

# North Pacific Fishery Management Council

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## MINUTES

### 170th Plenary Session

### NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

February 9-13, 2005

Seattle, Washington

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### **FORMAT FOR COUNCIL MEETING MINUTES**

Each agenda item 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 style font 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 Committee (SSC) and Advisory Panel (AP) on the subject. Last will be a section describing **Council Discussion and Action**, if any.



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Certified Stephanie Madsen  
Stephanie Madsen, Chair

Date June 7, 2006

## MINUTES

**170th Plenary Session**  
**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**  
**February 9-13, 2005**  
**Renaissance Madison Hotel**  
**Seattle, Washington**

The North Pacific Fishery Management Council met February 9-13, 2005 in the South Room of the downtown Renaissance Madison Hotel in Seattle, Washington. In addition, the Advisory Panel met February 7-11 in the Northwest Room on the 3<sup>rd</sup> Floor, and the Scientific and Statistical Committee met February 7-9 in the East Room on the 3<sup>rd</sup> Floor. Other meetings and presentations which took place in conjunction with the Council meeting are listed below.

Ecosystem Committee	2-5 pm, February 7	South Room, 3 <sup>rd</sup> Floor
Enforcement Committee	2-5 pm, February 8	James Room 4 <sup>th</sup> Floor
Observer Overview Meeting	6 pm, February 10	presentation

The following members of the Council, staff, SSC and AP attended the meetings.

### Council

Stephanie Madsen, Chair	Arne Fuglvog	Doug Mecum/Earl Krygier
Dennis Austin, Vice Chair	Dave Hanson	Hazel Nelson
Jim Balsiger/Sue Salvesson	Doug Hoedel	ADM Jim Olson/CDR Mike Cerne
David Benson	Roy Hyder for Lindsay Ball	Edward Rasmuson
John Bundy		

### NPFMC Staff

Chris Oliver, Executive Director	Diana Evans	Jim Richardson
Gail Bendixen	Mark Fina	Diana Stram
Cathy Coon	Nicole Kimball	Bill Wilson
Jane DiCosimo	Peggy Kircher	David Witherell
Elaine Dinneford	Jon McCracken	

**Support Staff**

Kaja Brix, NMFS-AKR	John Lepore, NOAA-GC
Bubba Cook, NMFS-AKR	Lisa Lindeman, NOAA-GC
Matt Eagleton, NMFS-AKR	Jonathan Pollard, NOAA-GC
Jay Ginter, NMFS-AKR	John Olson, NOAA
Jon Kurland, NMFS-AKR	Ann Edwards, AFSC
Scott Miller, NMFS-AKR	Dan Ito, AFSC
Glenn Merrill, NMFS-AKR	Craig Rose, AFSC
Sue Salveson, NMFS-AKR	Bruce Leaman, IPHC
Andy Smoker, NMFS-AKR	Gregg Williams, IPHC
Jeff Passer, NMFS Enforcement	Herman Savikko, ADFG
Mike Adams, NMFS Enforcement	ADM Jeff Garrett, 13th USCG District
Ken Hansen, NMFS Enforcement	

**Scientific and Statistical Committee**

Gordon Kruse, Chair	Sue Hills	Terry Quinn
Pat Livingston, Vice Chair	Anne Hollowed	David Sampson
Keith Criddle	Seth Macinko	Farron Wallace
Steve Hare	Franz Meuter	Doug Woodby
Mark Herrmann	Ken Pitcher	

**Advisory Panel**

John Bruce, Chair	Duncan Fields	John Moller
Jim Preston, Vice Chair	Dave Fraser	Jeb Morrow
Al Burch	John Henderschedt	Eric Olson
Joe Childers	Jan Jacobs	Ed Poulsen
Cora Crome	Bob Jacobson	Michelle Ridgway
Craig Cross	Matt Moir	Jeff Stephan
Tom Enlow		

**Other Attendees**

Below is a list of people who signed the attendance register. A list of those who provided public comment during the meeting is found in [Appendix 1](#) to these minutes.

Jack Hill, Kodiak, AK	Joe Childers, Juneau, AK
Craig Cross, Aleutian Spray Fisheries	Steve Branson, Kodiak, AK
Jim McManus, Trident Seafoods	Lori Swanson, Groundfish Forum
Heather McCarty, Juneau, AK	Frank Kelty, City of Unalaska
Whit Sheard, The Ocean Conservancy	Jeff Stephan, United Fishermens Marketing Assn.
Eric Hollis, Fishing Company of Alaska	Matthew Moir, Alaska Pacific Seafood
Greg Baker, Westward Seafoods, Inc.	Al Burch, Alaska Draggers Assn.
Perfenia Pletnikoff, St. Paul Aleut community	Donna Jones, Global Seafoods North America
Michelle Ridgway, Oceanus Alaska, Juneau	John Gruver, United Catcher Boats
Phillip Lestenkof, St. Paul Island, AK	Theresa Peterson, AK Marine Conservation Council
Arni Thomson, Alaska Crab Coalition	Alyssa McDonald, City of Unalaska
Glenn Reed, PSPA	Brent Paine, United Catcher Boats
Karl Vedo, Seattle, WA	Thorn Smith, NPLA

## A. CALL TO ORDER AND APPROVAL OF AGENDA/MINUTES

Stephanie Madsen, Council Chair, called the meeting to order at 8:01 a.m. on Wednesday, February 9, 2005.

**Agenda/Minutes:** The agenda was approved as published. There were no minutes to be approved.

## B. REPORTS

### DISCUSSION RESULTING FROM REPORTS

The Council received written reports from the Executive Director (B-1), NMFS Management (B-2), NMFS Enforcement (B-3), U.S. Coast Guard (B-4), ADF&G (B-5), Protected Species (B-7), and IPHC (B-8).

**Executive Director's Report.** Chris Oliver summarized his report to the Council.

The Enforcement Committee met February 8. A draft summary of the meeting was distributed to the Council and is attached as Appendix 2 to these minutes. Mr. Oliver stated that the general enforcement precepts paper, distributed to the Council under agenda item B-4, was an issue of concern at that meeting.

The Ecosystem Committee met February 7. Draft minutes were distributed to the Council and are attached as Appendix 3 to these minutes. Mr. Oliver noted that the committee recommended three possible candidates for the NOAA Ecosystem Research and Science Review Panel, which the Council could nominate. They are: Dr. David Fluharty, Dr. Clarence Pautzke, and Dr. Gordon Kruse. The deadline for nominations is February 17.

**Ed Rasmuson moved that the Council submit a letter nominating Dr. Clarence Pautzke and Dr. David Fluharty to the NOAA Ecosystem Research and Science External Review Panel.** Doug Hoedel seconded the motion, which carried without objection.

Mr. Oliver reminded everyone that the North Pacific Observer Program will be holding a workshop tomorrow evening at 6:00 pm in the AP room. Bill Karp of the Alaska Fisheries Science Center will have flyers available early tomorrow.

**NMFS Management.** Sue Salveson reported on the status of FMP amendments and a handout was placed in the notebooks. Ms. Salveson explained that the Crab Rationalization Program (Amendment 18/19) has been submitted to NOAA headquarters and is on track for publishing the Final Rule March 1, which would allow the region to stay on schedule for issuing quota share by August 1. Fishing could occur under the program this year for both the golden crab and Bristol Bay king crab fisheries. However, Ms. Salveson also noted that for the first year only, there will be a delayed start date in the Aleutians Islands golden king crab fishery for the shoreside fleet in order to give them adequate opportunity to meet requirements of the Arbitration System.

The Aleutian Islands pollock allocation to the Aleut Corporation (Amendment 82) was also submitted to NOAA headquarters and is scheduled to be published and effective by March 1 so that fishing could start under that program. Mr. Bundy clarified that, with regard to the Aleutian Islands pollock allocation CDQ component, the agency had advised the groups that it is available to fish right now as long as the fishing occurs in the Aleutian Islands. However, he asked Ms. Salveson to explain whether the Final Rule allows the allocation to be fished in the Bering Sea should it not be fished in the Aleutians. Ms. Salveson explained that under the rule there is a provision for a rollover of unharvested CDQ fish back into the Bering Sea, and that

would have to be based on a determination by the Regional Administrator that the fish will indeed be unharvested.

Ms. Salveson reported that the Halibut Charter Boat IFQ regulatory amendment was reviewed once and has been returned for internal review and refinement before it formally enters regional review; they will continue to deal with issues as it enters the legal review status. However, there are significant issues that NOAA General Counsel has not had time to address, and once they receive the initial legal comments back it could take some time to respond to what is needed. It certainly will not be place for this year. Ms. Salveson assured that since crab rationalization has been cleared from their list, at least for the immediate foreseeable future, their attention will be focused on the halibut charter IFQ issue.

With regard to other regulatory amendments, Ms. Salveson reported that the Subsistence Halibut II final rule will be entering regional review next week. The Annual Halibut Management Measures, which they worked with the NW Region on, has been submitted to headquarters and the rule should be in place and effective by February 27 when the fishery starts. The Final Groundfish Harvest Specifications for the Bering Sea/Aleutian Islands and Gulf of Alaska have been submitted and should be effective later this month.

Andy Smoker summarized inseason management highlights. The Pacific cod pot fishery in the Bering Sea is projected to close by February 25 due to high weekly catch rates that have been much more variable than last year. Similarly, in Gulf of Alaska Area 610 (inshore), the Pacific cod pot fishery has shown high weekly catch rates and is expected to close in the next week or so. Some of the increased effort is due to vessels coming from the opilio closures. Mr. Smoker noted there is also increased catch-per-unit-effort compared with last year—the average boat is up 10% to 15% and the heavy hitters have had some amazing weeks, catching over 300 mt/wk, where the average had been 150 mt/wk.

**NMFS Enforcement.** Jeff Passer, Special Agent in Charge in Juneau, gave a brief overview of NMFS Enforcement's 2004 annual report. Mr. Passer summarized personnel, budget and performance measures, Vessel Monitoring Systems, the joint enforcement agreement with Alaska State Troopers, and highlights of priority violations. Mike Adams, Assistant Special Agent in Charge in Dutch Harbor, presented a PowerPoint of details on two of the most significant violations which both involved the underreporting of halibut bycatch by the F/V UNIMAK. The vessel is owned by Unimak Fisheries LLC and managed by Iqueque US. Those charged with violations were the commercial fishing company Unimak Fisheries LLC, Captain Paul Ison, and First Mate Daniel Skauge.

Agent Adams explained that the investigation was initiated by an observer who noticed that the camera watching the processing area was covered, while 40-50 halibut were running out the discharge chute of the vessel. This all took place in the factory after the processing on a sampled tow had been completed. Consequently, logbooks from 1999–2001 were inspected and a high amount of minor pre-sorting incidents were discovered in 1999 and 2000. Further investigation involved identifying and interviewing all the observers, crew, and captains; boarding of the vessel; subpoenas being served; and examination of corporate records. In the end, investigators disclosed systematic and institutionalized pre-sorting occurring aboard the vessel. The crew stated it was common practice and the reason they did it was to extend the fishery. The Council was shown photographs from aboard the vessel and informed of how the pre-sorting occurred.

Agent Adams thanked Andy Smoker who helped tremendously with the complexity of this case. Details on the charges and sentencing of those involved are described in the NMFS Enforcement Report (notebook item B-3).

Arne Fuglvgog asked Mr. Passer if they believed this was a sector-wide problem. Mr. Passer explained that during this investigation they compared the F/V UNIMAK's bycatch rates with the rest of the fleet and it was

similar. There is not a sector-wide investigation going on; however, he pointed out that due to one observer submitting an affidavit which noted a violation she observed, an entire case unfolded. This case was very labor-intensive because Agent Adams had to match up the observers' daily notes with the weekly reports before the pattern of pre-sorting emerged. Therefore, they are encouraging observers to submit even minimal incidents to Enforcement so that they will be able to recognize these patterns.

**U.S. Coast Guard.** Admiral Olson introduced Admiral Jeff Garrett, Commander of the 13<sup>th</sup> USCG District in the Pacific Northwest. Three handouts were placed in the notebooks. Admiral Garrett stated that both the 13<sup>th</sup> and 17<sup>th</sup> Districts will be working together to look at ways of improving safety in all fisheries. Admirals Garrett and Olson applauded the Council for the implementation of the crab rationalization program which has provided a safer working environment for fishermen. Although it does not solve all the safety issues, they believe that continued efforts to develop rationalization plans and work toward innovative ways to provide the enforcement necessary to correspond with new management programs is moving in the right direction. The Vessel Monitoring System (VMS) has proven to be an important and very effective enforcement tool that enhances vessel safety.

Ms. Madsen stated that she was invited to attend a briefing at the Coast Guard office in Juneau and thanked Admiral Olson and his staff for the offer. The experience was valuable and gave another perspective about the role and responsibilities of the Coast Guard, and she found it very informative and interesting. Ms. Madsen suggested, and Admiral Olson concurred, that should other Council members have the opportunity to attend a briefing, they would be welcome to do so.

Commander Mike Cerne gave a PowerPoint presentation of their annual report which included a summary on resources, domestic and international fisheries, safety, search and rescue, maritime homeland security, and an update on the SELENDANG AYU.

**ADF&G.** Herman Savikko presented a PowerPoint and provided a report which was placed in the notebooks.

**Protected Species Report.** Bill Wilson summarized several protected resource issues regarding the 2005 List of Fisheries, fur seals, seabirds, North Pacific right whales, and the State of Alaska parallel pollock trawl fishery. Kaja Brix briefed the Council on the public comment period extension and the environmental assessment for the List of Fisheries. The Council also heard from Ann Edwards (National Research Council and visiting scholar at with University of Washington) on a new project researching seabird interactions with discards—offal in the Alaskan groundfish fisheries.

The SSC provided their report to the Council on the List of Fisheries. The SSC reiterated their previous comments on the analyses and assumptions that went into the List of Fisheries for the 2005 report in their October and December 2004 minutes. Four main issues were highlighted: (1) the sampling of incidents of serious injury and mortality of marine mammals, which are rare events, and the appropriate length of time series of observations to use to estimate the frequency of these rare events, (2) the need for observers to estimate the frequency of serious injury and mortality in state-managed fisheries, (3) the assignment of observed mortalities to more than one marine mammal stock per occurrence, and (4) the appropriateness of procedures used to estimate incidents of serious injury and mortality for unobserved hauls and fisheries. The SSC feels that these issues remain to be addressed, but they are not easily resolved and the SSC intends to continue a dialogue with analysts to provide advice on their long-term solution. The SSC provided further extensive comments on this issue (refer to their minutes which are included as [Appendix 4](#)).

**The Council intends to use the SSC's comments in drafting their comment letter for submission to NMFS. The Council will also request an extended public review period to allow more time for an**

**examination of the Environmental Assessment in order to comment on the List of Fisheries for 2005.** The motion, which carried without objection, was made by John Bundy and seconded by Dennis Austin.

The Council received a letter of notification dated January 28, 2005 from the Alaska Board of Fisheries (BOF) summarizing a proposal which they had put on their March 7-13, 2005 meeting agenda for action. The proposal would open certain waters, around Steller sea lion haulouts, in areas which are currently are closed to pollock trawling under Federal regulations.

The Council received a detailed report from NMFS and NOAA-GC which outlined the implications should the BOF approve this action, including the likelihood that the action would trigger reinitiation of formal Section 7 consultation under the Endangered Species Act. **The Council and Board will convene a joint meeting February 25, 2005 at 10:00 am in the Egan Convention Center in Anchorage to discuss these issues. Council members specifically requested that the Steller Sea Lion Mitigation Committee reports be made available to the BOF at that meeting.**

A transcript of the Council's discussion on the BOF proposal for a parallel pollock fishery near Adak is available on request from the Council office.

**IPHC Report.** Dr. Bruce Leaman and Gregg Williams of IPHC presented a PowerPoint and a copy was placed in the notebooks.

## **C. NEW OR CONTINUING BUSINESS**

### **C-1(a,b) Essential Fish Habitat (EFH)**

#### ACTION REQUIRED

- (a) Review changes to the EFH Environmental Impact Statement (EIS)
- (b) Final action on EFH preferred alternatives and EIS

#### BACKGROUND

##### (a) Changes to the EFH EIS

NMFS released the Preliminary Final EIS for EFH on January 19, 2005. The Preliminary Final EIS incorporates numerous changes from the Draft EIS in response to public comments. Many of the changes are relatively minor clarifications, updates, and additions to the analysis. These changes were sent to you from the NMFS contractor. Three categories of changes are more substantive and include new information that NMFS will summarize for the Council.

##### (b) Final Action on EFH Preferred Alternative and EIS

The Council is scheduled to take final action on the EFH EIS and associated FMP amendments. Under the terms of a joint stipulation and court order in the AOC v. Daley case, NMFS must publish the Final EFH EIS by June 1, 2005, issue a record of decision by August 13, 2005, and implement any resulting regulations by August 13, 2006.

The Council amended its five FMPs in 1998 to address the new EFH requirements that were included in the 1996 Sustainable Fisheries Act. NMFS approved those FMP amendments in January 1999. A legal challenge resulted in a September 2000 United States District Court decision that upheld NMFS's approval of the EFH FMP amendments under the Magnuson-Stevens Act, but ruled that the environmental assessment (EA) prepared for the amendments violated the National Environmental Policy Act. The court ordered NMFS to complete a new and thorough environmental analysis. Accordingly, this EIS evaluates alternatives and environmental consequences for three actions: (1) describing and identifying EFH for fisheries managed by the Council; (2) adopting an approach for the Council to identify HAPCs within EFH; and (3) minimizing to the extent practicable the adverse effects of Council-managed fishing on EFH.



## AP Report

The AP reported their recommended preferred alternatives as follows:

Under Action 1: Describe and Identify EFH

Alternative 3 (Revised General Distribution – Preliminary Preferred Alternative)

Under Action 2: Adoption of an Approach for Identifying HAPCs

Alternative 3 (Site Based Concept – Preliminary Preferred Alternative)

Under Action 3: Minimize Adverse Effects of Fishing on EFH

Alternative 1 (Status Quo/No action – Preliminary Preferred Alternative) for the Gulf and Bering Sea and the adoption of Alternative 5b, Option 3, not including an increase in observer coverage for the Aleutians Islands.

## SSC Report

The SSC provided extensive comment on EFH issues in its minutes of previous meetings, especially in March, October, and December 2004, but noted additional comments on the “Appendix B Evaluation of Fishing Effects” and “Aleutian Islands Alternative 5b Options” chapters of the EIS. A copy of the SSC’s detailed minutes is attached as [Appendix 4](#) to these minutes.

## COUNCIL DISCUSSION/ACTION (C-1a,b)

The Council heard detailed reports from staff regarding changes to the Environmental Impact Statement (EIS) for Essential Fish Habitat (EFH). Jon Kurland summarized changes to the document and Dr. Dan Ito presented a PowerPoint on Appendix B, Evaluation of Fishing Effects, explaining their re-evaluation based on public comment and the Center for Independent Expert’s review. Dr. Ito also gave an overview of Dr. Craig Rose’s model used to perform the re-evaluation. Matt Eagleton described the revised alternatives, while Mr. Kurland reviewed the options under Alternative 5B.

Chris Oliver read from the Enforcement Committee’s report with regard to Alternative 5B, Option 3. The full report is attached as [Appendix 2](#) to these minutes.

Mr. Kurland answered questions from the Council regarding the arrangement of options and alternatives that would be legally acceptable for the Council to adopt; and John Lepore (NOAA-GC) provided further explanation on the Court’s standards.

The Council spent considerable time discussing the requirements of Appendix G (identify non-fishing activities that may adversely effect EFH) with Mr. Lepore and Mr. Kurland and requested clarification on whether or not Appendix G would be included in the FMP language. Mr. Lepore clarified that the FMPs must identify activities other than fishing that may adversely affect EFH, and for each activity the FMP should describe known and potential adverse effects to EFH. This was done with the original action on EFH and the FMP language reflects some of that information. Therefore, the agency would be using the new version of the EIS, which includes revised Appendix G, to update FMP language based on the best scientific information available to the Council.

**Earl Krygier moved that the Council adopt the alternatives below as their “Preferred” alternative for the three action items under the EFH EIS for final consideration.** The draft motion included three maps and is attached as [Appendix 6A](#) to these minutes. Ed Rasmuson seconded the motion.

**Action 1: Describe and Identify EFH—Adopt Alternative 3** (Revised General Distribution, The Council's Preliminary Preferred Alternative) to revise the EFH descriptions using the same basic methodology as Alternative 2, but applying the modified regulatory guidance from the EFH final rule (67 FR 2343, January 17, 2002; codified at 50 CFR 600 Subpart J) and incorporating recent and additional scientific information and improved mapping. In some cases, the geographic extent of individual EFH descriptions would be narrower than under status quo Alternative 2.

**Action 2: Adopt an Approach for Identifying HAPCs—Adopt Alternative 3** (Site based Concept, The Council's Preliminary Preferred Alternative). The existing HAPC identifications would be rescinded, and the Council would adopt an approach that would allow specific sites within EFH, selected to address a particular problem, to be identified as HAPCs in the future.

**Action 3: Minimize Adverse Effects of Fishing on EFH—Adopt a Modified Alternative 5B** to expand bottom trawl closures in the Gulf of Alaska and Aleutian Islands management areas to protect sponge, coral and other important habitat for managed species. [Further descriptions and maps for the Bering Sea, Aleutian Islands, and Gulf of Alaska, areas are provided in Appendix 6A.]

**The Council will review these actions in five years to consider new information from ongoing and future research.**

Hazel Nelson asked Mr. Krygier about a closed area in Bristol Bay shown on one of his maps (ES-9). **Mr. Krygier clarified that Ms. Nelson had identified an error in the chart, which shows a block that is larger than what is in the existing regulations; the map actually showed an historic area where fishing occurred for yellowfin sole which is larger than the special open area adopted by the Council. Mr. Krygier stated his intent is that the existing regulations be included on the maps.**

A motion by John Bundy that would remove the Cape Moffet area from the list of coral garden sites under EFH, failed 8 to 3 (Austin, Benson, and Bundy in favor).

**The Council discussed Mr. Krygier's motion at length and made several changes to the modified Alternative 5B.** All amendments to the motion were approved unanimously and are shown in Appendix 6B.

The final motion, as amended, carried without objection and is included with these minutes as Appendix 6B.

With regard to concerns expressed during public testimony on Appendix G, **Earl Krygier moved that the Council receive an annual report from NMFS that would reflect the effect of the Council's actions to designate EFH as it relates to the conservation measures imposed on permits for non-fishing activities.**

Chair Madsen stated that this report would be important in order for her to make a judgment on whether the Council adequately captured the conservation measures as outlined in Appendix G. Mr. Kurland stated his interpretation would be a general report on implementation of the EFH consultation process, meaning a description of the number and kinds of consultations covered, the results, and a summary. In response, Chair Madsen added that she is also interested in exactly how the Appendix G conservation measures get translated to those permit conditions because it's important to begin tracking the affect of the Council's actions on the permittees.

**Mr. Krygier's motion to receive annual reports from NMFS on the effects of EFH-related conservation measures imposed on permits for non-fishing activities was seconded and carried without objection.**

A transcript of the Council's discussion on EFH is available on request from the Council office.

## C-1(c) Habitat Areas of Particular Concern (HAPC)

### ACTION REQUIRED

Final action on HAPC preferred alternatives and EA/RIR/IRFA

### BACKGROUND

#### Final Action on HAPC Alternatives and EA/RIR/IRFA

The Council is scheduled to take final action on an EA/RIR/IRFA for the identification and management of HAPCs for Gulf of Alaska corals, Aleutian Islands corals, and seamounts in the EEZ. Under the terms of a joint stipulation and court order in the AOC v. Daley case, NMFS must evaluate the possible designation of HAPCs and implementation of associated management measures, and must promulgate any resulting regulations by August 13, 2006.

The Council issued a call for proposed HAPCs in November 2003 focusing on corals and seamounts, and finalized the alternatives for analysis in June 2004. Council and NMFS staff completed an EA/RIR/IRFA that evaluates four alternatives for Gulf of Alaska coral HAPCs, five alternatives for Aleutian Islands coral HAPCs, and three alternatives for seamount HAPCs. Some of the alternatives include two management options: one that would close the areas to bottom trawling, and one that would close the areas to all bottom contact gear. Additionally, some of the alternatives include a sunset provision that would close the areas for five years pending the completion of new sea floor mapping to identify high relief corals.

### AP Report

The Council received a report from the Advisory Panel outlining their discussions as they reached their preferred alternatives. The full text of the AP minutes is found in Appendix 5 to these minutes.

**The SSC did not address this agenda item.**

### COUNCIL DISCUSSION/ACTION (C-1c)

Cathy Coon presented the staff report on the analysis for Habitat Areas of Particular Concern (HAPC). Scott Miller stated that the overall finding for the analysis is of insignificant economic impact. Ms. Coon explained how the action just previously taken by the Council under EFH would change the Executive Summary of the HAPC analysis. Jon Olson and Ms. Coon presented maps on screen showing the 10 Gulf of Alaska designated sites along the continental shelf that the Council passed under EFH and then narrowed the focus to the three additional areas the Council had added.

Arne Fuglvog stated that he would be using the Executive Summary to make a motion, rather than the AP minutes, since there were significant changes to the AP's motion and they did not take the same action as the Council did on EFH. **Mr. Fuglvog offered the following motion, which was seconded by Ed Rasmuson:**

**Action 1 Seamounts—The Council adopts Alternative 3 to designate 16 named seamounts in EEZ as HAPC and prohibit all bottom contact fishing by Council managed fisheries on these seamount.**

**Action 2 GOA Corals—The Council adopts Alternative 3, Option 1, to designate three areas in SE Alaska in the vicinity of Cape Ommaney, Fairweather Grounds NW, and Fairweather Grounds SW as HAPC and prohibit bottom contact gear or bottom trawl gear in several subareas of the HAPC designated areas. Option 1. Prohibit all Council-managed bottom contact gear within five smaller areas inside these HAPCs.**

**Action 3 AI Corals—The Council adopts Alternative 3 to designate an area of Bowers Ridge as HAPC, prohibit mobile fishing gear that contacts the bottom.**

Dave Benson moved to amend the motion for Alternative 3 under Action 3, Aleutian Islands Corals, by designating an area of Bowers Ridge as HAPC to prohibit bottom trawl gear. The amendment failed 7 to 4 (Rasmuson, Benson, Bundy, and Madsen in favor).

Jim Balsiger moved to amend the motion for Option 1, Alternative 3 under Action 2, Gulf of Alaska Corals, that would add an additional restriction in the larger areas that would prevent fishing without an approved research plan. The sentence would read: “Any fishing within the larger designated area would be under a research program to be developed by the Council and agency (e.g., experimental fishing permit).” The motion failed 7 to 3; Mr. Austin was not in the room (Balsiger, Benson, and Hyder in favor)

The final motion, as submitted by Mr. Fuglvog, carried without objection (see Appendix 6B to these minutes).

Chair Madsen gave thanks to all the participants involved in workgroups that helped develop the amendment packages for EFH and HAPC. She also thanked the staff for their enormous support of the Council over the years on this issue and stated we should all be proud of ourselves for making this significant step forward.

## **C-2 GOA Groundfish Rationalization**

### **ACTION REQUIRED**

- (a) Receive report from Gulf Rationalization Community Committee and action as necessary.
- (b) Review crab/salmon bycatch data and refine alternatives.

### **BACKGROUND**

#### (a) Committee Report

The Gulf Rationalization Community Committee met January 28 in Anchorage to further refine several of the design and implementation issues related to the Community Fisheries Quota (CFQ) Program and Community Purchase Program, which are components of a proposed rationalization program for Gulf of Alaska groundfish (Item C-2(a)).

#### (b) Crab/Salmon Bycatch Discussion Paper

At the Council’s request, a preliminary analysis of salmon and crab bycatch data and options for salmon and crab bycatch reduction measures in the GOA groundfish fisheries has been updated and expanded. The discussion paper is attached at Item C-2(b). This analysis has been updated to include bycatch data as available through 2004, and expanded to include specific items as requested at the December 2004 Council meeting. The salmon and crab bycatch management alternatives are currently included in the proposed rationalization program for Gulf of Alaska groundfish. The Council may wish to refine the draft bycatch management alternatives based on this update.

## **AP Report**

The Council received a report from the Advisory Panel recommending adopting the Gulf Rationalization Community Committee’s recommendations be adopted with the following changes:

1. Strike paragraph 2 in section C 2 on page 5 (Community Purchase Program).
2. Add an Option 3 in C 1.2 (Board Representation of the Administrative Entity)  
Option 3. Membership on the administrative entity to be based on: an evaluation of community population, location of the resource, and/or regionalization, (can either stand alone or be in combination).

The AP further recommended that the Gulf Rationalization Community Committee be reconvened to address these issues: (1) ownership/lease issues in Section 1.7, (2) opting in or out of the administrative entity, and (3) whether or not individual use caps are inclusive of regular gulf quota (non-community quota).

**The SSC did not address this agenda item.**

## **COUNCIL DISCUSSION/ACTION (C-2)**

### **C-2(a) GOA Rationalization: Community Committee**

Nicole Kimball gave the staff report in which she summarized the Gulf Rationalization Community Committee report which was in the notebooks. Hazel Nelson as chair of the Committee wished to thank Phil Smith, NMFS, for attending and participating in the Committee meeting.

**Ms. Nelson moved that the Council adopt the Community Committees recommendations along with the Advisory Panel's recommended changes (above) and also the following two additions:**

- 1. The Committee is not limited to addressing only the list of issues provided by the AP when they reconvene.**
- 2. Add a sentence to the end of the third paragraph under C 2. Community Purchase Program (on page 5) which reads: "Further, it is the intent of the program to maintain and enhance current participation and access to Gulf Groundfish fisheries by those communities."**

Ed Rasmuson seconded the motion, which carried without objection. The revised motion on the Gulf rationalization community provisions is included with these minutes as Appendix 7.

### **C-2(b) Review crab/salmon bycatch data and refine alternatives**

Diana Stram provided the staff report and two figures which were placed in the notebooks. Cathy Coon answered questions concerning the maps that were part of the discussion paper.

**Doug Mecum moved to adopt the Advisory Panel's recommendations for refinement of the alternatives.** Ed Rasmuson seconded the motion.

**Hazel Nelson moved to amend Mr. Mecum's motion by adding back in "Other King Crab" and "Other Salmon" which were stricken by the Advisory Panel.** Dennis Austin seconded the motion.

**Jim Balsiger moved to amend Ms. Nelson's motion by striking "Other King Crab" and leaving in "Other Salmon".** John Bundy seconded the motion. The amendment passed with one objection (Nelson).

**Returning to Ms. Nelson's now amended motion on the floor to add "Other Salmon" back into the list of alternatives,** the motion carried 7 to 4 (with Benson, Hoedel, Rasmuson, and Madsen against).

The final motion, as amended carried without objection and is included as Appendix 8 to these minutes.

**During discussion on the motion, the Council made other specific requests for information to be included in the analysis. They are: revisiting the red king crab closures to ascertain to what extent**

**they are effective, analyzing the effects of other closed areas on salmon bycatch, and revising graphs, charts and updating annual bycatch information.**

### **C-3 GOA Rockfish Demonstration Project**

#### ACTION REQUIRED

Finalize alternatives and elements for analysis.

#### BACKGROUND

Section 802 of Title VIII of the Consolidated Appropriations Act of 2004 directed the Secretary of Commerce to develop a rockfish demonstration program for the Central Gulf of Alaska rockfish fisheries in consultation with the Council. At its April and June 2004 meetings, the Council responded to the directive of the legislation, public testimony, and an industry stakeholder proposal, by adopting for analysis a set of alternatives and elements that could be used to select an alternative to establish the demonstration program. At its October 2004 and December 2004 meetings, the Council further defined the alternatives including options for sideboards of pilot program participants. A copy of the current alternatives, elements, and options is Appendix I to (Item C-3a).

To further facilitate the analysis of alternatives, staff has prepared three discussion papers for consideration by the Council at this meeting (Items C-3a, b, c). The first discussion paper provides analyses of options within each alternative of the main demonstration program. The second discussion paper concerns the undecided options in the entry level fishery to which 5 percent of the target rockfish species would be allocated. The third discussion paper provides observer estimates of the harvest of secondary species when targeting allocated rockfish and estimates of harvests of shortraker and roughey in the Pacific cod and sablefish longline fisheries, as requested by the Council at its December 2004 meeting. Staff is also preparing a paper that will show the estimated catch of shortraker and roughey in the IPHC halibut survey in the Central Gulf of Alaska. That paper will be distributed at the meeting, if available. Staff is requesting that the Council choose specific provisions that would apply to the applicable alternatives. Selection of specific provisions, instead of leaving open decision points for future resolution, would substantially streamline analysis of alternatives. Any decisions points that Council chooses to leave unresolved could be resolved at a later meeting, including at the time of final action. The analyses provided in the discussion paper should also provide some preliminary information concerning the alternatives developed by the Council.

#### **AP Report**

The Council received a report from the Advisory Panel outlining their recommended changes, deletions and additions to the alternatives and elements. The lengthy motion is attached to this document as part of the AP minutes ([Appendix 5](#)).

**The SSC did not address this agenda item.**

#### **COUNCIL DISCUSSION/ACTION (C-3)**

Mark Fina and Jim Richardson provided the staff report on this agenda item and summarized the three discussion papers that were included in the notebooks. The Council received two supplemental handouts: an analysis of incidental bycatch in the Central GOA halibut hook & line fishery, and two tables providing total sector harvests by species and year for the catcher processor and catcher vessel sectors from 1996-2002. These items were placed in the notebooks.

Lisa Lindeman, NOAA General Counsel, answered questions concerning their memorandum (notebook item C-3 supplemental) which responded to specific questions from the Council and staff on the appropriate construction of Section 802 and the Council's authority.

**Doug Hodel moved to accept the Advisory Panel's recommendations in their minutes dated 2/11/05 at 10:05 am, with several changes in Section 9.2, CP Specific Sideboard Provisions, as follows:**

- Replace the phrase “*any other BSAI and GOA groundfish fishery*” with the phrase “*any other BSAI and GOA non-polllock groundfish fishery*” in three places on page 13 of the AP Minutes: (1) in item 1 following the paragraph that reads “*For the CP sector, the pilot program fishery participants must either:*”; (2) in item 2 following that same paragraph; (3) in the last several words of the paragraph that reads “*To the extent permitted by the motion, history may be leased...*”, and in item 2 of that same paragraph.
- On page 14 of the AP Minutes, at the end of the new paragraph that reads, “*For Alternative 3: The limited access fishery starts...*”, insert the words “*and BSAI*” between the words “*GOA standdowns*”

The motion was seconded by Ed Rasmuson. Mr. Hoedel commended the AP’s thorough work on this agenda item and stated that this program is needed in relation to the direction of Gulf of Alaska groundfish rationalization. Jim Balsiger clarified that the meaning of Mr. Hoedel’s motion is that the standdown does not apply to vessels that fish for Pollock.

Arne Fuglvog moved to amend the motion as follows:

**Section 3.3.1.2 Secondary Species, page 7 of AP Minutes, add a 3<sup>rd</sup> option (not a new provision) under the 2<sup>nd</sup> bullet which reads, “*For the shortraker/rougeye catcher vessel fleet, the allocation will be based on total catch over total catch, which yields the highest percentage during the qualifying years.*”**

The motion was seconded (unidentified) and carried without objection.

Mr. Fuglvog then moved to amend the motion as follows:

**Section 5.4 CV Sector, page 10 of AP Minutes, after the 2<sup>nd</sup> bullet there is a suboption that reads, “*An eligible processor is a processing facility with a substantial investment of \$1,000,000 or more that has purchased 250 mt of aggregate Pacific Ocean perch...*” Edit the suboption to have two threshold amounts as options. Therefore, it will read as,**

**“*An eligible processor is a processing facility with a substantial investment of***

***Option A \$1,000,000 or more, and***

***Option B: \$5,000,000 or more,***

***that has purchased 250 mt of aggregate Pacific Ocean perch...*”**

The motion was seconded (unidentified) and carried without objection.

David Benson moved to amend the motion as follows:

**Section 5.2 For all sectors, page 9 of AP Minutes, add a new bullet that reads, “*The harvest cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activity of their members and are not are not FCMA cooperatives.*”**

**Section 5.4 CV Sector, page 10 of AP Minutes, add a new bullet that reads “*Processor affiliated vessels will be permitted to join cooperatives.*”**

Mr. Benson added that the language in his motion mirrors language the Council provided for clarification to the crab rationalization program that is designed to comply with the antitrust rules. NOAA GC has advised companies in this situation of processor owned vessels to seek Department of Justice review to ensure that there are no antitrust problems, and that he is hopeful that this language will do what he intended. Mr. Fuglvog seconded the motion, which carried without objection.

**Jim Balsiger moved to amend the motion as follows:**

**Section 2.4 NMFS will determine, page 6 of AP Minutes, fishery in the non-trawl edit the first line, strike the first two bullets, and rename the suboptions as bullets. Therefore, that section should now read,**

**“2.4 NMFS will provide for an entry level fishery**

- **Equal shares distributions to the vessel applicants in the trawl sector**
- **Limited access competitive fishery in the non-trawl sector**
- **Entry permits are non-transferable and must be fished by the named vessel”**

The motion was seconded (unidentified) and carried without objection.

**Mr. Benson moved to amend the motion as follows:**

**Section 9.2 CP Specific Sideboard Provisions, page 13 of AP Minutes, the first bolded paragraph which begins “CPs that opt out of the rockfish pilot program will be prohibited...”, add a sentence to the end of this paragraph that reads, “For purposes of qualifying, history from Area 650 will be considered the same as Area 640.”**

The motion was seconded (unidentified) and carried without objection.

John Bundy pointed out that during the Advisory Panel’s report on this agenda item, Mr. Preston noted a change which is not reflected in our copy of the AP Minutes. **It is on page 14, in the Alternative 3 paragraph, the 3rd sentence should read, “For vessels that account for greater than or equal to 5 percent...”**

The Council discussed their concerns with how quickly the Council could react to abuses in this program. Dr. Balsiger reminded the Council that we do have the capacity to act quickly for conservation reasons, though he does not anticipate that issue.

**Doug Mecum moved (Fuglvog seconded) to amend the motion as follows:**

**Section 9.2 CP Specific Sideboard Provisions, page 13 of AP Minutes, replace the end of the last sentence, which reads, “actions necessary to prevent further abuses” with “action to provide a disincentive to future abuses by allocating opt out rockfish prorata to the fishery rather than to the sector.”**

Mr. Mecum made it clear that he is not necessarily saying this is the right choice, but that is exactly the purpose of his amendment—to initiate some discussion that would address concerns about the importance of doing something about abuses, having a penalty for the abuses, and figuring out how we can mechanically accomplish it.



Lisa Lindeman, NOAA General Counsel, suggested they could look at this idea relative to the concerns with respect to frameworking and APA.

Chair Madsen summarized that the AP recommended that there be an annual review, and if there were abuses the Council would take action as necessary; however, the Council cannot take action quickly and maybe not even quick enough to prevent abuses the next year. Therefore, Mr. Mecum's motion describes the action the Council will take if there are abuses after the annual review.

Ms. Madsen explained, if this motion passes, it is a placeholder that will allow for further discussion. The Council is not making the decision at this time that if there are abuses, reallocation is our only course of action; it is available to pick, but we can also change our minds or come up with a better solution before final action. It also gives notice to the public that the Council does intend, to the extent that it can, to get some kind of penalty in place immediately. When the analysis comes back, we will hear from staff whether or not it can be done.

Mr. Fuglvog said it is important to highlight this issue and hopes the effected sectors would give this some thought. He would prefer other mechanisms such as on an individual basis.

Mr. Mecum's amendment to the main motion carried with one objection (Benson).

The final motion, which incorporates the Council's changes to the alternatives, elements, and options, is included with these minutes as Appendix 9.

## **C-4 IR/IU (Amendment 80)**

### **ACTION REQUIRED**

Review progress on Amendment 80 and legal issues, and take action as necessary.

### **BACKGROUND**

In October 2004, the Council made major modifications to Amendment 80 components and options. Primary among these modifications was the removal of the sector allocations of groundfish, other than yellowfin sole, rock sole, flathead sole, Atka mackerel, Aleutian Islands Pacific ocean perch, Alaska plaice, and arrowtooth flounder to the Non-AFA Trawl Catcher Processor sector. In December 2004, the Council finalized the suite of components and options for the purpose of analysis. A copy of the current Amendment 80 motion is included in the progress report that is attached as Item C-4(a). Also included in the progress report is a Amendment 80 decision diagram, revised strawman alternatives, and a revised allocation table.

In November, Congress passed the FY 2005 Appropriations Act, which contained a BSAI Catcher Processor Capacity Reduction Program. The program authorizes \$75 million to reduce the capacity of the catcher processor fleets operating in the BSAI. The program also limits access to the non-pollock groundfish fisheries. In December 2004, the Council asked NOAA GC to provide clarification at the February 2005 meeting of the BSAI Catcher Processor Capacity Reduction Program. Included under B-1 is a Council letter listing the specific clarifications needed. Many of the issues addressed in the letter are specific to the LLP program and would not directly effect the Amendment 80 action. However, three issues could impact the proposed action and may require Council action depending on NOAA GC report.

1) Section 219(7) defines the Non-AFA Trawl Catcher Processor subsector with specific eligibility criteria. Although the Council has not selected eligibility criteria for the sector, can the Council adopt a more stringent eligibility requirement for the sector than what is in the non-pollock buyback program?

2) Relative to further development of the proposed action, if the Council continues its current course and does not include allocation of the primary target species to the AFA sectors, would that in any way compromise these sectors' eligibility for the legislated non-pollock buyback program?

3) Should the ongoing Amendment 80 analysis incorporate the assumed license reductions effected by the legislation? Depending on the recommendations of NOAA GC on these specific issues, the Council may have to modify the suite of components and options for the proposed action.

## AP Report

The Council received a report from the Advisory Panel outlining their significant changes and additions to the Amendment 80 components and options. A copy of their changes and additions is included as an attachment to these minutes.

**The SSC did not address this agenda item.**

## COUNCIL DISCUSSION/ACTION (C-4)

John McCracken provided a staff report reviewing progress on the analysis for Amendment 80. The Council also received a response to their request for legal guidance from NOAA General Counsel on the BSAI Catcher Processor Capacity Reduction Program as it pertains to Amendment 80. NOAA-GC stated that the Council could not select or impose different eligibility requirements for entrance to the Non-AFA Trawl Catcher Processor sector. General Counsel also stated that participation in the buyback program is not dependent upon an allocation under Amendment 80. Their memo was included as a supplemental item in the notebooks.

Chris Oliver read the Enforcement Committee's report on this item ([Attachment 2](#)).

**Mr. Mecum moved to adopt the Advisory Panel's recommendations in their minutes, dated 2/12/05, 9:30 am beginning on page 16, with the following changes:**

**Page 16, Component 2, 2<sup>nd</sup> line, add "*(except Pacific cod)*" after the words "... and associated secondary species..."**

**Page 16, Component 3, add back in "*Option 3.4 Retained legal catch of the sector over total legal catch by all sectors*"**

**Page 17, 1<sup>st</sup> paragraph following the suboptions, add the word "trawl" in three different places. It should read, "*The remaining portion of primary species included in this program will be allocated to the BSAI limited access trawl fishery. Trawl vessels other than Non-AFA Trawl Catcher Processor with (retained) trawl catch history from 1995-2004 and with appropriate LLP endorsements may fish in the BSAI limited access trawl fishery.*"**

**Page 17, Component 4, add a new option that reads, "*Option 4.7 Target Species Rollover: Any unharvested portion of the Amendment 80 target species in the limited access fishery that is projected to remain unused (by a specific date, August 1 or September 1), shall be rolled over to the Amendment 80 sector.*"**

Mr. Mecum made the following points in support of his motion:

- The change in Component 2 recognizes that Pacific cod is already being taken care of on a parallel tract with the BSAI Pacific cod allocation amendment as to the CDQ groups.
- Adding option 3.4 back into Component 3 gives the Council a range of flexibility relative to the percentages noted in option 4.6 in Component 4.

- Adding the word “trawl” back into the paragraph in Component 3 clarifies that it does not apply to fixed-gear sectors; this was also noted by the staff’s assumption language in italics in the document. **He also stated that throughout the AP Minutes on this item, there is bold, italicized language from staff which is not to be included in the motion.**
- Component 4, Option 4.7 was based on public testimony taken from US Seafoods’ letter in our notebooks on page 2, the first sub-option on target species rollover; it is necessary since we are adding back in Option 3.4 in Component 3.

**Sue Salvesson moved to insert the underlined words shown in Component 5, page 17 of the AP Minutes: “...(except herring and Chinook salmon)...”**

The motion was seconded by Ms. Nelson and carried without objection.

Mr. Benson moved to add section 3.4 back into Component 3. Mr. Hyder seconded the motion, which failed 7 to 4 (Austin, Benson, Bundy, and Hyder voting in favor).

A complete copy of the Council’s motion concerning the components and options for allocating Amendment 80 species to the Non-AFA Trawl Catch Processor sector and developing a cooperative program is included with these minutes as Appendix 10.

During staff tasking the Council chose to remove Amendment 80 from the April agenda in order to allow sufficient time for staff to complete the analysis. The amendment is now scheduled for initial review in June 2005 followed by final action in October 2005.

## **C-5 American Fisheries Act**

### **ACTION REQUIRED**

Review AFA cooperative agreements and end of year cooperative reports

### **BACKGROUND**

Each year the AFA pollock fishery cooperatives are required to submit year-end reports summarizing their fishing activities from the preceding year. they are also required to submit cooperative agreements for the upcoming fishing year (we have interpreted this requirement such that the cooperatives submit information only if and to what degree such agreements have been modified from existing agreements). Due to the volume of these materials, we have on hand a few copies of the complete reports, and full copies are available from our offices. Co-op representatives will provide a joint, summary report to the Council at this meeting.

As an informational item related to AFA implementation, Item C-5(a) is a copy of a recent letter received by NMFS, from the law firm of Pritchett and Jacobson, P.S. This letter requests action by the agency to implement additional restrictions on AFA vessel activities relative to the Pacific cod fisheries.

**Neither the SSC nor the AP addressed this agenda item.**

### **COUNCIL DISCUSSION/ACTION (C-5)**

Chris Oliver announced that a complete copy of the 2004 Final Coop Reports and the 2005 Coop Agreements are available from the Council office should anyone wish to get a copy.

The Council received a year-end report from representatives of the AFA pollock fishery cooperatives. John Gruver of United Catcher Boats who is Intercoop Manager, spoke on behalf of nine of the ten catcher vessel

cooperatives, and Paul MacGregor of At-Sea Processors Association, spoke on behalf of the tenth cooperative. Mr. MacGregor pointed out that he discovered an error in Table 2 of their Coop Report and it has been corrected and resubmitted to the Council office for inclusion in the final report.

## C-6 Pacific Cod Allocations

### ACTION REQUIRED

Review discussion paper on BSAI Pacific cod allocations and refine alternatives for analysis

### BACKGROUND

In October 2004, the Council modified the elements and options for BSAI Amendment 80 and removed Pacific cod allocations from that amendment package. The intent was to streamline the analysis and shift it back to its original intent, to provide the non-AFA trawl catcher processor sector with a tool to meet the groundfish retention standards adopted in BSAI Amendment 79. The Council also reaffirmed that modifications to the Pacific cod allocations could be addressed in a separate amendment. To that end, the Council initiated a discussion paper as a starting point for a new plan amendment to alter the current BSAI Pacific cod allocations.

The Council first allocated BSAI Pacific cod among the trawl (54%), fixed (hook-and-line and pot) (44%), and jig (2%) sectors in 1994 under Amendment 24. The intent was to provide stability in the trawl, fixed, and jig gear fisheries by establishing designated allocations of the Pacific cod TAC, which were expected to increase the net benefits received from the harvest of Pacific cod. These allocations expired at the end of 1996, thus the Council extended and modified the allocations under Amendment 46.

The fishery is therefore currently operating under the allocations established under both Amendment 46 and Amendment 77.1 While there is no sunset provision or regulatory requirement to review or modify these allocations, the Council's motion on Amendment 46 included a provision to review those allocations four years after implementation. This review, originally intended at the end of 2000, has not yet occurred. Amendment 77 was implemented January 1, 2004, and also has no sunset date.

In December 2004, the Council reviewed a preliminary discussion paper outlining prior Council actions regarding BSAI Pacific cod allocations, the relevant problem statements associated with these actions, and potential decision points related to structuring new alternatives and options for analysis. Upon review of the discussion paper, the Council approved a problem statement and a strawman document outlining draft components and options for the new amendment. The problem statement focuses on two issues: (1) BSAI Pacific cod allocations to all gear sectors (trawl, jig, hook-and-line, and pot); and (2) apportionment of the BSAI Pacific cod sector allocations between the BS and AI subareas. The first part of the problem statement notes the annual inseason reallocations of TAC among gear sectors and concerns that the current BSAI Pacific cod allocations do not adequately reflect actual use by sector. The second part of the problem statement addresses the need to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod TAC be apportioned between the BS and AI subareas during a future specifications process. The Council's December 2004 motion is provided as Attachment C-6(a).

The discussion paper provided for review at this meeting (Attachment C-6(b)) is intended to identify potential issues with the motion and assist in further defining the current suite of components and options.

### AP Report

The Council received a report from the Advisory Panel noting their few changes to the components and options. A detailed motions with these changes included is attached as part of the AP minutes. Additionally, the AP recommended under Part B, Components 1 and 2, that the analysis look at the variability of cod catch annually in the trawl fisheries in order to determine how much cod the various trawl sectors need in order to accommodate incidental catch needs in their non-cod target fisheries. They also recommended the Council direct staff to base the analysis of the allocations on retained over retained catch, and to include gear-specific

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1 Note that all of the recent BSAI Pacific cod allocation amendments also provide direction on how to reallocate quota that is projected to remain unused by a particular sector at the end of the year.

CP total catch and aggregate CV total catch data to inform future discussions (regarding incidental catch allowances, etc.).

**The SSC did not address this agenda item.**

#### **COUNCIL DISCUSSION/ACTION (C-6)**

Nicole Kimball provided an overview of a discussion paper for a new analysis to evaluate and modify the allocations of BSAI Pacific cod to all participating gear sectors (trawl, jig, hook-and-line, and pot).

**Arne Fuglvog moved to adopt the Advisory Panel's recommendations beginning on page 21 of their minutes dated 2/12/05 9:30 am, with modifications as follows:**

##### **In Part I –**

**Component 3, top of page 24, 2<sup>nd</sup> line down, delete from the underlined word “and” to the end of that paragraph.**

**Component 5, page 24, delete the first four introductory paragraphs.**

**Component 7, bottom of page 25, delete the AP's bolded language in the introductory paragraph, “*and all associated non-target CDQ and halibut PSQ taken incidental in the Pacific cod fisheries*”.**

##### **In Part II – Option 3, page 27, retain Options 3.1, 3.2 and 3.3.**

Mr. Fuglvog believes the AP did a great job staying on track with the problem statement in their revisions and commended staff for an excellent job laying out the issues for Council consideration. The Council had asked three questions of the public and they received input on each of them. Mr. Fuglvog made several statements in support of his motion:

- 1) With regard to eligibility issues, the AP has added a new option on AFA trawl catcher vessel in that sector for eligibility issue. Though he is not adding any eligibility for other sectors at this time, he recognizes there may be a need in the <60ft gear. However, after extensive testimony that there is some new entry and we would not be able to capture that in any kind of eligibility requirements therefore, he will not insert any at this time.
- 2) Staff recommended deleting the introduction to Component 5 because it needs rewording and they plan to explain the process much better in the analysis.
- 3) The deletion in Component 7 is necessary because otherwise it would be a duplication of what was already covered under Amendment 80a.
- 4) Adding in options 3.1, 3.2, and 3.3 – The public has requested these three earlier year groups and once we have a chance to review the data we can make the decision if they are necessary or not.
- 5) With regard to the AP's comments that removed total over total (AP Minutes, page 27-28), I would refer you to page 14 of the discussion paper where staff talks about the problems with total catch and using it in an allocation calculation, it has too many problems. Retain over retain, especially on a species like Pacific cod that we are full retention on, is the appropriate way to go.

In the references to total, the best way to help the trawl sector would be to look at what their incidental catch has been in development of possible ICAs

Ed Rasmuson seconded the motion which carried without discussion or objection. The full motion of components and options is included as Appendix 11 to these minutes.

## **C-7 BSAI Salmon Bycatch**

### **ACTION REQUIRED**

- (a) Receive update on salmon excluder EFP.
- (b) Review Discussion Paper and refine alternatives.

### **BACKGROUND**

A cooperative research study by NMFS scientists and industry, has been testing salmon excluder devices in the pelagic trawl pollock fishery, through the use of an exempted fishing permit (EFP). Researchers will be on hand to report the results of their study.

In December 2004, the Council developed a problem statement and draft alternatives to address salmon bycatch management issues in the BSAI following reports of an increasing problem with both chum and Chinook salmon bycatch, possibly exacerbated by existing regulatory measures. The Council directed staff to evaluate the analytical components and the timeline for analysis associated with the draft alternatives. A discussion paper is attached which reviews the existing salmon bycatch time and area closure regulations for Chinook and chum salmon in the BSAI, the increasing problems with salmon bycatch in 2003 and 2004, and reviews the analytical requirements and timeline for analysis of the draft alternatives (Item C-7(b)).

At this meeting, the Council may wish to refine their alternatives and the associated draft problem statement and initiate a plan amendment to evaluate these alternative mechanisms for controlling salmon bycatch in the BSAI.

## **AP Report**

The Council received a report from the Advisory Panel which outlined their intent in bifurcating the intended analysis into immediate solutions and possible alternative solutions. Alternatives 1, 2, 3 (without the suboption) would be prioritized for immediate analysis; Alternatives 4 and 5 and the sub option under alternative 3 would have a secondary priority. Of these secondary priority alternatives, Alternative 4 would have a priority.

With respect to additional considerations as listed on page 8, the AP addressed them as follows:

Additional considerations for alternatives 2 and 3:

1. AFA coops will regulate themselves by hot spot rolling closures.
2. There are no hard caps under this system.  
monitoring will be done by Sea State, understanding that caps may be contemplated under future bycatch accountability programs
3. CDQ groups to be included in the inter co-op salmon avoidance program.

The AP further recommended the Council request an annual report regarding the results of the new salmon bycatch program.

**The SSC did not address this agenda item.**

### **COUNCIL DISCUSSION/ACTION (C-7)**

Dr. Diana Stram provided the staff report. John Gauvin, John Gruver, and Dr. Craig Rose gave a presentation on their salmon excluder device research. Mr. Gauvin showed a PowerPoint and stated they would like an experimental fishing permit in order to let them perform additional design work that will allow more escapements. He said they have some other design ideas (e.g., holes in the bottom or lower sides) but the recapture device is the sticking point. Mr. Gruver explained some of the design changes, including different funnel versions, and said they need to find out whether pollock at high catch rates are creating the bulge that was ruining the nets. Dr. Rose showed a video of the salmon excluder device operating in the pollock fishery, which showed how the collapse of the funnel helps fish escape. He also noted they experienced a high catch of jellyfish that also caused bulges and performance issues. They believe that by expanding the square mesh, they may prevent the diamond mesh from bulging which could correct that problem. Mr. Gauvin said they plan to use their remaining quota to complete two more trips without a recapture net, and then work on improving it. He said it is difficult to determine performance with just the video and that they need pair comparisons with and without rotations to judge performance.

Mr. Gauvin also expressed deep thanks to Dr. Craig Rose for his work on the net designs and Melanie Brown for her help in the permit process.

**Hazel Nelson offered the following motion in a handout.**

**The Council adopts the AP motion with the following additions:**

**The annual review of performance under the suspension should include at least the following under Alternative 3:**

- **Evidence of moving the fleet away from hot spots—this is dependent on trigger rates, the spread in bycatch rates between areas, and the size of areas closed.**
- **Trigger Rates—These should recognize abundance, so rates are lower in years of low abundance and high in years of high abundance. Guidelines for setting initial trigger rates and generally acceptable total catches are probably needed. An annual review of performance will be essential.**
- **Individual accountability—while there is a certain amount of randomness in salmon bycatch, there are also measures that vessels can take to minimize bycatch. The co-ops should be encouraged to continue work on bycatch avoidance and individual accountability and required to report annually on these efforts.**
- **Review of the reliability of the total bycatch estimate.**

**The analysis should also include an analysis of the confidence intervals for salmon numbers by level of observer coverage and how that affects the reliability of the total bycatch estimate.**

**The Council further recommends that as part of this voluntary hot spot initiative, the stakeholders develop a research plan supported by industry contributions to analyze bycaught salmon stock composition, especially weak stocks in Alaska, and methods to estimate the abundance of stocks of interest both inseason and at the time they spawn.**

Doug Mecum seconded the motion.

Ms. Nelson stated that it is evident from the AP's motion that industry has come together to try to solve this problem and that the request of an annual report is a very important part of the program. She agrees with the AP's idea of splitting the alternatives into two priority groups. Ms. Nelson also feels that having the CDQ groups involved in the inter-coop agreements is important.

Chris Oliver expressed concern that the only regulatory action the Council would be taking under the AP's Immediate Priority scenario (Alternatives 1, 2, and 3) would be lifting the current closure, and that presumably, there would be, and the analysis would speak to, the measures the coops would have in place to effect the intent of this hot zone closure system. Mr. Oliver sees in this motion that leak over into the secondary priority scenario (Alternatives 4 and 5) such as trigger rates and individual accountability. What is the intent of the regulatory rulemaking measures, or are you simply recommending that the coops include something in whatever measures they're going to be developing; there is a subtle but important difference between the two. Mr. Fuglvog was also concerned with bleedover between Alternatives 3, 4 and 5.

Ms. Nelson said she is not sure where to draw the line, but that the Council is looking at suspending closures that have been in place for a long time and instead rely on industry to provide information, so it makes sense for us to define what we want them to report to us on. Her motion defines some of that she doesn't have all the answers; we need to have more discussion on how to structure what we can ask of them and how the line is better defined.

Ms. Madsen stated the Council needs to know exactly what it is that they want in these alternatives; what are the trigger rates; how do we expect them to work; what about individual accountability and are there going to be penalties.

Mr. Bundy supports Ms. Nelson's motion. He explained that the bullets in her motion are what the Council is asking the coops to come up with before we decide on anything. The coop agreements with regard to salmon bycatch have many trigger rates already in them and consequences if they don't obey the agreement. With regard to accountability, our agreements require vessels to report every salmon caught. All these things will be laid out before the Council decides whether or not to go along with Alternative 3.

Commander Cerne asked NMFS whether the hot zone closure system could be monitored by enforcement and whether they could take federal enforcement action, or would the consequences of non-compliance with intercooperative agreements simply be left to the coop?

Mr. Balsiger responded that the way the program reads now is that it would be a voluntary arrangement and closures by the coops. The only thing we are going to enforce is to see that the Chum Salmon Savings Areas are no longer in place.

**John Bundy moved to amend Ms. Nelson's motion by deleting the reference to Alternative 3 in the introductory paragraph and add the following sentence to the end, "*These points industry has requested to bring forth as part of their proposal under Alternative 4.*" Mr. Bundy also moved to delete the last paragraph which requires stakeholders to develop a research plan, move the second to the last paragraph to Alternative 4.**

Mr. Mecum seconded Mr. Bundy's amendment to Ms. Nelson's motion.

Ms. Madsen clarified what she understood Mr. Bundy's motion to say, which is, the Council suggests that the list of four bullets be included in the industry agreement, which will be part of the Council's consideration during the decision on whether they are going to suspend or not suspend the Salmon Savings Areas.



Ms. Nelson stated she supports the amendment and that it addresses the points made in discussions.

The amendment carried without objection.

The final motion, as amended, carried without objection. The final motion of alternatives and the associated draft problem statement is provided below.

**After drafting alternatives in December for managing an increasing problem with Chinook and chum salmon bycatch in the BSAI pollock fishery, the Council moved to bifurcate the alternatives into two separate analyses based upon the relative analytical timing constraints of the draft alternatives.**

## **Immediate Analysis**

### **Alternative 1: Status quo**

### **Alternative 2: Eliminate the regulatory salmon savings area closures**

### **Alternative 3: Suspend the regulatory salmon savings area closures on a year-by-year basis so long as the pollock cooperatives have in place a salmon bycatch "hot spot" closure system**

#### **Problem statement for the first analytical package (for immediate analysis):**

*In the mid-1990s, the Council and NMFS implemented regulations to control the bycatch of chum salmon and Chinook salmon taken in BSAI trawl fisheries. These regulations established closure areas in areas and at times when salmon bycatch had been highest based on historical observer data. Unfortunately, these regulations did not appear to have been effective in 2003 and 2004, when record amounts of salmon bycatch were taken. Information from the fishing fleet indicates that bycatch was exacerbated by the regulations, as much higher salmon bycatch rates were encountered outside of the closure areas. Some of these bycaught salmon include Chinook and chum stocks of concern in western Alaska. Further, the closure areas impose increased costs on the pollock fleet. To address this immediate problem, the Council will examine and consider other means to control salmon bycatch.*

#### **Further clarification on these alternatives:**

- AFA co-ops will regulate themselves by rolling hot spot closures.
- There are no hard caps under this system, monitoring will be done by Sea State, understanding that caps may be contemplated under future bycatch accountability programs.
- CDQ groups are to be included in the inter co-op salmon avoidance program.

The Council also moved to require an annual report on the results of the salmon bycatch by the cooperatives should the closures be suspended. The industry was requested to include in their bycatch cooperative agreement a list of considerations by which the annual review of performance will be evaluated. The industry agreement which is to be drafted (or revised from its current state) should include the following in their bycatch reduction criteria:

- Evidence of moving the fleet away from hot spots-this is dependant on trigger rates, the spread of bycatch rates between areas, and the size of area closed.

- **Trigger rates**-These should recognize abundance, so rates are lower in years of low abundance and higher in years of high abundance. Guidelines for setting initial trigger rates and generally acceptable total catches are probably needed. An annual review of performance will be essential.
- **Individual accountability**-while there is a certain amount of randomness in salmon bycatch, there are also measures vessels can take to minimize bycatch. The co-ops should be encouraged to continue work on bycatch avoidance and individual accountability and required to report annually on these efforts.
- **Review of the reliability of the total bycatch estimates**

The first amendment package is prioritized for immediate analysis and contains alternatives to eliminate or suspend the regulatory salmon savings area closures. The Council further requested that discussion at the April meeting be tailored towards providing additional information from the cooperatives on their internal methodology for reducing bycatch in the fleet as well as an update from NMFS on the feasibility of suspending the closures and the regulatory requirements of doing so.

The following are the alternatives (numbered based on initial draft 5 alternatives) for secondary analysis. No problem statement has yet been drafted nor timeline for analysis agreed upon by the Council. The Council revised these alternatives to add two sub-options under Alternative 5. The Council also removed the sub-option under Alternative 3 and moved it to the analysis for secondary prioritization (given concerns expressed regarding the difficulty in developing this program immediately).

## Secondary Priority

**Suboption (formerly under Alternative 3):** Develop an individual vessel accountability program that may be implemented if, after 3 years, it is determined the pollock cooperatives' "hot zone" closure system has not reduced salmon bycatch.

**Alternative 4:** Establish new regulatory salmon savings area closures based on current salmon bycatch data

**Alternative 5:** Develop a regulatory individual vessel salmon bycatch accountability program.

Sub option a: at the individual level

Sub option b: at the co-op level

The second analytical package includes alternatives for establishing new salmon savings area closures as well as the development of a regulatory individual vessel salmon bycatch accountability program at both the individual vessel level as well as at the co-op level. The Council also requested (under Alternative 4) the inclusion of an analysis of the confidence intervals on salmon numbers by level of observer coverage and how that affects the reliability of the total bycatch estimate.

## D-1(a,b,c) Groundfish Management

### ACTION REQUIRED

- (a) Receive report from Non-Target Species Committee
- (b) Receive report on rockfish management discussion paper
- (c) Review discussion paper on BSAI/GOA "other species" plan amendments

## BACKGROUND

### (a) Non-Target Species Committee

The Non-Target Species Committee was formed in October 2003 to develop improved measures to manage non-target species. A summary of committee recommendations to the Council are provided under Item D-1(a)(1)). In May 2004, the Committee convened jointly with the ad hoc working group, comprised of Scientific and Statistical Committee and Plan Team members, to review the draft problem statement, objectives, and suite of management alternatives recommended by the group for analysis (Item D-1(a)(2)). At its fourth meeting in September 2004, the committee adopted a draft problem statement for the larger initiative for Council consideration and requested additional guidance on its mission (Item D-1(a)(3)). The committee convened again in November 2004 to draft a problem statement for non-target rockfish and a suite of alternatives for analysis (Item D-1(a)(4)).

### (b) Rockfish Management

During deliberation for final action on the Programmatic Supplemental Environmental Impact Statement (PSEIS) in April 2004, the Council revised its policy and objectives for managing groundfish in the Gulf of Alaska and Bering Sea/Aleutian Islands. During its June 2004 review of the PSEIS work plan, the Council requested that staff prepare a discussion paper on appropriate elements related to rockfish management. The motion was to request that "Staff draft a discussion paper addressing rockfish management alternatives. The end product after this first step will provide guidance in conjunction with the Programmatic EIS to address appropriate elements in future FMP actions: 1. No action; 2. Harvest rates and management measures; 3. Habitat consideration."

As a first step, Council and ADF&G staff met with the Rockfish Working Group (RWG) in September 2004. The RWG, comprised of AFSC rockfish assessment scientists, will contribute to the preparation of the discussion paper. The RWG recommended that the paper address a Scientific and Statistical Committee request from December 2003 (Item D-1(b)(1)), specific management issues, and previous RWG reports provided to the Council in 2003 (Item D-1(b)(2)).

Staff drafted two outlines for the discussion paper and consulted with the Scientific and Statistical Committee at its October and December 2004 meetings. The revised outline is provided under Item D-1(b)(3). Neither the Council nor Advisory Panel reviewed or commented on the draft outlines due to other business. Therefore, preparation of the paper was rescheduled to allow for additional direction by the Council to staff on its desired contents in the context of other Council initiatives for revision of management of non-target rockfish species.

Previous presentations on management, research, and a response to the F40 Review comments on harvest strategy policies will be summarized during the meeting to determine what new information is being requested for this paper (Item D-1(b)(4)). The rockfish depletion study is the only study not presented to the Council at previous meetings.

### (c) "Other Species" Plan Amendments

In December 2004, the Council requested that staff develop a discussion paper of a proposal from the Groundfish Plan Teams and Science and Statistical Committee to amend the Gulf of Alaska and Bering Sea/Aleutian Islands Groundfish Fishery Management Plans. The amendments would provide additional precautionary management of five groups of non-target species that are managed in the "other species" category. The Plan Teams, SSC, ad hoc committee, and Non-Target Species Committee have been continuing development of recommendations for improving management of all non-target species.

The proposed plan amendments are the third step in a series of amendments under consideration by the Council at the February meeting, which were recommended by the teams, SSC, and two committees for improving management of non-target species. Step 1 would revise the GOA Groundfish FMP to set the GOA "other species" TAC  $\leq$  5% of the sum of all groundfish TACs in time for the 2006 specification cycle; this would allow for setting the category on bycatch status at the beginning of the year. Step 2 would set an overfishing level and allowable biological catch for the GOA "other species" category for the first time in the 2007 specification cycle (due to staff constraints), as is done in the BSAI. Due to analytical and stock assessment needs, BSAI/GOA "other species" plan amendments (Step 3) would not be ready for implementation until the 2007 specification cycle. At this meeting, the Council will review the paper (Item D-1(c)) and decide whether to initiate the plan amendments and set a timeline for action.

**The AP did not address this agenda item.**

## SSC Report

D1(a) Non-Target. The SSC continues to be concerned about the current regulations for setting other species TACs in the GOA because removal of skates from the other species category could allow an increase in the catch of non-target species, as may have occurred recently with the development of a spiny dogfish fishery in the GOA. The SSC underscored the need for an amendment to allow the TAC for GOA other species to be set at 5% or less of the GOA groundfish TACs.

D1(b) Rockfish. The SSC made recommendations and suggested areas of investigations for future analyses. Their full report is included as Attachment 4 to these minutes.

The SSC also addressed other items listed below under the groundfish management agenda item which can be found in their minutes (Attachment 4).

- Draft Paper on MPAs in Alaska
- Crab Overfishing Working Group
- Catch Accounting System
- Workshop on Multispecies and Ecosystem Modeling
- Ad-Hoc Meeting of Social Scientists

## COUNCIL DISCUSSION/ACTION (D-1a,b,c)

The Council received a staff report from Jane DiCosimo summarizing the Non-Target Species Committee recommendations. The committee had recommended a problem statement, goals and objectives, and draft alternatives for revising management of non-target species. The Council decided to proceed with interim steps for a precautionary approach to managing non-target groundfish species until the proposed rule for revising National Standard 1 guidelines is published.

The first step is an FMP amendment to revise the TAC-setting process for the Gulf of Alaska other species category prior to the 2006 specification cycle.

The second step was described in the discussion paper to amend the groundfish FMPs to separate the GOA and BSAI other species category into squid, shark, skate, sculpins, and octopus groups for TAC-setting. The Council referred the paper to the committee for comment which will report to the Council in April.

The Council also tasked the Non-Target Species Committee with preparation of a draft problem statement for (target and non-target) rockfish management, and a draft outline for a discussion paper to address problem(s) with current rockfish management. More detailed recommendations are provided in section D-2b Staff Tasking (in these minutes). The committee will meet in March and report to the Council in April. The discussion paper will be reviewed at the June or October Council meeting.

**The Council recommended that the Non-Target Species Committee develop a discussion paper and problem statement, and prioritize the following items for rockfish only:**

- **Areas (BSAI or GOA)**
- **Species (Target & Non-target)**
- **Harvest Rates**
- **Bycatch (including spatial & temporal information)**
- **Habitat considerations**

**Mr. Fuglvog added that it is appropriate to review these items in conjunction with the Programmatic EIS and the Council action on EFH and HAPC that was taken at this meeting.**

## **D-1(d) Aleutian Islands Special Management Area**

### **ACTION REQUIRED**

Review preliminary discussion paper and provide direction.

### **BACKGROUND**

In June 2004, the Council requested staff to examine the biological, social, economic, and management issues specific to the Aleutian Islands area, and to provide recommendations for designating this area as a special management area, or as a separate FMP, or potentially developing an ecosystem-based plan for this region.

A preliminary discussion paper was presented to the SSC, and included in the Council notebooks, in December of 2004. The same discussion paper is again attached here as Item D-1(d)(1). The SSC's minutes on this agenda item, from December, are attached as Item D-1(d)(2).

The discussion paper addresses the Council's request in two parts. First is a discussion of whether the unique characteristics of the Aleutian Islands might lead fishery managers to consider the area separately from the Bering Sea. The physical and biological characteristics of the Aleutian Islands are presented, as well as State and Federal fishery, marine mammal and seabird, cultural heritage, and research issues. The paper then examines the types of area-specific management that could be applied to the Aleutian Islands, and considers benefits and disadvantages of each. As the Council's request was made under a groundfish agenda item, the paper focuses the discussion on management options for the Aleutian Islands groundfish fisheries. There are three management options discussed in the paper: to create a special management area within the BSAI Groundfish FMP; to create a separate AI Groundfish FMP; and to develop a Fishery Ecosystem Plan for the Aleutian Islands area, and adopt additional management measures in the BSAI Groundfish FMP as necessary. A draft outline of the discussion paper is included below.

At the February 2004 meeting, the Council will decide whether the issue of area-specific management for the Aleutian Islands should be pursued. If the Council directs staff to continue work on this issue, our next task would be to further develop the discussion paper. Since December, we have been following up on the SSC's suggestions regarding consultation and additional scientific papers. In our initial conversation, the USFWS reacted positively to the ideas suggested in the discussion paper. The agency expressed a strong interest in integration of knowledge about the Aleutian Islands, evolving towards ecosystem-based management in the EEZ. A revised discussion paper would further flesh out the various management options under consideration, in particular as they compare to the various national-level ocean and ecosystem recommendations of recent months. The Council's action on any identification of HAPC sites (and EFH mitigation measures) in the Aleutian Islands would also be incorporated, and the discussion of the natural boundary of an Aleutian Islands ecosystem would be further developed.

A revised discussion paper could allow the Council, at a future meeting, to develop a problem statement for initiating an analysis of area-specific management in the Aleutian Islands.

**Neither the AP nor the SSC addressed this agenda item.**

### **COUNCIL DISCUSSION/ACTION (D-1d)**

Diana Evans provided the staff report to the Council.

Mr. Benson asked whether there is any legal significance attached to the term 'special management area'. Ms. Evans indicated that staff had not been able to find any definition of the term. Ms. Lindeman indicated that NOAA General Counsel would research the term to make sure there was no legal definition.

Mr. Bundy requested clarification from the Chair as to the role of the Council's Ecosystem Committee in the development of the discussion paper. Ms. Madsen clarified that she wouldn't oppose sending the discussion paper to the committee, but that to review the paper may be beyond the scope of the Ecosystem Committee's mission statement. Mr. Rasmuson supported having the committee take a good look at what has already been done in the Aleutian Islands with the recent EFH and HAPC actions, and to use that as a basis for deciding whether further action is required in the AI.

Ms. Madsen expressed her concern that the discussion was assuming that management options in the AI would inevitably involve further restrictions on fisheries. The discussion paper was initiated based on a recognition that a delineation between the AI and the Bering Sea is strongly supported by scientific research. The two areas are already managed separately in many instances, such as setting separate TACs for the AI and BS subareas. The discussion paper is intended to look at management approaches that would recognize that difference and perhaps adjust the management structure accordingly. Mr. Bundy agreed with her, but was still at a loss as to what action to take.

Mr. Balsiger affirmed the utility of developing an ecosystem plan for the Aleutian Islands, as a way to coordinate Council and other Federal Agency action regarding that area. He gave two examples, an IPHC issue with halibut recruitment in the AI, and proposed marine mammal commission hearings on killer whales, where an AI forum would be useful for including the Council in such discussions and generally promoting cross-Agency communication.

**Mr. Hyder moved to direct staff to continue to develop the discussion paper, as described in the action memo.** Mr. Fuglvog and Mr. Mecum supported the motion and also emphasized the importance of following through with the SSC's recommendations from December 2004. At Ms. Madsen's request, Ms. Evans clarified that given such Council direction, staff would revise the discussion paper to expand the description of AI research and activities, including an accounting of the Council's recent action on EFH and HAPC closed areas, and would address how the management options correspond to national ecosystem-based management initiatives.

Ms. Madsen confirmed that the revised discussion paper would be presented to the Ecosystem Committee at a future meeting.

The motion carried without objection.

## **D-1(e) Gulf of Alaska Pollock Trip Limits**

### **ACTION REQUIRED**

Review discussion paper and provide direction.

### **BACKGROUND**

In December 2004, the Council requested that staff develop a discussion paper (Item D-1(e)) of a proposal submitted by a representative of Western Alaska groundfish fishermen during that meeting. The proposal recommends eliminating the 300,000 lb pollock trip limit, and implementing a 300,000 lb limit of unprocessed pollock during a 24-hour period. It addresses a potential loophole in the regulations that pertains to trip limits in the Gulf of Alaska pollock fishery. It has been alleged that some vessels are delivering multiple 300,000 lb trips daily to tenders, up to the 600,000 lb tender limit in the Western Gulf, and that some fishermen are using multiple tenders and have harvested and delivered even more. While the regulations may not specifically prohibit this activity, the Council will consider whether this is consistent with its original intent to increase temporal dispersion of the fleet as part of the Steller sea lion mitigation measures, under which the trip limits were implemented in 1999. At its February 2005 meeting, the Council will review the paper and decide whether to initiate a regulatory amendment and set a timeline for action.

**Neither the AP nor the SSC addressed this agenda item.**

### **COUNCIL DISCUSSION/ACTION (D-1e)**

Jane DiCosimo summarized the discussion paper attached to the action memo and provided further up-to-date information received from Rance Morrison of NMFS Sustainable Fisheries in Dutch Harbor.

Hazel Nelson expressed concern over the long-standing problem and that while the Council is moving forward with a comprehensive rationalization program, it most likely will not be in place before this problem will occur again next season. **Therefore, Ms. Nelson moved that the Council proceed with analysis of the two alternatives presented in the staff discussion paper at the top of page 3, which read: (1) no action—limit catcher vessels to no more than 300,000 pounds of pollock on board the vessel at any time during a trip in the Western Gulf of Alaska, and (2) limit catcher vessels to no more than 300,000 pounds of pollock in a 24-hour period (noon to noon to coincide with season openings) in the Western Gulf of Alaska.**

Doug Mecum seconded the motion. Chair Madsen clarified with Ms. Nelson that she was not including the third paragraph which considers whether to expand the proposed action, but is only redefining “trip”. Ms. Nelson added that the timeline outlined by staff for possible implementation by January 2006 would be her preference.

Mr. Benson stated that we’ve heard public testimony to support that this is not as big a problem as people are making it out to be and that some participants have agreed to back off on this and keep their eye on the larger picture of Gulf rationalization. He feels we’re using a sledgehammer to drive a nail.

Mr. Benson stated he did not have a sense of where the Council was going with this motion, **and therefore, offered an amendment to the motion to include an Alternative 3 which would read “Eliminate the user of tenders in the Western Gulf of Alaska.** Doug Hoedel seconded the motion.

Mr. Benson felt that eliminating the use of tenders would be a better fix because it provides a level playing field for the processing side of things. There are some fishers that want to take advantage of weather conditions for safety reasons, roe quality conditions, and distribution of the fish (if they happen to be on their doorstep two hours out of town). Not all fishers are excited about one trip in a 24-hour period, and several people have said that may not be much of a fix anyway when you consider 22 vessels on the grounds of a 300,000-lb trip limit. Ms. Nelson’s motion is not buying much time and it does not address the issue of it occurring in state waters. The Board of Fisheries would also have to take this up and draft regulations to mirror the federal regulations. Therefore, I believe the elimination of tenders is the better option, so I would like to see it analyzed.

Mr. Hoedel agreed that Mr. Benson’s motion might be a fix.

Ms. Nelson said she did not oppose the amendment, however, she wondered if this additional analysis could be done in the same timeframe. Ms. DiCosimo replied that it would not make a significant time difference.

Ms. Madsen opposes the amendment because she is not eager to take a lot of time trying to fix a loophole if we can get industry to stop doing the practice that caused it because the problem is with the regulations. People are not doing anything illegal. We are considering doing a whole new analysis that would not only take staff time but six months of the agency’s time as well—this is really a distraction. Ms. Madsen also opposes the amendment because she believes it is too extreme—there are some small boats that need the ability to use those tenders as they have in the past which has not resulted in abuse or exceedence. She believes industry has the ability to stop the practice now without taking the time or attention of this Council, staff, and the agency to fix the problem when we all know the real solution is GOA rationalization. Therefore, she opposes the amendment but would probably support Ms. Nelson’s motion.

Mr. Rasmuson does not believe an analysis is necessary when industry has agreed to back off and Ms. Madsen and Mr. Bundy agreed with him.

Dr. Balsiger stated these were all good comments and reminded everyone that it is only a two- or three-day fishery anyway, so in the overall picture, it is a small part of the rational action.

Mr. Austin agrees with the direction of the comments at this time and would go a step further to suggest we set the entire issue aside, because when we get into staff tasking we are going to need ten times the people to deal with what we already have on the table. The cooperation is evolving out of industry to solve the problem themselves; this is not a big resource risk, so we should let them work on it while we get on to bigger things.

Mr. Mecum said he does not support the amendment because he knows little about the implications of eliminating tendering in this case. He believes this is a simple, straight forward regulatory fix. The other matter to consider is if the Council were to take this action, we would expect a companion Board of Fisheries action, and the issue of eliminating tenders would really get complicated. Therefore, he does not support the amendment.

Mr. Rasmuson agreed with Mr. Mecum and said he would vote no.

**Mr. Benson's amendment to add an Alternative 3 to eliminate tendering, failed 7 to 2 (with Hoedel and Benson in favor).**

Mr. Fuglvog stated after hearing public testimony and the various other perspectives we have heard, that the responsibility is on inseason management to control this fishery. We should not lose sight of the big picture because this is just one of many fisheries that are suffering similar problems with the race for fish in status quo. Mr. Fuglvog opposes the main motion and hopes that industry is paying close attention to the Council, because we have expectations that this will be resolved otherwise, it can certainly come back to us again.

Mr. Mecum asked Mr. Balsiger how the agency would be able to stay within GHL. Dr. Balsiger presumed that they would preannounce an opening and closing date that would be shorter than this year and try to get the information needed from expected participants ahead of time.

There was further discussion with the Council's parliamentarian, Dr. Dave Hanson, who answered questions about tabling versus postponing a motion and time certain versus indefinite.

**Mr. Mecum moved to postpone Ms. Nelson's motion indefinitely.** The motion was seconded and carried without objection.

The Council made it clear to industry that their decision was based on assurances from industry representatives that the pace of future fishing would be slower, and from NMFS that the 2006 'A' season would be more closely managed. If the problem is not addressed voluntarily, the Council may reschedule further discussion and possible regulatory action in the future.

## **D-2(a) Review Seldovia Village Request**

### **ACTION REQUIRED**

Review request from Seldovia Village to be included as an eligible community to purchase halibut and sablefish commercial quota share

### **BACKGROUND**

In April 2002, the Council approved Amendment 66 to the Gulf FMP, to allow eligible communities in the Gulf of Alaska to purchase commercial halibut and sablefish catcher vessel quota share (QS) in IPHC Areas 2C, 3A, and 3B for lease to community residents. The final rule for this program was published on April 30, 2004, and the program was effective



June 1, 2004. Overall, this amendment modifies the existing IFQ Program by revising the definition of eligible "person" that may hold halibut and sablefish quota share, with restrictions as developed by the Council.

The regulation allows small, rural, coastal communities in the Gulf of Alaska that have documented participation in the commercial halibut and sablefish fisheries to form a Community Quota Entity (CQE) non-profit organization to purchase and hold quota share on their behalf. The implementing regulations include a list of criteria to define eligible Gulf of Alaska communities that may participate in the program. Communities must meet all of the criteria outlined below, such that an eligible community must:

- be recognized by the U.S. Census as a municipality or census designated place, located on the Gulf of Alaska coast of the North Pacific Ocean;
- have a population of not less than 20 persons and not more than 1,500 persons according to the 2000 U.S. Census;
- is not accessible by road to larger communities;
- have documented historical participation in the commercial halibut or sablefish fisheries; and
- be listed on Table 21 to part 679.

The historic participation criterion listed above is specifically defined in regulation as communities for which a resident has recorded a commercial landing of halibut or sablefish between 1980 - 2000 according to Commercial Fisheries Entry Commission (CFEC) data for permit and fishing activity (69 FR 23861, 4/30/04). The Council and the implementing regulations specified that communities meeting the above criteria at final action would be listed as a defined set of qualifying communities in regulation. Any change to the list of eligible communities (see Table 21 to part 679) requires Council action to recommend such change and Secretary of Commerce approval of the change through a regulatory amendment. The final Council motion on this issue, including the list of eligible communities that was included in regulation (Table 21), is attached as Item D-2(a)(1).

The Council's action and the final rule also explicitly state that communities not listed as eligible could apply to the Council to become eligible and would be evaluated using the same criteria. On December 13, 2004, representatives of the Seldovia Village Tribe submitted a letter petitioning the Council to add Seldovia Village as an eligible community under this program. This letter is attached as Item D-2(a)(2).

Seldovia Village is located adjacent to the City of Seldovia, on the south shore of Kachemak Bay (see map attached behind memo). The 2000 U.S. Census indicates Seldovia Village has a population of 144 persons. Currently, there is no governmental entity explicitly representing the community of Seldovia Village, as there is not a municipal government, tribal government, or community association whose constituency is limited to, or defined by, those who are residents of the geographic area that constitutes Seldovia Village. The Seldovia Village Tribe IRA (Indian Reorganization Act) is a Federally recognized Indian Tribe, which includes residents of Seldovia Village and residents of the City of Seldovia (Alaska Community Database Community Information Summaries, Alaska Division of Community Advocacy). Thus, while Seldovia Village is recognized by the U.S. Census as a census designated place separate from the City of Seldovia, there is not currently an entity on whose behalf a non-profit CQE could receive and administer quota share.

While Seldovia Village residents may have historical participation in the fisheries of the Gulf of Alaska, the community does not appear to meet the eligibility criteria under this program. Staff from NOAA Fisheries, Alaska Region, Restricted Access Management Division have examined their permit records and confirmed that there is no record of a person with a given address of "Seldovia Village" ever holding a quota share certificate for commercial halibut or sablefish (Phil Smith, pers. comm., 12/22/04). Further, no such community is listed in the CFEC permit files, and the annual permit and fishing activity report compiled by CFEC shows no commercial permit and fishing activity documented by CFEC for residents of Seldovia Village. Therefore, while Seldovia Village may meet the remaining criteria, it does not appear to meet the specified criterion for historical participation. Staff recommends that should Seldovia Village contend that it does meet all of the criteria as defined above, the community would be responsible for demonstrating its eligibility.

The issue of whether Seldovia Village should be designated as an eligible community to form a CQE to purchase and hold halibut and sablefish quota share on its behalf arose during the public comment period on the proposed rule to implement this action. In addition, the issue arose as to whether individual residents of Seldovia Village should be allowed to participate as potential recipients of any IFQ derived from quota share held on behalf of the City of Seldovia, which is an eligible community under the program. The Council motion and the implementing regulations require that only permanent residents of the community represented by the CQE are eligible to lease IFQ derived from community-held quota share. The public comment provided noted that residents of Seldovia Village, which is adjacent to the City of Seldovia (see attached map), have historically participated in the commercial fisheries operating out of the City of Seldovia. As a result, and in light of the historic linkage between the City of Seldovia and Seldovia Village in terms of participation in commercial

fisheries, NMFS clarified the final rule for this program such that residents of Seldovia Village are considered eligible to lease IFQ derived from quota share held on behalf of the City of Seldovia. Thus, while Seldovia Village is not currently eligible to designate a separate CQE and purchase quota share, the final rule was modified to address the issue of potential participation by Seldovia Village residents.

In sum, according to the eligibility criteria developed for this program and the landings and permit data considered, Seldovia Village does not appear to be an eligible Gulf of Alaska community under this program. Upon request of the Seldovia Village Tribe, this issue has been scheduled for Council consideration at this meeting. This process is consistent with that used for other communities that previously petitioned for eligibility (Akutan, Haines, Saxman, Klukwan). The Council action at this meeting may include, but is not limited to: (1) determining that the current evidence is sufficient to initiate an analysis for a regulatory amendment to add Seldovia Village as an eligible community; or (2) requesting more information on this issue prior to initiating an analysis; or (3) determining that the current evidence is sufficient that Seldovia Village does not meet the criteria for eligibility and thus not initiating an analysis to that effect.

**Neither the AP nor the SSC addressed this agenda item.**

### **COUNCIL DISCUSSION/ACTION (D-2a)**

Nicole Kimball summarized the petition before the Council from Seldovia Village. The Council reviewed the petition, the community eligibility criteria developed for this program, and the Commercial Fisheries Entry Commission (CFEC) landings and permit data, and determined that Seldovia Village does not meet all of the criteria to be an eligible Gulf of Alaska community under this program. In particular, the village does not meet the historic participation criterion defined in regulation as communities for which a resident has recorded a commercial landing of halibut or sablefish between 1980-2000 according to CFEC data for permit and fishing activity.

However, the Council noted that the implementing regulations specifically allow residents of Seldovia Village to participate in the program by leasing quota share purchased and held by an administrative entity formed on behalf of the City of Seldovia (which is an eligible community located adjacent to Seldovia Village).

**Ed Rasmuson moved to deny the petition by the Seldovia Village Tribe.** Arne Fuglvog seconded the motion which carried without objection.

### **D-2(b) Staff Tasking**

#### **ACTION REQUIRED**

Review tasking and Committees and provide direction.

#### **BACKGROUND**

The list of Council committees is attached as [Item D-2\(a\)](#). The Ecosystem Committee has been reconstituted and new members have been appointed. That committee is scheduled to meet this week to develop a mission statement for the committee, review activities and recent literature on ecosystem based fishery management, and establish meeting dates through June.

[Item D-2\(b\)](#) is the three meeting outlook, and [Item D-2\(c\)](#) and [Item D-2\(d\)](#) are the summary of current projects, timelines, and tasking. Between now and the April meeting, the Council staff time is pretty much subsumed with existing projects and preparations for the 'Managing Our Nation's Fisheries II' Conference. However, the Council should discuss tasking priorities to address previously tasked projects that have not yet been initiated, and potential additions discussed at this meeting. On the list for tasking of existing projects include the items previously discussed (BSAI Pacific cod allocations, BSAI salmon bycatch, other species breakout, rockfish management, AI special management area, GOA Pollock trip limits) along with other potential new projects tasked in December. Discussion papers for two other projects (IFQ amendments, GOA other species and dark rockfish) are attached as [Item D-2\(e\)](#) and [Item D-2\(f\)](#). To complete either the GOA other species amendment package, or the IFQ amendment package, for implementation in January 2006, the

Council would need to schedule initial review in April and final action in June, which is impractical given available time and existing tasks and priorities.

At the June 2004 meeting, the Council identified priority areas for implementing the groundfish management policy previously adopted as part of the Groundfish Programmatic SEIS. The list of priorities, and a review of ongoing activities to address these actions, is attached as Item D-2(g). Many of the priorities are being addressed directly or indirectly through current Council initiatives, either as amendments underway or in the form of developmental discussion papers. Staff recently prepared a paper to categorize and evaluate our marine protected areas (MPAs) for fisheries off Alaska (attached as Item D-2(h)). Based on this paper, the Council may wish to provide comments and direction, if any, for future work on MPAs evaluation and policy.

For the other priority areas, we will revisit this list in April or June, once some of the major current initiatives become more defined, and discuss a specific process for addressing the PSEIS priorities.

**Neither the AP nor the SSC addressed this agenda item.**

### **COUNCIL DISCUSSION/ACTION (D-2b)**

Chris Oliver reported on the items that need Council direction and/or action. The Council received reports from Diana Stram on Gulf of Alaska “Other Species” and Dark Rockfish discussion paper and on Rockfish Management. Jane DiCosimo provided a report on the discussion paper for Halibut and Sablefish IFQ Omnibus V. David Witherell summarized his draft manuscript Application of Marine Protected Areas for Sustainable Production and Marine Biodiversity off Alaska. Ms. Madsen noted that Mr. Witherell’s paper had been distributed to the MPA Federal Advisory Committee in September and was generally well received.

### **COMMITTEES**

Ms. Madsen noted that the EFH Committee is finished with their work and will be disbanded.

Ecosystem Committee. Ms. Madsen stated that the Ecosystem Committee has been reconstituted with new membership and she will serving as Committee chair. The committee is scheduled to meet later this week. **During Council discussions on this agenda item it was noted that the Aleutian Islands management discussion paper should be reviewed by the committee at their next formal meeting.**

GOA Community Committee. **Ms. Madsen stated that she recognized the need for the Committee to meet, at least one more time, to address the AP’s recommendations that the Council agreed with, to address some unfinished business relative to the Community Purchase Program, and a few other items they need in order to finish their work.**

Non-Target Species Committee. **The Council recommended that the Non-Target Species Committee develop a discussion paper and problem statement, and prioritize the following items for rockfish only:**

- **Areas (BSAI or GOA)**
- **Species (Target & Non-target)**
- **Harvest Rates**
- **Bycatch (including spatial & temporal information)**
- **Habitat considerations**

**Mr. Fuglvgog added that it is appropriate to review these items in conjunction with the Programmatic EIS and the Council action on EFH and HAPC that was taken at this meeting.**

The Council also recommended that the Non-Target Species Committee review the alternatives for the “Other Species” TAC calculation (below).

Mr. Mecum requested that an ADF&G representative be placed on the Non-Target Species Committee.

Enforcement Committee. There will be no enforcement representative placed on the Advisory Panel, per the Enforcement Committee’s recommendations.

### PROJECTS, TIMELINES AND TASKING

Halibut and Sablefish IFQ Program Amendments. The Council reviewed a discussion paper on the proposed amendments and revised the suite of alternatives. **The Council made the following changes: (1) combined the first two issues into one action; (2) added two discussion points for the analysis of sablefish pots: (a) use of escape rings; and (b) limiting soak time, and (3) added an alternative to allow voluntary surrender of unused QS and an option to allow a lottery for awarding removed or surrendered QS to qualified crewmen.** (M/S Fuglvog/Rasmuson; carried no objection). A full list of the proposed actions adopted by the Council for analysis is included with these minutes as Appendix 12.

GOA “Other Species” and Dark Rockfish. The Council moved to split the proposed GOA plan amendments (the “other species” TAC calculation and the removal of dark rockfish to state management) into two separate amendment packages. (M/S Fuglvog/unidentified; carried no objection)

The Council revised the alternatives for the other species TAC calculation in order to streamline the analysis such that it could be in place in time for the specifications process in 2006. The following alternatives were approved for analysis as a plan amendment: (M/S Balsiger/Fuglvog; carried no objection)

**Alternative 1: Status Quo.** TAC for the other species complex is established in regulations as equal to 5% of the sum of the target species TACs.

**Alternative 2:** Set the other species TAC as  $\leq 5\%$  of the sum of the target species TACs. This would allow for some conservative flexibility in establishing other species TAC below the maximum allowed and would potentially allow for some directed fishing to occur in the complex.

**Alternative 3:** Set the other species TAC at a level sufficient to meet anticipated incidental catch levels in other directed fisheries during the fishing year. Under this alternative, directed fishing on the other species complex would be prohibited and the complex would be placed on bycatch-only status by NMFS at the beginning of the year.

**Suboption:** Revise maximum retainable allowances for “other species” by fishery.

### 3-MEETING OUTLOOK

April 2005 Agenda: EFH in Bering Sea (staff tasking), BSAI Pacific cod allocations, Adak issue golden king crab season dates, and BOF efforts on GOA Rationalization proposal (staff tasking)

June 2005 Agenda: Amendment 80

Joint Council/Alaska Board of Fisheries meeting February 25, 2005 (this will be a publically noticed coordination meeting—no action to be taken):

- AI pollock (specifically proposal that BOF is going to take up)
- Golden king crab season dates (by Balsiger)
- CDQ overages for crab fisheries (Proposal #420) – put in regulation a prohibition on after-the-fact transfers to prevent potential overages, consistent w/Council’s motion on crab.
- Legislation update by BOF on GOA Rationalization
- Notify BOF of Council’s action on EFH & HAPC
- Provide summary of BSAI Salmon Bycatch (developing proposal and are considering changing our management)
- Notify BOF of our action on crab and salmon bycatch:

### **OTHER ITEMS**

Tippler Request for Observer Cameras. The Council reviewed a letter from Captain Wayne Tippler owner of F/V MAR PACIFICO, requesting that NMFS install cameras on board his vessel to replace federal observers due to chemical sensitivity. The Council will send a letter to Mr. Tippler explaining that at the current time it is not possible for the Council to move forward on his request. The letter will explain the federal process and that perhaps in the future there could be vehicles to build in a waiver to address special cases such as this.

### **D-3 OTHER BUSINESS**

Chris Oliver announced that the Coast Guard and Industry will be putting together a workshop on safety, and search and rescue under the new Crab Rationalization Program which will be held Wednesday evening during our April meeting.

#### **AP and SSC Election of Officers**

The Council’s Advisory Panel and Scientific and Statistical Committee elected new officers at the February meeting to serve a one-year term. The AP elected Eric Olson, Quota Manager for Bristol Bay Economic Development Corporation as Chairman, and John Henderschedt of Premier Pacific Seafoods and Joe Childers as co-Vice Chairmen who will report the panel’s actions to the Council. The SSC elected Dr. Gordon Kruse as their new Chair, and Pat Livingston as the new Vice Chair.

**Hazel Nelson moved to approve Eric Olson as the new Advisory Panel Chair.** Doug Hoedel seconded the motion which carried without objection.

### **E. CHAIR’S REMARKS AND ADJOURNMENT**

The Chair Madsen adjourned the meeting at 4:52 p.m. on Sunday, February 13, 2005.