

# Ecosystem Committee Minutes

December 7, 2009 10am-3pm  
Hilton Hotel, Aspen/Spruce Room, Anchorage, AK

**Committee:** Stephanie Madsen (chair), Jon Kurland, Dave Benton (teleconf), Doug DeMaster (teleconf), Caleb Pungawi (teleconf), Diana Evans (staff)

**Others attending included:** Dave Witherell (staff), Matt Eagleton, John Olson, Melanie Brown, Mike Levine

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The Committee noted that their next meeting will take place in late January, 2010, at the Alaska Fisheries Science Center, in Seattle, WA. The meeting will occur conjointly with the AI Ecosystem Team, and the primary agenda item will be to discuss the AI Fishery Ecosystem Plan.

## MPA nomination process

David Witherell and John Olson presented a discussion paper addressing the Council's options for nominating Alaskan fishery closure areas to the National System of Marine Protected Areas (MPAs). In May 2009, NMFS wrote a letter to the Council to initiate consultation with the Council regarding 26 MPA eligible sites identified by the MPA Center. The Council tasked staff to prepare a discussion paper on the MPA process and potential sites for inclusion, including but not limited to the list suggested by the MPA Center. The discussion paper describes the background for the MPA nomination process, as well as potential issues of concern for the Council.

The Committee discussed a number of issues raised in the discussion paper, including the regulatory process involved in MPA nominations. It was clarified that there is no separate regulatory action to implement an area as an MPA under the national system, so nominating a site to the national system would be an administrative action by NMFS, and would not involve any rulemaking. The Committee also discussed whether the Secretary of Commerce has the ability to overrule the Council, under Section 304 of the MSA, if the Council chooses not to list sites on the national system. While doing so would be contrary to NMFS' consultation policy on the MPA national system, it appears to be unclear whether it is within NMFS or the Secretary's authority to do so.

It was noted by Mr Witherell that if the Council chooses to reject the proposed eligible MPA sites, a justification would need to be provided as to why these sites were not selected, or why different sites would need to be selected. Based on this and other discussion of the options included in the paper, **the Committee recommends that the Council ask staff to prepare a discussion paper that would analyze two options: Option 1 and Option 2 in the discussion paper, namely not to nominate any sites to the MPA list, or to nominate only sites that are quasi-marine reserves.** Under option 1, the rationale for not selecting the sites proposed by the MPA center would be explained. Under option 2, the Council would evaluate a subset of fishery closure areas in Alaskan waters, and the discussion paper could test how the 'avoid harm' provision would be applied to these sites. This discussion should evaluate different ways to interpret the 'avoid harm' provision, which has not yet been defined. The Committee recommends that the starting point for interpreting the provision should be to use existing standards that are already part of the MSA, such as the EFH standard, to minimize impacts to the extent practicable. The discussion paper should also consider the fact that other agencies are obliged to meet the 'avoid harm' provision for the protected resources that might be designated in the quasi-marine reserves under Option 2, and the implications of this requirement.

Other process issues with respect to the MPA national system should also be addressed in the discussion paper. These include the proposed mechanism whereby the Council would look at ways for nominating sites to the national framework, the kind of information that would be used to nominate such sites, the

provisions and a procedure for modifying existing management measures for those sites once they are on the national framework, and a procedure for how sites would be removed from the national framework. The Committee suggests that the Council consider developing a formal procedure for evaluating potential MPAs, similar to the procedure currently in the FMPs for identifying HAPCs.

**The Committee also recommends that the Council ask staff to prepare a second discussion paper, that would look at the four MPAs that have already been designated in Alaska (Glacier Bay National Park, Alaska Maritime National Wildlife Refuge, Arctic National Wildlife Refuge, and Yukon Delta National Wildlife Refuge) and evaluate ‘avoid harm’ issues for these MPAs.** The discussion paper should identify what resources are protected in these MPAs, overlay what fishing areas occur in the MPAs, and identify what obligations or conflicts the Council might have with these MPAs.

### **Update on the National Ocean Policy Task Force and Marine Spatial Planning**

Mr Kurland provided background on the creation of the interagency ocean policy task force, which occurred in June 2009, and which is chaired by the Council of Environmental Quality. Two deadlines were established for the task force: the first was to produce a report delineating a national policy for oceans, coasts, and great lakes; a framework for coordination across jurisdictions; and an implementation plan. This report was released for public comment in September 2009. The second deadline is December 9, 2009, by which time the task force is expected to release a framework for coastal and marine spatial planning. There are no deadlines identified as yet for any implementation of marine spatial planning initiatives, only for the development of the framework.

Dr DeMaster also noted that NOAA is in the process of developing the next generation strategic plan for NOAA, for 2012-2016. Dr Lubchenko recently hosted a national stakeholders’ meeting in Washington, DC, and within the goal of sustainable fisheries, there was considerable discussion of marine spatial planning and marine protected areas. The strategic plan is likely to get finalized over the next six months.

### **Update on the Northern Bering Sea Research Area (NBSRA) research plan**

Ms Evans informed the committee of the ongoing development of a research plan for the NBSRA, which is currently being undertaken by the Alaska Fisheries Science Center (AFSC) under the project leadership of Dr Cynthia Yeung. The research plan will not come before the Council for action until 2011, however the AFSC is hosting a subsistence and stakeholder workshop in Anchorage, February 24-25, 2010, to gather information to be included in the research plan.

### **Essential Fish Habitat 5-year review and the HAPC process**

Ms Evans and Mr Eagleton presented the preliminary report of the Essential Fish Habitat (EFH) 5-year review. Overall, the Committee commended the authors on the report, and provided some specific suggestions for clarification. With respect to the tables summarizing the GOA and BSAI individual species reviews, the Committee noted that the report should identify what the management implications may be of the suggested changes marked by shading. The Committee also commented that the review of changes to fishing distribution and intensity should describe both whether fisheries have moved into new areas, and areas that fisheries are no longer utilizing. For EFH research projects into the impacts of trawling in areas that have now been closed to trawling, these should look both at habitat recovery rates and changes in species diversity in these areas.

The Committee noted that in the last EFH process, nonfishing stakeholders were interested in the EFH conservation and enhancement recommendations that were adopted by the Council for nonfishing activities. It may be advisable to consider how to alert these stakeholders of the current review process. With respect to the review of EFH in the salmon FMP, the Committee recommends that State of Alaska researchers be involved in the review process in addition to researchers from the AFSC.