STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF FISH AND GAME
ALASKA BOARD OF FISHERIES

ADF&G
P.O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4110
FAX: (907) 465-6094

March 23, 2010

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, AK 99501-2252

Re: BSAI crab and statewide scallop federal fishery management plan amendments

Dear Chairman Olson:

At our December 2009 joint North Pacific Fishery Management Council (council)/Alaska Board of Fisheries (board) meeting, we received briefings on several Bering Sea/Aleutian Islands (BSAI) crab and statewide scallop fishery management actions scheduled for final action by the council in October 2010. That briefing provided an introduction to more detailed presentations delivered during our March 2010 meeting where we reviewed the preliminary range of alternatives for three crab rebuilding plans and received an overview of alternatives to meet crab and scallop Annual Catch Limit (ACL) requirements. In addition, we were provided a summary of federal fishery management plan (FMP) framework and the state's authority under our joint state-federal management structure for BSAI crab and statewide scallops. This letter provides input from the board meant to assist and inform the council as analyses move forward and preferred alternatives are selected. A detailed briefing document we utilized in shaping the recommendations contained herein is enclosed for your reference.

In establishing ACLs, the board requests that the council give serious consideration to approaches that reasonably meet MSA requirements – without being so precautionary as to encroach upon the state's authority to set TACs. ACL buffers more conservative than required to comply with federal law would diminish the state's ability to exercise policy discretion provided under the BSAI crab FMP. ACL requirements were developed as a means to achieve National Standard 1 under the revised MSA and do not change FMP goals and objectives. The state's conservative approach to harvest strategy implementation and proven ability to account for and respond to the best available stock status information provide added protections from overharvest and should be considered additional protections as the council recommends regulatory buffers to prevent overfishing.

Alternatives for rebuilding overfished crab stocks include a range of rebuilding time periods; options that could be coupled with those alternatives increase the probability of rebuilding in a given time period. The full range of alternatives and options is achieved through harvest rate adjustments, some of which restrict the state's authority and flexibility in setting annual TACs. We are concerned that an overly prescriptive approach to crab rebuilding plans would be inconsistent with the spirit of state-federal joint management established under the BSAI crab

FMP, and could represent a degradation of state's role in meeting rebuilding requirements and management objectives specified in the FMP and as National Standards.

The board is also concerned about crab bycatch in groundfish fisheries and associated impact on stock rebuilding and directed fishery harvest potential. We understand that the council received a crab bycatch discussion paper in October 2009 and subsequently requested that an expanded discussion paper be brought forward in 2010. The board encourages the council to continue review of this issue by initiating analysis of crab bycatch in BSAI groundfish fisheries and to evaluate the impact of bycatch and current bycatch limits on the directed crab fisheries under the council's preferred alternatives for rebuilding plans and ACL management measures.

The intent of the BSAI crab FMP is to preserve the state's management flexibility within the bounds of federal law and the board has consistently met that intent by exercising its FMP deferred authority to adopt harvest strategies satisfying both MSA requirements and FMP management objectives. These harvest strategies, crafted through a transparent regulatory process, demonstrate sound management policy, and provide fishery managers the necessary flexibility to establish TACs within federal rebuilding plan and ACL requirements. In acknowledgment of the state's consistent compliance with federal law and expertise in managing BSAI crab and statewide scallop stocks, we ask that when considering alternatives for rebuilding plans and ACLs, the state's traditional FMP deferred role in establishing TAC levels be recognized and retained. We request the council adopt preferred alternatives that provide the greatest flexibility to the state in setting TACs.

We believe that these requests will inform the process used to establish crab rebuilding plans and ACLs for crab and statewide scallops, leading to better managed fisheries. In furthering the shared interest of continued dialogue on rebuilding plans and ACLs we suggest that the Joint Protocol Committee of the Board of Fisheries and North Pacific Fishery Management Council meet in September, before final action by the council, and after a preliminary preferred alternative has been selected. We also, as always, invite council and NMFS representatives to participate in the board process and to collaborate with us on topics of mutual interest.

The Board of Fisheries looks forward to the continued coordination on these important fishery topics. Thank you.

Sincerely,

Clark V Webster

Vince Webster
Chairman, Alaska Board of Fisheries

Enclosure

cc: Jim Balsiger, Regional Administrator, National Marine Fisheries Service
Denby Lloyd, Commissioner, Alaska Department of Fish and Game

Briefing to the Alaska Board of Fisheries on BSAI crab FMP amendments

Alaska Department of Fish and Game Division of Commercial Fisheries

March 16, 2010

The following briefing identifies issues the Board of Fisheries (board) may wish to consider in response to pending North Pacific Fishery Management Council (council) actions related to Bering Sea and Aleutian Islands (BSAI) crab. This briefing is intended to supplement the presentation you will receive as staff report RC5.

Analyses have been initiated for implementation of Annual Catch Limits (ACL), and development of Pribilof Islands blue king, Bering Sea snow, and Bering Sea Tanner crab stock rebuilding plans. Some alternatives in the analyses have considerable potential to negatively impact management authority deferred to the State of Alaska (state) in the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP).

ACLs

National Standard 1 guidelines developed in response to 2007 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) require that ACLs be adopted for each crab stock listed in the FMP and that ACLs must be implemented beginning with the 2010/2011 fishing season. ACLs will establish a buffer between the federal overfishing level (OFL; the estimate of the total annual catch that would jeopardize the capacity of a stock to produce maximum sustained yield on a continuing basis) adopted by the council and the maximum Total Allowable Catch (TAC) set by the state. ACL buffers must be crafted to account for biological and management uncertainty for each stock. Examples of biological uncertainty include imprecision in the estimate of abundance and imprecision in the estimates of parameters, such as the natural mortality rate, used in the population model. Examples of management uncertainty include imprecision in estimating the expected number of crab discards, such as sub-legal Tanner crabs in the directed Tanner crab fishery.

An ACL buffer is a precautionary measure implemented to explicitly address overall uncertainty in stock assessment and OFL determinations. This scientific uncertainty must be incorporated when an ACL is specified, and not during the stock assessment process or when adopting an OFL for a specific crab stock. Precautionary measures mitigating for scientific uncertainty (e.g., assuming that the National Marine Fisheries Service bottom

trawl survey net captures nearly 100% of the legal crabs in its path) have previously been implicitly integrated into some assessment models, rebuilding plans, and OFLs.

It is notable that state harvest strategies provide for incorporation of additional precautionary considerations during TAC setting beyond those specifically prescribed in regulation. The state has employed this flexibility in prior assessment cycles by implementing time and area fishery closures, lowering harvest rates, and accounting for bycatch mortality to prevent overfishing. In exercising FMP deferred management authority, the state often approaches TAC setting more conservatively than required by federal law, taking into account management concerns not specifically incorporated into stock assessments. This flexibility in TAC setting is among the state's strongest contributions to BSAI crab management under the FMP.

Rebuilding Plans

Bering Sea snow crab and Pribilof Islands blue king crab stocks have failed to make adequate progress towards rebuilding and new rebuilding plans for these stocks must be implemented beginning with the 2011/2012 fishing season. In addition, the board and council have been advised that the Bering Sea Tanner crab stock is approaching an overfished condition, thereby requiring implementation of a rebuilding plan for that stock by the 2011/2012 fishing season.

The council will adopt preferred alternatives for crab rebuilding plans to meet specific goals; rebuilding plans must be crafted within both National Standard guidelines and the framework-nature of the FMP. Previous council actions have been sensitive to the state's FMP Category 2 responsibility and authority to set TACs. This authority was initially deferred in recognition of the state's responsive fishery management practices and use of the best available scientific information in managing BSAI crab stocks. The FMP makes the state and federal government partners in achieving the goals of rebuilding plans. The state's expertise in managing BSAI crab stocks and flexibility in incorporating new information provide assurance that the state is committed to rebuilding BSAI crab stocks.

Options proposed for consideration include annual adjustments to the rebuilding harvest rate for both snow and Tanner crab. Such a prescriptive approach to crab rebuilding plans would be inconsistent with the spirit of the FMP and represents a degradation of the state's deferred management responsibilities. Considerations for annual changes in stock reproductive potential and the highly cyclic nature of BSAI stocks are specific reasons why TAC setting authority is deferred to the state and provide strong justification for options that do not include annual adjustment to the rebuilding goals.

Rebuilding alternatives also consider the time frame for rebuilding. To take maximum advantage of the state's flexibility and knowledge in managing BSAI crab stocks, the time frame specified for stock rebuilding must be responsive to the status and biology of each stock, environmental conditions, and the needs of fishing communities.

Bycatch considerations

Bycatch control measures, along with habitat protection and harvest strategies, represent key components of crab rebuilding plans. In the directed crab fisheries, the state has implemented bycatch control measures including accounting for bycatch in each crab fishery as well as specific area closures; however, under the current management structure, commensurate measures do not exist to control crab bycatch in the groundfish

fisheries. Several crab stocks lack any bycatch limits in groundfish fisheries and crab bycatch limits that are in place have little relationship to the OFL for the crab stock.

Bycatch mitigation in crab fisheries is incorporated into the state TAC setting process, thereby reducing directed crab fishery harvests; however, the impact of crab bycatch during groundfish fisheries and current crab bycatch limits on directed crab fisheries under the alternatives for ACL management measures and each of the three rebuilding plans is not well understood and is of concern. Crab ACLs and rebuilding plans must account for crab bycatch in BSAI groundfish fisheries.

Summary

The state has consistently exercised a high degree of cooperation with the federal government in managing BSAI crab stocks and frequently seeks guidance to ensure that state management actions are in compliance with MSA and the FMP. Given the long history of cooperative BSAI crab management, the board may wish to provide input to the council at this time for their consideration as alternatives are refined in April and June and preferred alternatives are selected in October. Board recommendations or concerns could provide a record demonstrating need and interest to retain the state's management authority and flexibility provided under the BSAI crab FMP.