

North Pacific Fishery Management Council

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December 19, 2005

Kaja Brix
Assistant Regional Administrator
Protected Resources Division
Alaska Region
National Marine Fisheries Service
ATTN: Lori Durall
P.O. Box 21668
Juneau, AK 99802

Dear Ms. Brix:

The North Pacific Fishery Management Council has reviewed the Proposed Rule to revise critical habitat for the northern right whale (Federal Register Vol. 70 No. 211 November 2, 2005). The Proposed Rule identifies two areas in the North Pacific, one in the eastern Bering Sea and another in the Gulf of Alaska south of Kodiak Island, which would be designated as critical habitat for the northern right whale population that inhabits the North Pacific Ocean. The Proposed Rule provides an analysis of the factors the National Marine Fisheries Service (NMFS) considered in the CH designation, and provides a Primary Constituent Elements analysis that recognizes the importance of dense concentrations of copepods as prey for northern right whales. The analysis identifies as CH those areas in the eastern Bering Sea and Gulf of Alaska where northern right whales have been sighted since their listing under the Endangered Species Act, and by proxy the sightings of these whales serves as an indirect indication of the likely presence of these important copepod species.

At its December 2005 meeting, the Council received staff reports on the proposed CH designation for northern right whales, and received comments from its Scientific and Statistical Committee and members of the public. The Council provides the following comments.

The Proposed Rule lists areas where the agency seeks information. The Council's comments fall under two of these general topic areas:

1. Current or Planned Activities in the Areas Proposed as CH and their Possible Impacts on Proposed CH
2. Any Foreseeable Economic or other Potential Impacts Resulting from the Proposed CH Designations

The Council, in conjunction with the NMFS, manages the groundfish fisheries that are prosecuted in marine waters offshore Alaska, including the proposed CH areas. In cooperation with the State of Alaska, NMFS also manages certain crab fisheries that occur in the proposed eastern Bering Sea CH area, particularly the Bristol Bay red king crab fishery. The groundfish fisheries include longline, pot, and trawl fisheries. In 2004, approximately 22,117 mt of groundfish were harvested by longline gear in the eastern Bering Sea CH area and 1,629 mt from the Gulf of Alaska CH area. In 2004, the trawl groundfish

harvests from the eastern Bering Sea CH area were approximately 774,097 mt and from the Gulf of Alaska CH area were about 14,830 mt. These large harvest amounts are from fisheries that include pollock, Pacific cod, sablefish, yellowfin sole, rock sole, other flatfish species, and sablefish. The Bristol Bay red king crab fishery in 2004 was almost wholly prosecuted in the eastern Bering Sea CH area with a harvest of about 15,353,000 pounds.

The Council also makes allocation recommendations for the Pacific halibut fishery, which is largely managed by the International Pacific Halibut Commission. In 2004, the harvest of halibut in the eastern Bering Sea CH area was approximately 24,499 pounds and about 1,604,978 pounds from the Gulf of Alaska CH area.

In terms of foreseeable economic impacts from the proposed CH designations, the Council realizes that current fishing activities have no impact on the Primary Constituent Elements of CH – that is, the copepod species and aggregations upon which northern right whales feed. However, we do want to stress the critical importance of the fisheries that occur within these areas. The net values of these fisheries for 2004 were approximately:

| | Eastern Bering Sea CH Area | Gulf of Alaska CH Area |
|---|----------------------------|------------------------|
| Halibut (ex vessel value) | \$43,000 | \$4,400,000 |
| Groundfish fixed gear (first wholesale value) | \$24,284,793 | \$2,561,651 |
| Groundfish trawl (first wholesale value) | \$569,419,378 | \$11,544,795 |
| Crab (ex vessel value) | \$72,500,000 | |

Also, the Council notes that while these fisheries are prosecuted almost year around, much of the fishing activity in both the eastern Bering Sea and Gulf of Alaska occurs in the winter months when northern right whales are likely absent from these CH areas. We understand there are data available that suggest right whales may be in the eastern Bering Sea primarily during the spring and summer months, although right whale vocalizations have been detected as late as early December. Given the importance of the seasonal aspects of right whale use of the proposed CH areas, the Council urges NMFS to consider this issue when developing the final rule.

The Council has prepared a package of information that summarizes the various fisheries that occur in the proposed CH areas in the eastern Bering Sea and Gulf of Alaska, and requests that this information be included in the record for the proposed rule. This information includes fishery effort maps, harvest amounts by time of year, and economic value to fishermen, processors, and some comments about affected communities. This document is attached.

The Council’s Scientific and Statistical Committee (SSC) also reviewed the Proposed Rule and has recommended that information be included in the Final Rule on the seasonal occurrence of right whales in the habitat areas proposed to be designated as CH. Available scientific survey data document right whale sightings, by date, in these areas, as well as acoustic information on right whale vocalizations in the North Pacific, particularly the eastern Bering Sea. To what extent these acoustic recordings can be translated into specific locations may be problematic, but the Council encourages NMFS to include available information on the seasonal presence of right whales in the areas it proposes as CH.

The SSC also recommended that NMFS consider reviewing available photographs taken during North Pacific aerial or vessel-based marine mammal surveys for evidence of gear interactions with right whales. Although there are no known adverse interactions between right whales and fisheries in the North Pacific, presence or absence of scars or other marks could add additional documentation of this.

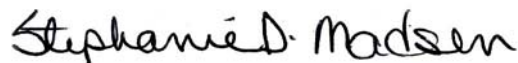
The Council also recommends that NMFS consider another comment from the SSC. The SSC notes that the copepod favored as prey by the right whale, *Calanus marshallae*, is thought to require an early, ice-associated bloom to ensure strong recruitment in spring. But recent warm water and lack of ice in the Bering Sea has possibly reduced the availability of right whale prey in the southeastern Bering Sea, including much of the area designated as CH. If these warm conditions persist in future years, this habitat may shift northward.

After the Council's December 2005 meeting adjourned, representatives from several sectors of the groundfish fishing industry submitted additional information to the Council on fishing activity in the eastern Bering Sea proposed CH area. Their analyses of data on the rock sole, flathead sole, and Pacific cod fisheries in this CH area indicate that the catch and value could be larger than that shown in our analysis based on a broader look at historical fishing patterns. Their view is that the potential impact of any change in fishing regulations that might affect the eastern Bering Sea northern right whale CH area could be even larger than reported in this letter. Industry will likely submit their comments to NMFS separately.

Finally, the Council notes that the commercial fishing industry in the North Pacific has taken a proactive approach to reducing potential negative interactions between fishing vessels and right whales. This voluntary initiative includes the design and production of an educational handout to assist fishers in identifying right whales and providing advice on appropriate responses when encountering right whales. While there are no known instances of adverse commercial fishery interactions with right whales in the North Pacific, the Council supports such a proactive stance on the part of the industry in Alaskan waters.

Thank you for the opportunity to comment on this proposed rule.

Sincerely,

A handwritten signature in black ink that reads "Stephanie D. Madsen". The signature is written in a cursive, slightly slanted style.

Stephanie D. Madsen
Chair

Cc: Sue Salveson
Chris Oliver