



February 2, 2024

Ms. Angel Drobnic, Chair
North Pacific Fishery Management Council
1007 West Third, Suite 400
Anchorage, AK 99501

RE: Comment on Agenda Item C2 (BBRKC closure areas) – Initial Review

Dear Chair Drobnic and Council Members:

The Alaska Bering Sea Crabbers (ABSC) is a trade association representing the majority of independent crab harvesters who commercially fish for king, snow (opilio), and Tanner (bairdi) crab with pot gear in the Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Program. We appreciate the opportunity to comment on the second initial review of Agenda Item C2 – Bristol Bay Red King Crab (BBRKC) Closure Areas.

ABSC appreciates this second initial review draft and the additional information provided. Combined with the suggestions in this letter, we encourage the Council to move the document on to final action as scheduled in June.

ABSC is committed to using the best available science, erring on the side of conservation, and rebuilding crab stocks while finding ways to keep all sectors fishing and reducing their bycatch of other species. We recommend the Council and NOAA Fisheries implement better habitat protections and better spatial-temporal management of fisheries impacting crab to take fishing pressure off crab stocks that are at a conservation concern, particularly during molting/mating and other vulnerable life stages like juvenile recruitment.

The State has flagged concerns given the BBRKC stock is at such low levels and at risk of depensation or reproductive failure (see ADFG TAC-setting presentation 2023, slide 34). The alarm bells are ringing, and we are in an all-hands-on-deck situation. Given this level of conservation concern, additional protections beyond the status quo are needed immediately.

Many of our comments from the first initial review in June 2023 (attached) are still relevant in this second initial review and are further backed by the new information and science available in the second initial review. Based on the supporting information and the Council's ecosystem policies and essential fish habitat work, the purpose and need statement should be revised, and the range of alternatives should be expanded. Further, information shows that pelagic trawl gear for pollock is contacting the seafloor and has a gear performance standard that is not working as intended risking the effectiveness of protections for crab and crab habitat from mobile bottom contact gear. This needs to be addressed as part of this action. ABSC's suggested changes are supported by data already

in the second initial review and, therefore, should not delay moving to final action in June with an updated impacts analysis.

Revise the Purpose and Need Statement

The purpose and need statement explains that the BBRKC stock is at low levels, with low recruitment and biomass projected to decline, and that the Council is considering “*management measures focused on reducing BBRKC mortality from groundfish fishing in areas that may be important to BBRKC and where BBRKC may be found year-round.*” While we read that statement to include measures to reduce both observed and unobserved mortality and to protect habitat, the Council’s Analysis (at section 8.4) suggests that a “*clarification*” to the statement “*would be beneficial*” to confirm it covers measures to “*protect habitat beneficial to recruitment.*” ABSC supports expanding the purpose and need statement to confirm that the objectives of deterring seafloor contact in order to protect habitat and support recruitment are included.

ABSC recommends the following insertion to the second portion of the purpose and need statement:

*Given the poor recruitment and low stock status of BBRKC, the Council intends to consider management measures focused on reducing BBRKC mortality **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.*

Need Reasonable Range of Alternatives

NEPA requires consideration of a reasonable range of alternatives, meaning those alternatives “*that are technically and economically feasible and meet the purpose and need for the proposed action.*”¹ The existing range of alternatives is too narrow, as there are other reasonable alternatives that would address the purpose and need. These other alternatives should be included in the document for analysis and should include the concepts around protecting habitat and various life stages (egg-bearing females, newly settled juveniles of both sexes, and adults) and vulnerable phases of the crab life cycle (molting and mating from Jan-Jun).

Data in the analysis supports that permanent closures may be needed and additional areas outside the existing closures may be beneficial and important for BBRKC. The analysis recognizes this, noting that “*it may be worthwhile to consider additional management considerations for those areas in which higher proportions of BBRKC located, such as Area 512 or Zone 1.*” (Council analysis p.141)

For NEPA compliance, we recommend the following alternatives be added or be included as options within existing alternatives. Also see pages 2-4 of ABSC’s June 2023 comment letter for further details and context. ABSC also supports PNCIAC’s motions on the alternatives under this agenda item to incentivize gear innovation in all sectors to reduce crab bycatch and habitat impacts, and to protect molting and mating crab.

¹ 40 C.F.R. §§ 1502.14; 1508.1(z).

- **Seasonal closure (Jan 15-Jun) east of 163° W longitude in the stock management area to all gears** to protect molting/mating crab. This would reduce crab mortality in an area important to BBRKC and benefit recruitment. This would also provide some limited temporal protection for core essential fish habitat (EFH) for all life stages in the area (Figure 5-14, p.161). Although the best protection for EFH is permanent year-round closure.
- **Dynamic closure expanding the RKCSA/SS and NBBTCA closure** to reduce crab bycatch mortality and habitat disturbance from fishing or to protect molting/mating. The boundaries of the dynamic closure could be established annually using summer trawl survey distribution and known trajectories of seasonal crab movement from tagging studies (generally move west (deeper) from summer to fall and move east (shallower) from fall to winter). This dynamic closure could apply when the stock is below a total area-swept biomass threshold of 100,000 mt. This is responsive to interannual movement tied to temperature and climate changes and is modeled after the dynamic crab closure around the Pribilofs (i.e., ADFG homeplate). Additional new research to further refine this approach is in development.
- **Permanent closure North of RKCSA** to reduce crab bycatch mortality, reduce habitat disturbance, protect habitat, and protect molting/mating. The analysis shows the area north of the RKCSA warrants more protection given the status of BBRKC, core areas of occupied habitat for all life stages in the area (Figure 5-14, p.161), high bycatch rates, and habitat disturbance. “... higher amounts of RKC bycatch in the area just north of the RKCSA...” (Council analysis p.169) “...the area just north of the RKCSA in Zone 1 exhibits areas of high bottom contact. It is likely that potential habitat disturbances here may affect habitat occupied for the BBRKC stock and have trickle down effects to the population as a whole.” (Council analysis p.14) A concern about this area north of the RKCSA is what motivated ABSC’s previous request for emergency action.² That request was denied because NOAA determined the emergency action criteria were not satisfied. Nevertheless, the merits of a closure north of the RKCSA remain valid as shown in the Council’s analysis under this agenda item and should be considered as an alternative.
- **Permanent closure of RKCSA/SS to PTR** to reduce crab bycatch mortality, reduce habitat disturbance, protect habitat, and protect molting/mating. This closure would apply unless a vessel can prove with enforceable technologies there is no bottom contact. This would make the RKCSA closure consistent with the original intent of the RKCSA to protect crab and crab habitat from mobile bottom contact gear. In addition, it is consistent with other trawl closed areas that apply to both bottom and pelagic trawl in recognition that pelagic trawl gear makes contact with the seafloor. See ABSC’s June 2023 comment letter for more rationale. Recognizing concerns over displacement and the risk of increasing salmon bycatch, the analysis could consider whether salmon bycatch caps and incentives are adequate to keep those impacts within acceptable levels.

These additional alternatives are within the purpose and need statement and supported by existing data in the analysis. They should not delay progress toward final action in June beyond being incorporated into the impacts analysis.

² [ABSC’s initial emergency rule request](#) is available under Council agenda item E1 (staff tasking), Oct 2021. Council analysis occurred under agenda item D1 (RKCSA extension), Dec 2021. NMFS decision letter is dated January 5, 2022.

The rationale for selecting a total area-swept biomass threshold of 50,000 mt is unclear. The 50,000 mt threshold is similar to the other option of a threshold tied to directed crab fishery closure, not really creating a range. Both implement additional protections only when the stock is in a severely depressed state. From an ecological perspective, a threshold at 50,000 mt says each time the stock is starting to recover, managers will remove the restrictions. It doesn't really give the stock a chance to get out of a depressed status. It's like taking antibiotics and stopping them the moment you start feeling better. Science has proven that does not allow the medicine to fully work and causes long-term harm. In looking at Figure 2-1 of the Council analysis (p.36), 100,000 mt is a better threshold to protect the stock most of the time (~75% since 1995 when the RKCSA was implemented), giving it a chance to recover and, ideally, keep it out of a depressed status. Therefore, **ABSC recommends the threshold in Alternatives 2 & 3 be increased from 50,000 mt to 100,000 mt as a more ecologically appropriate threshold to adequately reduce fishing gear/crab interactions, habitat disturbance, and to provide an opportunity for stock recovery and recruitment.**

Performance Standard

ABSC appreciates the analysis of the pelagic trawl gear performance standards under C2 and D1 at this meeting as this is an important management measure that is not functioning as intended and needs revision. ABSC's comment letter under D1 on pelagic trawl performance standards at this meeting is herein incorporated by reference.

The pelagic trawl gear performance standard is interconnected with this action. It directly affects the BBRKC stock and habitat, as well as managers' ability to understand fishing impacts of pelagic trawl gear on BBRKC and crab habitat. The Council analysis states in Section 8.4 that the operative objective of the pelagic trawl performance standard to keep the gear off the seafloor is not being met and *"is not an effective tool to limit seafloor contact and an enforceable trawl performance standard is needed. Noting the substantial bottom contact by the gear type currently reported/defined as pelagic..."* Further, in Section 6.3, the analysis offers the following observation: *"For trawl performance standard enforcement to be effective, OLE would require a tool that determines seafloor contact in accordance with FMP management objectives. If the objective is to keep [pelagic] trawl gear off the bottom all or a portion of the time, the best approach might be to require an existing technology that can quantify and record seafloor contact, or potentially include additional bottom dwelling species caught as bycatch to verify seafloor contact."*

ABSC is concerned with the undocumented, unintended impacts and mortality on crab, especially during times when crab are extremely fragile during their molting and shell-hardening period. Unobserved fishing mortality of BBRKC is occurring in the RKCSA/SS and elsewhere due to interactions with many fishing gears, but most troubling is the amount of seafloor contact from pelagic trawl gear along with evidence of recent trawling trends presented in the analysis and past EFH analysis, showing an increase of pelagic trawl fishing effort inside the RKCSA/SS since 2014 at the same time that BBRKC stocks are showing a downward trend. The magnitude of mortality due to pelagic trawling in the RKCSA/SS is unknown; however, the previous BBRKC analyses state that pelagic trawl impacts to the seafloor are comparable to non-pelagic bottom trawling. The RKCSA was intended to end bottom contact by trawling to provide an area within the Bering Sea that was a refuge for king crab and their habitat. Closure of the RKCSA/SS provides additional protections for

conservation of the stock and consistent with the original intent of RKCSA management, which is to restrict mobile bottom contact by trawl gear in the closure area to protect crab and crab habitat. To this end, ABSC supports the use of bottom contact sensors or other enforceable technology in the pelagic trawl fleet to ensure that mobile fishing gear remains off the seafloor and allows for proper enforcement. Until this is proven to be effective and enforceable, the Council should list pelagic trawl under the definitions of “bottom contact gear” and “mobile bottom contact gear” and prohibit its use in areas closed to bottom trawling.

Impacts Analysis

Given the challenges fisheries in the Bering Sea are facing with several salmon and crab stocks at historic lows, paired with growing uncertainty and changing ocean conditions and ecosystems, we acknowledge management of Bering Sea fisheries is increasingly complex. The Council analysis highlights some of the tradeoffs, particularly around bycatch/PSC among species and displacement of fisheries.

Chinook and chum bycatch rise as a priority for bycatch avoidance. Next should be crab given its level of conservation concern compared to other bycatch species. There are currently management measures (bycatch caps) in place for Chinook salmon and in development for chum salmon that, if set correctly, constrain salmon bycatch and prevent increases in salmon bycatch beyond acceptable levels.

Similarly, for concerns over increased crab mortality or habitat impacts from displaced effort, the additional alternatives recommended in this letter would protect other important areas for crab to address any displacement concern by protecting areas that typically have higher crab mortality, protecting core areas of EFH for BBRKC, protecting the main areas of abundance for the stock, or protecting time and area where molting and mating occurs.

These are tremendously difficult times for many of the fishing sectors and communities that rely on Bering Sea fisheries. We must all share in the burden of conservation for these resources to keep them sustainable. Through improved management of fisheries in time and space, we can better balance these tradeoffs and work to keep everyone fishing.

Thank you for considering our comments.

Sincerely,



Jamie Goen
Executive Director
Alaska Bering Sea Crabbers

ATTACHMENT: ABSC comment C4 (RKCSA) June 2023