

MINUTES

159th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
December 4-9, 2002
Anchorage, Alaska

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North Pacific Fishery Management Council

David Benton, Chairman
Chris Oliver, Executive Director



605 W 4th Avenue, Ste. 306
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

Visit our website: www.fakr.noaa.gov/npfmc

Certified _____

David Benton, Chairman

Date _____

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**159th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
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Anchorage, Alaska**

The North Pacific Fishery Management Council met December 4-9, 2002, at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met December 2-4, and the Advisory Panel met December 2-6, at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

David Benton, Chairman
Stosh Anderson
Dr. Jim Balsiger/Sue Salvesson
John Bundy
Anthony DeGange for David Allen
Kevin Duffy/Earl Krygier for Frank Rue
Dr. Dave Hanson

Dennis Austin, Vice Chair
Dr. David Fluharty
Roy Hyder for Lindsay Ball
Stephanie Madsen
Hazel Nelson
Bob Penney (absent)
RADM Tom Barrett/CAPT Richard Preston

NPFMC Staff

Chris Oliver, Executive Director
Cathy Coon
Jane DiCosimo
Elaine Dinneford
Dr. Mark Fina
Nicole Kimball
Jon McCracken

Diane Provost
David Witherell
Dr. Diana Stram
Diana Evans
Gail Bendixen
Maria Shawback
Shannon Vivian

Support Staff

Lisa Lindeman, NOAA-GCAK
John Lepore, NOAA-GCAK
Tom Meyer, NOAA-GCAK
Joe McCabe, NOAA-GCAK
Herman Savikko, ADF&G
Dr. Doug DeMaster, NMFS-AFSC
Dr. Anne Hollowed, NMFS-AFSC
Dr. James Ianelli, NMFS-AFSC
Dr. Pat Livingston, NMFS-AFSC
Dr. Loh-lee Low, NMFS-AFSC
Dr. Grant Thompson, NMFS-AFSC

Jeff Passer, NMFS-Enforcement
Steve Davis, NMFS-AKR
Glenn Merrill, NMFS-AKR
Shane Capron, NMFS-AKR
Tamra Faris, NMFS-AKR
Mary Furuness, NMFS-AKR
Jay Ginter, NMFS-AKR
Cindy Hartmann, NMFS-AKR
Rance Morrison, NMFS-AKR
Michael Payne, NMFS-AKR
Tom Pearson, NMFS-AKR

Scientific and Statistical Committee

Dr. Richard Marasco, Chair
Dr. Jack Tagart, Vice Chair
Dr. Steve Berkeley
Dr. Keith Criddle

Dr. Mark Herrmann
Dr. George Hunt
Dan Kimura

Advisory Panel

John Bruce, Chairman
Ragnar Alstrom
Dave Benson
Dave Boisseau
Al Burch
Craig Cross
Ben Ellis
Tom Enlow

Dan Falvey, Co-Vice Chair
Lance Farr
Duncan Fields
Dave Fraser
Arne Fuglvog, Co-Vice Chair
Bill Jacobson
Teresa Kandianis
Tracey Mayhew

Kris Norosz
Eric Olson
Jim Preston
Michelle Ridgway
Jeff Steele
Jeff Stephan
Lyle Yeck

Other Attendees

The following people signed the attendance register:

Robert Mikol
Jeff Stephan
Phillip Lestenkof
Al Burch
Simeon Swetzof, Jr.
Heather McCarty
David Woodruff
Keith H. Colburn
Ilarion Philemonof
Matt Doherty
Arni Thomson
Steve Grabacki
Chris Heuker

Marcus Alden
Barney Olsen
F. Gregory Baker
Bill Arterburn
Bryce Morgan
Frank Kelty
Gary Johnson
Joe Sullivan
Janet Smoker
Joe Plesha
Spike Jensen
Walt Christensen
Max Malavansky

Steve Toomey
Joe Childers
James Mize
Whit Sheard
Mike Szymanski
Loh-Lee Low
Ben Enticknap
Thomas Pearson
Patience Merculief
Jack Hill

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Other Attendees (cont'd)

Pat Carlson
John Henderschedt
Thorn Smith
Craig Cross
David Benoit

Glenn Reed
Jim Paulin
Geoff Shester
Gerry Merrigan
Donna Parker

Sinclair Wilt
Dwain Foster, Sr.
Norman Stadem
Brent Paine

A list of those who provided public comment during the meeting is found in Appendix I to these minutes.

A. CALL TO ORDER/APPROVAL OF AGENDA/MINUTES OF PREVIOUS MEETING(S)

Chairman David Benton called the meeting to order at approximately 8:06 a.m. on Wednesday, December 4, 2002.

Agenda. The agenda was approved as submitted, with minor scheduling changes.

Minutes. The minutes of the April 2002 and June 2002 meetings were approved as drafted.

Alaska State Governor Frank Murkowski visited the Council meeting on Wednesday, December 4, 2002. Governor Murkowski thanked the Council and recognized its great dedication, effort and commitment to address fisheries in renewability of the resource. He committed his administration to certain management technologies and applications that will prevail in the areas of fisheries and game management. He gave his personal commitment to management with the highest sustainable yield, using the best science and technology available, while trying to eliminate the political component. Governor Murkowski outlined his administration's intent on having the best biological analysis possible and his expectations of having people in the administration who are prepared to lay their reputations on the line and back their recommendations. He will support those recommendations and hold himself and those people accountable for them. The Governor recognized the efforts the Council had made collectively and individually, and spoke of how proud he was to initiate this partnership for the resources of the State of Alaska. Governor Murkowski closed by thanking the Council for its contribution and wished everyone a happy holiday season.

B. REPORTS

The Council received written reports from the Executive Director (Agenda item B-1), NMFS (B-2), ADF&G (B-3), the Coast Guard Enforcement (B-4), and the National Academy's Committee on *The Alaska Groundfish Fishery and Steller Sea Lions* as well as the pre-publication copy of *The Decline of the Steller Sea Lion in Alaskan Waters* (B-6). The Council also received a report from the Vessel Monitoring System Committee by Guy Holt (B-7).

DISCUSSION RESULTING FROM REPORTS

Executive Director's Report

Chairman Benton asked Council Member David Fluharty to give a brief review of the Ecosystem Panel presentation given on Tuesday, December 3, 2002. Dr. Fluharty thanked Chairman Benton, Chris Oliver and David Witherell for their help in getting this forum off the ground. He had heard from several people that

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it was very valuable and gave information that was helpful working with Essential Fish Habitat, Steller Sea Lions and even background for the F₄₀ Report. Dr. Fluharty will put together a summary report that will be available on the University of Washington, School of Marine Affairs' website.

Executive Director Chris Oliver reported that he and Council Member Stosh Anderson had met with the Board of Fisheries Marine Protected Areas Steering Committee.

Regarding settlement negotiations, Mr. Oliver reported that the Council does have a place, represented by Chairman Benton, in settlement negotiations. Chairman Benton expressed his desire for the entire Council to be informed, so long as confidentiality is retained. There was discussion of signing a confidentiality agreement. The Chairman praised the Executive Director for a job well done in his discussions with the Department of Justice (DOJ). The attitude of the DOJ had changed considerably, and DOJ counsel was very forthright in that they looked forward to having the Council involved.

National Academy of Sciences Report

Dr. Gordon Kruse, SSC Member, and Susan Roberts, National Research Council, presented a report and handed out pre-publication copies of *The Decline of the Steller Sea Lion in Alaskan Waters*. Chairman Benton thanked Dr. Kruse and Ms. Roberts for their efforts. He believed the "take home" message with regard to the bottom-up/top-down hypotheses and the 1992-present period was that while you can't absolutely eliminate fisheries, it was the opinion of the Committee that the bottom-up factors were not the primary threat to the recovery of sea lions in the Western area. The top-down factors are the primary threat to recovery and what happened in 1990-present period. The Chairman pointed out that the Council had, since 1998, been trying to do some or all of the things identified in Option 3 of the Committee's Action Recommendations, but it had never been able to put that together as a package. The Chairman also mentioned that measures currently in place could be adjusted so as not to jeopardize Steller sea lions but still provide relief for the fishing industry in socially and economically impacted areas. This would also provide the Council with a better grasp of what factors affect sea lion recovery and whether or not fishing really has an effect at all.

Chris Oliver gave a brief report of the Joint Protocol Committee meeting held Tuesday, December 3, 2002. Most of its discussions focused on coordination between the Council and the Board management on items of joint interest. The Committee agreed that there had been good communication and coordination throughout the process. Two specific issues raised by Board members included whether or not crab fisheries were included in Alternative 5 for EFH, and whether the measures related to crab/scallop fisheries would or could be under the Board's purview as Category II or III measures. The Board also relayed to the Council that, separate from their MPA initiative, it is considering an Oceana proposal in March for possible final action dealing with potential closures in State waters in the Aleutian Islands. Council member John Bundy asked how crab could be included in Alternative 5 for EFH when the motion read "scallop and groundfish" Mr. Oliver deferred to Cathy Coon whose recollection was that crab was included by the Committee, but not in the Council motion. John Lepore clarified that according to the Final Rule "all species" are covered.

FORMAT FOR COUNCIL MEETING MINUTES

Each agenda item requiring Council action will begin with a copy of the original "**Action Memo**" from the Council meeting notebook. This will provide an "historical" background leading up to the current action. This section will be set in a different type than the actual minutes. Any attachments referred to in the Action Memo will **not** be attached to the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be the **reports** of the Scientific and Statistical

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Committee, Advisory Panel, and any other relevant committee or workgroup on the subject. Last will be a section describing Council **Discussion and Action**, if any.

C. NEW OR CONTINUING BUSINESS

C-1 Crab Management

ACTION REQUIRED

- (a) Receive Committee reports and select preferred alternatives for completed trailing amendments.
- (b) Discuss EIS progress and alternatives

(a) The following items contained in trailing amendments will be presented to the Council at this meeting:

- 1) Captains quota shares C shares. The Council will be presented the final analysis of options for allocating 3 percent of harvest shares to eligible captains. Several different options are proposed for determining eligibility to receive shares, governing share transfers and use, and limiting ownership of C shares. The analysis examines the different options and their effects on captains, harvesters, processors, and regions through the interactions of the C share program with other aspects of the rationalization program.
- 2) Sideboard protections. The Council will be presented the final analysis of options for sideboards to limit efforts of BSAI crab fishermen in the Gulf of Alaska Pacific cod fisheries.
- 3) Alternative protections for communities. The Council will be updated on committee progress by staff. In addition, analyses will be presented of options for the purchase of harvest shares by communities and for a cooling off period for the transfer of processing shares from communities.
- 4) Data collection. The Council will be presented the analysis of options to establish a system to collect economic data for evaluating the success of the rationalization program. The analysis examines the types of data for collection, the system for collecting those data, and protecting confidentiality. This analysis will either be in the Council notebooks or delivered at the meeting.
- 5) Mandatory binding arbitration. The Council will be updated on committee progress and on the contracting of an analysis of arbitration structures using experimental economics.
- 6) Additional amendments. The Council will be presented analyses of the following additional amendments or supplemental provisions:
 - a provision that would allocate history to owners of sunken vessels for the period of time affected by the sinking.
 - options for allocating a portion of the WAI (Adak) golden king crab fishery to the community of Adak.
 - options for increased harvest share ownership and use caps for CDQ groups.

(b) To take final action on the preferred rationalization program, an EIS evaluating the program and alternative management of the BSAI crab fisheries must be completed. The central, preferred alternative in that EIS will consist of the Council's June 2002 action, combined with action taken on the suite of trailing amendments (some of which will be resolved at this meeting and some of which will be determined in February). Staff of National Marine Fisheries Service (NOAA Fisheries), the Council, and the State of Alaska Department of Fish and Game are currently preparing a draft of the EIS for Council review at the February meeting. Staff will update the Council of the status of that draft. The Council may also revisit the selection of alternatives for analysis in the EIS.

Scientific and Statistical Committee Report

The SSC received reports from Mark Fina and Nicole Kimball who presented trailing amendments on captain quota share, sideboard protection, data collection, mandatory binding arbitration and additional amendments. The SSC's comments on each trailing amendment are outlined individually below.

Trailing Amendment on Captain Quota Share C Shares

The SSC noted that the final analysis of options to be delivered to the Council had changed very little from the Captain's Quota Share Committee presentation at the October 2002 meeting and had no additional comment.

Trailing Amendment on Sideboard Protection

The SSC pointed out changes from the earlier briefing on sideboards including additional catch history information on AFA vessels that are exempt from GOA sideboards. It also received additional analysis on whether to place sideboard restrictions on the vessel where the crab quota was generated or on the licenses held by the vessel that generated the crab quota.

Trailing Amendment on Data Collection

Council staff clarified several technical points for the SSC including data collection from the processors being at the plant level and not the firm level. A major area of concern was the collection and allocation of fixed costs to crab-specific operations.

The SSC noted that if the data are aggregated prior to submission, the quality and type of economic analyses would be affected. For example: statistical analysis of variations in reported data would not be characteristic of the actual level of variability in the industry; erroneous conclusions may be made in examining average costs data over a very large and very small processor and/or vessels; it may not be possible, depending on aggregation requirements, to identify economic impacts on some of the more remote Alaska coastal communities; and, observation and reporting errors, or outliers in individual data, cannot be separated out from the aggregated data. The researchers who use the data should be both responsible for the use of the data and accountable (to the extent possible) for the accuracy of data used. The SSC felt strongly that separating the individual data from the researchers who use the data would be undesirable. Therefore, the SSC recommended the Data Collection Committee work on resolving issues acting as obstacles for accessing unaggregated data.

Trailing Amendment on Mandatory Binding Arbitration

The SSC learned of the arbitration options being scaled down to three preseason structures including a combined fleet-wide processor negotiation, combined fleet-wide negotiation with individual processors and individual vessel negotiations with individual processors. Dr. Charles Plott (Cal Tech) will provide Council staff with an analysis of arbitration structures using experimental methods. The SSC agreed with Council staff that the study should be based on generic bargaining structures as opposed to specific features of the

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crab industry. The reason for this recommendation is that attempts to represent the levels of strategic knowledge and past bargaining relationships would cloud an exploration of the intrinsic properties of alternative arbitration structures. The SSC recommends Dr. Plott's analysis include a review of other applications of binding arbitration in fisheries or similar industries.

Additional Trailing Amendments

The SSC was presented analysis on: (1) revisions to the rules governing the allocation of catch history to sunken vessels, (2) options for allocating a portion of the Western Aleutian Islands (Adak) golden king crab fishery to the community of Adak; and, (3) options for increased harvest share ownership and use caps for CDQ groups.

The only substantive SSC comment pertained to the issue of community protection. A cooling off period is proposed as a way of protecting communities from rapid reduction in capital. This cooling off period is intended to allow communities time to adapt to economic changes resulting from capital reduction. However, the SSC noted that by the time crab rationalization actually takes place, in all likelihood there will be a cooling off period of several years and that an additional cooling off period for an extended amount of time may not be needed.

The SSC also learned that progress on the EIS was crawling along at a snail's pace.

Report of the Advisory Panel

The AP also received staff reports on captain quota share, sideboard protection, data collection, community protection, CDQ caps and sideboards. The AP's comments on each issue are outlined below.

Captain Quota Share

The AP recommended the Council adopt the Captain's QS Committee's recommendation as a preferred alternative with an added option under the loan program to create a zero down payment provision for crew members.

Sideboards

The AP recommended the Council select the following preferred sideboard alternative:

Option 1 (a): Non-AFA vessels that qualify for QS in the rationalized opilio crab fisheries would be limited to their GOA groundfish catch history excluding sablefish. The sideboards would be based on the history of vessels subject to the caps, applied in aggregate, on an area specific basis, and apply jointly to both the vessel and the license.

Combine options 2 and 3: Vessels with less than 100,000lbs total opilio history during the qualifying years and more than 500MT of total cod history during the qualifying years would be exempt from the sideboard cap.

Option 4: Vessels with less than 100MT total groundfish landings in the qualifying period would be prohibited from participating in the GOA cod fishery.

The AP also recommended the Council require crab coops to limit their members to their aggregate cod catch in both federal and state waters to the sideboarded amount. It requested staff examine how that would integrate with the existing coop structure in the preferred alternative. The AP encouraged identification of enforcement options available to the coop which would ensure compliance with parallel fishery limitations.

Data Collection

The AP noted its appreciation for the hard work by the Data Collection Committee, Council staff, NMFS and ADF&G and recommended the Council direct the Committee to continue its work. In particular, the Committee be directed to provide recommendations at the February 2003 Council meeting on the aggregation of data and its importance in protecting industry proprietary and confidential information. Recommendations should cover both data analyses presented to the Council and public, and industry raw data that is provided to staff for purposes of analysis. The AP requested the Committee review Section 8 of Appendix 3-7 of the analysis prepared by staff and presented to the public at this meeting, and provide recommendations on issues raised by staff.

The AP recommended the Council not make decisions on the data collection system at this meeting but wait until the entire package is available, particularly since no decisions were scheduled to the public for this meeting.

Finally, the AP recommended both the Binding Arbitration Committee and Data Collection Committee identify data needs associated with the binding arbitration process and the integration of those needs.

Community Protection

The AP recommended that an option be added under community protection provisions designating Kodiak as an "open port;" that Bering Sea crab delivered to Kodiak would be exempt from processor and/or regionalization limitations.

Additional Sunken Vessel Provision

The AP recommended the Council adopt the additional sunken vessel provision in Section 1.4.1 using 100% of the vessels' average history for the qualifying years.

CDQ Caps

The AP recommended the Council amend the proposal and analysis of CDQ Ownership and Use Caps in Section 3.4.1.2 to include analysis of the same range of caps for non-CDQ participants with the clarification that the same harvest quota share caps apply to all non-CDQ participants.

Environmental Impact Statement

The AP recommended the following alternatives be included in the Crab EIS:

1. A one pie system using the same qualifying years, transferability, use and coop provisions as the preferred alternative, integrated with the regionalization, skipper shares and binding arbitration process.
2. A one pie system as above, with the addition of
 - A. A closed class license for processors using qualifying years in the preferred alternative. (Option 2 from October 2002 AP minutes).
 - B. Coop formation with the processor to which the vessel delivered the majority of their crab harvest in the year prior to implementation.
 - C. A 10%, one year penalty provision for movement between coops without the agreement of both coops.
3. Finally, the AP recommended dropping the current "no fishing" EIS alternative as it does not meet the reasonable standard described in NMFS' letter.

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DISCUSSION/ACTION

The Council reviewed the Action Memo and discussed which trailing amendments it would take action on at this meeting and which items could wait until a later meeting. Those decisions are as follows:

1. Captain's quota shares - could take final action at this meeting
2. Sideboard protections - could take final action at this meeting
3. Alternative protections for communities - at the Council's discretion
4. Data collection - take up in February 2003
5. Mandatory binding arbitration - take up in February 2003
6. Additional amendments - final action

Earl Krygier moved the Council adopt the AP recommendations for alternatives to be included in the crab EIS. Hazel Nelson seconded the motion. Stosh Anderson moved to amend the motion by adding the following section on Community Protection:

Community Protection:

The community protection provisions within alternatives to be analyzed in the EIS also need to be expanded. Currently, community protection provisions encompassed in the Council motion are limited to "regionalization" for the Pribilofs and a specific allocation to Adak. The following alternatives should be considered in the EIS.

Under alternatives with regionalization limitations and/or processor "A" shares:

1. **Creation of a third region, the North Gulf Coast Region, defined as the area north of the extension of the existing north/south line eastward across the Alaska Peninsula and the Gulf of Alaska.**
Suboptions:
 - a. **Communities that have processed more than 1% of a rationalized crab species in any one of the qualifying years within the third region to receive a direct allocation of processor "A" shares proportionally from Regions 1 and 2.**
 - b. **Holders of harvester shares be allowed to make one delivery within the third region (last load home) to any community that has processed more than 1% of a rationalized crab species in any of the qualifying years. Crab poundage delivered in Region 3 will be apportioned between Regions 1 and 2 according to the ratio of "regionalized" shares owned by the harvester.**
 - c. **Declaration that those communities within the third region that processed more than 3% of any rationalized crab species in one of the qualifying years are "open ports" — crab delivered to an open port would be exempt from processor and/or regional restrictions.**

The motion was seconded by Jim Balsiger. Mr. Anderson clarified that these provisions would apply to all EIS alternatives having delivery restrictions. He also pointed out there had been many discussions at the June meeting about protections for communities defined by the line and it appeared that communities in the North Gulf would be disadvantaged and that he was looking for a method to provide an opportunity for harvesters to deliver crab in that region without impacting the basic June motion.

Mark Fina, Council staff, described to the Council the effects of this amendment on the EIS preferred alternative. If the amendment failed and Mr. Krygier's motion passed, there would be the preferred

alternative, status quo, one pie with added features and the “AFA Coop” model with added features. If Mr. Anderson’s amendment passed, it would create a brand new EIS alternative and three suboptions for the preferred alternative, three preferred alternatives, three one-pie alternatives, and three AFA Coop alternatives. The Council then discussed these impacts on the EIS and that the idea in the June motion was to whittle it down to one discrete alternative.

Stosh Anderson withdrew his amendment to the main motion, with Jim Balsiger’s concurrence and moved to add the following:

- d. **Communities that have processed more than 1% of a rationalized crab species in any one of the qualifying years within the 3rd region to receive a direct allocation of processor “A” shares proportionally from Regions 1 and 2.**

The motion was seconded by Jim Balsiger, but failed 9-1 with Anderson voting in favor.

The main motion passed unanimously with a 10-0 vote.

Roy Hyder moved the Council adopt the AP recommendations as outlined above excluding the EIS portion. The motion was seconded by Dave Fluharty. The Council agreed to bring up each trailing amendment individually and then vote on the final amended package.

Stephanie Madsen moved that skipper and crew C shares explicitly be made a part of the mandatory data collection program. The motion was seconded by Earl Krygier and carried without objection. **Ms. Madsen then moved that C shares will also be part of the fees program (IFQ fees program).** The motion was seconded by Dave Fluharty. Ms. Madsen clarified that there was Council discussion in the June motion about applying fees and this was a statement from the Council that this is an IFQ and the recipients, both harvest shares and processor shares, would be responsible for paying administrative fees for carrying out this program. The motion carried without objection.

Earl Krygier moved the Council replace Option 1 with Option 3 from the Captains QS Committee’s Recommendations at section 1.8.1.6, Regionalization and Class A/B Designation, as follows:

~~Option 1: C shares shall be a separate class of shares and not be subject to Class A share delivery requirements.~~

Option 3: C shares shall be a separate class of shares and shall all be subject to Class A share delivery requirements.

The motion was seconded by Stephanie Madsen. Ms. Madsen added that she had difficulty treating this class of shares differently than harvester shares and processor shares. Stosh Anderson thought it would be too much trouble to have skippers move and change in-season for the outcome of what this amendment would accomplish - that skipper shares would be where the boat delivers. He thought that over time, it would average out. Chairman Benton asked if the leasing provisions would still be in place for 3 years and questioned if the motion anticipates the designation would be in place during that leasing period or come into play at the end of that period. Mr. Krygier replied that part of what he indicated was there is the three-year window to make the adjustments. Leasing would be in place during that time. Chairman Benton then asked for clarification that the regional designation and A/B designation would be in place during the leasing period. Mr. Krygier affirmed that it would be in place, but that adjustments could be made easily.

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Stosh Anderson noted that it was mentioned in previous discussions that it disrupts the A/B split as far as who controls where shares have to be delivered. He continued that with 5% of vertical integration allowed for processors to own harvester shares, that far exceeds what the 3% captain's shares would be as far as where B shares could go. Ms. Madsen noted for the record that not all processors own harvesting shares and thought it would be an inequitable treatment of processors to consider that all of them have that and are involved to the same extent.

Ms. Nelson moved to amend Mr. Krygier's amendment on restriction of skipper shares such that there are no A restrictions for the first 3 years after implementation. The motion was seconded by Stephanie Madsen and it carried with Dr. Fluharty objecting.

The amendment failed 3-7 with Krygier, Madsen and Benton voting in favor.

Stephanie Madsen moved to delete the leasing provisions from the Committee's Recommendations as outlined below:

1.8.1.7 Transferability criteria:

2. C Share Leasing

- a. C QS are leasable for the first three seasons a fishery is prosecuted after program implementation.**

Suboption: limit to the following fisheries only: Pribilof red and blue crab and St. Matthew blue crab.

The motion was seconded by Earl Krygier. Ms. Madsen said the only restriction she had was owner-on-board. Mr. Krygier explained that the only reason for leasing was to allow a transition period on how to handle A shares. Since A shares are no longer on the table, there is no reason for leasing. Mr. Hyder recalled that the leasing period was to allow a settling out period of the consolidation that would occur right after implementation. Stosh Anderson outlined that the reference to leasing provisions and whether they should be able to lease or not, is that skippers feel these shares need to be fished by someone on-board. The provision was to provide a transitional period where people could maintain their ownership shares, they could be utilized to make sure the industry got the full benefit of the use of that crab, both the processing side and the harvesting side, so there weren't shares not utilized. He further pointed out it was not the intent of the program, but it was a necessary cost to get through the transition. The motion failed 7-3 with Krygier, Madsen and Benton voting in favor.

Stosh Anderson moved to clarify the Committee's recommendation at 1.8.1.7(2)(b) in the last sentence to read: ". . . for the term of the hardship/disability for a maximum of 2 years over a 10-year period." This was believed to be a typographical error from "or" to "for". The amendment was seconded by Dave Fluharty and carried without objection.

Stosh Anderson moved to delete the language "zero down payment" from the first sentence of the AP motion on Captain QS which would create a zero down payment provision for crewmembers. The motion was seconded by Stephanie Madsen and carried without objection.

The Council then moved on to the Sideboard issue. **Earl Krygier moved to delete the second option, shown below, from the preferred sideboard alternative.**

Combine options 2 and 3: Vessels with less than 100,000lbs total opilio history during the qualifying years and more than 500MT of total cod history during the qualifying years would be exempt from

the sidebar cap. The motion was seconded by Stephanie Madsen. Roy Hyder recalled the AP's discussion was to not disqualify someone who caught a little opilio and lots of cod, but to exempt those vessels who had a small amount of opilio and a significant history in cod so that someone who ends up with a little bit of opilio doesn't get thrown out of the fishery. The AP's proposal on combining options 2 and 3 was to provide that stability to that portion of the fleet. The motion failed 9-1 with Krygier voting in favor.

Stephanie Madsen moved that the sidebar provisions be attached to both the vessel and the LLP license. The motion was seconded by David Fluharty and carried without objection.

Stosh Anderson moved to amend the motion on Sideboards, Option 4 to read: Vessels with less than 100MT 50MT total groundfish landings in the qualifying period would be prohibited from participating in the GOA cod fishery. The motion was seconded by Earl Krygier and it carried without objection.

Stosh Anderson then moved to add the following Sideboard provision:

“Groundfish sideboards applied to GOA groundfish fisheries shall expire upon the implementation of Gulf rationalization. Sideboard vessels shall be subject to the history and recency provisions of a GOA rationalization plan.” The motion was seconded by Stephanie Madsen. Mr. Anderson believed that with the history-based system provided with the GOA Rationalization Plan, he wouldn't want to disenfranchise anyone for some history because of a crab issue. If they're going to participate and be eliminated in the Gulf from participation, it should be based on the GOA Rationalization Plan not on some extraneous action. Mr. Anderson further explained that his intent was to not have this provision affect sideboards until the GOA had a rationalization plan. If at that time the plan didn't reflect these concerns, the Council would then address it. The motion carried without objection.

The Council then moved on to the Data Collection issue. **Earl Krygier moved the Council forward to the Data Collection Committee the SSC's comments of not separating the individual data from the researchers who use the data, and return to the Council in February with an update.** The motion was seconded by Jim Balsiger. Dennis Austin reminded the Council that, after hearing the AP and SSC Reports, he made a point of wanting the information required to evaluate the social and economic engineering and he felt the Council not only concurred but that was the reason the SSC bolded that request in their Minutes. The motion carried without objection.

The Council moved to the Community Protection issue. **Earl Krygier moved the Council add a two-year cool down period under the Community Protection Issue.** The motion was seconded by Stephanie Madsen. Mr. Krygier explained that the Council heard much public testimony on this issue as many communities were unsure how the new rationalization program would affect them. Public comment also revealed numerous distribution impact possibilities that could occur and felt a cool down period would allow communities to adapt. Stephanie Madsen pointed out the Council has a Community Protection Committee who wanted an opportunity to discuss the details of implementing the cooling off period, and the Council heard public testimony that one year was an uncomfortable period, 5 years was in some opinions too long, and 2 years was a comfortable period of time. Ms. Madsen thought it important the Council make a statement that there will be a cooling down period, but provide the Committee an opportunity to take care of some of their concerns - such as defining "community". Is a "community" the city limits, the borough, the region, etc. John Bundy asked whether the cool down period applied on a plant-to-plant basis or a company-to-company basis? Earl Krygier responded he believed it was within a community, so you wouldn't have a plant that had several facilities being able to move them around. That was part of the constraint. Chairman Benton commented that many of those issues were exactly the kind of thing the Committee was going to look at -

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the definition of “community”, what does it mean to “move”, etc. The motion would instruct people to quit debating whether it’s a one-year period, 3-year period, or 5-year period - it’s going to be a 2-year period and with that understanding, the Committee would look at some of the implementation issues with recommendations to the Council in February. The motion passed 10-0.

Stosh Anderson moved to substitute the language in the AP Minutes with the following language:

The following alternatives should be considered by the Community Protection Committee:

Under alternatives with regionalization limitations and/or processor “A” shares:

- 1. Creation of a third region, the North Gulf Coast Region, defined as the area north of the extension of the existing north/south line eastward across the Alaska Peninsula and the Gulf of Alaska.**

Suboptions:

- a. Communities that have processed more than 1% of a rationalized crab species in any one of the qualifying years within the third region to receive a direct allocation of processor “A” shares proportionally from Regions 1 and 2.**
- b. Holders of harvester shares be allowed to make one delivery within the third region (last load home) to any community that has processed more than 1% of a rationalized crab species in any of the qualifying years. Crab poundage delivered in Region 3 will be apportioned between Regions 1 and 2 according to the ratio of “regionalized” shares owned by the harvester.**
- c. ~~Declaration that those communities within the third region that processed more than 3% of any rationalized crab species in one of the qualifying years are “open ports” — crab delivered to an open port would be exempt from processor and/or regional restrictions.~~**

The motion was seconded by Roy Hyder. **Stephanie Madsen moved to amend the motion by deleting (c) above (shown stricken out).** The motion was seconded by Earl Krygier. Ms. Madsen believed by keeping (c) above, it changed the charge of the Committee by giving them an option to go back and change the intent of the June motion and allow “open ports”. The amendment passed 8-2 with Anderson and Balsiger voting against.

Dave Hanson asked, to benefit the Committee, if the intent of the motion was to not have limits or caps, and if a vessel had only one load, could it go wherever it desired? Mr. Anderson answered it was the intent of his motion, but not that the Committee could not explore those options. He explained he was not trying to “preload” the concept the Committee is supposed to come up with, but it was the basic concept and he didn’t want to restrain the Committee in any way. Ms. Madsen then commented she thought it was open-ended and could change the June motion. She was concerned about what message the Council was sending to the Committee in that this was of a higher priority than anything else. **Stephanie Madsen then moved to remove (b) from the motion above.** The motion was seconded by Dave Fluharty. After much discussion, Ms. Madsen attempted to withdraw her amendment but Dave Fluharty, who seconded the amendment, did not concur leaving the amendment still on the table. The motion failed 2-8 with Fluharty and Hyder voting in favor. **Ms. Madsen moved to substitute the following language in the preamble to read as follows:**

The following types of alternatives could be considered by the Community Protection Committee as long as the alternatives are within the scope of the Committee or with the approval of the Chair of the

Committee. The motion was seconded by Earl Krygier. Dave Hanson clarified that the intent of the motion was to tell the Committee to consider these alternatives, but not tell them it was now within their charge. Ms. Madsen responded her intent was this was an example, not specific. Chairman Benton followed that it was something that could be considered and would be up to the Committee and Committee Chairs as to how it fit within the scope of the Council's framework, and it and other ideas within that framework could be considered by the Committee. The motion carried with Fluharty objecting.

Dr. Fluharty declined supporting the amended motion because he believed it would add 50% or more to the burden already placed on the Committee and if the Council instructed them to consider a third region, it added a whole new dimension. Roy Hyder said he would support the motion, but agreed with Dr. Fluharty and thought Dr. Hanson could take the Council's discussions and intent back to the Committee. Chairman Benton commented the Council was charging the Committee to look at Community Protection and not to revisit or undo the package put together in June, and as part of that the Committee should realize it was a zero sum game. If the Council started to reshuffle the deck on communities, some communities will win and some communities will lose. The Council did discuss that balance amongst the communities. It wants the Committee to come back and tell the Council which communities win and which communities lose. The amended motion passed 8-2 with Fluharty and Hyder voting against.

Stephanie Madsen moved to change the percentage in section 1.4.1, Additional Sunken Vessel Provision, from 100% to 50%. The motion was seconded by Roy Hyder who commented that he didn't want to see two ranks and put people in a position to get their paperwork right so that they fit into one rank or the other. The motion passed 7-3 with Anderson, Bundy and Fluharty voting against.

Hazel Nelson moved the Council postpone action until the February 2003 meeting for selecting preferred alternatives under the options for increased ownership and use caps for CDQ groups. The motion was seconded by Earl Krygier. Ms. Nelson thought this alternative needed more time to be digested by both the public and industry and more discussion of the options before selecting preferred alternatives. Stosh Anderson asked if the Council anticipated looking at all cap issues in February or only CDQ caps. Chairman Benton recalled the February meeting would include possible additional work on the EIS and trailing amendments. Mr. Anderson clarified that cap issues included vessel owner caps, vertical integration caps, and 5%, and the provisions didn't limit how many vessels processors needed to get the 5%. Ms. Madsen clarified that this issue was initiated in October and could have been taken up at this meeting, or at February's meeting, but they were separate issues. The motion carried without objection.

Earl Krygier brought up the fact that the AP didn't outline how the community of Adak would be treated for crab allocation. **Mr. Krygier then moved the Council adopt Option 2 and the suboption from the BSAI Crab Rationalization Program, Additional Provisions document dated December 2002, as follows:**

Option 2: A non-profit organization representing the community of Adak, with a Board of Directors elected by the community (residents of Adak) in a manner similar to the CDQ Program.

Suboption: In the interim, the shares given to the non-profit organization may be held in trust and administered by the Aleut Enterprise Corporation.

For Option 2, a set of use procedures, investment policies, auditing procedures, and a city or State oversight mechanism will be developed. Funds collected under the allocation will be placed in trust for two years until the above procedures and a plan for utilizing funds for fisheries related projects are fully developed.

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Use CDQ-type management and oversight to provide assurance that the Council's goals are met. Continued receipt of the allocation will be contingent upon an implementation review conducted by the State of Alaska to ensure the benefits derived from the allocation accrue to the community and achieve the goals of the fisheries development plan.

The motion was seconded by Hazel Nelson. Mr. Krygier explained that Adak was a community that likely would have been included in the CDQ Program adopted by the Council, but wasn't re-inhabited by the Aleut people native to Adak Island until after the military closed and left its Adak base. Because of the military's occupation of Adak during the time the CDQ program was developed, Adak wasn't included in the program. Having CDQ oversight within this context meets the similar goal. Mr. Krygier also pointed out that St. Paul was a single community having their own CDQ group. **Stephanie Madsen moved to amend the motion to include the words "fisheries related projects" as shown underlined in the 3rd paragraph above.** The motion was seconded by Jim Balsiger. Ms. Madsen stated the reason she added this language was the public testified very specifically to their intent of the use of those funds. Stosh Anderson asked if those funds would be frozen for two years or, if the Board met all the criteria, they could use the funds within that two year period. Ms. Madsen responded her motion only allocated the funds to "fisheries related projects" but that it was important to state what type of plan the Council expects to be developed. Mr. Krygier agreed that was the intent of his motion. The amendment carried without objection.

Stephanie Madsen then agreed with Stosh Anderson's point that if the non-profit trust was running smoothly the Council wasn't precluding the funds from being used, but if they couldn't establish the non-profit to help the community the Council would need to re-examine the whole purpose of putting a time constraint on the trust. **Stosh Anderson moved to amend the motion by adding the word "or" to the last sentence of the motion to read: "Funds collected under the allocation will be placed in trust for two years or until the above procedures and a plan for utilizing the funds are fully developed."** The motion was seconded by Stephanie Madsen. Dennis Austin asked if he understood correctly that the Council's intent was to have the trust in a "stand down" for two years while trying to get the plan in place. Nicole Kimball responded that if the community had the procedures in the fisheries development plan in place, they would not have to wait for two years to use the funds in the allocation, but the funds would be placed in trust for two years or until the procedures are in place. Mr. Austin then questioned that if the plan wasn't in place in two years, would they move forward regardless? Chairman Benton asked if the intent was just to hold it for two years irrespective of what happened or if they were intended for fisheries related projects once they get the plan in place. **Stosh Anderson withdrew his amendment with Ms. Madsen's concurrence.**

Earl Krygier again stated that his motion included the statement of having CDQ-type management and oversight - not the CDQ process, but that sort of management. That means there will be a submittal of a CDQ-type fisheries development plan with a two year initial review and similar CDQ cycle for allocation review as the Council adopted in June. He intended the Council fold the review process into the State/NMFS team CDQ-type oversight. **Stephanie Madsen moved to amend the motion so that the last sentence would read: "Funds collected under the allocation will be placed in a separate trust until the above procedures and a plan for utilizing the funds are fully developed." Ms. Madsen also added the following language: "Funds held in trust for a maximum of two years; if the intent provided in the analysis on page 12 is not complete, the Council will reassess and define for further action."** The motion was seconded by Stosh Anderson. Ms. Madsen detailed that if the community of Adak is not successful, this would provide how the Council would re-evaluate over a period of time that the funds were held in trust and if they couldn't meet the other requirements, it would come back to the Council for reassessment. The amendment carried without objection, and the amended motion passed unanimously, 10-0.

Dennis Austin moved to reconsider Earl Krygier's earlier motion substituting Option 3 for Option 1, Regionalization and Class A/B Designation at section 3.8.1.5 on page 28 of the Crab Trailing Amendment document dated November 2002 (see Krygier motion on pp. 10 of these Minutes). The move to reconsider was seconded by Earl Krygier and passed 6-4 with Anderson, Balsiger, Fluharty and Hyder voting against.

Stephanie Madsen moved a substitute motion for Mr. Krygier's earlier motion by replacing Option 1 with a modified Option 2 as follows:

Option 2: C shares shall be a separate class of shares. After the three-year leasing period and a complete review by the Council on this issue, C class shares shall all be subject to the Class A/Class B split and any related delivery requirements associated with the parallel harvest shares. C shares shall be subject to regional designations.

The motion was seconded by Dennis Austin. Ms. Madsen supported her motion by stating her intent that if these restrictions were not imposed, it could violate the 90/10 split of the June motion. **Jim Balsiger moved to amend the wording of the last sentence to read: "C Shares shall may be subject to regional designations."** The motion was seconded by Stosh Anderson. Dr. Balsiger stated that changing the word "shall" to "may" would have the Council collect data for three years, have a complete review and then "may" subject C Shares to regional designations. He further explained that leaving the option available, so that if the Council review shows there isn't a need for designation, the Council wouldn't have to put it in place. **Jim Balsiger withdrew his amendment** with concurrence of Stosh Anderson.

Earl Krygier moved a substitute motion to read as follows with deletions shown stricken out and additions shown underlined:

Option 2: C Shares shall be a separate class of shares. After a three-year leasing period, ~~and a complete review by the Council on this issue, C class shares shall all be subject to the Class A/Class B split and any related delivery requirements associated with the parallel harvest shares~~ C shares shall revert to the Class A/Class B designations unless Council determines, after review, not to impose these restrictions. C Shares shall be subject to regional designations. The motion was seconded by Stephanie Madsen. Mr. Krygier explained that when the State put the June motion together it tried to incorporate several situations into the process and in speaking to the participants it made them aware it would collect data and have a mandatory data review in an effort to make mid-course corrections. It wanted distributional effects equally benefitted so as not to take advantage of any one group.

John Bundy then asked that if the Council did nothing during the review period, would it not be the Council's intent for restrictions to apply during that time? If the Council made a decision one way or the other, nothing would change until that decision went through the regulatory process and is implemented. Chairman Benton clarified that during that three-year period, restrictions would not be in place but when it is reviewed by the Council they may come into play. **John Bundy moved to table this motion until later in the day.** The motion was seconded by Stosh Anderson and carried without objection.

John Bundy moved the Council express a sense of urgency to the Arbitration Committee and urge them to act accordingly on the issues before them and to bring their responses to the Council in February. The motion was seconded by Stosh Anderson and carried without objection.

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Dave Fluharty moved the Council declare their intent not to consider catch history from the 2002-03 opilio crab fishery in any further rationalization program. The motion was seconded by Earl Krygier and carried without objection.

John Bundy then made a statement to the Council that there was a letter in all Council members' notebooks from Blue North Fisheries describing a situation where Blue North invested in a floating processor it believed was eligible for processing shares but it did not have the years in history, so it did not qualify for shares. On the other hand, it did have harvest vessels holding harvest shares, but because of the situation it was unable to marry the two. Blue North included a suggested motion, which Mr. Bundy noted for the record, that the Council would not address this issue at this meeting.

Stephanie Madsen commented that this situation was discussed in June as part of the CP issue and the Council did not take action in that regard. What did come before the Council was discussed and debated and it didn't go that direction.

The Council then returned to the previously tabled motion for discussion. **Earl Krygier distributed the following updated motion to all Council members.**

Option 2: C shares shall be a separate class of shares not subject to Class A share delivery requirements during the first three years. But, at the end of three years, C shares shall revert to the A/B designations with regionalization unless the Council determines (after review) not to impose these designations.

Jim Balsiger commented he would like to replace the words "revert to" with "impose". Earl Krygier disagreed in that these shares had some original tag on them and they would "revert to" their prior designation if the Council determined not to impose the new designations. Chairman Benton asked Mr. Krygier if his intent was that the words "revert to" meant "subject to"? Both Mr. Krygier and Dr. Balsiger agreed this was their intent.

Chairman Benton clarified for all Council members that it was understood the review would occur sufficiently in advance, at least a year, of the end of that three year period. The amended motion passed 7-3 with Anderson, Bundy and Fluharty voting against.

The main motion as amended then passed 9-1 with Anderson voting against. The complete Council motion is attached to these Minutes as Appendix II.

Hazel Nelson requested a short discussion with staff on what issues would be addressed at the next meeting (February 2003). Mark Fina replied that the Captain's Share issue had been resolved, Sideboard Protections were also completed, the Community Protection Committee will continue to discuss issues in the cooling off period as well as other Committee issues and will report back to the Council in February. The Data Collection Committee will also report to the Council in February as well as the Binding Arbitration Committee with a full analysis. The first two additional amendments - sunken vessel and Adak allocation - were both resolved here but harvester ownership caps will be brought back in February. Staff will wait to see what happens with Congress between now and February on the EIS, and what staff brings back in February is dependent upon that and how discussion takes place. Dr. Fina believed Gretchen Harrington (NMFS) would be spending time in January developing something based on the outcome of Congress.

C-2 GOA Groundfish Rationalization

ACTION REQUIRED

- (a) Receive final scoping report
- (b) Receive report from GOA Work Group

BACKGROUND

On May 29, 2002, NMFS initiated public scoping for the SEIS on the Council's initiative to rationalize the Gulf of Alaska groundfish fisheries. NMFS staff has completed the public scoping report, which summarizes comments received at eight public hearings and written comments received through November 15, 2002. Approximately 113 individuals participated in the public scoping hearings and 17 written comments were submitted. The scoping report is attached as Item C-2(a). Copies of the written comments are available from staff.

In February 2002, the Council formed a third committee since 1999 to address rationalizing the GOA groundfish fisheries. The GOA Working Group was appointed to provide a more focused discussion and recommendations to the Council. It met in March, May, September, October and November 2002. The Committee discussed a range of issues, reviewed fishery harvest data, revised the previously adopted problem statement, and recommended the initiation of an SEIS for a proposed rationalization action. The Council adopted the committee's revised problem statement and recommendation to initiate an SEIS.

In October, the committee reported on its recommendations for the range of alternatives for analysis (Item C-2(b)). At its most recent meeting on November 25-26, 2002, the committee completed its task of developing a suite of elements and options for analysis. The minutes from its November meeting and the suite of elements and options will be distributed during the meeting.

In November, the committee also made the following recommendations:

1. The committee recognizes that the Council does not have sufficient time allocated at this meeting to receive the scoping report, committee report, staff review of the broad range of elements and options, and Advisory Panel and public recommendations to recommend the final suite of alternatives, elements and options for analysis. Therefore, the committee recommends that the Council take the staff reports at this meeting but defer action until its February 2003 meeting. The committee recommends that the Council request that staff prepare a discussion paper on the committee's draft list of issues for a more detailed review and action at that time. This will also offer additional public review of the committee recommendations, which will be distributed at this meeting.

The discussion will be qualitative in nature and highlight the following issues:

- (a) elements and options that may be difficult or time-consuming to analyze due to data limitations;
- (b) elements and options that may provide limited insight or flexibility relative to the work required to analyze the particular option or a similar option;
- (c) elements and options supported by the body of scoping comments;
- (d) administrative requirements and/or outstanding legal concerns with the community elements and options;
- (e) elements and options that need further clarification before initial analysis could commence, and

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- (f) ways to streamline the elements and option to reduce workload and/or better illuminate the decision points.
- 2. The committee recommends that the Council formally request a legal discussion from NOAA General Counsel of Community Territorial Use Rights In Fisheries (TURFs) and other potential legal problems that could affect the ability to adopt a regionalization program in the GOA from NOAA General Counsel. This legal guidance could be provided in the staff discussion paper requested for February or delivered separately.
- 3. The committee recommends that the Council direct staff to prepare a discussion paper to describe processes currently underway to address bycatch of salmon, crab and herring and other forage fish species (including FMP amendments and PSEIS options for crab bycatch). The paper should: (1) provide timelines for those studies and how they relate to the GOA rationalization analytical timeline; and (2) describe fishery, survey, and habitat data sources that will be used. Based on the recommendations in the paper, the Council would determine if: (1) existing processes are sufficient or if some measures need to be more closely linked to rationalization decisions, and (2) if other or additional management approaches are appropriate to include in a rationalized fishery in a trailing amendment.

Scientific and Statistical Committee Report

The SSC did not address this issue.

Report of the Advisory Panel

The AP recommended the Council endorse the GOA Working Group's recommendations to develop a discussion paper on the elements and options; formally request a legal opinion from NOAA-GC on Territory Use Rights in Fisheries (TURFS), and initiate a second discussion paper on a separate timeline from the elements and options on processes currently underway addressing bycatch of salmon, crab, herring and other forage fish and their relationship to the GOA rationalization process.

The AP further requested ADF&G provide the information requested by the Council by the February Council meeting on the State water parallel Pacific cod fishery.

Additionally, the AP requested two proposals (attached to their minutes) on the C/P sector be included in the discussion paper as stand-alone proposals: C/P Trawl Proposal - Fishermen's Finest, and Groundfish Forum.

The AP also requested the longline C/P Elements and Options paper be included in the discussion paper with added options in Elements 5, 8 and 9 for history based on years 1995-2002.

The AP provided a minority report opposing the inclusion of the C/P proposals as separate alternatives in the discussion paper. The full minority report can be found in the complete AP minutes, attached to these minutes as Appendix III.

DISCUSSION/ACTION

Stephanie Madsen moved for the Council to endorse the Working Group's recommendation to:

1. **develop a discussion paper on the elements and options highlighting issues (a) through (f) under No. 1 from the action memo above (see pp. 17-18 of these minutes), as well as a new issue (g) summarized from the AP minority report as follows:**
 - g. **identify what elements of the C/P proposals are not included in the main suite of options, and discuss issues associated with those elements.**
2. **formally request a legal opinion from NOAA-GC on Community Territory Use Rights in Fisheries (TURFS), Community Incentive Fisheries Trusts (CIFTs), Community Fisheries Quota (CFQ), and other potential legal problems that could affect the ability to adopt a regionalization program in the GOA from NOAA-GC. This legal guidance could be provided in the staff discussion paper requested for February or delivered separately;**
3. **initiate a second discussion paper on a separate timeline from the elements and options on processes currently underway addressing bycatch of salmon, crab, herring and other forage fish including FMP amendments and PSEIS options for crab bycatch. The paper should include 1) timelines for those studies and their relationship to the GOA rationalization analytical timeline, and 2) describe fisheries survey and habitat data sources that would be used. Based on the recommendations in the paper, the Council would determine if 1) existing processes are sufficient or if some measures need to be more closely linked to rationalization decisions, and 2) if other or additional management approaches are appropriate to include in the rationalization fishery in a trailing amendment.**

The motion was seconded by Stosh Anderson. Ms. Madsen, as co-chair of the GOA Work Group, spoke of the hard work done by the committee and thought this was a good starting place for the Council to pare down and focus its discussion in February. Dr. Fluharty asked Ms. Madsen if it might be helpful for the legal opinion requested from NOAA-GC to include initial review of Community Incentive Fishery Trusts (CIFTs) and Community Fishery Quotas. Chairman Benton recalled that NOAA-GC indicated an awareness of those issues.

Dr. Fluharty moved to amend the motion in #2 above with new language added as shown underlined above. The motion was seconded by Kevin Duffy. Dr. Fluharty then asked Ms. Madsen if the Committee discussed any of the latest trends in ecosystem changes. Ms. Madsen responded affirmatively and that the Committee was recommending some fisheries be left as open access but with the same participants. Ms. Madsen also believed her motion included elements and options to address some of those concerns. Dr. Fluharty's amendment carried without objection.

Kevin Duffy moved to amend the motion in #1 above by adding a new (h) as follows:

- h. **identify those GOA communities with less than 5,000 residents that have processed 500 MT of GOA groundfish within the last two years.**

The motion was seconded by Stephanie Madsen. Mr. Duffy commented that looking at the elements and options led him to believe there could be up to 6 community proposals in the current document, and he hoped to narrow it down. Also Mr. Duffy felt the Council should differentiate between those considered "Community Protection" proposals and others that may be "Community Enhancement" proposals. **Stosh Anderson moved to amend the motion to expand the number of years to match the qualifying years (1995-2002) within the alternatives.** The motion was seconded by Dennis Austin and carried without

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objection. Mr. Anderson clarified his intent was that 500MT was processed each year within the qualifying period. Mr. Duffy's amended motion then carried without objection.

John Bundy moved to amend the motion to add a sentence to (2)(g) as follows: "The discussion paper will also discuss the issues associated with analyzing C/P elements and options as stand-alone proposals." The motion was seconded by Dr. Fluharty. Mr. Bundy recalled several people testifying who did not feel their elements and options were taken into account properly in the document on the table and that some other options are put into pigeonholes that they do not like. Mr. Bundy did not want to foreclose the possibility of analyzing the stand-alone proposals, but proposed the discussion paper look at the issues so that it can see them as possibilities. The motion carried without objection.

The main motion, as amended, passed 10-0 and is attached to these Minutes as Appendix IV.

The Council then discussed its tasking expectations for the committee. Stosh Anderson brought up three issues: 1) review the discussion paper generated by staff for the February meeting, 2) review and comment on options to address resolution of the parallel fisheries situation, and 3) bycatch of non-target PSCs and MRAs (Maximum Retainable Allowances). Chairman Benton commented that the staff already had their hands full doing what the Council asked. He continued that until the Council shaped the alternatives, he didn't know if the Council should ask the committee to do more work. He believed the Council needed to take charge, recognizing the committee had already done a huge amount of work. He complimented both co-chairs of the Committee, Stosh Anderson and Stephanie Madsen. Roy Hyder agreed and thought it time to move this issue into the regular Council process and break out whatever workgroups are needed. Dennis Austin also expressed his appreciation and applauded the committee for rolling up their sleeves, completing all the work it had and thanked the members for providing the Council a foundation from which to work. Chairman Benton followed by stating that now that crab rationalization was almost complete, Gulf rationalization was quickly moving to the top of the agenda and that the Council would concentrate its energies on rationalizing the Gulf of Alaska fisheries.

C-3 Essential Fish Habitat

ACTION REQUIRED

- (a) **Receive EFH committee report**
- (b) **Clarify mitigation alternatives for analysis**

BACKGROUND

EFH committee report

The Council appointed an EFH Committee in May 2001 to develop alternatives for EFH & HAPC designation, and alternatives to minimize adverse effects of fishing. The Council adopted alternatives for the EIS analysis during its October meeting (motion attached as Item C-3(a)). Since the October Council meeting there have been several EFH subcommittee meetings to incorporate more stakeholder input in developing geographic boundaries for the Council's approved EFH mitigation alternatives. The EFH Committee met after the stakeholder meetings to review suggested closure areas for the alternatives to minimize to the extent practicable adverse impacts of fishing on habitat. A draft Committee report will be available at the Council meeting.

Identify final alternatives for analysis

At this meeting, the Council needs to clarify the final list of mitigation alternatives for analysis. A summarized list of mitigation alternatives, recommended by the EFH Committee, is attached as **Item C-3 (b)**. Staff will provide maps depicting closure areas designated under these alternatives. A preliminary draft of the Supplemental Environmental Impact Statement (SEIS) is scheduled for initial review in April 2003. The terms of the settlement agreement require that a Draft SEIS be available for public review by August 1, 2003.

Many public comments have been received on this issue. Over five hundred form letters were submitted by FAX and generated from the Ocean Conservancy homepage. A sample copy of the letter is attached as **Item C-3 (c)**; the full stack is available for review in the Council meeting room.

Scientific and Statistical Committee Report

The SSC received a report from Cathy Coon summarizing the EFH Committee's recommendations on alternatives to mitigate the effects of the fishery on essential fish habitat. The SSC found the alternatives difficult to evaluate because there was no statement of goals or objectives of the mitigation effort and no clear rationale for proposed closures. It was unable to determine whether the closed areas were intended to achieve a specific reduction in fishery impacts or establish a specific percentage of protected habitat. It also could not determine whether the emphasis was on protecting habitat supporting commercially important fish or protecting specific biogenic habitat features. The SSC had many recommendations and suggested changes to the document, all of which can be found in the SSC's Minutes, attached to these minutes as Appendix V.

Report of the Advisory Panel

The AP recommended the Council adopt the EFH Committee's recommendations with the following additions and corrections.

EFH Committee Problem Statement

The productivity of the North Pacific Ecosystem is acknowledged to be among the highest in the world. The Council intends to ensure the continued sustainability of FMP species by considering additional, precautionary and reasonable management measures. Recognizing that in the North Pacific, potential changes in productivity may be caused by fluctuations in natural oceanographic conditions, fisheries, and other, non-fishing activities, the Council intends to take action in compliance with the requirements of the Magnuson-Stevens Act to protect the productivity of FMP species by considering additional measures to reduce adverse effects of fishing activities on habitat essential to managed species.

The AP requested the Council modify the problem statement to clarify the intent of EFH to maintain sustainable fisheries and minimize impacts on EFH and FMP species.

Add the following text to the heading of Alternative 3, after the word "rockfish": "on upper slope area of the GOA (200-1000 meters)"

In Alternative 4, change the rotating closed periods to 4 years of 10% of the block, restarting rotation after 40 years.

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In Alternative 5, change the rotating closed period to 25% of each block, restarting rotation after 16 years. Add the following text to the “Gulf of Alaska” paragraph after the words “. . . GOA slope rockfish species”: “on upper slope area of the GOA (200-1000 meters)”.

The AP did not support the EFH Committee’s recommendation to re-evaluate Alternative 7 (20% no-take marine reserves).

DISCUSSION/ACTION

The Council heard staff reports from Cathy Coon supported by Jon Kurland, NMFS and Cindy Hartmann, NMFS. A handout was distributed to the Council outlining the problem statement adopted by the Council in October with proposed revisions by Mr. Kurland based on EFH Committee discussion and conformance with EFH Regulations. Stephanie Madsen relayed her discomfort with “wordsmithing” rather than what’s consistent with the statute. Mr. Kurland referred to the EFH Regulation section on how to interpret the practicability consideration of Councils not being required to conduct a formal cost-benefit analysis. There is, however, language stating the Council should generally consider the long- and short-term costs and benefits, which is what he suggested incorporating into the problem statement. Ms. Madsen reminded Mr. Kurland the problem statement was compiled by the Council and that it could choose to go above and beyond what the regulations require. Ms. Madsen then asked for a little time to study the proposed revisions before the Council got into discussion and debated on motions. Chairman Benton agreed with Ms. Madsen and confirmed that the proposed revisions were available to the public so they could provide testimony on the revisions as well.

Earl Krygier moved the Council adopt the following based on the EFH Committee’s Draft Mitigation Alternatives including the Committee’s final geographic bounds and the Council’s October 2002 motion:

Council’s Adopted EFH Problem Statement

The productivity of the North Pacific Ecosystem is acknowledged to be among the highest in the world. The Council intends to ensure the continued sustainability of FMP species by considering additional, precautionary and reasonable management measures. Recognizing that in the North Pacific, potential changes in productivity may be caused by fluctuations in natural oceanographic conditions, fisheries, and other, non-fishing activities, the Council intends to take action in compliance with the requirements of the Magnuson-Stevens Act to protect the productivity of FMP species by considering additional measures to reduce adverse effects of fishing activities on habitat essential to managed species.

To accomplish this task, the Council will undertake an EIS analysis to:

- 1. Identify and designate Essential Fish Habitat,**
- 2. Develop designation criteria for identification of Habitat Areas of Particular Concern (HAPC), and**
- 3. Consider implementation of additional management measures to mitigate, to the extent practicable, identified adverse impacts of fishing on habitat essential to the continued productivity of FMP species.**

Additionally, the Council adopted the EFH Committee's recommendations to designate alternatives for EFH and HAPC.

The Council adopted the following EFH Mitigation Alternatives modified from the Committee and AP recommendation:

Alternative 1: Status Quo. No additional measures would be taken at this time to minimize the effects of fishing on EFH.

Alternative 2: Gulf Slope Bottom Trawl Closures. Prohibit the use of bottom trawls for rockfish in 13 designated areas of the GOA slope (200m-1000m), but allow vessels endorsed for trawl gear to fish for rockfish in these areas with fixed gear or pelagic trawl gear.

Alternative 3: Bottom Trawl Gear Prohibition for GOA Slope Rockfish. Prohibit the use of bottom trawl gear for targeting GOA slope rockfish species, but allow vessels endorsed for trawl gear to fish for slope rockfish with fixed gear or pelagic trawl gear.

Alternative 4: Bottom Trawl Closures in All Management Areas. Prohibit the use of bottom trawl gear in designated areas of the Bering Sea, Aleutian Islands, and Gulf of Alaska. Bottom trawl gear used in the remaining open areas would be required to have disks/bobbins on trawl sweeps and footropes.

Bering Sea: Prohibit the use of bottom gear for all groundfish fisheries in the Bering Sea except within a designated "open" area. The open area is designated based on historic bottom trawl effort. Within the open area, there would be a rotating closure to bottom trawl gear in 5 areas to the west, north and northwest of the Pribilof Islands. Closure areas would be designated in Blocks 1, 2, 3, 4, and 6 as identified by the EFH Committee, with 4-year closed periods for 20% of each block. After 4 years, the closed portion of each block would re-open, and a different 20% of each block would close for 4 years, and so on thereafter. After 16 years, all areas within each block would have been subject to a 4-year closure, and the rotating closure areas would start over.

Aleutian Islands: Prohibit the use of bottom trawl gear for all groundfish fisheries in designated areas of the Aleutian Islands. Closure areas would be designated in the areas of Stalemate Bank, Bowers Ridge, and Seguam Foraging Area.

Gulf of Alaska: Prohibit the use of bottom trawl gear for rockfish fisheries on 13 designated sites of the GOA slope (200m-1000m). Allow vessels endorsed for trawl gear to fish for rockfish in these areas with fixed gear or pelagic trawl gear.

Alternative 5: Expanded Bottom Trawl Closures in All Management Areas: Prohibit the use of bottom trawl gear in designated areas of the Bering Sea, Aleutian Islands, and Gulf of Alaska. Bottom trawl gear used in the remaining open areas would be required to have disks/bobbins on trawl sweeps and footropes.

Bering Sea: Prohibit the use of bottom trawl gear for all groundfish fisheries in the Bering Sea except within a designated "open" area. The open area is designated based on historic bottom trawl effort. Within the open area, there would be a rotating closure to bottom trawl gear in 5 areas to the west, north and northwest of the Pribilof Islands. Closure areas would be

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designated in Blocks 1, 2, 3, 4 and 6 as identified by the EFH Committee. These five blocks will be subdivided into five equal strips, two strips of each block are closed for a 4-year period, for a 40% closure of each block. After 4 years, the closed area would re-open, and the next 40% area of each block would close for 4 years, and so on thereafter.

Aleutian Islands: Prohibit the use of bottom trawl gear for all groundfish fisheries in designated areas of the Aleutian Islands. Closure areas would be designated in the areas of Stalemate Bank, Bowers Ridge, Seguum Foraging Area, Yunaska Island, and Semisopochnoi Island. These closure areas extend to the northern and southern boundaries of the AI management unit.

Gulf of Alaska: Prohibit the use of bottom trawl gear for all groundfish fisheries on 11 designated sites of the GOA slope (200m-1000m). Additionally, prohibit the use of bottom trawl gear for targeting GOA slope rockfish species, but allow vessels endorsed for trawl gear to fish for rockfish in these areas with fixed gear or pelagic trawl gear.

Alternative 6: Status Quo that removes all currently closed areas and eliminates all Council rationalization programs.

Alternative 7: Establish closures to the groundfish and scallop fishing with bottom tending gear (longline, pot, dredge and trawl) within the GOA, AI and BS. These closure areas would be based on areas with relatively high abundance of gorgonian corals, sponge and *Boltenia*, and designed to preserve relatively un-impacted benthic habitat.

In addition:

1. Consider the relative advantages to EFH of rationalization.
2. Each mitigation alternative shall have an experimental model developed to accomplish monitoring and research. Team EFH will be tasked to evaluate these experimental models.
3. The Council requests the NPRB to call for proposals and fund research that evaluates the recovery time and habitat recovery process within the Bering Sea rotating areas (i.e., is 3 years more than sufficient for recovery?)
4. The Council requests the Joint Board of Fisheries/Council Committee to develop a shared process that sets up stakeholder meetings to facilitate coordinated BOF/Council evaluation of HAPC and MPA.

The following points should be included/addressed in the EIS as practicable:

1. Clarification that task of EFH mitigation measures is to reduce habitat degradation that has or has the high probability of negatively impacting the productivity of FMP species.
2. An assessment of the productivity of the FMP species using the SAFE documents and other available information.
3. Information or evidence linking any adverse effects on the productivity of the FMP species to fishing.
4. Evidence that the proposed mitigation measures will properly mitigate specific adverse impacts to FMP species.
5. An assessment of the level of certainty of information used to determine adverse impacts, linkages to fishing and effectiveness of proposed measures to mitigate specific adverse effect.

6. **A cost benefit analysis to determine the “*practicability and consequences*” of adopting proposed mitigation measures. This should also include an assessment of unintended consequences such as increased bycatch and bycatch-triggered closures.**
7. **An assessment of the costs and benefits of measures already imposed to protect the FMP species including the Bering Sea crab and Pribilof habitat closure areas, salmon, herring, walrus and Steller sea lion closures, and similar closures in the GOA including the Eastern GOA trawl closure and the Mt. Edgecumb Pinnacles and any other closed areas that restrict impact on local habitat.**
8. **The two million metric ton cap in the BSAI should also be factored in as an existing mitigation measure since the proposed alternatives recommend that TAC reductions should accompany area closures to further protect habitat by reducing fishing effort.**
9. **A table that compares the proposed mitigation measures, any adverse impacts to FMP species, certainty of scientific information used to determine adverse impact, projected effectiveness and cost of measures to coastal communities and industry participants and projected unintended consequences.**
10. **An evaluation and comparison of each alternative to the requirements of the National Standards.**

Other Recommendations

1. **If sea lion closed areas in the Bering Sea and Aleutian Islands are removed in the future, the Council will initiate an amendment to consider whether “Habitat Areas of Particular Concern” and associated measures should be developed for some or all of these areas before they are opened.**
2. **Scallop and Aleutian Islands longline crab fisheries will be considered more thoroughly under HAPC.**

The motion was seconded by Stosh Anderson.

Stephanie Madsen moved to amend the motion by adding a suboption under Alternative 5, Aleutian Islands, which is the Seafloor Habitat Protection Alternative handed out by Oceana in Public Testimony (attached to these Minutes as Appendix VI). The motion was seconded by Stosh Anderson. Ms. Madsen stated she clearly had reservations about this alternative but explained this was an EIS and the Council was looking for a broad perspective on options. Dr. Fluharty asked if Ms. Madsen was using this as a general approach and the analysts could ignore the boxed boundaries. Ms. Madsen replied affirmatively and the motion carried without objection.

Stosh Anderson questioned Mr. Krygier for clarification of Alternative 6 as to whether it could logically be called “Alternative 0.5” since it’s a bookend and the Council wouldn’t get confused by changing numbers? Mr. Anderson then asked if it would be the first alternative in the sequence? Mr. Krygier responded that it probably should have been Alternative 2, because Status Quo is Alternative 1. Mr. Andersen asked further if it was a reasonable alternative in that the actions in it aren’t legal? Chairman Benton observed that by having an alternative such as this, it would be able to compare and contrast the other alternatives against what the fishery would look like if the current measures weren’t in place. This way, the analysis would provide a distinct and understandable picture of the fisheries as they were prior to Council action on measures currently in place, and contrast those with other new management measures. This way the Council could see historically how they interact. John Lepore, NOAA-GC, said there is a provision under NEPA where you can look at things that may not necessarily be legal at the time, but he advised the Council it was under no obligation to evaluate alternatives that are inconsistent with the basic policy objectives. Dave Hanson

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suggested the Council find a different way of getting that information into the analysis, but not have it as an alternative. Jon Kurland spoke of a provision in EFH Regulations that, in effect, takes into account the existing management measures protecting habitat. Mr. Kurland then read the following provision from the EFH Regulations from the section on evaluation of fishing on essential fish habitat: "The evaluation should list any past management actions that minimize potential adverse effects on EFH and describe the benefits of those actions to EFH." Mr. Kurland continued with the intent to make sure you're considering existing closed areas, gear restrictions and other measures. It was something that would have to be done as part of the analysis anyhow, even if an explicit alternative is not included in the EIS.

Stosh Anderson moved to amend the motion by deleting Alternative 6 and look at previous adopted actions and how it would affect essential fish habitat as outlined in the EFH regulations by staff. The motion was seconded by Dave Fluharty. Chairman Benton asked if that was the same thing as establishing a clear baseline that the Council would measure the other alternatives against? Mr. Anderson replied that was his intent, but would leave it to the analyst to figure out how to accomplish it. Earl Krygier reiterated to the staff that it understood the Council wanted a separate baseline describing both the rationalization and the benefits to habitat from closed areas.

Dr. Balsiger moved to amend Mr. Anderson's amendment such that the Council direct staff in the EIS to compare all the alternatives to a scenario that includes status quo conditions absent all area closures and rationalization programs. The motion was seconded by Stosh Anderson and carried without objection.

Dr. Fluharty moved the Council add to this, as recommended by the National Research Council, the gear measures particularly in the baseline that would reduce impact on habitat. The motion was seconded by Stosh Anderson and carried without objection.

John Bundy moved to amend the amendment to include effort reduction measures to provide clarity. Stosh Anderson seconded the motion and it carried without objection. The motion, as amended, then carried without objection.

Stephanie Madsen moved to amend the main motion by adding the words "on upper slope areas (200m-1000m)" to the title of Alternative 3 so that it reads: "Bottom Trawl Gear Prohibition for GOA Slope Rockfish on Upper Slope Areas (200m-1000m)"; and adding the same words to the description so that it reads: "Prohibit the use of bottom trawl gear for targeting GOA slope rockfish species on upper slope areas (200m-1000m), but allow . . ." The motion was seconded by Stosh Anderson and carried without objection. Ms. Madsen thought there might be difficulty enforcing it in differentiating bathymetric lines from geogrid lines on a map. Captain Preston offered the USCG could easily draw dots along the 200M line and connect them on a bathymetric map. USCG ships could then enforce that line. It could do the same thing at the 1000M line, although he didn't think there would be much fishing out that far. Captain Preston offered the USCG's assistance in working with staff analysts for drawing the enforcement lines onto a map. **Ms. Madsen moved to insert the same language into the Gulf of Alaska portion of Alternative 5 in the second sentence, at the same place.** The motion was seconded by Stosh Anderson and carried without objection.

Stephanie Madsen moved to amend the Bering Sea portion of Alternative 5 changing the 40% closure of each block to a 33.3% closure. The motion was seconded by Stosh Anderson. Earl Krygier mentioned that the 5 blocks were subdivided into five equal strips having two strips (40%) at a time closed. If the percentage is changed to 33.3%, it would be much easier to subdivide the blocks into three strips. Ms. Madsen agreed that was her intent. The motion carried without objection.

Stephanie Madsen then moved to add Semisopchnoi Island into the Aleutian Islands portion of Alternative 4, at the end of the last sentence so that it would read: “Closure areas would be designated in the areas of Stalemate Bank, Bowers Ridge, Seguam Foraging Area, and Semisopchnoi Island. The motion was seconded by Stosh Anderson and carried without objection.

Dr. Balsiger moved to substitute a new Alternative 7. Due to Stosh Anderson’s prior motion deleting Alternative 6, this substitute Alternative is labeled Alternative 6. The substitute Alternative 6 reads as follows:

Alternative 6: Closures to All Bottom Tending Gear

Prohibit the use of all bottom tending gear (dredges, bottom trawls, pelagic trawls that contact the bottom, longlines, and pots) within approximately 20% of the fishable waters (i.e., 20% of the waters shallower than 1000m) in each of the regions described below.

Gulf of Alaska: The Gulf of Alaska would be subdivided into 3 regions: western (corresponding to regulatory area 610), central (areas 620 and 630), and eastern (areas 640 and 650).

Aleutian Islands: The Aleutian Islands would be subdivided into 4 regions: western (corresponding to regulatory area 543), central (area 542), eastern (area 541), and two smaller Bering Sea regulatory areas adjacent to the Aleutians (the combination of areas 518 and 519).

Bering Sea: The Bering Sea would be subdivided into 3 regions south of St. Lawrence Island denoting each of the predominant substrate types (sand, sand/mud, and mud) and taking into consideration the varying depth distribution of each substrate.

The closed areas would be identified based on the presence of a **mix of habitat types relatively high abundance of high relief corals, sponge and Boltenia**, with emphasis on areas with notable benthic structure and/or high concentrations of benthic invertebrates that provide shelter for managed species. The closed areas would include a mix of relatively undisturbed habitats and habitats that currently are fished. Within a given region, existing area closures could comprise all or a portion of the closed areas for this alternative.

The motion was seconded by Stephanie Madsen. Ms. Madsen pointed out the differences she saw in the two alternatives being that 20% would be identified as “area-specific” so it wasn’t 20% across the board, but 20% in each management area; the other being what criteria was used in each area. One said “relatively high abundance of gorgonian corals, sponges and Boltenia and designed to preserve relatively unimpacted benthic habitat,”. Dr. Balsiger’s motion was pretty general calling it “a mix of habitat types with emphasis areas.” Dr. Balsiger replied that Ms. Madsen was correct and he was amenable to amendment of his motion.

Stephanie Madsen moved to amend the motion in the last paragraph, as shown above, with additions shown underlined and deletions shown stricken out. The motion was seconded by Earl Krygier. Dr. Fluharty was concerned about Dr. Balsiger’s statement on the proportion of these areas covered by such habitat types and with a target of 20%, the Council could be leaving out important areas where it had already made closures, with good reason. He didn’t intend to be so exclusive to resist that, but recognized the priority the Council was trying to place on these species. Ms. Madsen restated her motion incorporating Dr. Fluharty’s comments so that the paragraph reads as follows:

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The closed areas would be identified based on the presence of a ~~mix of habitat types~~ habitat such as high relief corals, sponge and Boltenia, with emphasis on areas with notable benthic structure and/or high concentrations of benthic invertebrates that provide shelter for managed species. The closed areas would include a mix of relatively undisturbed habitats and habitats that currently are fished. Within a given region, existing area closures could comprise all or a portion of the closed areas for this alternative.

The motion was seconded by Earl Krygier. Chairman Benton then reminded the Council that this was only intended to guide staff in the analysis. Ms. Madsen's motion carried without objection, and the amended motion (replacing Alternative 7) carried with Earl Krygier's objection.

Stephanie Madsen moved to add the following to the main motion under Other Recommendations:

- 3. The Council concurs with the EFH Committee's recommendation to consider the newly replaced Alternative 7 in the HAPC process.**

The motion was seconded by Earl Krygier. Dr. Fluharty then asked Mr. Krygier if in his main motion following Alternative 7, the things listed under "In Addition" applied to Alternative 7 only or to all the Alternatives. Mr. Krygier responded that they were not part of Alternative 7 specifically, but applied either specifically or generally to all the other alternatives. The motion carried without objection.

The Council agreed to discuss later in Staff Tasking who would be selecting the 20% of each area as there wasn't enough time for the EFH Committee to do so.

Stosh Anderson moved to substitute the following language in #3 of the problem statement:

- 3. Consider implementation of additional management measures to minimize, to the extent practicable, adverse effects of fishing on EFH (for FMP species for which data are available, habitat measures should be applied to minimize effects of fishing on habitat essential to continued productivity of the managed species.)**

The motion was seconded by Jim Balsiger. Dr. Balsiger believed this would help clarify the confusing things brought to their attention by letters from the public. Jon Kurland, NMFS, explained that the language helps outline the Council's intent more clearly so as not to be too limiting in productivity but to use information where it is available. **Dr. Fluharty moved to include the first sentence of #3 above and consider the portion in parentheses as the Council's intent.** The motion was seconded by Dr. Balsiger and carried without objection, and the amended motion carried with Stephanie Madsen objecting.

Earl Krygier brought up several concerns heard in public testimony about how broad the alternatives were on this issue and he believed the Council had been very responsive not only to public comment but to the AP and SSC's concerns of incorporating the work product of the EFH Committee (compiled by industry, environmental groups, public, etc.). He also believed the Council addressed the concerns of the National Academy of Sciences and that there were some alternatives discussed and not adopted either because they were already addressed by the existing alternatives and the new alternatives accepted at this meeting, or because they weren't reasonable. Finally, he believed the public and industry were well-served with this set of alternatives. Stephanie Madsen stated her concurrence with Mr. Krygier on the adequacy of the range of alternatives and added that the Council's approach to using the baseline will provide nice clarity for comparing and contrasting the other alternatives. She also believed that by the Council's other modifications it had included all gear types and used different structures in the alternatives, different types of mitigation

measures and incorporated the concept of marine reserves. Dr. Fluharty added that if the analysis showed the Council it needed something like a no-take reserve to accomplish the problem statement or achieve other objectives, it could reach them through this process. Stosh Anderson, speaking on behalf of himself and the EFH Committee, believed the range of alternatives covered all concerns. Specifically, it had closed area concepts, open area concepts, rolling closed-area concepts, and all of the alternatives could be made into experimental models to adapt them to management practices as much as possible. Dennis Austin referenced the SSC report questioning whether the very detailed motion on the table included the concerns of the SSC. His intent was to raise the profile of the SSC's comments so that staff could respond in the analysis. Roy Hyder supported Mr. Austin's concern about the SSC's comments and believed the Council did intend for the SSC's comments to be part of the consideration during analysis. Dr. Balsiger affirmed that the goals were now pretty clear and although they may not be precisely written on paper, he believed their intent was clear. Chairman Benton then remarked he believed the objectives and goals the Council was trying to look at were well accommodated. They are consistent with the rule, with the statute and define what the Council is trying to achieve. The Chairman thanked Stosh Anderson, being Vice-Chair of the EFH Committee, and thanked the Committee for their hard work and closed by stating he believed the Council had really extended their hand to the industry, the public, and the conservation community and made sure everybody had a hand in shaping the suite of alternatives for this issue.

The main motion, as amended, passed unanimously, 10-0. The complete Council motion is attached to these Minutes as Appendix VII.

C-4 AFA Issues

ACTION REQUIRED

- (a) Final review of measures for BSAI winter Pacific cod amendment
- (b) Review initial co-op reports and agreements (full report in February)

BACKGROUND

P. cod Sideboards

In October 2002, staff presented for initial review the EA/RIR/IRFA for Amendment 73 (Pacific cod sideboard provisions). The Council approved the document for public review once additional information addressing weekly participation patterns, latent licenses, and catch history as a percent of TAC have been included. The EA/RIR/IRFA was changed to reflected the Council's request and is presented now for possible final action at this meeting. The Executive Summary is attached as Item C-4(a)(1).

The purpose of this action is to provide greater protection to non-AFA trawl catcher vessels targeting BSAI Pacific cod during the months of January and February. The concern is over impacts to the non-AFA vessels that have traditionally fished Pacific cod and may have been subject to increased competition as a result of implementation of the AFA. The potential impacts of this increased level of competition include factors such as decreased catch per unit of effort resulting in longer fishing times per trip, reductions in catch, and decreased safety.

Alternatives under consideration include:

1. Retain current sideboards measures
2. Limiting access to the directed trawl fishery for Pacific cod in January and February in area 655430 to open access vessels which have a history of economic dependency upon the winter

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Bering Sea Pacific cod fisheries, demonstrated by average January, February deliveries of at least 250,000 lbs for 4 out of the 5 pre-AFA years of 1995-1999 and to the cod exempt AFA vessels.

- 3. Allocate catch to non-AFA vessels based on Alternative 2 under two options:
 - a. a range of 2.5 to 5 million lbs (with no cap)**
 - b. historical catch of TAC of Pacific cod****
- 4. Require co-ops to limit the fishing impact AFA vessels have on the cod grounds so as not to preempt non-AFA vessels from their historical participation.**

At this meeting, the Council is scheduled to review the revised analysis and possibly take final action. An agreement between the AFA and non-AFA vessels, if negotiated this fall, would likely inform the Council's action on this issue.

Initial Co-op Reports

Annually the Council reviews the co-op agreements for the upcoming fishing year, as well as the end-of-year co-op reports for the preceding year. As we did last year, I requested co-op representatives to provide us copies of individual co-op agreements only if there were changes to those agreements since the last version. We are expecting those to be available for review at this meeting, along with the inter-co-op agreements, including those relating to salmon bycatch management. I also expect the preliminary end-of-year reports to be made available for review at this meeting. We were unable to distribute these ahead of the meeting, as the deadline for submission was December 1. Copies are available for review in the AP, SSC, and Council meetings rooms. Final co-op reports are due in February.

Scientific and Statistical Committee Report

The SSC did not address this issue.

Report of the Advisory Panel

The AP recommended the Council adopt the following motion for the winter Pacific cod trawl fishery:

Access to the directed trawl fishery for Pacific cod for the period of January 20th through February 25th in ADF&G Statistical Area 655430 shall be limited to:

- 1. vessels which have a history of economic dependence upon the winter Bering Sea Pacific cod fisheries, as demonstrated by average January and February deliveries of at least 250,000 lbs for 4 out of the 5 previous years of 1995-1999, and**
- 2. the cod exempt AFA catcher vessels, and**
- 3. AFA non-exempt Bering Sea catcher vessels not to exceed a daily average of 10 vessels for the period of January 20th through February 25th (except for vessels qualifying under item 1 above).**

Exceeding this 10-vessel limit in 2003 or any later year by the AFA non-exempt catcher vessels will trigger an area closure to Pacific cod fishing the immediately following year. The closure area, if triggered, is defined as the same area closed for the NMFS Cod Fishery Interaction Study (Cape Sarichef Test Area). The triggered closure would be in effect for the period of January 20th through February 25th, and would apply to all AFA cod non-exempt vessels participating in the BSAI directed cod fishery (except for vessels qualifying under item 1 above).

The 10-vessel limit for AFA non-exempt catcher vessels and trigger mechanism shall not apply for any period from February 1st of any given year until at least two non-AFA vessels that meet the threshold

standard of at least 250,000 lbs in 4 out of the 5 years of 1995-1999 are fishing for Pacific cod in ADF&G Statistical Area 655430. This regulatory action will terminate upon rationalization of the BSAI Pacific cod fishery.

DISCUSSION/ACTION

Chris Oliver reported that copies of the AFA Coop Reports and updates to those agreements were available to Council members and the public. Mr. Oliver then deferred to Jon McCracken, Council staff, for his report on Pacific cod sideboard review. Stephanie Madsen was not present for this issue due to a previous commitment at another meeting.

John Bundy moved the Council adopt the AP recommendation as the preferred alternative, adding the word “catcher” to the last sentence of the second paragraph (as shown underlined below):

Access to the directed trawl fishery for Pacific cod for the period of January 20th through February 25th in ADF&G Statistical Area 655430 shall be limited to:

- 1. catcher vessels which have a history of economic dependence upon the winter Bering Sea Pacific cod fisheries, as demonstrated by average January and February deliveries of at least 250,000 lbs for 4 out of the 5 previous years of 1995-1999, and**
- 2. the cod exempt AFA catcher vessels, and**
- 3. AFA non-exempt Bering Sea catcher vessels not to exceed a daily average of 10 vessels for the period of January 20th through February 25th (except for vessels qualifying under item 1 above).**

Exceeding this 10-vessel limit in 2003 or any later year by the AFA non-exempt catcher vessels will trigger an area closure to Pacific cod fishing the immediately following year. The closure area, if triggered, is defined as the same area closed for the NMFS Cod Fishery Interaction Study (Cape Sarichef Test Area). The triggered closure would be in effect for the period of January 20th through February 25th, and would apply to all AFA cod non-exempt catcher vessels participating in the BSAI directed cod fishery (except for vessels qualifying under item 1 above).

The 10-vessel limit for AFA non-exempt catcher vessels and trigger mechanism shall not apply for any period from February 1st of any given year until at least two non-AFA vessels that meet the threshold standard of at least 250,000 lbs in 4 out of the 5 years of 1995-1999 are fishing for Pacific cod in ADF&G Statistical Area 655430. This regulatory action will terminate upon rationalization of the BSAI Pacific cod fishery.

The motion was seconded by Stosh Anderson. Chairman Benton thanked the industry for the time and effort it put into making an agreement come together and spoke of being encouraged by the testimony he heard on the Study in that if it's implemented and operates the way it intends it to, such that the trigger never gets reached, it would create more consistency across the years of effort and should enhance the quality of the data.

Sue Salvesson moved to clarify that this applies only to catcher vessels by adding the word “catcher” to the beginning of Item 1 in the first paragraph above, shown as underlined. The motion was seconded by Kevin Duffy and carried without objection. The main motion, as amended, then carried without objection (Madsen absent).

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C-5 Improved Retention and Utilization (IRIU) for Flatfish

ACTION REQUIRED

Receive report from IR/IU Technical Committee

BACKGROUND

In October the Council voted to delay implementation of IR/IU flatfish regulations for the BSAI until June 1, 2004, with final action scheduled in April 2003. At the same time the Council initiated analyses of four trailing amendments as a means to accomplish bycatch reductions and facilitate reductions in flatfish discards. Amendment A would establish prohibited species bycatch reduction cooperatives operating in the BSAI. Amendment B would create bycatch caps (discard caps) for the flatfish fisheries in the BSAI. Amendment C would establish minimum groundfish retention standards as an alternative to flatfish retention requirements in the BSAI. Amendment D would establish regulatory process for the routine review of flatfish bycatch in the BSAI and GOA fisheries and the exemption of fisheries with less than 5% bycatch of IR/IU flatfish from flatfish retention and utilization rules. Amendment A and B would be completed as soon as practicable and Amendments C and D would be expedited for final action in April 2003. The final October 2002 motion is attached as Item C-5(a).

The IR/IU Technical Committee met via teleconference on October 25, 2002. The teleconference focused on just a few issues. The first was staffing and timing of the trailing amendments. The analysis for Amendment A would be primarily contracted to Northern Economics and MRAG for a tentative completion date of April 2003. Amendments C and D will be completed by Council and NMFS staff, also with contract help, for initial review in February 2003, as instructed by Council.

The Committee then focused their attention on Amendment C. Specifically, the Committee requested from staff tables showing discards and retention rates by target species from 1995 to 2001 to assist in determining minimum groundfish retention standards. To help facilitate discussions on minimum groundfish retention standards, staff also included additional retention and discard data by sector, and graphs showing a distribution of vessels relative to discards for each sector and target from 1999 through 2001. The tables and graphs are attached as Item C-5(b). The Committee also requested an opinion from NOAA GC and NMFS Enforcement concerning data used to enforce the minimum groundfish retention standard. A letter outlining these concerns and requesting guidance was sent on November 13, 2002 to NOAA GC and Enforcement. The letter is attached as Item C-5(c). The Committee agreed to meet again via teleconference on November 26 to discuss the analysis thus far and any guidance received from NOAA GC or Enforcement. Staff will report on the results of this teleconference meeting and if there is a need for further Council guidance concerning IR/IU trailing amendments.

Report of the Scientific and Statistical Committee

The SSC did not address this agenda issue.

Report of the Advisory Panel

The AP did not address this agenda issue.

DISCUSSION/ACTION

Although there is no action required on this agenda issue, the Council received a report from the IR/IU Technical Committee. Stephanie Madsen was not present for this issue due to a previous commitment at

another meeting. Chris Oliver highlighted a few issues he discussed with Jon McCracken, Council staff, and indicated Dr. Hanson had stressed the Committee get feedback from NMFS-Enforcement early in the analysis, rather than at the end. Although the Council had not received a formal response from NMFS-Enforcement, Mr. Oliver did receive an informal response noting serious concerns with their ability to enforce this either from a self-reporting aspect or even the ability to monitor it across pools as opposed to individual vessels. The Committee's intent was to continue moving forward and bring it back for Council review in February. Sue Salveson supported Dr. Hanson's comment about getting answers earlier than later and praised the concept from Agency staff under Amendment C as very attractive because it looked at overall groundfish discard rates without species composition, or species sampling. On further discussion with NMFS-Enforcement and NOAA-GC, the concept of self-reported total catch weight was viewed as a non-starter. Chairman Benton stated he didn't believe the Council needed a motion, but did heed the Committee's request to be forthcoming with answers from Enforcement and Management. The Council wanted to get this information out early so that it could look at the practicality of it and why the current system doesn't work. He further commented that this fleet operates all the time managed around the 20% MRB and he wanted an understanding of why that won't work in this fishery. Ms. Salveson responded that she believed the Chairman's message was clear as was the letter from Mr. Oliver to the Agency. Ms. Salveson stated she would provide that direction to the Agency, and John Lepore would communicate it to NOAA-GC as well.

D-1(a) F₄₀ Independent Review

ACTION REQUIRED

- (a) **Receive final report from independent scientific review panel.**

BACKGROUND

In October 2001, in conjunction with the actions taken to address Steller sea lion issues, the Council also approved a motion to conduct an independent review of our basic F₄₀ harvest policy relative to National Standards. The intent of this review was to determine whether changes need to be made to account for individual species needs or ecosystem needs.

The F₄₀ review panel included Dr. Terry Quinn (UAF), Dr. Grant Thompson (AFSC), Dr. Marc Mangel (University of California Santa Cruz), Dr. Tony Smith (CSIRO, Australia), Dr. Dan Goodman (Montana State University), Dr. Graeme Parks (Marine Resource Assessment Group, Florida), Dr. Victor Restrepo (ICCAT, Spain), and Dr. Kevin Stokes (New Zealand). The F₄₀ review panel met in person at the Alaska Fisheries Science Center on June 17-19, and continued their work by email.

Dr. Dan Goodman served as Chairman of the panel, and he provided a preliminary report at the October 2002 Council meeting. He will be on hand to make a final report at this meeting. The panel's written report was distributed on November 22; an executive summary is attached as Item D-1(a)(1).

Scientific and Statistical Committee Report

The SSC received a summary of findings and recommendations from Dr. Dan Goodman, Chair of the scientific committee that was commissioned by the Council to review the harvest strategy currently used in the BSAI and GOA groundfish management plans. The SSC thought the review committee conducted a thorough and thoughtful analysis of the strengths and weaknesses of the current harvest strategy, and found it remarkable that this internationally acclaimed panel of experts could be assembled to participate and complete the review so quickly.

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The SSC had the following comments to recommendations made by the Committee:

1. Revisit the BSAI and GOA groundfish OY ranges. The current BSAI and GOA groundfish OY ranges were established in 1984 (BSAI Amendment 1) and 1987 (GOA Amendment 15), respectively. Memory suggests that these limits were intended to be conservative to allow for trophic and technological interactions among target species. Nevertheless, the degree of conservatism and the logical underpinnings for a particular level of conservatism are not clearly explained. In addition, the Review Committee notes that ocean conditions, target and non-target stock abundances have changed in the ensuing years. Therefore, the Review Committee recommends that it would be prudent to revisit the rationale for and specific magnitude of the overall groundfish OY ranges, with particular focus on the explicit linkages to environmental conditions that precipitate to changes in ocean productivity and species abundance. **The SSC concurs with this recommendation.**
2. Management Strategy Evaluation. The properties of a management system are not the simple union of the properties of the subcomponents. The Review Committee advises that an MSE could provide a better understanding of the robustness of the ABC harvest strategy relative to alternative harvest management strategies, especially in the context of shifts in ocean productivity. The Review Committee recommends that the MSE be based on data from an actual fishery, incorporate realistic assessment models, and explicitly represent uncertainty due to process error, observation error, model error, and implementation error. **The SSC recommends that the feasibility of conducting a MSE analyses be assessed and the results reported to the SSC at its February 2003 meeting.**

The Review Committee also recommends that MSE be used to evaluate the potential utility of multi-species or ecosystem models. **While the SSC is sympathetic to the intuitive appeal of multi-species/ecosystem models, we note that in practice, simple models often outperform complex models due to the sampling error associated with complex interactions present in the more complex models. Thus multi-species models might provide useful projections of the overall change in an ecosystem and yield inaccurate forecasts of individual species population trends. Nevertheless, the SSC encourages continued development of multi-species and ecosystem models because of the potentially beneficial insights that such models may provide to improvement and of single species models. At the same time, the SSC encourages ongoing development of single species models because of their well-defined statistical properties and often sophisticated treatment of uncertainties.**

3. Ecosystem Issues. The Review Committee report concludes that the current single-species MSY-based approach to setting F_{ABC} makes:

Only a slight adjustment for possible ecosystem needs; while the TAC setting adjustment downward from ABC allows for a considerably (sic) reduction in harvest, but the procedure for doing so is ad hoc.

The Committee recommends: continued and expanded monitoring of the ecosystem; development of adaptive experimental designs incorporating spatio-temporal enclosure zones; and, exploration of harvest strategies that ensure constant prey availability to predators.

In addition, the SSC is interested in exploring modifications to Amendments 56/56 that account for differences in life history characteristics among species within tiers, to ensure that harvest strategies are more conservative for high tier (low information) stocks, to modify tiers 4, 5, and

6 to include abundance-based adjustments to the ABC and OFL, and to create incentives for moving stocks from higher to lower tiers.

Report of the Advisory Panel

The AP did not discuss this agenda issue.

DISCUSSION/ACTION

Although there was no Council action on this agenda issue, Council members heard a report by Dr. Dan Goodman, Chairman of the F₄₀ Committee on the harvest strategy currently used in the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish management plans. Chairman Benton, on behalf of the Council, thanked Dr. Goodman and the rest of his team for their effort on this report. The Chairman thought it would be very helpful to the Council.

D-1(b) BSAI Rockfish Management

ACTION REQUIRED

(b) Review NMFS discussion paper on BSAI rockfish management

BACKGROUND

BSAI rockfish management

As part of its action to adopt 2003 BSAI preliminary and interim specifications in October 2001, the Council requested that NMFS staff prepare a discussion paper for this meeting on short and long term approaches to managing BSAI rockfish. The Council requested that the paper first address rockfish management for 2003, including issues associated with reliable identification of species; NMFS strategy for collecting species-specific information; and considerations for breaking out the SR/RE TAC in the Aleutians Islands by district. Second, it was requested to address implications for more long term (2004 and beyond) management of the red rockfish complex that address the scientific information/research necessary to support separate species management by area; management implications of separate species OFLs/ABS/TACs; adequacy of existing survey methodology for these species and potential enhancements to existing protocol to address shortcomings; and potential management response to ongoing and perhaps unavoidable bycatch. NMFS staff will present the discussion paper, which is attached as Item D-1(b).

Scientific and Statistical Research Committee Report

The SSC reiterated its support of the National Marine Fisheries Service efforts to address this issue. The Council, at the October 2002 meeting, requested NMFS review rockfish management for 2003 including an examination of the ability to reliably identify species in the shortraker/rougheye group and the need to apportion the TAC for shortraker/rougheye among the eastern Bering Sea subarea and three Aleutian Islands subareas. The SSC received an overview, by Sue Salvesson and Andy Smoker, of a discussion paper prepared at the Council's request. The SSC noted there is a need to examine the approach to rockfish management.

Report of the Advisory Panel

The AP did not discuss this agenda issue.

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DISCUSSION/ACTIONS

John Bundy moved the Council request the NMFS Rockfish Work Group, between now and February 2003, begin to analyze and compare the length and age frequencies of Northern Rockfish survey data and fishery bycatches recently in the Eastern Bering Sea area and in the Aleutian Islands districts. He believed such an analysis was perhaps the quickest way to investigate whether local over-harvesting was a concern in the Eastern Bering Sea. Secondly, the Council request the NMFS Rockfish Work Group begin analyzing fishery bycatch data and resource survey data from the Eastern Bering Sea shelf and slope to determine if additional estimates of Eastern Bering Sea Northern Rockfish biomass can be developed. The motion was seconded by Stephanie Madsen. Dr. Balsiger stated he believed the Work Group would like to start working on this as soon as the Council gives it time to do so, but in order to expect it back by February, the Council should either address it in Staff Tasking or understand it needs to be mindful of schedules. Mr. Bundy responded that it might be important if the Council could have it as part of the white paper in February but he wouldn't dictate a timetable for the Work Group. The motion carried without objection.

D-1(c) Review Alternatives for TAC-Setting Process (postponed)

ACTION REQUIRED

- (c) **Initial review of measures for BSAI winter Pacific cod amendment, and formally identify a Problem Statement for this proposed action.**

BACKGROUND

In October, 2001, the Council tasked staff to provided an analysis of alternatives for restricting AFA vessels from targeting BSAI Pacific cod during January and February. The Council requested the analysis be completed in time for initial review during the April 2002 Council meeting. The purpose of this action is to provide greater protection to non-AFA trawl catcher vessels targeting BSAI Pacific cod during the months of January and February. The concern is over impacts to the non-AFA vessels that have traditionally fished Pacific cod and may have been subject to increased competition as a result of implementation of the AFA. The potential impacts of this increased level of competition include factors such as decreased catch per unit of effort resulting in longer fishing times per trip, reductions in catch and a need to venture further out into the Bering Sea with possible increased dangers to smaller vessels during January and February.

There are four alternatives in the proposed action that are under consideration. The first alternative is status quo. The remaining three alternatives are combination of limited access options and/or an allocation of Pacific cod. The second alternative would restrict access to the BSAI winter cod fishery to only cod-exempt AFA vessels and open access vessels who have delivered 500,000 pounds or more of Pacific cod during 4 out 5 years from 1995 to 1999. In this alternative, it is not clear from the wording whether the Council intended the threshold criteria apply only to the non-AFA fleet, or whether it is intended to be applied to the AFA cod-exempt vessels as well. The third alternative would allocate a portion of trawl catcher vessel allocation of Pacific cod to non-AFA vessels who qualified under the second alternative. There are two options under consideration. The first is an allocation that provides a minimum of between 2.5 to 5 million pounds with no cap. The second option is an allocation based on the vessels historical catch. The fourth and final option would require cooperatives to limit the number of AFA vessels on the winter cod grounds so as not to preempt non-AFA vessels from the historic participant. Staff will summarize results of the analysis at this time.

Scientific and Statistical Committee Report

The SSC did not address this agenda issue.

Report of the Advisory Panel

The AP did not address this agenda issue.

DISCUSSION/ACTION

The Council did not address this agenda issue as the TAC-setting process discussion was postponed pending additional legal guidance.

D-1(d) Final BSAI Groundfish Specifications for 2003

ACTION REQUIRED

(d) Approve the 2003 BSAI/GOA EA and BSAI Final Stock Assessment and Fishery Evaluation (SAFE) report.

Approve final BSAI groundfish specifications for 2003:

1. Acceptable Biological Catch (ABC), and annual Total Allowable Catch (TAC);
2. Seasonal apportionment of the fixed gear Pacific cod TAC; and
3. Bycatch allowances, and seasonal apportionments of Pacific halibut, red king crab, Tanner crab, opilio crab, and herring to target fishery (PSC) categories.
4. Approve halibut discard mortality rates for the 2003 CDQ groundfish fisheries.

BACKGROUND

At this meeting, the Council makes final recommendations on groundfish and bycatch specifications as listed above. These final specifications will be used to manage the 2003 groundfish fisheries.

BSAI SAFE Document

The groundfish Plan Teams met in Seattle November 12-14, 2002 to prepare the final BSAI SAFE documents provided for this meeting. This SAFE report forms the basis for BSAI groundfish specifications for the 2003 fishing year. Note that there are three sections to the SAFE report: a stock assessment section, a fishery evaluation section ("economic SAFE"), and an ecosystems considerations section. These three sections, together with the GOA SAFE report, are incorporated into the Environmental Assessment for the 2003 groundfish specifications. The SAFE reports were mailed on November 19 and the EA was mailed on November 22. An errata for the BSAI SAFE introductory chapter, BSAI Plan Team minutes, Joint Team minutes, and SSC and AP recommendations will be provided to the Council during the meeting.

ABCs, TACs, and Apportionments

At this meeting, the Council will establish final catch specifications for the 2003 fisheries. Item D-1(d)(1) includes Tables 4 and 5 from the SAFE summary chapter, which reports biomass levels and BSAI Plan Team recommendations for overfishing levels (OFLs) and Allowable Biological Catches (ABCs). The sum of recommended ABCs by the Plan Team for 2003 is 3,331,001 mt, an increase of 147,000 mt from 2002. Overall, the status of the stocks continues to appear relatively favorable, although in some cases biomass has declined due to below average recruitment or changes in modeling techniques. Pollock biomass increased by 1.3 million mt compared with last year's estimate.

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Biomass estimates declined by nearly half for Greenland turbot (age 1+) due to new fishery and survey data and for rock sole (age 2+) due to significant changes to the model and new fishery and survey data. None of the BSAI groundfish stocks are overfished or approaching an overfished condition..

The Council is addressing NMFS recommendations for BSAI rockfish management under Agenda D-1(b).

Other final specifications include making the seasonal apportionment of the fixed gear Pacific cod TAC, and establishing bycatch allowances and seasonal apportionments of Pacific halibut, red king crab, Tanner crab, opilio crab, and herring to target fishery (PSC) categories.

Adopt Seasonal Apportionments of the Pacific Cod TAC Allocated to Fixed Gear

Amendment 24 regulations allow seasonal apportionment of the Pacific cod TAC allocated to vessels using hook-and-line or pot gear. Seasonal apportionments will be divided among trimesters and established through the annual specifications process. In recommending seasonal apportionments, regulations require the Council to base its decision on factors listed in the adjacent box.

Seasonal apportionments can be based on the following information:

1. Seasonal distribution of Pacific cod relative to PSC distribution;
2. Expected variations in PSC bycatch rates in the Pacific cod fishery throughout the fishing year; and
3. Economic effects of any seasonal apportionment of Pacific cod on the hook-and-line and pot gear fisheries.

Under Amendment 46, two percent of the TAC is reserved for jig gear, 51 percent for fixed gear, and 47 percent for trawl gear. The trawl apportionment will be split between catcher vessels and catcher processors 50/50. Under Amendment 64, the fixed gear apportionment is further allocated as follows: 80% to freezer longline vessels; 0.3% to longline catcher vessels; 18.3% to pot gear vessels; and 1.4% to catcher vessels (longline or pot) less than 60 feet length overall.

Item D-1(d)(2) lists the 2002 gear and seasonal apportionments of the Pacific cod TAC. Season dates for longline and jig gear were 1/1-6/10 and 6/10-12/31. Season dates for pot gear were 1/1-6/10 and 9/1-12/31.

Adopt Prohibited species catch limits of Pacific halibut, crab, and herring

Halibut

Trawl Fisheries: A 3,675 mt limit on halibut mortality has been established for trawl gear. This limit can be apportioned to the trawl fishery categories as shown in the adjacent box. Note that under Amendment 46, the trawl halibut PSC mortality cap for Pacific cod will be no greater than 1,600 mt.

Categories used for prohibited species catch (PSC) apportionment in trawl fisheries.

1. Greenland turbot, arrowtooth flounder and sablefish;
2. rock sole and "other flatfish;"
3. yellowfin sole;
4. rockfish;
5. Pacific cod; and,
6. pollock, Atka mackerel and "other species."

Fixed Gear Fisheries: A 900 mt non-trawl gear halibut mortality can be apportioned to the fishery categories listed in the adjacent box. Note that under Amendment 46, the hook-and-line halibut PSC mortality cap for Pacific cod will be no greater than 900 mt. Item D-1(d)(3) lists the 2002 PSC allocations and seasonal apportionments for

Categories used for PSC apportionment in non-trawl fisheries.

1. Pacific cod;
2. Other non-trawl (longline sablefish and rockfish, and jig gear)
3. Groundfish pot (exempt in recent years)

the trawl and non-trawl fisheries. Item D-1(d)(4) is a current summary of PSC bycatch accounting for BSAI fisheries.

Crab

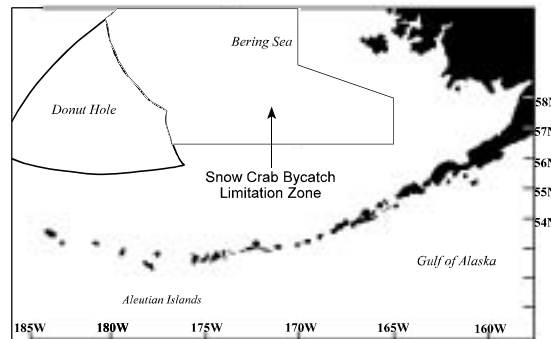
Prescribed bottom trawl fisheries in specific areas are closed when prohibited species catch (PSC) limits of *C. bairdi* Tanner crab, *C. opilio* crab, and red king crab are taken. Amendment 37 established a stairstep procedure for determining PSC limits for red king crab taken in Zone 1 trawl fisheries. PSC limits are based on abundance of Bristol Bay red king crab as shown in the adjacent table. Amendment 57 contained a provision to reduce red king crab bycatch by an additional 3,000 crabs as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries. Based on the 2002 estimate of ESB (37.7 million pounds), and the 3,000 crab reduction for Amendment 57, the PSC limit for 2003 will be 97,000 red king crabs. The regulations also specify that up to 35% of the PSC apportioned to the rock sole fishery can be used in the 56° - 56°10'N strip of the Red King Crab Savings Area. The red king crab cap has generally been allocated among the pollock/mackerel/other species, Pacific cod, rock sole, and yellowfin sole fisheries. Once a fishery exceeds its red king crab PSC limit, Zone 1 is closed to that fishery for the remainder of the year, unless further allocated by season.

PSC limits for red king crab and *C. bairdi* Tanner crab.

<u>Species</u>	<u>Zone</u>	<u>Crab Abundance</u>	<u>PSC Limit</u>
Red King Crab	Zone 1	Below threshold or 14.5 million lbs of effective spawning biomass (ESB)	35,000
		Above threshold, but below 55 million lbs of ESB	100,000
		Above 55 million lbs of ESB	200,000
Tanner Crab	Zone 1	0-150 million crabs	0.5% of abundance
		150-270 million crabs	750,000
		270-400 million crabs	850,000
		over 400 million crabs	1,000,000
Tanner Crab	Zone 2	0-175 million crabs	1.2% of abundance
		175-290 million crabs	2,100,000
		290-400 million crabs	2,550,000
		over 400 million crabs	3,000,000

Under Amendment 41, PSC limits for *bairdi* in Zones 1 and 2 are based on total abundance of *bairdi* crab as indicated by the NMFS trawl survey. These limits are further reduced by 50,000 as prescribed by proposed Amendment 57. Based on 2002 abundance (464.9 million crabs), and the Amendment 57 adjustment, the 2003 PSC limit for *C. bairdi* will be 980,000 (1,000,000 minus 20,000) crabs in Zone 1 and 2,970,000 (3,000,000 minus 30,000) crabs in Zone 2.

Under Amendment 40, PSC limits for snow crab (*C. opilio*) are based on total abundance of *opilio* crab as indicated by the NMFS standard trawl survey. The snow crab PSC cap is set at 0.1133% of the Bering Sea snow crab abundance index, with a minimum PSC of 4.5 million snow crab and a maximum of 13 million snow crab. This number is further reduced by 150,000 crabs as part of Amendment 57. Based on the 2002 survey estimate of 1.49 billion crabs, the 2003 *opilio* crab PSC limit will be 4,350,000 crabs (4,500,000 minus 150,000).



Location of the *C. opilio* bycatch limitation zone.

Snow crab taken within the “Snow Crab Bycatch Limitation Zone” accrue towards the PSC limits established for individual trawl fisheries. Upon

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attainment of a snow crab PSC limit apportioned to a particular trawl target fishery, that fishery is prohibited from fishing within the snow crab zone.

Herring

Amendment 16a established an overall herring PSC bycatch cap of 1 percent of the EBS biomass of herring. This cap is to be apportioned to the same six PSC fishery categories listed above, plus a seventh group, mid-water pollock. The 2002 herring assessment data for abundance forecasts have not yet been analyzed. For the largest stock (Togiak) aerial observation conditions were poor during the spring 2002 spawning season and ADF&G did not get an abundance estimate for use in the age-structured assessment analysis. Age composition estimates indicate the 1997 year class is of at least moderate size and should continue to support the present biomass levels. Preliminary analysis of the data indicate that the biomass estimates will not change much from last year. It would be reasonable to use last year's biomass estimates of 152,574 mt, for a 2003 herring PSC limit of 1,526 mt.

Seasonal Apportionment of bycatch limits

The Council may also seasonally apportion the bycatch allowances. Regulations require that seasonal apportionments of bycatch allowances be based on the following types of information listed in the adjacent box. Additional information on PSC limits and apportionments is presented in BSAI SAFE Report Appendix B.

Factors to be considered for seasonal apportionment of bycatch allowances.

1. Seasonal distribution of prohibited species;
2. Seasonal distribution of target groundfish species relative to prohibited species distribution;
3. Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;
4. Expected variations in bycatch rates throughout the fishing year;
5. Expected changes in directed groundfish fishing seasons;
6. Expected start of fishing efforts; and
7. Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

Halibut Discard Mortality Rates

In 2001, the IPHC staff proposed and the Council adopted a plan to use the 10-year average halibut discard mortality rates (DMR) for a 3-year cycle for all GOA and BSAI non-CDQ groundfish fisheries. Although they do not need to be revised until the 2004 fisheries, the Council has the option to revise DMRs, if necessary. The IPHC staff will continue to review annual halibut bycatch. The 2001 BSAI trawl fishery DMRs exhibited no overall increase or decrease; results were mixed when compared to 2000 estimates. In the GOA, results were also mixed, as five trawl fisheries declined and five increased. The 2001 longline fishery DMR showed only minor change from 2000. Pot fishery DMRs exhibited large changes from 2000. In the BSAI fishery, the DMR dropped to 0.06, almost half of the 2000 value and a level typically shown by this gear type. In contrast, the GOA fishery displayed a substantial increase in its' DMR in 2001, up to 0.33. This is the highest level achieved by any pot fishery since these DMR analyses were initiated by IPHC in 1990. These results for the 2001 GOA fishery appear to possibly reflect changes made to management of the cod fishery itself, in that directed cod fishing was curtailed during 2001 in response to the need for Steller sea lion protection. The possible impacts would include moving vessels to areas with low cod catch rates, causing higher than normal soak times which would result in high mortality.

The Council decided to set annual DMRs for the CDQ fisheries. IPHC staff recommends that the 2003 CDQ fisheries use the following DMRs:

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CDQ Trawls

Atka Mackerel: 0.80
Bottom pollock: 0.90
Flathead sole: 0.90
Pelagic pollock: 0.89
Rockfish: 0.90
Yellowfin sole: 0.83

CDQ Longlines

Pacific cod: 0.11
Turbot: 0.04

CDQ Pots

Pacific cod: 0.02
Sablefish: 0.46

No recommendations are proposed for changes to the DMRs used in the open access fishery. The DMRs used in 2002 for the BSAI and GOA are to be used in 2003 (Item D-1(d)(5)).

Scientific and Statistical Committee Report

The SSC had several concerns applicable to both BSAI and GOA rockfish resources, including management of multi-species complexes and management of stocks across broad geographic areas creating a potential to overfish individual stocks. The SSC has expressed concerns about species complex management and individual rockfish species management for several years. While the SSC has no evidence to suggest overfishing any rockfish species or stock is imminent, it cautions that the consequences of overfishing one or more rockfish stock could be severe. The SSC believes action to prevent this from happening should be undertaken as soon as possible, preferably before the 2004 TAC-setting process.

The SSC requested a white paper be developed addressing specific questions for each species, identifying specific steps to acquire necessary data, and making specific recommendations for determining species-specific and area-specific precautionary ABCs where appropriate.

The SSC's complete report for Final BSAI Groundfish Specifications is extremely detailed and lengthy, and can be found in its entirety attached to these Minutes as Appendix V.

Report of the Advisory Panel

The AP requested the Council approve the SAFE reports and the EA for the BSAI 2003 TACs. Additionally, the AP adopted the SSC's ABC recommendation as TACs outlined in the attachment to the complete AP Minutes. That attachment is found as Appendix VIII to these minutes.

As a way to achieve optimum yield within the BSAI 2 million ton cap, it is the intent of the industry to use unspecified reserves from several flatfish categories. To accomplish this, the 2003 TACs are arranged in a way to remove all of the "slack" from the flatfish fisheries' TACs such that the possibility could exist for several of the directed flatfish fisheries to bump up against their quotas before the end of the fishing year. Since the maximum ABCs for these fisheries are higher than the proposed TACs, and the non-specified reserves are taken out of the 2 million ton optimal yield limit beforehand, it is industry's intent to request NMFS in-season managers add tonnage from the unspecified reserves to any directed flatfish fisheries where catches are anticipated to approach the quota. In this fashion, the unspecified reserve adds flexibility within the flatfish fisheries to adapt to events not anticipated prior to the season and should ultimately lead to higher groundfish catches for Alaska and the nation.

The AP also recommended the Council make the "other species" category a bycatch fishery only in non-CDQ fisheries.

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DISCUSSION/ACTION

The Council heard staff presentations from Jane DiCosimo, NPFMC staff, as well as a presentation on the BSAI SAFE report by Dr. Loh-Lee Low. Tamra Faris, NMFS, also presented an update on the Environmental Assessment for both the BSAI and GOA specifications.

Roy Hyder moved the Council approve the AP recommendations relative to Agenda Items D-1d, Final BSAI Groundfish Specifications for 2003 including Acceptable Biological Catch (ABC); D-1e, Final GOA Groundfish Specifications for 2003 including the tables attached to the draft AP Minutes; 2003 BSAI/GOA Environmental Assessment (EA); BSAI Final Stock Assessment and Fishery Evaluation (SAFE) Report; Bycatch allowances and seasonal apportionments of Pacific halibut, red king crab, tanner crab, opilio crab and herring to target fisheries, PSC categories, halibut discard mortality rates for 2003 CDQ Groundfish fisheries; GOA SAFE documents and recommend final specifications of bycatch apportionments; Acceptable Biological Catch (ABC) and Annual Total Allowable Catch as recommended by the AP and SSC and approve Prohibited Species Catch (PSC) limits. The motion includes the documents attached to the Action Memos for Agenda Items D-1(d) and D-1(e), and tables attached to the AP Minutes. The tables attached to the AP Minutes can be found attached to these minutes as Appendix III. The motion was seconded by Stephanie Madsen and carried without objection.

D-1(e) Final GOA Groundfish Specifications for 2003

ACTION REQUIRED

- (e) Review and approve GOA SAFE documents and recommend final specifications and bycatch apportionments.
1. Acceptable Biological Catch (ABC), and annual Total Allowable Catch (TAC); and
 2. Prohibit Species Catch Limits.

BACKGROUND

GOA SAFE Document

The groundfish Plan Teams met in Seattle November 12-15 to prepare the final SAFE documents provided for this meeting. This SAFE forms the basis for groundfish specifications for the 2003 fishing year. Note that there are three sections to the SAFE report: a stock assessment section, a fishery evaluation section ("economic SAFE"), and an ecosystems considerations section. These three sections, together with the BSAI SAFE, are incorporated into the Environmental Assessment for the 2003 groundfish total allowable catch specifications. The EA, incorporating all these sections, was mailed to you on November 22. The GOA Plan Team and Joint Plan Team minutes are attached as Items D-1(e)(1) and (2).

ABCs, TACs, and Apportionments

At this meeting, the Council will establish final catch specifications for the 2003 fisheries. The SSC and AP recommendations will be provided to the Council during the meeting. Tables 1 and 2 from the SAFE summary chapter report detailing the ABCs and biomass levels are attached as Item D-1(e)(3). The sum of the Plan Team's recommended ABCs for 2003 is 414,820 mt. The sum of the ABCs increased 4% compared with last year, principally due to an increase in Flathead sole (+45%) and Arrowtooth flounder (+6%). Other stocks such as pollock (- 7%) and Pacific cod (- 8%) have continued to decline. None of the groundfish stocks are overfished or approaching an overfished condition.

TAC Considerations for State Pacific Cod Fishery

Since 1997, the Council has reduced the GOA Pacific cod TAC to account for removals of not more than 25% of the Federal P. cod TAC from the state parallel fisheries. Preliminary information indicates that neither Chignik nor Cook Inlet achieved its GHL, and therefore would remain at its current allocation. Using the area apportionments of the 2003 P. cod ABC recommended by the Plan Team, the federal TAC for P. cod would be adjusted as listed at right.

Proposed 2003 Gulf Pacific cod ABCs, TACs, and State guideline harvest levels (mt).

Specifications	Western	Central	Eastern	Total
ABC	20600	29000	3200	52580
BOF GHL	5150	6,310	800	12,260
(%)	25	21.75	25	23.3
TAC	15450	22,690	2,400	40,540
	Cook Inlet	655	2.25%	
	Kodiak	3,625	12.50%	
	<u>Chignik</u>	<u>2,030</u>	<u>7.00%</u>	

Prohibited Species Catch Limits

Since 1995, total halibut Prohibited Species Catch (PSC) limits for all fisheries and gear types have totaled 2,300 mt. This cap was reduced from 2,750 mt after the sablefish IFQ fishery was exempted from the halibut PSC requirements in 1995. The following 2002 halibut PSC apportionments were instituted for the Gulf of Alaska groundfish fisheries:

2002 Trawl		2002 Hook and Line	
Jan 1 - Apr 1	550 mt	1st trimester	Jan 1 - Jun 10 250 mt
Apr 1 - Jul 10	400 mt	2nd trimester	Jun 10 - Sep 1 5 mt
Jul 1 - Sep 1	600 mt	3rd trimester	Sept 1 - Dec 31 35 mt
Sept 1 - Oct 1	150 mt		
Oct 1 - Dec 31	300 mt	DSR	Jan 1 - Dec 31 10 mt
TOTAL	2,000 mt		300 mt

Season	Trawl fishery categories		Total
	Shallow Water	Deep Water	
Jan 1 - Apr 1	450 mt	100 mt	550 mt
Apr 1 - Jun 30	100 mt	300 mt	400 mt
Jun 30 - Sep 1	200 mt	400 mt	600 mt
Sept 1 - Oct 1	150 mt	any rollover	150 mt
Oct 1 - Dec 31	no apportionment		300 mt
TOTAL	900 mt	800 mt	2,000 mt

Report of the Scientific and Statistical Committee

The SSC had several concerns applicable to both BSAI and GOA rockfish resources, including management of multi-species complexes and management of stocks across broad geographic areas creating a potential to overfish individual stocks. The SSC has expressed concerns about species complex management and individual rockfish species management for several years. While the SSC has no evidence to suggest overfishing any rockfish species or stock is imminent, it cautioned that the consequences of overfishing one or more rockfish stock could be severe. The SSC believes action to prevent this from happening should be undertaken as soon as possible, preferably before the 2004 TAC-setting process.

The SSC requested a white paper be developed addressing specific questions for each species, identifying specific steps to acquire necessary data, and making specific recommendations for determining species-specific and area-specific precautionary ABCs where appropriate.

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The SSC's complete report for Final GOA Groundfish Specifications is extremely detailed and lengthy, and can be found in its entirety attached to these Minutes as Appendix V.

Report of the Advisory Panel

The AP requested the Council approve the SAFE reports and the EA for the GOA 2003 TACs. Additionally, the AP adopted the SSC's ABC as TACs and recommended the TACs outlined in the attachment to the complete AP Minutes. That attachment is found as Appendix VIII to these Minutes.

The AP also recommended the Council make the "other species" category a bycatch fishery only in non-CDQ fisheries.

DISCUSSION/ACTION

The Council heard staff presentations from Dr. Diana Stram, NPFMC staff, as well as a presentation on the GOA SAFE report by Dr. Jim Ianelli.

Roy Hyder moved that the Council approve the AP recommendations relative to Agenda Items D-1(d), Final BSAI Groundfish Specifications for 2003 including Acceptable Biological Catch (ABC); D-1(e), Final GOA Groundfish Specifications for 2003 including the tables attached to the draft AP Minutes; 2003 BSAI/GOA Environmental Assessment (EA); BSAI Final Stock Assessment and Fishery Evaluation (SAFE) Report; Bycatch allowances and seasonal apportionments of Pacific halibut, red king crab, tanner crab, opilio crab and herring to target fisheries, PSC categories, halibut discard mortality rates for 2003 CDQ Groundfish fisheries; GOA SAFE documents and recommend final specifications of bycatch apportionments; ABC and Annual Total Allowable Catch (TAC) as recommended by the AP and SSC and approve Prohibited Species Catch (PSC) limits. The motion includes the documents attached to the action memos on Agenda Items D-1(d) and D-1(e), and tables attached to the AP Minutes. The tables attached to the AP Minutes can be found attached to these minutes as Appendix III. The motion was seconded by Stephanie Madsen and carried without objection.

Stosh Anderson commented that the Council heard two people testify on GOA cod during the A/B season and how it affects the relationship between the trawl fleet and the pot fleet. He did not believe the Council could do anything at this meeting to address these concerns, but the total discards shown in the handout from United Fishermen's Marketing Association exceed some of the fisheries' total harvest and it is a significant percentage of the total catch, the pot fleet sees it as a problem. Mr. Anderson asked if there was a mechanism for industry, NMFS and staff to get together to come up with a solution to this, he thought it would be appropriate.

D-1(f) Reauthorization of Amendment 64

ACTION REQUIRED

(f) Review discussion paper on Amendment 64 and finalize alternatives for analysis

BACKGROUND

On the list of new projects is a renewal of BSAI Amendment 64, which apportions the fixed gear share of the BSAI Pacific cod TAC among the fixed gear sectors (hook-and-line catcher processors, hook-and-line catcher vessels, hook-and-line and pot vessels <60' LOA, and pot vessels). This amendment sunsets on December 31, 2003. In October, the Council initiated a new plan amendment to retain or

alter these allocations, but requested time on the December agenda to review and finalize the alternatives for analysis. Initial review of the analysis is scheduled for April 2003, with final action scheduled for June.

A discussion paper on Amendment 64 and a proposed list of draft alternatives and options are attached as Item D-1(f)(1). Included in this list is an alternative to create separate allocations for pot catcher processors and pot catcher vessels, as the Council also deferred action on these allocations to this amendment package in June 2002. The Council may also want to review and approve a problem statement for this amendment at this time.

**BSAI Amendment 64 – Fixed Gear Pacific Cod Allocations
Discussion paper
November 8, 2002**

Beginning in 1997, BSAI Amendment 46 allocated 2% of the total allowable catch (TAC) for non-CDQ BSAI Pacific cod to vessels using jig gear, 47% to trawl gear, and 51% to fixed gear (hook-and-line and pot). In April 1999, the Council initiated an analysis of the effects of further splitting the 51% allocated to the fixed gear sector (BSAI Am. 64). The following problem statement guided the analysis of alternatives for BSAI Amendment 64:

The hook-and-line and pot fisheries for Pacific cod in the BSAI are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining acceptable biological catch and total allowable catch.

Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from others who have little or limited history and wish to increase their participation in the fishery. This requires prompt action to promote stability in the BSAI fixed gear cod fishery until comprehensive rationalization is completed.

In October 1999, the Council approved BSAI Amendment 64 to split the fixed gear allocation of Pacific cod among the hook-and-line catcher processors, hook-and-line catcher vessels, and pot sectors in the BSAI as follows:

80%	Hook-and-line catcher processors
0.3%	Hook-and-line catcher vessels
18.3%	Pot vessels
1.4%	Hook-and-line or pot catcher vessels <60 feet LOA

The percentages approved under Amendment 64, effective since September 2000, represented divisions of the hook-and-line or pot gear TAC after a deduction of estimated incidental catch of Pacific cod in other groundfish fixed gear fisheries. Based on these percentages, the 2002 Pacific cod allocations were as follows: hook-and-line catcher processors - 75,080 mt; hook-and-line catcher vessels - 282 mt; pot vessels - 17,175 mt; hook-and-line or pot catcher vessels <60' - 1,314 mt. While seasonal apportionments were established only for the hook-and-line catcher processor sector under Amendment 64, seasonal apportionments were subsequently established for all fixed gear vessels fishing BSAI Pacific cod, with the exception of catcher vessels <60' LOA, under the 2002 Steller sea lion measures.

Amendment 64 sunsets on December 31, 2003, meaning that the regulations implementing the allocations established for the BSAI hook-and-line and pot cod fishery will expire at that time. Continuing the allocations of Pacific cod among the hook-and-line and pot gear sectors (or selecting

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new allocation percentages) in the BSAI after the sunset date will require Council and Secretarial approval of a new amendment.

Originally, four options (plus suboptions) to split the portion of the BSAI Pacific cod TAC allocated to fixed gear vessels were considered by the Council, in addition to the status quo. The options were based on various catch history combinations from the years 1995-1998:

- Option 1: 1996, 1997
- Option 2: 1997, 1998
- Option 3: 1996, 1997, 1998
- Option 4: 1995, 1996, 1997, 1998

While the Council's preferred alternative fell within the range of options for consideration, it did not mirror any one of the options exactly. The final allocations most closely related to having chosen Option 3 (1996-98) or Option 4 (1995-1998). In addition, the Council provided for a separate allocation for hook-and-line and pot vessels <60' LOA. Note that 1999 catch history was not included in the options for Amendment 64 because the data was considered preliminary. The Council's final action also appeared to base the final allocations on Pacific cod catch histories *excluding* any quota reallocated from the jig or trawl sectors to the fixed gear sectors. Including fixed gear catch resulting from reallocated quota would have increased the allocation to the hook-and-line sector by about 1% and decreased the allocation to the pot sector by the same amount. The Council's final action also specified that any reallocated quota from the jig and trawl sectors (available in the B season) should be apportioned according to the actual harvest of reallocated quota from 1996-98: 95% to hook-and-line catcher processors and 5% to the pot fleet ≥60' LOA.

In the analysis for the proposed reauthorization of Amendment 64, the Council may choose to either mirror or modify the original alternatives and options. One potential modification would be to include 1999 data in the options to calculate the split among the fixed gear sectors. As this action was effective in 2000, using catch history from the most recent years would obviously be the same as maintaining the existing allocations.

Another potential modification would be to provide options to further split the portion of the fixed gear Pacific cod TAC allocated to the pot sectors (18.3%). The Council considered splitting the 18.3% between the pot catcher processor sector and the pot catcher vessel sector in June 2002 (BSAI Amendment 68) but ultimately selected the no action alternative. The Council noted in that decision the pending expiration of Amendment 64 and suggested that a further split between the pot sectors could be considered as an alternative under reauthorization of that amendment if desired. As related in the problem statement for Amendment 68, the proposal to split the pot sectors' allocation is spurred by a concern that pot catcher processors who have made significant long-term investments, have substantial catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot catcher vessels who want to increase their Pacific cod harvest. The original intent of Amendment 64 was to stabilize the Pacific cod fixed gear fishery in a way that preserves the historical character of the fishery, by basing the allocations on historical harvests by the respective gear sectors. The pot catcher processor sector asserts that the same split is necessary in the pot sector as was established in the hook-and-line sector under Amendment 64.

Recall also that Amendment 67 was approved by the Council in April 2000 and will be effective January 1, 2003. Amendment 67 is a continuation of the License Limitation Program, in that it requires Pacific cod species endorsements and establishes the qualifications for those endorsements for vessels ≥60' using fixed gear in the BSAI Pacific cod fisheries. Upon implementation, a Pacific cod endorsement, specific to the (hook-and-line or pot) gear used by the vessel, must be specified on a person's LLP groundfish license for that person to participate in the fixed gear BSAI Pacific cod

fisheries. The intent of this amendment is to address concerns of excess fishing capacity and protect fishermen who have long-term investments and catch histories in the fishery from those with no or limited history. The implication is that, beginning in 2003, the number of fixed gear vessels fishing the allocations established in Amendment 64 will be substantially reduced, particularly the pot catcher vessels.

In October 2002, the Council tasked staff with the analysis for reauthorizing BSAI Amendment 64, but scheduled a further review of the alternatives for consideration in December. Initial and final review of the analysis is currently scheduled for April and June 2003, respectively. Thus, the Council's action at this meeting is to review and approve the initial suite of alternatives for Amendment 64. The Council may also want to review the problem statement for Amendment 64, which was originally developed in 1999, as well as the problem statement for Amendment 68 (approved in February 2001) to ensure that the problem statement for this new amendment encompasses both issues and reflects them accurately. A suggested revision to combine the problem statements is included on page 5.

Alternatives for Consideration

In addition to the no action alternative, there is an alternative proposed to continue the current allocations, and another proposed to modify those allocations by including 1999 harvest history. A fourth alternative, which is applicable in conjunction with either alternative to make the split among the fixed gear sectors, would further split the pot gear share of the BSAI fixed gear TAC between pot catcher processors and pot catcher vessels.

An initial draft suite of alternatives/options for AP and Council consideration for BSAI Amendment 64 is as follows (brief explanations of the alternatives are in italics):

Alternative 1: No action. BSAI Pacific cod allocations for the fixed gear sectors (hook-and-line catcher processors, hook-and-line catcher vessels, pot vessels, and hook-and-line and pot vessels <60') under Amendment 64 would expire December 31, 2003.
Alternative 1 means that starting in 2004 all of the above sectors would compete for the share of the BSAI Pacific cod TAC (51%) allocated to vessels using hook-and-line and pot gear.

Alternative 2: Status quo. Continue the current BSAI Pacific cod allocations among the fixed gear sectors as originally determined under Amendment 64 (*these allocations relate closely to catch histories during 1995-1998, with an additional provision for vessels <60' LOA*):

- 80% hook-and-line catcher processors
- 0.3% hook-and-line catcher vessels
- 1.4% pot or hook-and-line catcher vessels <60'
- 18.3% pot vessels

Any unharvested portion of the hook-and-line catcher vessel and the <60' pot and hook-and-line vessel quota that is projected to remain unused by a specified date shall be reallocated to the hook-and-line catcher processor fleet.

Any quota reallocated from the jig or trawl sectors will be apportioned 95% to the hook-and-line catcher processor sector and 5% to the pot sectors.

This split was based on the actual harvest of reallocated quota from 1996 - 1998.

Alternative 3: Modify the current BSAI Pacific cod allocations among the fixed gear sectors according to catch histories to be determined as a percentage of cumulative catches of BSAI Pacific cod by gear type for: 1995 - 1999.

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Alternative 3 includes 1999 data to determine the split among fixed gear sectors. At the time the analysis for Am. 64 was developed, 1999 data was considered preliminary. As the allocations under Am. 64 were implemented in mid-2000, using catch history from 2000 or 2001 would be the same as maintaining the existing allocations.

Option 1: Include a 1.4% allocation to pot and hook-and-line catcher vessels <60', to be subtracted from the overall fixed gear allocation before the split is made.

Under Am. 64, the Council provided a 1.4% allocation to vessels <60', even though that sector's percentage of the historical catch was much lower. Option 1 provides for the same small vessel allocation.

Alternative 4: (Applicable in combination with Alternatives 2 or 3). Apportion the pot share of the BSAI Pacific cod fixed gear TAC between pot catcher processors and pot catcher vessels according to catch histories to be determined as a percentage of cumulative catches of the BSAI Pacific cod TAC by pot sector for:

- | | |
|-------------------------|------------------------------|
| <u>Option 1:</u> | 1996, 1997 |
| <u>Option 2:</u> | 1997, 1998 |
| <u>Option 3:</u> | 1996, 1997, 1998 |
| <u>Option 4:</u> | 1995, 1996, 1997, 1998 |
| <u>Option 5:</u> | 1995, 1996, 1997, 1998, 1999 |
| <u>Option 6:</u> | 1996, 1997, 1998, 1999 |

Review of Am. 68 in June 2002 showed that there is less than a 1% difference in the resulting allocations among these options. Thus, the Council may want to consider paring down the options and focusing on those that reflect the most recent years, for example:

- | | |
|-------------------------|-------------|
| <u>Option 1:</u> | 1995 - 1999 |
| <u>Option 2:</u> | 1996 - 2001 |
| <u>Option 3:</u> | 2000, 2001 |

Suboption 1: Any portion of the Pacific cod pot catcher processor or pot catcher vessel quota that is projected to remain unused by a specified date shall be reallocated as follows:

- a. Unused quota from either pot sector would be reallocated to the other pot sector before it is reallocated to the other fixed gear sectors.
- c. Unused quota from the pot catcher vessel sector would be reallocated to the hook-and-line catcher vessel sector before it is reallocated to the pot catcher processor sector.

Suboption 1 mirrors the option approved for Council consideration under Am. 68.

Problem Statements for Consideration

The following problem statement was adopted by the Council in April 1999 for BSAI Amendment 64:

The hook-and-line and pot fisheries for Pacific cod in the BSAI are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining acceptable biological catch and total allowable catch.

Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from others who have little or limited history and wish to increase their participation in the fishery. This requires prompt action to promote stability in the BSAI fixed gear cod fishery until comprehensive rationalization is completed.

The following problem statement was developed in December 2000 and revised in February 2001 for BSAI Amendment 68 (Pacific cod pot gear split):

The catcher processor and catcher vessel pot fisheries for Pacific cod in the Bering Sea/Aleutian Islands are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining acceptable biological catch and total allowable catch.

Pot catcher processors who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot catcher vessels who want to increase their Pacific cod harvest. This requires prompt action to promote stability in the BSAI pot cod fishery until comprehensive rationalization is completed.

Because the new amendment package to allocate Pacific cod among the fixed gear sectors includes alternatives that would split the pot share of the TAC among pot catcher processors and pot catcher vessels, both issues should be addressed in the problem statement guiding analysis of this proposed action. In addition, the original problem statement for Amendment 64 could be revised to better express the exact nature of the problem this amendment is intended to address. Limiting individual vessel participation in the fixed gear cod fishery is not addressed in this amendment package, contrary to what the original problem statement for Amendment 64 may imply. That issue, specifically, the need to protect those with long catch histories and dependency on the cod fisheries from others who have limited history and wish to increase their participation, is addressed under BSAI Amendment 67 (Pacific cod endorsement requirement). This amendment, which would potentially continue Pacific cod allocations among the fixed gear sectors, speaks to protecting the relative historical catch distribution among the fixed gear sectors by apportioning the TAC accordingly; it does not propose alternatives to limit the number of individual vessels entering the fishery.

The following problem statement is suggested as a draft for Council consideration and revision. It is intended to combine the two issues addressed in this new amendment package and better reflect the nature of the problem being addressed.

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The hook-and-line and pot fisheries for Pacific cod in the BSAI are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining acceptable biological catch and total allowable catch.

Longline fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot vessels who want to increase their Pacific cod harvest. In addition, pot catcher processors who have made significant long-term investments need

Scientific and Statistical Committee Report

The SSC did not address this agenda issue.

Report of the Advisory Panel

The AP recommended the Council release the EA/RIR for Amendment 64 with the alternatives identified in the staff discussion paper and several changes and additions. Specifically, eliminate original Options 1-6 under Alternative 4, and adopt Options 1-4 below.

Option 1: 1995-1999

Option 2: 1996-2001

Option 3: 1998-2001

Option 4: 2000, 2001

Additionally, the AP recommended the Council revise the Problem Statement to better reflect the current stock status and objectives. The AP further recommended separate problem statements be developed for issues associated with the overall apportionments and pot apportionments.

The AP also recommended the Council add the following options and suboptions from the United Fishermen's Marketing Association letter dated November 22, 2002.

Option 1. Reallocate 50% of the jig gear allocation of BSAI p. cod TAC directly to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component of the fixed gear sector, and add such reallocation to the current 1.4 % directed fishing allowance for this component. That is,

- a. decrease the jig gear allocation of BSAI p. cod TAC from 2% to 1%;
- b. reallocate 1% of the BSAI p. cod TAC directly to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component of the fixed gear sector (i.e., establish a permanent and direct allocation from the BSAI p. cod TAC to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component); and
- c. avoid the reallocation of directed fishing allowances that currently exist among the components of the fixed gear sector.

NEW Option 2. Apportion the 2% jig gear allocation of BSAI p. cod TAC by quarters, and "roll over" unused quarterly jig gear allocations to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component of the fixed gear sector.

Option 3. Adjust the “roll over” protocol to direct the reallocation of the projected unused amount of BSAI p. cod trawl sector TAC to the “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” component at such time that the current 1.4% directed fishing allowance to the “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” is closed (i.e., establish a regulatory priority for reallocation to the “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” component).

Sub Option 3. Adjust the “roll over” protocol to direct the reallocation of the projected unused amount of “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” directed fishing allowance (some of which may have been previously rolled over to this component from the projected unused amount of the BSAI p. cod trawl sector TAC) as follows: 80% to the “catcher/processor vessels using hook-and-line gear” component, and 20% to the “vessels using pot gear” component.

Option 4. Adjust the “roll over” protocol to direct the reallocation of the projected unused amount of BSAI p. cod jig gear sector TAC to the “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” component as such time that the current 1.4% directed fishing allowance to the “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” is closed (i.e., establish a regulatory priority for reallocation to the “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” component).

Sub Option 4. Adjust the “roll over” protocol to direct the reallocation of the projected unused amount of “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” directed fishing allowance (some of which may have been previously rolled over to this component from the projected unused amount of the BSAI p. cod jig gear sector TAC) as follows: 80% to the “catcher/processor vessels using hook-and-line gear” component, and 20% to the “vessels using pot gear” component.

Option 5. Adjust the “roll over” protocol to direct the reallocation of the projected unused amount of the directed fishing allowance for the “catcher vessels using hook-and-line gear” and “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” components as follows: 80% to the “catcher/processor vessels using hook-and-line gear” component, and 20% to the “vessels using pot gear” component.

Option 6. Reallocate the projected unused amounts of the BSAI p. cod TAC from the jig gear sector and the trawl gear sector as follows: 80 percent to “catcher/processor vessels using hook-and-line gear” component, and 20 percent to the “vessels using pot gear” component.

DISCUSSION/ACTION

Roy Hyder moved the Council approve the AP recommendations in their entirety by releasing the EA/RIR for Amendment 64 with the alternatives identified in the staff discussion paper and several changes and additions. Specifically, eliminate original Options 1-6 and adopt new Options 1-4 below.

Option 1: 1995-1999

Option 2: 1996-2001

Option 3: 1998-2001

Option 4: 2000, 2001

Additionally, revise the Problem Statement to better reflect the current stock status and objectives. Develop separate problem statements for issues associated with hook-and-line apportionments and pot apportionments.

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Add the following Options 1-6 (and suboptions) from the United Fishermen's Marketing Association letter dated November 22, 2002.

~~Option 1. Reallocate 50% of the jig gear allocation of BSAI p. cod TAC directly to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component of the fixed gear sector, and add such reallocation to the current 1.4 % directed fishing allowance for this component. That is,~~

- ~~1. decrease the jig gear allocation of BSAI p. cod TAC from 2% to 1%;~~
- ~~2. reallocate 1% of the BSAI p. cod TAC directly to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component of the fixed gear sector (i.e., establish a permanent and direct allocation from the BSAI p. cod TAC to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component); and~~
- ~~3. avoid the reallocation of directed fishing allowances that currently exist among the components of the fixed gear sector.~~

NEW Option 2. Apportion the 2% jig gear allocation of BSAI p. cod TAC by quarters, and/or tri-mester "roll over" unused quarterly jig gear allocations to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component of the fixed gear sector.

If quarterly, distribute at:

- a. evenly at 25% each
- b. 50%, then 30%, then 15%, then 5%

if tri-mester, distribute at:

- a. evenly 1/3 each
- b. 60%, then 25%, then 15%

~~Option 3. Adjust the "roll over" protocol to direct the reallocation of the projected unused amount of BSAI p. cod trawl sector TAC to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component at such time that the current 1.4% directed fishing allowance to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" is closed (i.e., establish a regulatory priority for reallocation to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component).~~

~~Sub Option 3. Adjust the "roll over" protocol to direct the reallocation of the projected unused amount of "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" directed fishing allowance (some of which may have been previously rolled over to this component from the projected unused amount of the BSAI p. cod trawl sector TAC) as follows: 80% to the "catcher/processor vessels using hook-and-line gear" component, and 20% to the "vessels using pot gear" component.~~

Option 4. Adjust the "roll over" protocol to direct the reallocation of the projected unused amount of BSAI p. cod jig gear sector TAC to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component as such time that the current 1.4% directed fishing allowance to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" is closed (i.e., establish a regulatory priority for reallocation to the "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" component).

Sub Option 4. Adjust the "roll over" protocol to direct the reallocation of the projected unused amount of "catcher vessels less than 60 ft LOA using hook-and-line or pot gear" directed fishing allowance (some of which may have been previously rolled over to this component from the projected

unused amount of the BSAI p. cod jig gear sector TAC) as follows: 80% to the “catcher/processor vessels using hook-and-line gear” component, and 20% to the “vessels using pot gear” component.

Option 5. Adjust the “roll over” protocol to direct the reallocation of the projected unused amount of the directed fishing allowance for the “catcher vessels using hook-and-line gear” and “catcher vessels less than 60 ft LOA using hook-and-line or pot gear” components as follows: 80% to the “catcher/processor vessels using hook-and-line gear” component, and 20% to the “vessels using pot gear” component.

Option 6. Reallocate the projected unused amounts of the BSAI p. cod TAC from the jig gear sector and the trawl gear sector as follows: 80 percent to “catcher/processor vessels using hook-and-line gear” component, and 20 percent to the “vessels using pot gear” component.

The motion was seconded by Dennis Austin.

Stosh Anderson moved to amend the motion by deleting Option 1 as shown above stricken out. The motion was seconded by Hazel Nelson. Mr. Anderson followed up by stating that it wasn’t appropriate to re-allocate this quota while the other options still achieved the objective. The motion carried with Hyder objecting.

Stephanie Madsen moved to add a sunset provision with options of no sunset or sunset in 5 years to all appropriate alternatives. The motion was seconded by Kevin Duffy. Ms. Madsen said the sunset provision was something the Council had talked about and somehow it had been dropped out of the options. The motion carried without objection.

John Bundy moved to delete Option 3 and Suboption 3, as shown stricken out above. The motion was seconded by Stephanie Madsen. Mr. Bundy believed these options attempt to anticipate trawl rollover to the 1.4% category from the June motion and he found this impractical at that point in the year. The motion carried without objection.

Mr. Bundy then asked Ms. Kimball about the language of Amendment 68 and the impact of changing the years with regard to the analysis. Ms. Kimball replied that she was unsure of the impact on Options 2, 3 and 4 under Alternative 4; and page 4 of the Discussion Paper shows the original options for Amendment 68. The italicized notes underneath those options outline a less than 1% difference, possibly 0.3% difference, between all of those options. Ms. Kimball believed the AP used that and tried to pare them down using Option 1 (1995-1999) the years before Amendment 64 went into place, and then three additional options using the most recent information, 2000-01. The reason this applies to the pot split is that currently there is no split between CPs and CVs in the pot sector.

Stosh Anderson moved to amend the new Option 2 above with additions shown underlined. Mr. Anderson explained his intent was that distributions could be set by quarter or trimester. If distributions are by quarter they would be even distributions at 25% each per quarter or 50% the first quarter, 30% second quarter, 15% third quarter, 5% fourth quarter. If distributions were on a trimester basis, they would be split evenly at 1/3 each time or 60% the first trimester, 25% the second trimester, and 15% the third trimester. He further explained his intent to either distribute evenly or front-end load. This system assures that in each period there’s adequate release to fund the jig fishery. The motion was seconded by Stephanie Madsen.

Ms. Madsen asked Ms. Kimball what the appropriate means would be for the Council to provide a framework to review the assignment of percentages. She further asked if it could include adding an alternative to this

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document providing a framework for looking at percentages annually, in an effort to be more reactive to what's really happening on the fishing grounds. Ms. Kimball replied she thought it most appropriate to have a specific alternative or option that came from the Council, and not simply leaving it up to NMFS' in-season managers. **Ms. Madsen moved to amend the motion to provide two options: one being a fixed allocation with Mr. Anderson's recommendations, and the other a framework, and provide those specified allocations during the annual TAC-setting process.** The motion was seconded by Kevin Duffy and carried without objection. The amended motion then also carried without objection.

John Bundy moved to amend the problem statement to read as follows:

**Problem Statement 1
Overall Fixed Gear Allocations
(formerly under Amendment 64)**

The fixed gear fisheries for Pacific cod in the BSAI are fully utilized. The fishermen who hold licenses in the BSAI Pacific cod fisheries have made substantial investments and are significantly dependent on BSAI Pacific cod.

The longline and pot gear allocations currently in place for the BSAI Pacific cod fishery under Amendment 64 expire December 31, 2003. Without action by the North Pacific Fishery Management Council, serious disruption to the BSAI Pacific cod fixed gear fisheries will occur. Prompt action is required to maintain stability in the BSAI fixed gear Pacific cod fishery until comprehensive rationalization is completed.

Mr. Bundy explained that this updates the Problem Statement and keeps the Problem Statements for Amendment 64 and Amendment 68 separate. The motion was seconded by Hazel Nelson and carried without objection.

Dr. Fluharty moved to create a second problem statement by modifying Council staff's suggested problem statement (shown on the bottom of page 6 of the Action Memo for this Agenda Issue). The second problem statement would then read as follows:

**Problem Statement 2
Separate Allocations for Pot CP & Pot CV
(formerly under Amendment 68)**

The catcher processor and catcher vessel pot fisheries for Pacific cod in the Bering Sea /Aleutian Islands are fully utilized. Pot catcher processors who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot catcher vessels who want to increase their Pacific cod harvest. This requires prompt action to promote stability in the BSAI pot cod fishery until comprehensive rationalization is completed.

The motion was seconded by Dennis Austin. Dr. Fluharty believed this problem statement removed controversial language not entirely accurate at the present time, while retaining the basic problem the Council is attempting to resolve. The motion carried without objection.

Chris Oliver clarified for the Council that Council staff would combine this into one package, and both Amendments 64 and 68 would "go away," so as to create a new single amendment. They would, in effect,

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have two different problem statements - one covering the basic split and one covering the pot sector split. Stephanie Madsen further clarified that status quo would be a simple rollover, Alternative 3 would modify those splits, Alternative 4 is the splitting of CP and CV of the pot sector, and we're currently trying to decide where the suboptions will go.

Hazel Nelson moved to strike the remaining options from the AP motion, Options 4, 5 and 6, and Suboption 4. The motion was seconded by Stephanie Madsen. Ms. Nelson spoke of hearing testimony from industry preferring a straight rollover and that the current percentages provide stability. Also, some people in the industry wanted to keep this issue on track for final action by the Council in June. Dr. Balsiger confirmed that if this amendment passed, the only option that would contain rollovers would be Option 2. Chairman Benton replied affirmatively. Chris Oliver pointed out that since the AP motion incorporated the alternatives in the Action Memo, the rollovers would still remain for the pot sector. Stosh Anderson questioned whether the Council had an adequate range of options for discussion if these options were deleted, to which Chairman Benton replied that NOAA-GC had determined the Council would have to make that decision. Ms. Nelson followed by saying she preferred not wasting staff time on analyzing options that she wasn't interested in. Kevin Duffy supported the motion to delete the remaining options believing Option 2 provided several different ways to accomplish what was heard in public testimony. The motion carried 9-1 with Benton voting against.

Stephanie Madsen then asked under which Alternative Option 2 falls. Ms. Kimball replied that without direction from the Council, she would apply Option 2 to Alternatives 2, 3, and 4. **Stephanie Madsen moved to place Option 2 under Alternatives 2, 3 and 4.** The motion was seconded by Kevin Duffy and carried without objection.

The main motion, as amended, passed 10-0. The complete Council motion is attached to these Minutes as Appendix IX.

D-2 Staff Tasking

ACTION REQUIRED

Review tasking and Committees and provide direction as necessary

BACKGROUND

Over the past several meetings the Council has initiated a limited number of new amendments or analyses, due to the press of other, ongoing business. Attached (Item D-2(a)) is a summary of the status of Council projects, a three-meeting outlook, and an updated list of Council Committees and their status. In addition to reviewing the list of ongoing projects and their status, I would like for the Council to review the status of the various Committees, as they represent a significant investment of staff resources.

Also attached (Item D-2(b)) are letters/proposals received which are requesting the Council to initiate new plan or regulatory amendments. There are two letters related to IFQ 'fish-up/fish-down' provisions among vessel classes, suggesting allowing fishing down in Area 2C, and fishing up from C to B class in all areas. Given that there are existing amendments to the IFQ program already in the hopper (awaiting staff resources or prioritization), I suggest these be forwarded to the IFQ Implementation Committee for consideration, relative to other proposed amendments. There is also a letter from CBSFA requesting the Council to initiate a Community IFQ purchase program for St. Paul and St. George, similar to the program recently approved for the Gulf of Alaska.

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There is a letter from Terry Haines, Kodiak, requesting the Council to establish a fishermen's insurance fund from a 12% share of each rationalized fishery, and another letter, from Norman Stadem citing additional support for his previous letter (recently included in a Council mailing), suggesting "compensation for disenfranchised halibut fishermen" (who were excluded from the halibut IFQ allocations or received limited QS).

Finally, relative to the Council's regulations defining halibut subsistence fisheries, there is a letter from Mr. David Tyner requesting the Council to add Ninilchik to the list of eligible communities for purposes of halibut subsistence. Since the Council's action on this issue, the Federal Subsistence Board has established a C&T finding for that area. According to the Council's program, a community receiving such a designation could then petition the Council for inclusion. It appears that a regulatory amendment will be required to accomplish this inclusion, for Ninilchik or any other community, rather than a simple adjustment to the regulations now being prepared. The Council is scheduled to review the proposed rule for the subsistence package at their April 2003 meeting in Anchorage. The Council could wait until April to address this and any other subsistence related issues, or you could initiate a regulatory amendment at this time.

Scientific and Statistical Committee Report

The SSC did not address this agenda issue.

Report of the Advisory Panel

The AP did not address this agenda issue.

DISCUSSION/ACTION

Stephanie Madsen was not present for this issue due to a previous commitment at another meeting. Chris Oliver reminded the Council that earlier in the meeting it talked about looking into the next steps for Essential Fish Habitat and questions for Team EFH, and the EFH Committee process and how it would work over the next several months. Another issue raised earlier in the meeting was how the Council meant to approach the treatment of the additional alternatives under the crab rationalization agenda item between this meeting and February 2003.

Mr. Oliver did not review every issue in the staff tasking project list, but noted some projects had been broken down into mandated actions such as the Programmatic SEIS, EFH EIS, Crab FMP EIS and Pribilof Blue King Crab Rebuilding Plan, while the list also contained Council-identified high priority projects. A third group of projects were those previously tasked, including Amendment 64 which expires at the end of 2003, some of which would probably be moved into the priority project group, followed by a list of potential new projects or lower priority projects the Council identified it would get to when both the Council and staff had time.

Mr. Oliver then went over some of the letters included in the notebooks. Although the Council did not call for proposals over the summer, it still receives proposals. A couple were related to Sablefish/Halibut IFQ provisions in terms of "fish up/fish down" across vessel classes and areas, a letter from Central Bering Sea Fishermen's Association requesting the Council initiate a Community IFQ Purchase Program for St. Paul and St. George similar to the program recently approved for the Gulf, a letter from Terry Haines in Kodiak requesting the Council establish a Fisherman's Insurance Fund, and a letter from Norm Stadem requesting additional support for his previous letter for some type of compensation program for halibut fishermen who were either excluded from IFQ allocations or received limited amounts of IFQ allocations. The last letter was

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from David Tyner, with regard to the halibut subsistence fishery program, requesting the Council add Ninilchik to its list of eligible communities. When the Council took its action on that program it included a provision for communities that received a customary and traditional (C&T) finding. Through some process such as the Federal Subsistence Board, communities could bring that C&T finding and basically petition the Council to be included in the program. This is what happened with the Ninilchik issue - Mr. Tyner reports that Ninilchik has a C&T finding from the Federal Subsistence Board. The community can't simply be added to the list of eligible communities because of the way the Council set up the provision. It has to come before the Council for consideration to be added to the list in an actual regulatory amendment process. The Council is scheduled to receive a report from Jay Ginter, NMFS, in April reviewing the proposed rule for that program so it may be appropriate to visit that issue in April.

Mr. Oliver then commented that Council staff's workload is pretty heavy between now and February including projects such as the EFH package, Gulf Rationalization being elevated to almost a formal analysis, the Programmatic SEIS, the IR/IU trailing package, some work on the observer program, and some work on crab trailing amendments.

Dr. Fluharty asked Mr. Oliver if he felt the estimate of staff work on the EFH EIS had changed as a result of the Council's action as it seemed it had significantly increased the total burden. Mr. Oliver replied that it is a subjective estimate as to how much time it would take. Particularly for this issue, in that it is early enough in its infancy stages that between Team EFH, Council staff, NMFS staff and outside contract help it is difficult to estimate as to who would bear the relative burden. However, there is some additional burden for everyone involved, with the actions the Council took.

Chairman Benton added to Mr. Oliver's remarks by reminding the Council where it was about 1½ to 2 years ago with the workload it had and that the Council had been very disciplined about not adding substantial work to staff. The Council had turned a corner, of sorts, by lengthening meetings, working very hard and now seeing a bit of light at the end of what was a very bleak tunnel awhile back. He also praised the excellent Council staff who had gone double and triple time to get these things done. The Chairman admitted it did have some big issues coming up and in looking at the whole picture, it needs to remain very diligent and keep working hard to get them done.

Stosh Anderson added both he and Stephanie Madsen concurred that a qualitative analysis was very important on the Gulf rationalization project so that the Council has enough to choose from and make cuts. He believed all the alternatives have potential and need to be looked at, and with enough background reasonable decisions could be made to obtain a reduced number of elements and options. Mr. Anderson added it was infinitely important to figure out the parallel fisheries issue or the system won't work. Kevin Duffy concurred with the importance of the parallel fisheries issue and mentioned there was a letter in the notebooks from ADF&G stating staff was working on some of the policy issues from the State perspective. They had also had a couple meetings with the Attorney General's office discussing some of the implications and they were doing everything they could to have their draft ideas from a legal perspective back to the Council at the February 2003 meeting. Mr. Duffy also offered that ADF&G was under the new administration looking at ways to perhaps restructure somewhat to put greater staff emphasis on the whole Gulf rationalization program.

Dr. Fluharty then commented on the Ninilchik issue and asked if staff could find out how many subsistence issues were brought up so it could see how many more communities might petition the Council. Jane DiCosimo, Council staff, responded she had already requested that information from Pete Probasco, Fish & Wildlife Service, and asked him to look at the list and identify other communities besides Ninilchik that might come forward.

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Stosh Anderson briefly mentioned that during Council discussion on Gulf Pacific Cod, it became obvious that discards between the A & B seasons were not acceptable and the Council needed to figure out a solution.

John Bundy asked if the Council needed to discuss where the EFH process goes for purposes of defining proposed MPAs under one of the alternatives. Chairman Benton thought the Council was going to let staff take a first cut. Dr. Balsiger recalled the Council had put off the decision on the process until this time, but believed staff looking at it first was a good idea and not turning the whole process over to the Committee with nowhere to start. Mr. Anderson added he thought April was when the Council would make their first alternative choice. Cathy Coon, Council staff, clarified that the Council would get a short update in February 2003 and both Council staff and NMFS staff would be working full-time to get the initial draft to the Council by April. She did offer to present the maps to the Council in February, but cautioned there was a very short time frame. Chairman Benton asked if staff might have some lines on a map at the February meeting that the Council could take a look at and then send it to the Committee. Ms. Coon affirmatively responded that lines on a map for that specific alternative would be available by February, but pointed out her concern that not only are the lines on the map supposed to be available, the bulk of the analysis for those lines as well, and not only for that alternative. Mr. Anderson added that January was a very short month and he believed staff would have to take a first cut at what the 20% areas looked like and depending on when they could prepare it, he could put a Committee meeting together for review. He wanted the Council to be very specific as to what the Committee's charge would be - to review and make comments to the Council, or to fix it if there is a problem. Chairman Benton thought that if staff could get something together between now and February for the Council to look at, then the Council would discuss what role the Committee would take and what direction they would go. The Committee wouldn't be meeting between now and then. Dr. Fluharty supported Mr. Anderson's idea of a Committee meeting just prior to the February meeting bringing their advice to the Council on strengths and weaknesses of proposals so the Council could further instruct staff. Mr. Anderson hesitated to commit to a Committee meeting during Council week, but offered to make every attempt to have the EFH Committee review the document and make recommendations to the Council on strengths and weaknesses. But if the Council tasked the Committee to look at it and draw their own lines, that was a completely different assignment. It would entail a substantial amount of industry input and multiple meetings. Chairman Benton understood, and clarified the task to the Committee would be just to review what staff had presented and provide comment on it, but not develop alternative methods.

John Bundy moved that the matter be referred to staff to make initial cuts and draw lines on the map, make the proposal more detailed and if possible, within the discretion of the Chairpersons (Linda Behnken and Stosh Anderson), bring the Committee together prior to the February meeting and provide comment on the proposal. The motion was seconded by Dr. Balsiger and carried without objection. Chairman Benton remembered that Ms. Coon mentioned that once the lines were drawn on the map and analysis started to move forward, there was limited chance to change it around if what the Council saw in February wasn't what it wanted. Conversely, maybe it would be just fine. However, Chairman Benton did believe there would be scrutiny from the industry and the public who would provide input, then go before the AP, and then before the SSC. He commented the Council would be sitting at the February meeting and depending on public input, it may have to change the lines and configuration because that would be the best information it had. He hoped the Council recognized that and reminded them to keep in mind they were in a public process and a NEPA process and have the ability to meet their obligations. Dr. Balsiger commented he heard from potentially impacted members of the industry and other stakeholders they do not necessarily trust the result that will come out of an agency group drawing those lines. John Lepore, NOAA-GC, followed that he realized it would be tough to adjust the schedule with the EFH Committee meeting, but that if the Council could get information about it as soon as possible, a notice could be sent out so the public would be informed.

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Hazel Nelson asked for clarification of whether the shortraker/rougheye rockfish retention project would address the D-1b Agenda issue (Management of BSAI Rockfish Species) and having CDQ issues addressed and if the alternatives were chosen by the end of 2003, where that agenda item would start at the February meeting. Chris Oliver responded that the shortraker/rougheye rockfish retention project was a separate issue having to do with similar retention passed by the Council for demersal shelf rockfish in the Gulf of Alaska. The issue had been on hold because of legal difficulties.

Stosh Anderson then brought up the EFH process again in that when the Council discussed when staff is charged to come up with areas and lines, he emphasized the Council gave them specific guidelines but used the words "such as" and he wanted to clarify that staff is not limited to those few items listed. The Council needs to untie its hands so they can do the best science they can to solve this problem.

Dr. Fluharty brought up a past Council discussion with respect to the results of projects previously tasked - the F₄₀ independent review, the independent legal review and the Steller sea lion NRC report - and there was some thinking the Council may want to convene some kind of group to look at the implications for the Council on some things that came up in those reports. Starting with the F₄₀ report, Chairman Benton responded that the SSC acknowledged some of the Panel's recommendations but he did not know how to proceed because a lot had to do with NMFS and the assessment program that really is in their court. The Council might ask the agency look at the report and the SSC's comments, and put it on the agenda for the February Council meeting with a plan on how to work through that report and what kind of improvements the Council could make, identify areas that need strengthening in terms of stock assessment programs, or the science used to set harvest strategy. The Steller sea lion report was somewhat similar in that the Chairman thought it might provide the Council and the Agency an opportunity to go back in a more deliberative fashion. It could look at the issue, without upsetting RPAs or whether or not they're adequate, with a longer-term perspective which might provide an opportunity for the Council to investigate whether or not and how to modify the open and closed areas. This would be based on the information from the Academy, while still meeting the requirements of the ESA, and perhaps providing better scientific information and an opportunity to provide relief in some areas to some of the consequences of sea lion management measures. The Council might want to put it on the agenda schedule. The Chairman also thought the Council would probably want to forward that report to some bodies - one being the Steller sea lion Recovery Team - and get it into the hands of the decision-makers in Washington, DC. John Bundy commented that what the Council had done on Steller sea lions is under legal challenge, and it needed to be resolved before the Council could take another major step. Dr. Balsiger then commented the suggestions he'd heard were good, but the issue of timing was questionable. February may be the right time to target, but if most of the changes don't go into the water until 2004, maybe they wouldn't have to do it until April. Some of the people analyzing that would be Dr. Marasco, Dr. Stauffer, and Dr. DeMaster; those people who aren't caught up in writing the EIS. The Chairman countered with no later than April. Chairman Benton then moved on to the legal review and suggested there was follow-up that needed to occur just to clarify some questions to the team.

Dr. Fluharty then addressed some of the letters of proposal as some are considered under the two-year cycle for proposals on IFQ modifications. He wanted to elevate the Council's consideration to address the Central Bering Sea Fishermen's Association's request for a Community IFQ Purchase Program for St. George and St. Paul. Chairman Benton replied that if the Council started that, it would be in for a long debate of all the other potential projects and their priority. The Chairman agreed that there were several projects or proposals that had merit, but thought the Council would have a better picture of where things are in April. Chris Oliver agreed waiting until the April meeting was a good idea and committed to report back at that time.

Jeff Passer, NMFS-Enforcement, spoke briefly about the trend not only in the North Pacific region but nationwide where enforcement issues have become more important. He remarked to staff, NMFS groups,

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Committee groups, etc., to get the Enforcement Division staff involved early. Mr. Passer commented there were many things not heard by the Council such as even one self-reported halibut that's under weight, or a report of even one cod or rockfish in a halibut catch, or, after the results of investigation on one boat, an observed trawler extending the rocksole fishery by 15 days by finding a way to divert halibut away from the observer. Those were very significant things. As Council staff and committees are building these programs, it was this kind of information Enforcement could bring forward during discussions to tell the Council what works and what doesn't. He believed that knowing those things up front, and by getting Enforcement involved early, the Council would also know the answers earlier.

Chairman Benton then announced the following nominations and appointments to the Advisory Panel, Scientific and Statistical Committee, and Groundfish Plan Team. A complete list of individuals and their affiliations is attached to these minutes as Appendix X.

Advisory Panel:

Dave Benson	Tom Enlow	Arne Fuglvog	Tracey Mayhew	Michelle Ridgway
Dave Boisseau	Dan Falvey	Bill Jacobson	Sandra Moller	Jeff Steele
John Bruce	Lance Farr	Teressa Kandianis	Kris Norosz	Jeff Stephan
Al Burch	Duncan Fields	Mitch Kilborn	Eric Olsen	
Craig Cross	Dave Fraser	Kent Leslie	Jim Preston	

Scientific and Statistical Committee:

Keith Criddle	Dan Kimura	Terry Quinn
Steve Hare	Gordon Kruse	David Sampson
Susan Hills	Seth Macinko	Jack Tagart
Mark Herrmann	Rich Marasco	Doug Woodby
George Hunt	Ken Pitcher	

Groundfish Plan Team:

Michael Ruccio will replace Dave Jackson, who retired, on the GOA Plan Team.

Stosh Anderson moved to adjourn the meeting. The motion was seconded by Kevin Duffy and carried without objection.