.100	35,769	32,192
Aggregate chum salmon	3	NA	441,727	0.25	110,432	99,389
Aggregate pink salmon	3	NA	270,435	0.5	135,218	121,696

The AP heard extensive public comment regarding a set-aside for tribal fishing in the EEZ and understands that this could not be completed within Amendment 16 the court's timing. The AP will likely have a recommendation regarding tribal consultation under staff tasking.

Amendment Passed: 21/0

Main Motion as Amended Passed: 11/10

Rationale in Support of the Motion:

- *These proposed TACs recognize the multiple users that depend on salmon in Cook Inlet. The 10% buffer between ACL and TAC accounts for the significant management uncertainty associated with a brand new management regime. Sources of management uncertainty include:*
 - *the number of vessels that will participate in the EEZ fishery,*
 - *catch rates,*
 - *salmon run timing,*
 - *the spatial distribution of fishing effort in the EEZ,*
 - *whether additional fishery openings occur before inseason closure is published in the Federal Register,*
 - *lag times between harvest in the EEZ and escapement monitoring, and*
 - *lack of in-season genetic information to precisely inform harvest on relatively strong and weak salmon stocks of the same species (e.g., Kenai sockeye salmon and other sockeye salmon).*
- *A conservative approach is appropriate for a new EEZ fishery and will reduce the likelihood that harvest exceeds the ACL, as required by the Magnuson-Stevens Act. Both the biological condition of salmon stocks and social and economic considerations as presented in the extensive EA/RIR Analysis, the 2024 SAFE report and associated references, were considered.*
- *The SAFE Report and EA/RIR Analysis provide key information to inform the TACs, including:*
 - *assessments of the stock condition of each target species;*
 - *assessments of the multispecies impacts of harvesting the salmon stocks at current levels, given the assessed condition of stocks;*
 - *historical catch trends and fishery participation;*
 - *assessment of the many fisheries in Cook Inlet that depend on Cook Inlet salmon (subsistence, personal use, sport, and setnet fisheries); and*
 - *community dependence on salmon and salmon fisheries*
- *As an Action agenda item related to harvest specifications, the AP is expected to forward TAC recommendations to the Council. Complexities brought forth during public testimony and AP discussion included the court-related deadline, potential dissatisfaction about the effectiveness of tribal consultation, complications of mixed jurisdiction management, NMFS's ability to respond to conservation concerns in-season, and public comment requests for a tribal allocation. The complexity of the underlying issues is unfortunate, but should not preclude the AP from making TAC recommendations to the Council at this time.*

Rationale against the motion:

- *AP members expressed concern over NMFS' limited ability to quickly adjust the 2-day a week fishing schedule based on changes in run timing or strength. This could undermine the conservation corridor, shift the burden of conservation onto State of Alaska salmon managers and salmon users, and undermine sustainable salmon management.*
- *AP members felt that there should be an improvement in the timeliness of tribal consultation and ways to ensure that consultation is occurring when developing a TAC, not dismissing tribal input due to capacity issues.*
- *An AP member noted concern from stakeholders that a low TAC which is overly conservative may negatively affect the processors in the region which this fishery relies on and there are concerns those processors may not open.*
- *Tribal consultation is crucial in ensuring the perspectives and sovereign rights of indigenous communities are considered, especially when their territories intersect with other management areas, like TAC setting.*
- *Fisheries management for struggling Alaskan salmon stocks requires sharing real-time run composition, abundance and location/timing data to ensure sustainability. There is not a current co-management system for Cook Inlet salmon fisheries where decision-making is shared equally by tribal, state and federal governments. The decision-making process took many years and there was ample time for meaningful and appropriate tribal consultation to discuss and incorporate a Tribal Subsistence Fishing Opportunity, which should have occurred.*

D1 Pelagic Trawl Gear Definition Changes

Motion 1

The AP recommends initiating a regulatory amendment package for initial review based on the following three recommendations from NMFS:

1. Remove paragraph (14)(iii)(B) of the definition of pelagic trawl gear contained within the definition of Authorized fishing gear at § 679.2 that prohibits parallel lines spaced closer than 64 inches (162.6 cm) from all points on the fishing line, headrope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm) extending aft for a distance equal to or greater than one-half the vessel's LOA.
2. Revise the definition of Trawl gear to explicitly exclude the definitions of pelagic and nonpelagic trawl gear in § 679.2 from limiting the codend design and should read as follows (new language is shown in bold and underlined):

Trawl gear means a cone or funnel-shaped net that is towed through the water by one or more vessels. For purposes of this part, this definition includes, but is not limited to, beam trawls (trawl with a fixed net opening utilizing a wood or metal beam), otter trawls (trawl with a net opening controlled by devices commonly called otter doors), and pair trawls (trawl dragged between two vessels) and is further described as pelagic or nonpelagic trawl. **Definitions of trawl gear within part 679 do not apply to the codend.**

3. Remove or revise paragraph § 679.2(14)(vi) of the definition of pelagic trawl gear to clearly allow the use of flotation in a codend and excluder devices.

The AP also recommends the following change to the pelagic trawl gear definition.

1. Include in paragraph (14)(viii) **allowance for hardware needed to secure technology, i.e., live-feed cameras, flow sensors, etc. that doesn't appreciably change the intended performance of the trawl.**

Motion Passed: 20/1

Rationale in support for Motion 1

- *The proposed recommendations by NMFS were the result of collaborative discussions between NMFS and Industry.*
- *The proposed recommendations fit within the scope of the action and fulfill 1) clarifying that the codend is not intended to be regulated, 2) resolve inconsistencies in current regulations and some outdated regulations, and 3) begin to allow for gear innovation.*
- *The proposed revisions at Sec 679.2 to explicitly exclude the codend from the definition of pelagic trawl could increase regulatory compliance or enforceability via clear language.*
- *The proposed revisions update what have been recognized as outdated and or obsolete regulatory language.*
- *Rope trawls are obsolete in North Pacific trawl fisheries, therefore the removal of paragraph (14)(iii)(B) from the definition of pelagic trawl gear is appropriate.*
- *The proposed provision would align the 679 pelagic trawl definition more closely with other pelagic trawl definitions and reduce inconsistencies.*
- *The proposed revisions remove specific limitations from within the pelagic trawl gear definition to allow for other regulatory requirements such as the use of salmon excluders to minimize salmon bycatch to the extent practicable.*
- *As noted by the agency staff, the codend was never intended to be included within the restrictive definition of pelagic trawl gear. The staff mentioned that it's practicable to revise the 679 definition.*
- *The codend definition that was added later to the 600 language was not intended to be a substantive change to fishing operations.*
- *As stated in the discussion paper, "this recommended change would not conflict with existing limitations contained in the pelagic trawl gear definition (or nonpelagic trawl gear definition) applying to the trawl net and would be consistent with NMFS interpretation of the regulatory history of the existing gear definitions." Therefore, a non-substantive clarification or change.*
- *The AP felt that it is important that trawl nets include salmon excluders as a tool to reduce salmon bycatch, which are also required within incentive plan agreements. Allowing for flotation allows for the continued inclusion of salmon excluders and has the potential to promote further gear innovation.*
- *The additional request, not provided by NMFS, for the allowance of the use of hardware to attach current technology to the trawl net is imperative to vessels to use currently available technology. This allows vessel operators to monitor their net. It is in a vessel operator's best interest to fish the most efficiently and as heard via public testimony technology is extremely helpful for that.*

Rationale in opposition to Motion 1

- *One AP member felt that deregulating a portion of the net may help innovation but could also have unintended consequences where the net could be morphed into anything. Giving unlimited ability to make the codend to look like whatever you want it to look like without a known performance standard that is enforceable gives a lot of people hesitation in supporting this action.*

Motion 2:

The AP recommends that the Council task staff with a discussion paper analyzing the effects of modifying the pelagic gear definition with the following objectives:

- improving or maintaining fishing efficiency,
- adapting new technologies,
- minimizing bycatch,
- and minimizing seafloor and habitat disturbance

The discussion paper should detail:

- the current limitations to gear innovation and modification (e.g., technological or enforcement constraints),
- the process for such gear revisions (e.g., EFP),
- examples of how past changes to gear definitions have been moved through the Council process (e.g., elevated sweeps in the bottom trawl fishery),
- management tools that could be used to inform metrics to achieve these objectives (e.g., EFH and Fishing Effects model),
- and the downstream impacts to the management objectives of the various regulatory provisions that use the current definition of pelagic trawl gear and have been built upon the previous actions (if applicable),
- potential displacement and spillover impacts from any potential changes (e.g., PSC or target species catch)

Motion 2 Passed: 21/0

Rationale in support of Motion 2:

- *Trawl gear innovation is important to users of pelagic trawl gear as it allows for adaptation to issues brought up in the management process regarding, but not limited to, efficiency, bycatch reduction, and seafloor contact.*
- *The trawl industry generally supports gear innovation and have historically as well as currently are often the first to initiate gear innovation.*
- *There is ongoing research focusing on trawl gear and innovations and in order to adapt to changing environments and challenges, it's important to allow not only a path but a streamlined path forward.*
- *The AP heard information from the Agency that the AP should signal intention that more complicated aspects of redefining the pelagic gear definition to allow for innovation should be further explored. An expanded discussion paper with the revised elements will provide more information so that the Council can figure out how to proceed further.*

Motion 3:

The AP recommends the Council identify ~~that~~ **whether or not** an operational management objective for pelagic trawl gear is to limit contact with the seafloor. The AP further requests that the Council initiate a discussion paper to define acceptable levels of seafloor contact, identify tools or mechanisms to enforce Council defined limits, and consider the efficacy of existing bottom trawl closures in the context of this management objective. The action is intended to address both BSAI and GOA.

Amendment passed: 20/0

Amended main motion passed: 13/8

Rationale in support of Motion 3:

- *Page 3 of the staff document highlights the growing concern among various fishery stakeholders in regards to sea floor contact by pelagic trawl gear and recommends the Council considers the intended management objectives of the pelagic trawl gear definition. If the intended management objective is to limit seafloor contact then that signal from the*
- *Council could provide an important framework by which to move forward in making changes to the definition.*
- *Existing Bottom trawl closure areas are intended to protect habitat, reduce bycatch, or meet other management objectives associated with limiting seafloor contact. The current definition of pelagic trawl gear allows significant contact with the seafloor and may be compromising management objectives.*
- *There is a common misconception in the public eye that pelagic trawl is true to the definition of pelagic, off the bottom, in the water column. This ambiguity in the definition creates uncertainty and confusion within stakeholder conversations. Defining the management objective of pelagic trawl gear will improve this uncertainty*
- *The AP recognizes that clarifying operational management objectives for pelagic or mobile trawl gear will improve management efficacy and assist the council in evaluating the effectiveness of existing bottom trawl closures. Over 50% of the Exclusive Economic Zone (EEZ) managed by the NPFMC is closed to the use of non-pelagic trawl gear. If the definition of pelagic trawl assumes bottom contact then the management objectives of some of these closures may not be being met.*
- *The definition of pelagic trawl gear as developed in 1991, and amended in 1993, was intended to help reduce bycatch of halibut and crab, discourage bottom contact while fishing and distinguish pelagic trawls from bottom trawls. With recent Council documents outlining the extent of bottom contact in pelagic trawls is within 20%-100% of the time, it seems that bottom trawls are distinguished from pelagic trawls purely on the basis of mesh size, flotation, metallic parts, chafing gear or presence of discs, bobbbers or rollers.*
- *As written, it seems that the intent of the pelagic trawl gear definition was to create a net with elements such as large mesh and spacing in the opening for escapement of crab and halibut, both seafloor dwelling species, rather than actually discouraging contact with the seafloor.*
- *The definition of pelagic trawl, as written, assumes bottom contact will regularly occur therefore sea floor contact defines pelagic trawling.*
- *The definition of non-pelagic trawl is simply "...a trawl other than a pelagic trawl." If both pelagic and non-pelagic trawl have allowable bottom contact, then there is no management objective difference other than net construction.*

- *Any further direction from the Council as to the intended management objective of this definition would inform whether or not a follow up discussion paper would need to be done regarding acceptable levels of seafloor contact, identify tools or mechanisms to enforce Council defined limits, and consider the efficacy of existing bottom trawl closures in the context of this management objective. If the Council were to decide that a management object is not to limit seafloor contact, then the discussion paper may not be necessary.*

Rationale in opposition to Motion 3:

- *This second motion that was passed under this agenda item requests a discussion paper that, in part, includes an analysis of the substantive portions of this motion, rendering this motion duplicative.*
- *This is a housekeeping agenda item and narrowly focused in the Action Memo on what the Council action is. The first two motions are responsive to Council direction, the third motion does not belong under this agenda item.*
- *Redundant and reiterates the request for a discussion paper and topics that are included in Motion 2.*
- *The request to identify an operation management objective is beyond the scope. Concerns that it would likely be a long term task since multiple fisheries use pelagic trawls and have specific management objectives, as well as each paragraph within the pelagic trawl definition likely having specific management objectives.*
- *There are already multiple tools that address bottom contact and will likely be used to develop a discussion paper for Motion 2 passed prior to Motion 3. The EFH analysis and the FE model are two tools that already assess contact and impacts short and long term.*
- *Rationale supporting Amendment 1 to Motion 3*
- *Rationale spoken to the main motion was worded as such as the added amendment language.*
- *Given that motion 3 requests a discussion paper and the council has not yet identified the management objective, it removes presuppositional language that the maker of the motion confirmed was not the intent.*

D2 GOA Tanner Crab Protections

Motion:

The AP recommends that the Council approve a purpose and needs statement and move the Gulf of Alaska (GOA) Tanner crab *Chionoecetes bairdi* protections discussion paper to initial review with the following elements and options for the Council to consider discrete Tanner Crab Trawl ³and Pcod pot Closure Areas in the Gulf of Alaska.

Purpose & Need:

Crab stocks in the Central and Western Gulf of Alaska have experienced substantial declines and uneven recruitment events. Tanner crab in the central Gulf of Alaska may be particularly vulnerable to ocean conditions and recruitment mortality. While many sources of tanner crab mortality are beyond our control, bycatch mortality due to trawl fishing ³and Pcod pot fishing can be reduced and limited. High-density statistical areas for Gulf of Alaska tanner crab are areas 525630 and 525702 off the east side of Kodiak Island. Tanner Crab biomass in these areas represent the cornerstone of the GOA tanner crab stock and are significant both spatially and temporally. Protecting tanner crab in these areas throughout their life cycle by reducing tanner crab bycatch may result in increased spawning and recruitment as well as enhance the stability and resilience of the Gulf of Alaska tanner crab stock. ~~Reducing tanner crab bycatch is practicable because trawl target species in these areas are available in adjacent areas and elsewhere in the central Gulf of Alaska.~~

The AP recommends the following elements and options be included for initial review:

1. Status Quo
2. Trawl ³and Pcod Pot Gear Closure Zones:
 - A) 525702 & 525630
 1. Closed Year-Round
 2. Closed Seasonally, January 1- May 31
 - B) 525702
 1. Closed Year-Round
 2. Closed Seasonally, January 1- May 31
 - C) 525630
 1. Closed Year-Round
 2. Closed Seasonally, January 1- May 31

3. Expand analysis to include a wider range of years (2013-2023)
4. Include updated tables from the discussion paper as it relates to trawl (PTR & NPT) ³and **Pcod pot gear** ground-fish efforts.

⁴5. Separate CV and CP groundfish harvests in statistical areas and CGOA

6. Data/ Surveys of biomass availability for Groundfish stocks in the GOA
7. Data/Surveys of biomass availability for Tanner Crab stocks in the GOA
8. Economic Analysis

A. Value comparison of the directed Trawl Groundfish Catch to directed Tanner Crab catch in the selected statistical areas ⁵and **the Central Gulf of Alaska.**

B. Impacts of displaced fishing effort

⁵C. **Explanation of directed groundfish and tanner fisheries landings by month and how it maintains processing capacity in Kodiak**

²9. **Provide a review of mechanisms that could be used to evaluate whether the closures are meeting the Council’s Purpose and Need, including a discussion of how other Fishery Management Councils have evaluated and managed closures over time.**

⁶10. **Expanded exploration of Monitoring options in the two statistical areas that includes a cost/benefit analysis.**

Amended Main Motion Passed: 15/6

Amendment¹ (strike the last sentence in the purpose and need statement)

Amendment 1 Passed: 20/0

Amendment² (add bullet 9)

Amendment 2 Passed 20/0

Amendment³ (add “**and pot gear**” to purpose and need, #2 and #4)

Amendment to amendment (add **Pcod** in front of **pot** in amendment 3)

Amendment to amendment passed: 20/0

Amendment 3 Passed: 12/7

Amendment⁴ (add bullet 5)

Amendment 4 Passed: 20/0

Amendment⁵ (add language under A and add a C item under bullet 8 Economic Analysis)

Amendment 5 Passed: 21/0

Amendment⁶ (add bullet number 10)

Amendment 6 Passed: 17/4

Rationale in Support of Main Motion

- *AP members noted that advancing this analysis for initial review and exploring the effects of closing these Statistical areas may be a “proactive” approach instead of “reactive”*
- *Areas 525702 and 525630 have the largest concentration of Tanners in the GOA and include crabs in all stages of life and both sexes.*
 - *An average of 49% of all mature female Tanner crab, 47% of all mature male Tanner crab, and 41% of all legal male Tanner crab abundance in the Kodiak District was estimated from statistical areas 525702 and 525630.*
 - *Roughly 30% of total mature Tanner crab abundance was estimated in federal waters in the single statistical area 525702. (GOA Tanner Crab discussion paper pg.16)*
- *AP members felt the likelihood of significant reduction of Trawl sector Tanner Crab PSC through potential closures in these areas of long-term temporal & spatial importance merits consideration. An initial review could explore if these trawl closure areas would allow for additional protection for Tanner crab either year-round or seasonally; and if closure of these areas would provide protection for vulnerable Tanner crab and their habitat. AP members felt this was important because:*
 - *The Non Pelagic Trawl sector operates on the bottom and have the highest associated tanner crab bycatch in these statistical areas. 46% (Page 10 Tanner Crab Discussion paper)*
 - *Pelagic Trawl by regulation is required to remain off the bottom 90% of the time in the GOA but are found to have bottom contact up to 40% of the time (2022 Fishing Effects Model Feb 2023). AP members felt that this warranted initial review for this issue.*
- *The current pelagic trawl gear performance standard has been deemed ineffective in limiting seafloor contact, as stated by OLE and needs revision.*
- *AP members felt that until the Council develops a clear and enforceable PTR performance standard, forwarding initial review of closure of these areas follows the precautionary principle.*
- *AP members noted that tanner crab have biological characteristics that may make them more susceptible to mortality due to interaction with trawl gear (observed or unobserved).*
- *Mature crabs mate and molt beginning in February through mid June.*
- *Juvenile crabs molt multiple times in unpredictable patterns throughout the year associated with growth and triggered by temperature and food availability making them vulnerable more frequently.*
 - *Aggregated or mounding Tanner Crab are extremely vulnerable to fishing impacts.*
 - *Tanner crab migrate between habitats in predictable paths, which should help inform habitat protections.*
 - *The SOA Tanner Crab survey has been ongoing for 38 years and includes data from the summer survey and winter directed fishery. This data along with the winter directed fishery illustrates the presence of Tanner Crab in these areas year-round.*
- *AP members felt that initial review could explore the potential benefits of closures of these areas and that these benefits could include:*
 - *Increased resilience and a more reliable fishing opportunity for directed Tanner Crab participants.*
 - *Recent increased value of the directed Tanner Crab fishery both in revenue and in social importance. AP members noted that:*

- *The Directed Tanner fishery had 135 participating vessels this season.*
- *The majority of revenues generated spread throughout the Kodiak community could be multiplied before leaving this community.*
- *Fishermen went Tanner crab fishing to supplement poor salmon prices and poor seasons in 2023 as well as poor cod prices and low quotas in the GOA.*
- *Kodiak Tanner crabs are in a unique class as far as size and condition and have high market value.*
- *AP members felt that Initial Review could further explore GOA groundfish fisheries' historic dependence on areas 525630 & 525702. Members noted this was important because:*
 - *Retained groundfish catch in these areas was 6% Non-Pollock landings and 11% Pollock of the CGOA landings annually [page 10, table 8 of the January 2024 discussion paper].*
 - *84% of estimated PSC occurs in the shallow water flatfish fishery, 41% for Pollock and 40% for deep water flatfish.*
- *The highest PSC rates are associated with deep water flatfish, shallow water flatfish, pollock, and sablefish. The high ratio of Tanner Crab PSC warrants consideration for year round or seasonal closures for Trawl gears in these areas.*
- *AP Members felt that potential Initial Review could benefit from an expanded set of years that include higher fishing effort, increased landings in the trawl ground fishery, and additional biological information and habitat dependence from a larger set of Tanner crab survey information.*
 - *There was a significant reduction in NPT effort as the flatfish markets declined in the middle of the time series included in the discussion paper. AP members felt this might provide biased information that was inconsistent to typical conditions and fishing effort in the groundfish fisheries.*
- *AP members noted that the majority of written testimony (45 out of 46) was in support of implementing Tanner Crab protection zones in statistical areas in 525702 & 525630.*

Rationale Against Amended Main Motion 1

- *In an ideal world proactive action is always better than reaction – but this is not an ideal world and there is No scientific evidence of a problem*
- *We don't know that other closures are working and there is no goal to review the efficacy of the existing closures- piling more closures on top of existing closures can cause unintended downstream impacts.*
- *Bycatch of tanner crab in the two statistical areas has been less than 10,000 animals for the first half of the year over the last three years compared to a biomass of between 77 and 121 million crabs around Kodiak island- so less than 2 tenths of a percent has been taken as PSC in the stat areas that are being considered for closure.*
- *Council has chosen not to act on this issue more than once in the past and the tanner crab stock has continued to thrive and has grown to the largest biomass present in the area in many years – delivering a one-two week fishery worth over \$40 million to participants according to public comment.*
- *Diversity of product and a volume of product is important to maintain shoreside infrastructure – especially to provide an ability to process pulse fisheries. The AP did not hear from seafood processors in public comment explicitly one way or another.*

- *We heard public comment today from many stakeholders who will be directly impacted by a closure – we heard concerns about losing access to an area that is extremely important to trawl fishing businesses, we heard concerns about the cost of fuel and having to travel further to fishing grounds. And we heard from many stakeholders about their concerns related to safety at sea. Advocates for the action downplayed the safety concerns.*
- *A lot of discussion was presented about the value of the 2-week tanner crab fishery being more important or somehow superior to the value of the trawl fisheries that take place in the same area that would be displaced. If economic motivation for the tanner crab sector is okay for management measures, then economic motivation for the trawl sector is as important. Everyone's business plan is unique and what may not seem valuable to one person could be very valuable to someone else.*
- *Achieving OY is a National Standard and fisheries should be managed to achieve OY - the flatfish fishery has a lot of room to grow.*
- *Pollock and flatfish are an affordable protein and some of this fish ends up being purchased by the USDA for the national school lunch program and goes to foodbanks. Those programs are serving underserved populations around the country as well as in Alaska.*
- *The Council has limited resources available for council floor time and staff time We should focus our limited resources on the actual problems that we have and also focus on the lapp program for pot cod in the Bering Sea.*

Rationale in Favor of Amendment 2

- *The AP heard public testimony during other agenda items this week that was also referenced and discussed around the table during this discussion in regard to the efficacy of static closures and the lack of review mechanisms for establishing whether closure areas are working. The AP heard from multiple testifiers that the current existing crab closure areas may not be the correct boxes, and that other fishery management councils have processes built into closures in order to evaluate whether they are meeting the intended objective.*
- *It was noted that it was an important proactive approach to begin examining how to incorporate those metrics when considering new potential closure areas.*

Rationale in Favor of Amendment 3

- *PTR, NPT, and POT gears all have interactions with Tanner crab and Tanner PSC usage. The Council included all three gear types in their motion for the current discussion paper and the AP recommends that should the Council choose to move this issue forward, then all gear types should be included in a future initial review.*
- *If conservation of tanner crab is the priority of furthering the main motion, then all gear types and user groups should share the burden of conservation.*

Rationale in Favor of Amendment 4

- *While there was significant discussion with Council Staff during the presentation about the confidentiality challenges with the data, AP members noted that it was important to separate out CV and CP to the extent possible should the Council move the item to an initial review analysis. There was indication that Table 3 of the discussion paper would particularly benefit from the separation of CPs and CVs. Since Table 3 combines both CV and CP catch, the proportions of catch from 525630 and 525702 compared to the total CGOA catch for deep water flatfish, shallow water flatfish, and rockfish targets, do not communicate how each sector utilizes the two statistical areas. An AP member noted that CVs utilize those areas while most CPs do not; CVs have higher reliance on those statistical areas and would be disproportionately affected by closures in one or both areas.*

Rationale in Favor of Amendment 5

- *The AP heard public testimony that use of the two statistical areas may fluctuate yearly depending on markets, available TACs, and fish size in those statistical areas but that the statistical areas remain essential to their business plan. Should a value comparison be included in the economic analysis, the AP noted that the values of both trawl groundfish and tanner crab fisheries should be included for not only the selected statistical areas but the CGOA as a whole.*
- *A narrative that expands upon Table 2 in the discussion paper and explains directed groundfish and tanner fishery landings in 525630 and 525702 by gear type and sector would be helpful for understanding how it maintains shoreside processing capacity in Kodiak.*

Rationale in Favor of Amendment 6

- *The Council included monitoring information in their original motion for the discussion paper and AP members felt it was important to include that moving forward to a potential initial review, should the Council choose to do so.*
- *The AP acknowledged that the discussion paper noted the challenges with providing additional monitoring options in the two statistical areas, as well as previous work the PCFMAC completed in 2023 for the Partial Coverage Cost Efficiencies Analysis. While there are budget constraints and potential issues with additional monitoring, AP members felt an expanded exploration of monitoring options was an important element to consider should the Council choose to move forward with an Initial Review analysis.*
- *The AP was concerned that given the level of public testimony about the negative impacts of additional crab closure areas would have on the trawl fishery, a future initial review analysis could potentially be expected to show those same impacts. AP members felt that an initial review for closure areas should also contain other options as a “backup plan” or other solution if future analyses don’t show the benefit the tanner crab fishery expects and at that point it could be too late or complicate the issue to add additional alternatives. During the comment for this amendment, the AP referenced a similar discussion under Agenda Item C2 earlier in the week where users wanted to include additional alternatives to be analyzed for the first time in a potential Final Review draft.*
- *The “cost/benefit analysis” was included to demonstrate the potential costs and benefits of each monitoring item, including who would be responsible for costs.*
- *Tanner crab stocks could benefit from more accurate Tanner PSC accounting and additional monitoring to better understand impacts by fisheries that encounter them.*

Substitute Motion

The AP recommends no further action at this time.

Substitute Motion Failed: 6/15

Rationale in favor of substitute motion:

- *AP members noted that Kodiak Island Waters already have a large amount of spatial closures to both pelagic and non-pelagic trawl.*
- *AP members noted that there is evidence that static time and area closures may not be effective. The AP received public comment and heard testimony from individuals that existing closure areas may not be working.*
 - *Some AP members noted that it may be time to move away from fixed spatial closures. Evidence of this is that despite the fact that current closures have not resulted in a rebound of the king crab stock, nor offered much, if any, protection for the Tanner crab stock in federal waters. Just 1% of the average Tanner crab abundance from the last decade of surveys resides in the federal waters portion of the MBTCPA and only 4% in the entire closure area of 112 nm².*
- *AP members noted that although the Type I and II closures were primarily meant for king crab protections, they indirectly allow protection for Tanners as well. However, despite 1,769 nm² of fishing area being closed for nearly 40 years, the federal waters portion of the Type I and II closure areas holds just 12% of the average total tanner crab abundance.*
- *Amendment 89 to the GOA FMP has required trawl vessels to have non-pelagic gear modifications with elevated sweeps to minimize impacts on crab while participating in the CGOA flatfish fisheries. The AP heard oral testimony from a vessel owner/operator who explained how these gear modifications work to protect crab and that although only legally required to use them while targeting flatfish, some GOA vessels use them for all non-pelagic hauls, including when targeting rockfish, cod, and sablefish.*
- *The partial coverage observer program was created in part to provide better monitoring and accounting for crab PSC. There was discussion that the PCFMAC committee also recently went through the Partial Coverage Cost Efficiencies analysis to determine the best and most cost-efficient way to provide needed observer coverage. An AP member noted that nearly the entire Kodiak fleet participates in the pelagic pollock trawl electronic-monitoring program. It was also noted that the Kodiak trawl industry is actively working on building another EM program for both pelagic and non-pelagic trawl in the Rockfish Program and expects to begin an EFP in 2025 which would further improve monitoring for the trawl fleet.*
- *There was discussion during the presentation that the PSC data from 2020 was a biased outlier due to covid waivers and the lack of a directed cod fishery for all gear types.*
 - *Partial coverage observer waivers were issued in Kodiak which resulted in a high extrapolation of tanner crab PSC for NPT gear. Since there was no directed federal pot cod fishery in 2020, the POT gear rate may have been created by the IFQ sablefish pot fishery, which resulted in an unusually low tanner crab PSC rate in 2020.*

- *The last time the Council considered similar action items for GOA Tanner Crab in 2018, it was ultimately dropped. At that time, the discussion paper also referenced the 2017 “CGOA Crab Protection Measures” discussion paper when it stated, “Tanner crab in the GOA are less affected by the activity of the groundfish trawl fleet than they would be in the absence of those measures. Nevertheless, it is not well understood how important trawl bycatch is relative to other factors in the environment that may be limiting recovery of the stock and resumption of a stable and profitable Tanner crab fishery. Areas south of Kodiak, specifically statistical areas 525702 and 525630 show concentrations of Tanner crab from the ADF&G survey, as well as a relatively high degree of groundfish gear use. Since 2014, however, trawl gear modifications should be associated with reduced impacts to crab and crab habitat throughout the Central Gulf.”*
- *Kodiak Tanner crab abundance appears to be cyclical, but since the 2018 discussion paper was written, there have been three consecutive years of profitable commercial harvest. The majority of the abundance and commercial harvest continues to be from those two primary statistical areas; despite that, both pelagic and non-pelagic trawl vessels continue to operate there. When looking at tanner crab PSC for the last three years, which reflects current operations, compared to the total Tanner Crab abundance of 77.7 million crab to 121.8 million crab around Kodiak island, just 0.008%-0.013% is taken as PSC. This indicates that improved monitoring programs and trawl gear modifications may have fulfilled their intended goal, while static closures have less certain success.*
- *The AP heard from many testifiers that maintaining the availability of fishing areas is critical to their ability to operate their businesses. The two statistical areas of concern are key flatfish and cod grounds, but vessels also harvest pollock and rockfish there. Discussion indicated that pollock catch has decreased in the two statistical areas of concern since 2019 because of those areas, but those small pollock may grow and the trawl fishery will need to be able to harvest them in those areas again.*
- *Testifiers indicated that they often trawl in those two key statistical areas when there are strong northwest winds in the winter that prevent them from fishing elsewhere because those areas are relatively sheltered. Operators with smaller trawl vessels indicated they may be forced to fish in unsafe weather if there were spatial closures.*
- *Testimony also noted that if the statistical areas are closed they may be forced to fish in other places and encounter higher salmon PSC or other bycatch rates. Removing fishing grounds increases the likelihood that vessels can not harvest quota while reducing bycatch.*
- *AP members noted that the predominant A season fishery Area 620 (70,418 mt available TAC) is operating as a race. The fleet could not reach consensus for including 620 due to concerns over decreased processing capacity to harvest the full TAC and vessels needed the ability to function at their own efficiencies. It was noted at the AP that the voluntary agreement that the fleet reached took a week and a half of several meetings, four different agreement drafts, hours of phone calls and disagreements as everyone tried to come together to a plan that would provide the most benefit for everyone. Reaching consensus required a couple vessels giving up significant parts of their typical income to provide additional benefit to the rest of the fleet and processors. It was explained that the need for voluntary agreements perpetuates the inefficiencies and problems that continue to affect GOA trawl fisheries; these issues would only be compounded if the fleet was faced with additional closure areas.*

- *The AP noted and heard public testimony that the data provided in the discussion paper does not show evidence of a problem and while being proactive is important sometimes, furthering this action would likely only provide increased inefficiencies for the trawl fleet, while tanner crab and trawl fisheries have coexisted in these areas for decades. AP members noted that there is only so much time on the AP and Council Agenda and felt there were higher priorities for beneficial actions rather than spending time analyzing outdated static area closures.*
- *In an ideal world proactive action is always better than reaction – but this is not an ideal world and there is No scientific evidence of a problem*
- *We don't know that other closures are working and there is no goal to review the efficacy of the existing closures- piling more closures on top of existing closures can cause unintended downstream impacts.*
- *Bycatch of tanner crab in the two statistical areas has been less than 10,000 animals for the first half of the year over the last three years compared to a biomass of between 77 and 121 million crabs around Kodiak island- so less than 2 tenths of a percent has been taken as PSC in the stat areas that are being considered for closure.*
- *Council has chosen not to act on this issue more than once in the past and the tanner crab stock has continued to thrive and has grown to the largest biomass present in the area in many years – delivering a one-two week fishery worth over \$40 million to participants according to public comment.*
- *Diversity of product and a volume of product is important to maintain shoreside infrastructure – especially to provide an ability to process pulse fisheries. The AP did not hear from seafood processors in public comment explicitly one way or another.*
- *We heard public comment today from many stakeholders who will be directly impacted by a closure – we heard concerns about losing access to an area that is extremely important to trawl fishing businesses, we heard concerns about the cost of fuel and having to travel further to fishing grounds. And we heard from many stakeholders about their concerns related to safety at sea. Advocates for the action downplayed the safety concerns.*
- *A lot of discussion was presented about the value of the 2-week tanner crab fishery being more important or somehow superior to the value of the trawl fisheries that take place in the same area that would be displaced. If economic motivation for the tanner crab sector is okay for management measures, then economic motivation for the trawl sector is as important. Everyone's business plan is unique and what may not seem valuable to one person could be very valuable to someone else.*
- *Achieving OY is a National Standard and fisheries should be managed to achieve OY - the flatfish fishery has a lot of room to grow.*
- *Pollock and flatfish are an affordable protein and some of this fish ends up being purchased by the USDA for the national school lunch program and goes to foodbanks. Those programs are serving underserved populations around the country as well as in Alaska.*
- *The Council has limited resources available for council floor time and staff time We should focus our limited resources on the actual problems that we have and also focus on the lapp program for pot cod in the Bering Sea.*

Motion 2:

The AP requests the Council initiate a discussion paper that would evaluate metrics and mechanisms that could be used to evaluate the effectiveness of current (and future) crab conservation static area closures, as well as the management options for transitioning static closed areas into dynamic closures or reopening existing closure areas around Kodiak Island (Marmot Bay Tanner Crab Area and Type I and II King Crab Areas).

The discussion paper should include the following:

- *The survey abundance of crab and commercially important groundfish within the federal area of each of the closure areas relative to adjacent areas.*
- *Whether restructuring the closure area would provide groundfish fishing opportunities and potentially reduce predation without negatively affecting crab stocks*
- *Whether it would be beneficial to change the size and shape of the closure to better reflect where crab abundance is found within the area.*
- *Comparison of seasonal, annual, and dynamic closures.*
- *A potential experimental design and metrics that could be used to determine whether closures are meeting the intended objectives.*
- **'explore the impacts to king and tanner crab stocks and their habitat if closure zones were modified or opened**

Amendment' passed: 19/1

Amended main motion passed: 18/2

Rationale in favor of Amendment 1 to motion 2:

- *The protection of crab stocks is embedded in the objectives for these closure zones, and this change is intended to incorporate data that informs the Council on the impacts to those crab stocks.*

Rationale in favor of amended main motion 2:

- *According to the BSAI crab FMP (p.129), it was determined that Tanner crab are identified as having more habitat associations and in particular, benthic community associations, across a wider arrange of life stages compared to other major crab stocks.*
- *This supports that static area closures are effective for Tanner crab as they tend to stick close to the areas that they grow up in.*
- *Many of the elements for further exploration in the motion are responsive to concerns and discussions held around the table as well as what was shared in written and public testimony.*

E Staff Tasking

Motion 1:

The AP recommends the Council initiate a discussion paper to determine how to provide a Tribal Subsistence Fishing Opportunity for Cook Inlet salmon in the EEZ.

The AP notes effective and efficient tribal consultation is not only critical to navigating this process but to understanding the federal trust responsibility to protect tribal rights to cultural and natural resources, including the right to hunt, fish and gather.

Motion passed: 20/0

Rationale in favor of motion:

- *The federal government has trust obligations to federally recognized Tribes, as outlined in “NOAA Guidance and Best Practices for Engaging and Incorporating Indigenous Knowledge in Decision-Making” and “NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribal Governments.” These obligations are also outlined in the LKTKS Protocol and Policy adopted by the Council in October 2023.*
- *Several tribal members and tribes submitted written or oral testimony indicating insufficient tribal consultation during the multi-year process of bringing the Salmon FMP into compliance with the Magnuson-Stevens Act in response to both the 2016 Ninth Circuit ruling and the 2022 summary judgment opinion of the Alaska District Court in UCIDA et al. v. NMFS.*
- *The EA/RIR prepared for Proposed Amendment 16 to the Fishery Management Plan for the Salmon Fisheries in the EEZ Off Alaska included limited tribal consultation and did not specifically incorporate tribal feedback into the alternatives. Therefore, consideration of and provision for a Tribal Subsistence Fishing Opportunity was not included in the TACs recommended by the AP on agenda item C3 Cook Inlet Salmon but is presented through this motion for further assessment.*
- *Reference Memorandum on Uniform Standards for Tribal Consultation November 30, 2022 and this action meets MSA National Standard 8, Communities- Serving underserved communities*

Motion 2:

The AP recommends the Council request the Crab Plan Team evaluate the appropriateness of the current BSAI Fixed Gear Groundfish Discard Mortality Rate (DMR) for crab and recommend improvements or pathways to improvements. This may include development of specific HAL and pot gear DMRs to more accurately assess DMRs for each gear type.

Motion Passed: 20/0

Rationale in favor of motion:

- *The BSAI Fixed Gear Groundfish DMR appears to be highly inflated by buffers and is not based on direct research studies of bycatch in the longline or pot groundfish fisheries. (Oct '22 D2 BBRKC DP, page 29-30).*
- *Prior to 1996 the directed crab fishery DMR was less than 1%. It was revised up to 20% in 2004 with an intermediate step in between. The current rate appears to be based on published estimates of short-term mortality around 6% and then buffered to account for uncertain long-term effects. The fixed gear groundfish crab DMR is loosely based on this assumed rate with even higher buffers for uncertainty.*
- *This DMR has been in place since 2008 without revisions.*
- *Prior to 2008, the DMR has been revised higher and lower several times. From a low of 0%, up to 37%, down to 8%, back up to 20 and finally settling at the current rate of 50%. (June '10 Crab PSC DP, page 19)*
- *Many of the changes were made with the note “no rationale in analysis for choice of mortality rates”.*
- *The current DMR seems to have been settled on with the rationale that the Pcod pot fishery may encounter BBRKC at a time of year that is colder than when the directed crab fishery occurs and therefore may warrant a higher DMR. While it's true that the sector does have an A season that occurs in January, the vast majority of the effort occurs in the start of the B Season (Sept – Dec). A time of year that is typically warmer than when the directed crab fishery occurs (Oct 15th – Dec).*
- *Given the concern over the BBRKC stock and the BBRKC bycatch in the fixed gear groundfish fisheries, it is important to use the most accurate information possible in our management assumptions.*
- *This inflated DMR along with the effects of extrapolated observer data give the impression that fixed gear groundfish fisheries are having a much greater impact on the BBRKC stock than is observed by fishery participants on the grounds.*
- *Hook and Line and Pot are very different gear types and likely have significantly different DMRs*
- *Responsive to public testimony.*

Motion 3:

The AP approves the December 2023 report.

Motion Passed 20/0