

Certified by: Peggy Kucher
Date: April 12, 1989

ADVISORY PANEL MINUTES
January 15-17, 1989
Anchorage, Alaska

The Advisory Panel of the North Pacific Fishery Management Council met on January 15-16, 1989 in the Anchorage Sheraton Hotel. The following members were present:

Arne Aadland	John Gilbert	Steve Smith
Al Burch	Ron Hegge	Harold Sparck
Phil Chitwood	Pete Isleib	Dave Woodruff
Paul Clampitt	Rick Lauber	John Woodruff, Vice Chair
Lamar Cotten	Dan O'Hara	Lyle Yeck
Dave Fraser	Ron Peterson	Fred Zharoff
Ed Fuglvog		

Nancy Munro was not present.

Council Chairman John Peterson welcomed new and returning Advisory Panel members for another year.

The minutes of the December 4-7, 1988 Advisory Panel meeting were approved as presented.

C-1 ELECTION OF OFFICERS

The AP moved to reelect Nancy Munro as Chair and John Woodruff as Vice Chair for 1989. *The motion carried unanimously.*

B-1(c) MARINE MAMMAL PROTECTION ACT AMENDMENTS

The AP heard a report from Steve Zimmerman of NMFS in Juneau on the Marine Mammal Protection Act amendments.

Panel members questioned various aspects of categorizing Alaskan fisheries in terms of their purported contact with marine mammals. Some were concerned with why certain fisheries were placed in certain categories. A specific concern was expressed regarding the South Unimak salmon purse seine fishery being placed in Category 1 while other similar salmon fisheries were placed in Category 2. Some AP members asserted that salmon gillnet fisheries should in fact be in Category 3.

It was pointed out by the Panel that there are data bases available on the degree of contact between marine mammals and fisheries in the North Pacific within NMFS, and that NMFS should look within its own organization for data that could clarify the categorization of these fisheries.

What constitutes life and limb was discussed, particularly in light of reports of marine mammal aggression on board certain fishing vessels. The AP had questions about what was appropriate action by fishermen in such circumstances given the intent of the MMPA amendments.

C-4 FUTURE OF GROUND FISH

In considering this informational issue, the AP moved that; if the Council, notwithstanding the recommendations of the FOG Committee and others, decides to move forward on revisiting the issue of FOG and sablefish management, that they advance both issues together. *The motion carried unanimously.* The rationale behind this recommendation is that both proposals deal with limited access and that to help streamline the process they should be addressed in the same time schedule.

The AP heard a report from Clarence Pautzke on the action taken by the Council to adopt January 16, 1989 as a reference cut-off date for limited access development in the groundfish fisheries. It was explained that the Council expected to hear comments from both the AP and the public on the cut-off date prior to the Council affirming the action at its April meeting.

After discussion, the AP moved to convey to the Council its extreme disappointment that they were not included as industry advisors in the decision to have a cut-off date of January 16, 1989 in a limited access proposal for all commercial fisheries. This proposal was basically brought off the street and voted on without any of the AP's recommendations. A decision of this magnitude affects all industry and should have been brought before the AP. *The motion carried 7 to 6.*

The minority are not affronted by the Council's actions realizing there will be ample opportunity to comment between now and April.

Those in favor were: Arne Aadland, Al Burch, Ed Fuglvog, Dan O'Hara, Ron Peterson, Harold Sparck, and Dave Woodruff. Those in opposition were: Phil Chitwood, Dave Fraser, John Gilbert, Steve Smith, John Woodruff, and Lyle Yeck.

C-5 SABLEFISH MANAGEMENT

The AP received a status report on the Council's December action on sablefish and the progress of the Sablefish Management Committee to date. The AP moved to acknowledge the list of areas of concern as outlined by the Sablefish Management Committee in item C-5(b), and their work so far, and recommends that the Council also consider options under open access as methods to address these areas of concern when developing the analysis. *The motion carried unanimously.*

There followed considerable discussion by the AP on whether status quo was to be analyzed at all and what management measures under status quo might be utilized to address the problems in this fishery. This discussion highlighted the confusion within industry with regard to the Council's position on status quo as a management alternative.

The AP recommends that the Council clarify its position on whether status quo is an option for future fisheries management. At the December 1988 meeting the Council made a statement that the status quo is no longer an option with regard to future sablefish management. Some sectors of the industry interpreted the statement and associated discussion as being applicable to all future groundfish management and not limited to only sablefish.

D-1 BERING SEA/ALEUTIAN ISLANDS CRAB FMP

The AP received a report on the revised draft Bering Sea/Aleutian Islands King and Tanner Crab FMP, dated November 28, 1988, its accompanying analysis, and public comments received. There was considerable discussion on whether an FMP is necessary for management of these crab fisheries. Some members of the AP believe that existing State management programs are working well and with the suggestions being made by ADF&G, feel that the benefits of the draft plan can be accomplished without establishing another level of bureaucracy. Other members of the panel believe an FMP formalizes the benefits of cooperative State/Federal management and provides the necessary processes for development of management measures, appeals, and Federal oversight.

The AP then voted to retain the status quo (FMP Alternative 1 - No FMP). This motion failed 6 to 11.

The AP discussion then focused on the draft FMP (FMP Alternative 2). It soon became apparent that placement of three management measures, pot limits, registration areas, and closed waters into their appropriate category, and clarifying how the State's observer program fits into the FMP were the remaining issues for debate. The advantages and disadvantages of Category 1 measures (i.e., fixed in the FMP and requiring Federal rulemaking to change) versus Category 2 measures (i.e., those frameworked for the State requiring Federally approved

criteria be used when implementing these measures by State rulemaking) were explored. It became clear that Category 1 measures require more time to implement and more Federal involvement in the decision-making process than Category 2 measures. Some AP members favored Category 1 since these rules can be appealed directly to the Secretary of Commerce and in Federal court. Others favored Category 2 due to the more responsive capabilities of managers to react to changes in the fishery and noted that State courts have proven to be responsive and fair to non-residents.

The AP noted that frameworked measures placed into Category 1 could utilize regulatory amendments or notice procedures and therefore provide a more timely process than measures revised by plan amendment.

A motion was proposed and seconded to recommend to the Council that the draft FMP be approved by the Council and submitted to the Secretary of Commerce for review and implementation with pot limits, registration areas, and closed waters being placed into Category 1.

An amendment was introduced so that pot limits, registration areas, and closed waters be frameworked under Category 1 so that they can be implemented utilizing regulatory amendments and/or notice procedures. *This amendment passed 11 to 8.*

The AP then voted on the main motion which passed 11 to 8.

Minority report. The minority voting members of the AP oppose such action taken by the majority members based on the following reasoning:

- (a) The current system of management by the State of Alaska is adequate and has proved effective.
- (b) There is Federal oversight on all actions and decisions and due process is available through the State, as well as the Federal Government.
- (c) In order to fully manage the crab fisheries the State should have a full range of authority and flexibility to maximize its management objectives.
- (d) As referenced in Don Collinsworth's letter to Clarence Pautzke, dated January 13, 1989 (agenda D-1 supplemental), the identified concerns of those opposed or who wish to limit the State's management powers are: (1) the U.S. Constitution prohibits discriminatory action(s) to be taken against non-residents of a state by that state; (2) an industry funded advisory committee shall have equal access to the Alaska Board of Fisheries and can be sanctioned without implementation of an FMP. This advisory committee would have the same status of recognition as other advisory committees now in existence; (3) meetings could be scheduled with the interested parties--to the greatest extent possible (at a minimum of that being twice annually); (4) development of a statement of principles between the State and NMFS for the collection of data, analyses, and management of the crab fisheries in the BS/AI management unit, as well as to formalize enforcement commitments with the U.S. Coast Guard; and (5) if felt necessary the State would provide for an annual review by the Secretary of Commerce for compliance under the MFCMA.
- (e) The Alaska Board of Fisheries (ABOF) has stated that there is no real reason to implement an FMP but the discussions have lead to the ABOF recognizing that better relations need to be developed.

The minority voting members believe that the State's management authority over the crab fisheries will be compromised by movement to a Crab FMP. One real possibility is State withdrawal from management, and a hiatus or vacuum that would threaten conservation of this stock, with no acknowledged commitment by the Federal Government to fund and maintain a comparable conservation program. We firmly believe that in the

event of State withdrawal and Federal inactivity, that the Secretary of Commerce (Regional Director) suspend all directed crab fisheries until a conservation program under Federal management is funded and implemented.

For these reasons, we firmly oppose the vote by the majority of the AP and further believe that the participation and harvest of the BS/AI crab stock will best be served by continuation of the current system which provides access and equality to all participants.

Signed by: Fred Zharoff, Dave Woodruff, Lamar Cotten, Dan O'Hara, Pete Isleib, Ron Hegge, Edwin Fuglvog, and Harold Sparck.

With regard to clarifying the observer question, the AP recommends that Table 8.1 in the FMP be revised to show under Category 1, "Federal Observers" and under Category 3, "State Observers". The FMP text and accompanying analysis already indicate that the a State observer program is authorized under this FMP and that NMFS could use its discretionary authority to require Federal observers if a Federal program were developed and it was coordinated with any existing State program. Likewise, it is clear that any State observer program needs to be coordinated with any Federal program which may be developed in the future. *This recommendation was approved by the AP 18 to 1.*

During these discussions the AP expressed their concern with regard to this resource going unmanaged should the State not find the FMP acceptable and NMFS unable to manage this fishery in the short term. Recognizing that both the State and Federal governments place high value on this resource and that an orderly transition would occur, the AP made the following recommendation:

In the unlikely event of non-management of king and Tanner crab due to the transfer of management from the State of Alaska to the Federal Government, it is the recommendation of the AP that no fishing for king or Tanner crab take place in the Bering Sea/Aleutian Islands management area until there is a Federal or State management program in place. *This motion carried unanimously.*

GROUND FISH AMENDMENT PROPOSALS FOR 1989 (GOA AND BS/AI) [D-2/3(a)]

The attached table illustrates the Advisory Panel recommendations on groundfish amendment proposals for 1989. The AP agreed to submit their recommendations, without ranking within each priority, while recognizing that not necessarily all high priority items can be accommodated.

D-2 BERING SEA/ALEUTIAN ISLANDS GROUND FISH

D-2(b) Directed Fishing Definition

The AP heard a report from NMFS on the current status of directed fishing definitions.

After much discussion, the AP moved to recommend the Council reaffirm its June 1988 action which was to define directed fishing based on retention rather than catch and if the retention rate for any species is too high to enable a fishery to continue without that species becoming a PSC then the retention rate be reduced accordingly. *This motion carried 9 to 4.*

D-2(c) Bycatch Amendment

The AP heard a status report on the bycatch plan from NMFS.

The AP moved to recommend the Council request NMFS to submit an emergency rule as soon as possible and with the utmost haste which would implement the bycatch plan adopted by the Council in December 1988 for the Bering Sea/Aleutian Islands. The AP further recommends that, in the future, should the bycatch plan in effect expire, that it automatically roll over until another plan is in place. *The motion carried 13 to 3.*

Minority report. We believe the Advisory Panel recommendation to the Council is not appropriate for two reasons: (1) the recommendation included a provision that in the future should any bycatch regime expire and a new regime is not in place to replace it, the old regime would automatically carry over. This would be inappropriate if any of the stocks had changed in abundance as the Tanner crab stocks have from the time Amendment 10 was adopted; and (2) the crab bycatch caps recommended by the Council are far too restrictive and cannot be supported by science (see the SSC's December minutes).

As an alternative we recommend Amendment 10 be extended for the one year with the Tanner crab caps adjusted upward in proportion to the increase in biomass.

Signed by: Dave Fraser, Phil Chitwood, and Lyle Yeck.

Proposal Number	Applicable FMP	Proposal Description	Amendment Priority/Cycle	Comments	Vote	Rationale
Harvest Allocation						
1.	both	Establish DAP apportionments on quarterly basis.	High/Current	Central Gulf pollock only.	Unanimous	
2.	both	Transfer unused DAP to JVP of following year.	no comment			
3.	BSAI	Set upper limit of OY range equal to sum of ABCs.	Extended	Milestone: EIS by 12/89.	Unanimous	Concur with PAAG.
4-6.	BSAI	Allocate sablefish TAC (DAP) by gear type.	High/Current		13-2	
Roe-Stripping/Full Utilization						
7-9.	both	Prohibit roe-stripping/require full utilization.	High/Current		11-6	Resource and environmental concerns.
Fishing Seasons						
10.	both	Remove references to fishing season dates in FMP.	High/Current	Combine with #12.	Unanimous	Concur with PAAG.
11.	both	Establish season openings/closings at noon local time.	Endorse Regulatory am.		Unanimous	Concur with PAAG.
12.	GOA	Establish fishing seasons framework.	High/Current	Framework; public input on development of season dates and consider split seasons.	Unanimous	Concur with PAAG.
13.	GOA	Establish summer closure for JV flounder fishery.	High/Current	Necessary for 1990 in the event bycatch framework amendment fails.	12-4	Necessary to prevent bycatch.
14.	GOA	Establish July 1 opening for non-pelagic rockfish.	High/Current (unless it passes with #10/12 in framework)	Request public comment on a bycatch range. AP suggested 4%-16%.	11-4	
Fishing Areas						
15.	GOA	Establish inside and outside Shelikof districts.	High/Current		Unanimous	
16.	BSAI	For sablefish, divide Aleutian area at 175 degrees W.	Moderate high/Extended	Milestone: Sept. 89 RAD (showing biomass/catch distributions)	10-5	Intended to address non-migratory species. (e.g., A. mack., POP)
17-18.	BSAI	Establish trawling closure near Walrus Islands.	Discussion	High priority: promote discussion between agencies and industry (at least salmon, herring and trawl interests)	13-3	A motion for high/current failed 4-12.
Bycatch Control						
19.	both	Manage halibut bycatch on adult equivalent basis.	no comment			
20.	both	Establish halibut/sablefish limited access fishery.	no comment			
21.	GOA	Revise time/area closures for king crab near Kodiak.	High/Current	Combine with #22.	Unanimous	Concur with PAAG.
22.	GOA	Develop comprehensive bycatch controls.	High/Current		Unanimous	Concur with PAAG.
23.	GOA	Redefine directed fishing for trawl sablefish at 15%.	High/Current	Based on retention/possible framework. NMFS develop comprehensive definition.	Unanimous	
24.	GOA	Prohibit bottom-trawling until sablefish/halibut TACs taken.	no comment			
25.	BSAI	Prohibit bottom-trawling in Zone 1 (Area 511).	no comment			
26.	BSAI	Extend P. cod trawl exemption in Closed Area to 30 fm.	High/Current	Motions for low and moderate priority failed 5-10 and 7-8, respectively.	8-6	Concur with PAAG. Could reduce bycatch. Those vessels involved have observers.

Proposal Number	Applicable FMP	Proposal Description	Amendment Priority/Cycle	Comments	Vote	Rationale	
Bycatch Control (continued)							
27.	BSAI	Establish trawl closures to protect soft-shell crab.	no comment				
28.	BSAI	Develop bycatch controls for C. opilio Tanner crab.	no comment				
29.	BSAI	Set declining limits on trawl bycatch of salmon.	High/Current	BSAI and GOA	10-6	A motion for high/ current failed 6-10.	
30.	BSAI	Set declining limits on trawl bycatch of herring.	no comment				
Observer Coverage							
31.	both	Prohibit fishing without approved data gathering program.	High/Current	Combine with #32, 34-37. see #31 above	Unanimous		Concur with PAAG.
32.	both	Require observers for at-sea and catcher processors.	High/Current		Unanimous	Concur with PAAG.	
Gear Restrictions							
33.	both	Establish mesh-size restriction for 12 inch fish.	No comment				
Reporting Requirements							
34.	both	Require reporting of effort and economic data.	High/Current	see #31 above	Unanimous	Concur with PAAG.	
35.	both	Require catcher/processors to submit fish tickets weekly.	High/Current	see #31 above	Unanimous	Concur with PAAG.	
36.	both	Make buyers responsible to submit fish tickets.	High/Current	see #31 above	Unanimous	Concur with PAAG.	
37.	both	Require all vessels to maintain fishing logbooks.	High/Current	see #31 above	Unanimous	Concur with PAAG.	
Administrative							
38.	both	Require documentation on hook and line gear.	Endorse Regulatory am.		Unanimous	Concur with PAAG.	
39.	both	Delete species lists under four categories in FMPs.	High/Current	Link with #42-43.	Unanimous		
40.	both	Combine GOA and BS/AI groundfish FMPs.	no comment				
41.	Gulf	Establish non-specific reserve system.	no comment				
42-43.	Gulf	Establish single-species rule.	Endorse Regulatory am.	High priority.	Unanimous	Concur with PAAG.	