

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

E Staff Tasking

Motion 1:

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

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

Motion passed: 20/0

Rationale in favor of motion:

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

Motion 2:

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

Motion Passed: 20/0

Rationale in favor of motion:

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

Motion 3:

AP approves the December 2023 report.

Motion Passed 20/0