

MINUTES

161st Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
March 31-April 8, 2003
Seattle, Washington

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North Pacific Fishery Management Council

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Certified Stephanie D. Madsen
Stephanie Madsen, Chair

Date March 31, 2004

MINUTES

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL March 31-April 8, 2003 Anchorage, Alaska

The North Pacific Fishery Management Council met April 2-8, 2003, at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met March 31-April 2, and the Advisory Panel met March 31-April 4, at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

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

Dennis Austin, Vice Chair
Dr. David Fluharty
Roy Hyder for Lindsay Ball
Stephanie Madsen
Hazel Nelson
RADM James Underwood/CAPT Richard Preston

NPFMC Staff

Chris Oliver, Executive Director
Gail Bendixen
Cathy Coon
Jane DiCosimo
Elaine Dinneford
Diana Evans

Dr. Mark Fina
Nicole Kimball
Jon McCracken
Dr. Diana Stram
Shannon Vivian
David Witherell

Support Staff

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

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

Scientific and Statistical Committee

Dr. Keith Criddle
Dr. Steven Hare
Dr. Mark Herrmann
Dr. Anne Hollowed
Dr. George Hunt

Dr. Gordon Kruse
Dr. Richard Marasco, Chair
Dr. Terry Quinn
Dr. Jack Tagart, Vice Chair
Dr. Doug Woodby

Advisory Panel

Dave Benson
Dave Boisseau
John Bruce, Chairman
Al Burch
Craig Cross
Tom Enlow
Lance Farr

Duncan Fields
Dave Fraser
Bill Jacobson
Teressa Kandianis
Mitch Kilborn
Kent Leslie
Tracey Mayhew

Sandra Moller
Kris Norosz
Eric Olson
Jim Preston
Michelle Ridgway
Jeff Steele
Jeff Stephan

Other Attendees

The following people signed the attendance register:

Simeon Swetozof, Jr.
Jack Hill
Frank Kelty
Jeff Stephan
Robert Mikol
Greg Baker
Jan Jacobs
James Mize
Joe Childers
Chris Arnim
Thorn Smith

Mimi Tolva
Heather McCarty
Craig Cross
Eric Hollis
Arni Thomson
Jake Jacobson
Brent Paine
Earl Comstock
Joe Sullivan
Phillip Lestenkof
Whit Sheard

Marcus Alden
Vince O'Shea
Gary Johnson
Ben Enticknap
Al Burch
Josh Sladek Nowlis
Luci Roberts
Beth Stewart
Simon Kinneen
Mike Szymanski

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

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

Chairman David Benton called the meeting to order at approximately 8:14AM on Wednesday, April 2, 2003. He congratulated Dr. David Fluharty for serving as a Council Member for the past 9 years pointing out that the June meeting will be Dr. Fluharty's last as his term expires in August 2003.

The Council heard a short presentation by Catriona Glazebrook on the International Bering Sea Forum held at the Alyeska Prince Hotel in Girdwood the same week of the Council meeting. Mr. Igor Mikhno, Commissioner of Fisheries and Deputy Chief of Chukotka, Russia, also gave a short speech.

Agenda. Kevin Duffy moved to approve the agenda as submitted. The motion was seconded by Stephanie Madsen and carried without objection.

B. REPORTS

The Council received written reports from the Executive Director (Agenda item B-1), NMFS Management (B-2), ADF&G (B-3), U.S. Coast Guard (B-4), and the U.S. Fish & Wildlife Service (B-5).

DISCUSSION RESULTING FROM REPORTS

Executive Director's Report

Executive Director Chris Oliver spoke of a letter he received from Dr. Doug DeMaster, AFSC Regional Director, naming Dr. Anne Hollowed and Pat Livingston to serve as his alternates on the SSC as well as another letter from Dr. DeMaster nominating Dr. Kerim Aydin to the BSAI Plan Team. Mr. Oliver also received a letter from Vera Alexander, Dean of the University of Alaska-Fairbanks, recommending Dr. Robert Foy as the replacement for Lew Haldorson on the Gulf of Alaska Plan Team.

Mr. Oliver pointed out a letter in the notebooks outlining funding for the North Pacific Research Board. The letter stated the Board received only \$7 million instead of the \$14 million expected, but in keeping with their statutory mission focused on areas tied to fishery management problems.

Chris reminded Council members that the June meeting in Kodiak will be extended an extra day - from Wednesday through Wednesday - to handle extra issues.

Mr. Oliver spoke of the previous day's Joint Protocol Committee meeting, chaired by Dennis Austin, where several issues were discussed and for which a summary will be forthcoming. He then mentioned there will be a report available in a few days from the Enforcement Committee, chaired by Roy Hyder.

Chris then spoke briefly about the Fisheries Conference in Washington, DC this fall. The Conference will include all other Councils as well as NOAA Fisheries, giving the opportunity to highlight the current fisheries system and its accomplishments, as well as looking at those challenges still remaining. The Conference will be held on November 13-15 at the Omni Shoreham Hotel. A draft agenda and outline was placed in the notebooks under Agenda Issue B-1(e) indicating keynote speakers, regional council involvement, and panel discussion topics. Chris mentioned that over the next month or two panel membership will be determined as well as establishment of a website, anticipating a mix of scientists and

academic experts, but won't call for papers from keynote speakers. Chris asked that if anyone was interested in being a keynote speaker or wanted to nominate someone else, to please contact him by the end of April. Stephanie Madsen asked if the Council could take up this issue under Staff Tasking with the intent of possibly developing a Council Committee. Chairman Benton agreed to this suggestion.

The last thing Mr. Oliver reported on was the IRIU Technical Committee meeting in March, the discussion on cooperatives, and that Paul MacGregor and Joe Sullivan agreed to host a co-op meeting on either Thursday or Friday after the Council adjourns.

NMFS Management Report

Sue Salveson gave a brief update on the status of Final Rules, and on the new catch accounting system by Galen Tromble, replacing the old Blend system. The new system accounts for catch at a level of the haul which is very specific and much more adaptable to changes in the program. The new system is available on the NMFS website.

Stosh Anderson asked Ms. Salveson about the summer bycatch requirements and implications of the fall "B" season Gulf of Alaska cod harvestability in that it appeared to have some allocative implications. Ms. Salveson replied that the "B" season starts September 1 and that the Council made a decision, incorporated into regulation, to provide full access in the "A" season to the directed fishing allowance in an attempt to optimize the P. cod harvest during the "A" season in terms of aggregated stocks and current fishery operations. The Council also decided to accrue any bycatch that occurred at the closure of the "A" season over the summer and deduct it from the "B" season allocation. The net effect of that decision is that the "B" season allocation could end up being quite small, but that if the allocation issue is of sufficient nature to raise concerns at the Council level, NMFS may need to go in that direction to reapportion allocations.

Lastly, Ms. Salveson brought Council members' attention to a brief report stating NMFS could pursue a pilot project to look at alternative deployment strategies for observers in the Gulf of Alaska. Ms. Salveson handed out an overview of the pilot project in a question/answer form to gather information for testing a new way of deploying observers in order to obtain more accurate data without increasing the total amount of observer coverage. Under a grant with the Pacific States Marine Fisheries Commission, vessel operators will interface under contract with Pacific States and with a contracted observer company to obtain observer coverage highlighting where they're going to fish. The program is slated run June 29 through August 20 and NMFS staff have already been in Kodiak discussing the program with industry people. If a vessel operator, under contract, follows the rules communicating adequately on changes in plans, the observer will be paid for. In the next few weeks, Pacific States will be releasing a request for proposals for an observer contractor and will have draft contracts for vessels wishing to participate in the program. Electronic log books are a component of the program and electronic copies of the catch point software are available to vessel operators intending to participate in the program and NMFS is taking steps making sure technical support is available for installment and on-going operation of the software.

Ed Dersham, Board of Fisheries, spoke briefly of the previous day's Joint Protocol Committee meeting. He also advised the Council that the Board has not had the opportunity to bring the four new Board members up speed on MPA issues, but they will do so and get back to the Council as soon as possible on those issues.

ADF&G Report

Herman Savikko presented ADF&G's report to the Council and a hard copy was placed in the notebooks. Dr. Balsiger questioned Mr. Savikko about a proposal to allow sablefish EQS to be taken out of the regular

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season under the terms of a research permit issued by ADF&G. Mr. Savikko agreed to provide an answer to Dr. Balsiger later.

Ed Dersham stated Mr. Savikko's report triggered a couple things he wanted to report on, including the Prince William Sound statewater P. cod fishery where there had been little or no effort in that fishery and the GHL had been lowered from 25% to 10% of the TAC with the provision that if the 10% was attained, the GHL would be increased up to 15% and if that was attained in a subsequent year, it would go back to 25%. The other issue was halibut LAMPS, where they've struggled getting a LAMP process going in Prince William Sound due to receiving proposals from the charter side on gear conflicts between them and the longliners. At a meeting two years ago in Cordova, they reached an agreement that the charter boats in Valdez and the commercial boats in Cordova would go back and work on local LAMPS around their communities and once those were worked out, they agreed to meet on a Sound-wide basis and present it to the Board, but that has not yet occurred. The Board has received an extensive report from Scott Meyer in Homer taking commercial catch data and charter catch data in Prince William Sound, but it's tough to bring those two statistical areas together. However, the report didn't show much for gear conflicts or problems. Mr. Dersham told the last group of charter people who brought in proposals he didn't see it being solved under the LAMP process because there wasn't agreement on the problem statement, and they may come to the Council looking for resolution.

Stephanie Madsen questioned Mr. Dersham on the P. cod reduction in GHL from 25% to 10% and whether it was effective immediately. Mr. Dersham replied no, as the Board didn't take emergency action to have it implemented, however he suspected it was still a couple months away.

USCG Report

Rear Admiral Underwood, USCG, began by pointing out several changes had taken place in the USCG in the last few months. He thanked Chairman Benton for his leadership, Dr. Fluharty and Ben Ellis for their service on the Council, and thanked the Council for support the USCG receives in efficacy of enforcement and safety. On March 1st, the USCG moved out of the Department of Transportation and into the newly created Department of Homeland Security. Also in March, the national threat level was set at a higher level demanding the USCG rebalance their resources in order to provide safety and security to the nation, and prioritize ports and threats for their criticality to the nation. In Alaska thus far, the USCG has been able to meet the heightened security threats without degrading their capability for enforcement and search and rescue efforts in fisheries. Enforcement of the Maritime boundary line, the high seas drift net, and IFQ enforcement for domestic fisheries will all remain high priorities for the USCG in Alaska. The structure of the USCG as it went into this new department was to retain its military multi-mission maritime capabilities intact as an organization. This was led largely by the contingency from Alaska and has been successful and supportive to them.

Captain Rich Preston then gave a short report on USCG activities from the period November 1, 2002 through March 15, 2003. A copy of his report was placed in the notebooks. Roy Hyder asked Captain Preston why there was such a low turnout or no turnout for the safety and damage control training offered by the Coast Guard in Dutch Harbor, St. Paul and Kodiak and if there was anything the Council could do to improve the turnout at these training offers. Captain Preston responded they'd seen a negative trend and it was difficult, as training is a real hands-on experience. He stated the Coast Guard would very much like to train people and offered that if anyone had questions, other training topics or suggestions as to how they could do it differently, they wanted to hear from them. The Coast Guard has had good success in past years in Kodiak and Dutch Harbor in the crab industry and would like to continue that success.

USFWS Report

Tony DeGange gave a short report to the Council on the US Fish & Wildlife Service, supported by Greg Balogh, Kim Rivera and Shannon Fitzgerald. Mr. DeGange began by announcing that Dave Allen, Regional Director for Alaska, was moving to Region 1 in Portland, Oregon and Rowan Gould, currently Region 1's Deputy, would be the new Regional Director for the USFWS effective April 15th. Tony spoke briefly on the decline of sea otters, population decline of Kittlitz's Murrelets (a small seabird found in glacially influenced coastal marine habitats), and funds to address seabird bycatch. A copy of his report was handed out to Council members and placed in the notebooks. Mr. DeGange then acknowledged Kathy Kuletz, and reminded people she would be hosting a meeting in the AP Meeting Room outlining USFWS funds and the projects using those funds. Kevin Duffy asked if any of the technical studies on sea otters were available on the USFWS website, to which Tony replied he believed so, but would make sure that information was available to the Council and the public as those studies became available.

Greg Balogh then gave a Powerpoint presentation of two Biops covering three endangered seabirds: short-tailed albatross, Steller's eider and the spectacled eider. The biops include the overall fisheries management plan (as an umbrella consultation) with another tiering down from that on the TAC-setting process for the longline and trawl fisheries.

Stephanie Madsen asked Greg to explain the "two incidental take birds for the life of the project". Greg responded that the FMPs are revised on five year intervals while the TACs are revised annually, but they had set up re-initiation measures in the biop making it unnecessary to re-initiate consultation every time the TAC is adjusted. The TAC would have to be changed substantially before re-initiating consultation. The life of the project would be five years for the FMP or until the TAC is dramatically changed; or based on new information, they could reinitiate at any time. Dr. Balsiger suggested the Council discuss getting staff from both NMFS and USF&W together in Kodiak in June to talk more about this issue.

Kim Rivera then gave a short presentation on potential interactions of the trawl fisheries with the short-tailed albatross.

FORMAT FOR COUNCIL MEETING MINUTES

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

C. NEW OR CONTINUING BUSINESS

C-1 Gulf of Alaska Rationalization

ACTION REQUIRED

- (a) **Review draft alternatives, elements and options and provide clarifications to staff**
- (b) **Review Table of Contents for Environmental Impact Statement/Regulatory Impact Review**

Alternatives, elements and options

The Council adopted a suite of alternatives, elements and options to rationalize the Gulf of Alaska groundfish fisheries in December 2002. The Council revised the suite as a result of a staff discussion paper and public testimony in February 2003. Staff has annotated the revised suite of alternatives, elements and options for additional clarifications (Item C-1(1)). A summary of the alternatives in under Item C-1(2).

For the June 2003 Council meeting, staff will provide a discussion paper on three topics for Council review and possible action: (1) additional modifications or clarifications of the suite of alternatives, elements, and options for allocation of cooperative, processor, and catcher/processor shares; (2) consideration of paring down the range of options under certain elements up front that would result in significant savings in time, cost, and redundancy of preparing the EIS/RIR/IRFA, and allow its completion within the proposed timeline, and (3) strategy for structuring the EIS alternatives to conform with NEPA requirements.

EIS/RIR Workplan

Staff has prepared a draft outline for preparation of the Environmental Impact Statement (Item C-1(3)) and Regulatory Impact Review (Item C-1(4)). A proposed timeline for completion is presented below.

<u>Council meeting</u>	<u>Agenda Item</u>
June 2003	Clarify alternatives, elements and options Discuss strategy for structuring EIS alternatives
October 2003	Review progress and take action as necessary
December 2003	Review progress and take action as necessary
February 2004	Preliminary review of EIS/RIR/IRFA
March 2004	Initial Review of EIS/RIR/IRFA
June 2004	Identify preferred alternative

Scientific and Statistical Committee Report

The Scientific and Statistical Committee did not address this agenda issue.

Report of the Advisory Panel

The Advisory Panel endorsed the staff's changes presented in a redline version of the Elements and Options document and made many changes and additions. All AP recommendations carried without objection, unless noted by vote counts.

DISCUSSION/ACTION

Dennis Austin moved the Council adopt the AP recommended Elements and Options document dated April 1, 2003. The motion was seconded by Roy Hyder. Kevin Duffy asked if Mr. Austin was incorporating staff's recommendations as there were still several issues needing Council clarification. Mr. Austin replied affirmatively that he intended to include editorial changes made by staff and not changed by the AP, assuming the AP accepted those changes. Stephanie Madsen stated she had incorporated most of the AP recommendations, taken out the questions, and had a black and white version that could potentially become the main motion after the Council reviewed it. After discussion, Council members felt more comfortable using the document prepared by Ms. Madsen and not having to compare the AP's recommendations during deliberations. **Mr. Austin withdrew his motion** with Mr. Hyder's concurrence. **Stephanie Madsen moved**

a substitute motion entitled **North Pacific Fishery Management Council Gulf of Alaska Groundfish Rationalization Alternatives, Elements and Options, dated April 3, 2003**. The motion was seconded by Stosh Anderson. The motion, as amended, is shown below with additional language shown underlined and deletions shown stricken out.

ALTERNATIVE 1. STATUS QUO (NO ACTION ALTERNATIVE)

ALTERNATIVE 2. HARVEST SHARE PROGRAM

SUBALTERNATIVE 1. HARVESTER ONLY SHARE PROGRAM

Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat-separate areas

Stosh Anderson moved to delete the sentences shown below. The motion was seconded by Ben Ellis and carried without objection.

~~EGOA Pacific cod is exempted~~

~~Analyze exempting EGOA P. cod and not exempting WYAK P. cod~~

~~SEO is exempt except for bycatch and sideboard issues~~

SEO is exempt except for Shortraker, Rougheye, and thornyhead as bycatch species

Gear: Applies to all gear except jig gear

Lisa Lindeman requested the Council clarify "present participation" in the qualifying periods shown below in Element 1. Chairman Benton responded saying the Council probably would not be at a place to take final action on this until 2004, so maybe in the data sets available staff should keep updating them with most recent catch data available. Ms. Lindeman believed this would cover her concern.

David Fluharty moved to change the suboption shown below to a new Option 5. The motion was seconded by Stosh Anderson and carried without objection. **Dr. Fluharty continued by moving to add the option of dropping a third year in Option 3.** The motion was seconded by Stosh Anderson and carried with Roy Hyder objecting. **Dr. Fluharty then moved to add a new Option 6 for years 2000-2002, drop 1 year.** The motion was seconded by John Bundy and carried with Stephanie Madsen objecting.

Element 1. Qualifying periods (same for all gears in all areas)

(Option: AFA vessels assessed as a group)

Option 1. 95-01 (drop 1 or 2)

Option 2. 98-01 (drop 1)

~~Suboption: 98-02 (drop 1 or 2)~~

Option 3. 95-2002 (drop 1 or 2 or 3 years)

Option 4. 95-97 (for AFA vessels)

Option 5. 98-02 (drop 1 or 2)

Option 6. 2000-02 (drop 1)

The following applies to all options:

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Suboption: Exclude 2000 for pot gear Pacific cod
One of 2 years dropped applies for suboption on p. cod

Will make further reduction of year options at June Council meeting.

Roy Hyder moved to delete (ii) on both Options 1 and 2 under Element 2 as shown below. The motion was seconded by Kevin Duffy and carried without objection.

Element 2. Qualifying landing criteria

Total pounds landed will be used as a denominator to determine catch history allocations.

Issue 1. Landings based on retained catch for all species (includes WPR for C/P sector)

- Option 1. catch history for p. cod fisheries determined based on a percentage of retained catch per year
 - i. Does not include meal
 - ~~ii. For flatfish species, have staff prepare a qualitative analysis of the amount of flatfish and rockfish which went to meal during the qualifying period.~~
- Option 2. catch history determined based on the poundage of retained catch
 - i. Does not include meal
 - ~~ii. For flatfish species, have staff prepare a qualitative analysis of the amount of flatfish and rockfish which went to meal during the qualifying period.~~

Issue 2. Eligibility to receive catch history:

- Option 1. Any person that holds a valid, permanent, fully transferable LLP license.

Roy Hyder moved to add a new suboption shown underlined below, and delete Option 2 as shown stricken out below. The motion was seconded by Stephanie Madsen and carried without objection. Due to the addition of this suboption, the remaining suboptions shown below were renumbered as indicated.

Suboption 1: Any person that held a valid interim LLP license as of January 1, 2003.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e. moratorium qualification or LLP license) of an LLP qualifying (i.e. GQP, EQP, RPP and Amendment 58 combination) vessel have been transferred, the distribution of QS to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. Only one catch history per LLP license.

Include in the GOA rationalization program:

- Suboption ~~±~~2: Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 23: Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

~~Option 2. QS allocation to an individual with legal landings in a federally managed groundfish fishery~~

- ~~a. vessel owner at time of landing~~
- ~~b. current vessel owner~~
- ~~c. Lease holder at time of landing -- A person who owns a vessel cannot be a QS recipient for that vessel during the duration of the lease. Evidence of the lease must be provided as described in CFR 679.40(a)(3)(C)(iii)- Evidence of a vessel lease in the IFQ program~~

Element 3. Target Species Rationalization Plan

Target Species by Gear

Issue 1: Initial Allocation of catch history

- Option 1: Allocate catch history by sector and gear type
- Option 2: Allocate catch history on an individual basis

- a. Trawl CV and CP:
Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish.
- b. Longline CV and CP:
Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder.
- c. Pot CV and CP:
Pacific Cod

Issue 2. QS/IFQ Designations

- Option 1. Vessel categories:
 - Suboption 1. No Categories
 - Suboption 2. Vessel Categories as follows
 - Vessels < 60'
 - Vessels >= 60' and < 125'
 - Vessels >= 125'
- Option 2. QS Sector designations:
 - Suboption 1. No designation of QS/IFQ as CV or CP
 - Suboption 2. Designate QS/IFQ as CV or CP. CV QS/IFQ conveys a privilege to harvest a specified amount. CP QS/IFQ conveys the privilege to harvest and process a specified amount. Designation will be based on:
 - a. Actual amount of catch harvested and processed onboard a vessel by species.

- b. All catch in a given year if any was legally processed onboard the vessel by species.

- Option 3. QS Gear designations:
- Suboption 1. No gear designation
 - Suboption 2. Designate QS as either Longline, Pot, or Trawl
 - Suboption 3. Longline and pot gear QS/IFQ may not be harvested using trawl gear.
 - Suboption 4. Pot gear QS/IFQ may not be harvested using longline gear

Issue 3. Transferability and Restrictions on Ownership of QS/IFQs

- Option 1. Persons eligible to receive QS by transfer must be (not mutually exclusive):
- Suboption 1. US citizens who have had at least 150 days of sea time
 - Suboption 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time.
 - Suboption 2a. Entities that have a U.S. citizenship with 20% or more ownership
 - Suboption 3. Initial recipients of CV or C/P harvest share.
 - Suboption 4. U.S. citizens eligible to document a vessel.
 - Suboption 5. Communities would be eligible to receive QS by transfer (see Element 9).

- Option 2. Restrictions on transferability of CP harvest shares
- Suboption 1. CP QS maintains their designation upon transfer
 - Suboption 2. CP QS maintains their designation when transferred to persons who continue to catch and process CP QS at sea, if CP QS is processed onshore after transfer, CP QS converts to CV QS.

Dennis Austin moved to delete the sentence shown stricken out below and take up the issue under Option 4, Vertical Integration, section below. The motion was seconded by Roy Hyder and carried without objection.

~~Upon transfer of CP shares to onshore holders of Processing Shares or licenses are exempt from CP ownership caps.~~

David Fluharty moved to delete Option 3 below in its entirety. The motion was seconded by Dennis Austin. Dr. Fluharty believed this option was redundant with Option 2 above and set up a one-way flow for transference of shares. The motion failed 3-8 with Balsiger, Bundy and Fluharty voting in favor.

- Option 3. Redesignate CP shares as CV shares upon transfer to a person who is not an initial issue of CP shares:
- a. all CP shares
 - b. trawl CP shares
 - c. longline CP shares

- Option 4. Vertical integration (See also placeholder under Option 6)
QS initial recipients with more than 10% limited threshold ownership by any holder of processing shares or licenses are:
- Suboption 1. capped at initial allocation of harvest CV and CP shares
 - Suboption 2. capped at 115-150% of initial allocation of harvest CV shares
 - Suboption 3. capped at 115-150% of initial allocation of harvest of CP shares

Option 5. Definition of sea time
Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

Option 6. Leasing of IFQs ("leasing of IFQs" is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as "hired skipper" requirement in halibut/sablefish program).

- Suboption 1. No leasing of CV IFQ (QS/IFQ holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Suboption 2. No leasing of CP IFQ (QS/IFQ holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Suboption 3. Allow leasing of CV IFQ, but only to individuals eligible to receive QS/IFQ by transfer.
- Suboption 4. Allow leasing of CP IFQ, but only to individuals eligible to receive QS/IFQ by transfer.
- Suboption 5. Sunset [CP - CV] IFQ leasing provisions [3 - 5 - 10] years after program implementation.

Stosh Anderson moved to add a control date of 03 April 2003 to the second sentence of Option 7, as shown underlined below. The motion was seconded by Ben Ellis and carried without objection.

Chairman Benton then clarified that throughout this Alternatives, Elements and Options motion the term "QS" should be interpreted as "share".

Option 7. Separate and distinct QS Use ("ownership") Caps
Vessel Use caps on IFQs harvested on any given vessel shall be set at two times the use cap for each species. Initial issues that exceed the use cap are grandfathered at their current level as of a control date (03 April 2003); including transfers by contract entered into as of that date. Caps apply to all harvesting QS (share) categories by species with the following provisions:

- Suboption 1. Apply individually and collectively to all QS holders in each sector and fishery
- Suboption 2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Option 1. Trawl CV and/or CP (can be different caps):
Use cap based at the following percentile of catch history for the following species: (i.e., 75th percentile represents the amount of QS that is greater than the amount of QS for which 75% of the fleet will qualify.)

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish

- Suboption 1. 75%
- Suboption 2. 85%
- Suboption 3. 95%

Option 2. Longline and Pot CV and/or CP (can be different caps)
based on the following percentiles of catch history for the following species:

Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish

- Suboption 1. 75%
- Suboption 2. 85%
- Suboption 3. 95%

Stosh Anderson moved to add a new Suboption 3, as shown underlined below.

Suboption 3.

i. CP shares converted to CV shares

Option 1: will count toward CV caps

Option 2: will not count toward CV caps at the time of conversion.

ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

Mr. Anderson gave a short supporting statement followed by Mr. Duffy explaining that (i) gave a clear choice and (ii) responded to issues identified in testimony by the public where they could be adversely affected under the cap structure. The motion was seconded by Kevin Duffy and carried without objection.

Option 8. Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued QS units.

Suboption 1. No owner on board restrictions.

Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/harvesters would be designated as "owner on board." The analysis will provide the upper end of the range.

Suboption 3. All initial issuees (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.

Suboption 4. Shares transferred to initial issuees in the first 5 years of the program would be considered the same as shares initially issued (range of 5 -X% of the quota shares).

Suboption 5. "owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ/ITQ.

Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).

Stosh Anderson noted the range of percentage shown above in Suboption 2 asking if the range should be narrowed down to one number. Chairman Benton asked Jane DiCosimo, who referenced the last sentence in Suboption 2 stating the analysis would provide the upper end of the range. Ms. DiCosimo felt this served as notice to the public that the analysis would provide the upper end of the range. The Chairman asked if this meant the Council would receive a more qualitative analysis than a quantitative analysis. Mark Fina responded it would probably be qualitative in that a corporate name might be shown on the LLP or boat

registration, or an owner on board the boat signing the fish ticket. He also recommended people in the industry chime in where appropriate, and believed they would. Ben Ellis asked if, for consistency, the range of percentage shown in Suboption 4 should also be from 5-100%. Ms. DiCosimo replied this was a clerical issue and staff would take care of it.

Option 9. Overage Provisions

a. Trawl CV and CP:

Suboption 1. Overages up to 15% or 20% of the last trip will be allowed- greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year's IFQ. Underages up to 10% of last trip IFQs will be allowed with an increase in the subsequent year's IFQ.

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if an IFQ holder goes over his/her IFQ when incentive fisheries are still available).

b. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages- greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).

Suboption: Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if an IFQ holder goes over his/her IFQ when incentive fisheries are still available).

Option 10. Retention requirements for rockfish, sablefish and Atka mackerel:

Suboption 1. no retention requirements

Suboption 2. require retention (all species) until the IFQ for that species is taken with discards allowed for overages

Suboption 3. require 100% retention (all species) until the IFQ for that species is taken and then stop fishing.

Option 11. Limited processing for CVs

Suboption 1. No limited processing

Suboption 2. Limited processing of rockfish species by owners of CV QS is allowed consistent with limits set in the LLP program which allows up to 1 mt of round weight equivalent of groundfish to be processed per day on a vessel less than or equal to 60ft LOA.

Option 12. Processing Restrictions

Suboption 1. CPs may buy CV fish

a. 3 year sunset

Suboption 2. CPs would be prohibited from buying CV fish

a. 3 year sunset

Suboption 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and QS portion of flatfish) from CVs.

Suboption 4. Exempt bycatch amounts of these species delivered with flatfish

Element 4. Allocation of Bycatch Species

Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish

Includes SEO Shortraker, Rougheye, and Thornyhead rockfish.

Option 1. Allocation of shares

a. Allocate shares to all fishermen (including sablefish & Halibut QS fishermen) based on fleet bycatch rates by gear:

Suboption 1 based on average catch history by area and target fishery

Suboption 2 based on 75th percentile by area by target fishery

b. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.

Suboption: Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Option 2. Include these species for one gear type only (e.g., trawl). Deduct the bycatch from gear types from TAC. If deduction is not adequate to cover bycatch in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

Option 3. Retain these species on bycatch status for all gear types with current MRAs.

Option 4. Allow trawl sablefish catch history to be issued as a new category of sablefish QS ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.

Suboption.: These shares may be used with either fixed gear or trawl gear.

Element 5. PSC Species

Issue 1. Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line and trawl entities.

Option 1. Same as that under IFQ sablefish and halibut programs

Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded

Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded

Issue 2. Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (QS) based on their allocation of the directed fishery QS. Bycatch only species would receive no halibut allocation.

Option 1. Initial allocation based on average halibut bycatch by directed target species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

Suboption 1. By sector average bycatch rates by area by gear

a) Both sectors

b) Catcher processor/Catcher Vessel

- Option 2. 5%
- Option 3. 7%
- Option 4. 10%
- Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

Issue 4. Permanent transfer of Halibut PSC QS mortality

Option 1. Groundfish QS and Halibut PSC QS are non-separable and must be transferred as a unit.

Suboption: exempt Pacific cod

Option 2. Groundfish QS and Halibut PSC QS are separable and may be transferred separately

Issue 5. Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

Option 1. retention is limited to (range 10-20%) of target species

Option 2. permit holder must have sufficient QS/IFQ to cover landing

Dennis Austin moved the Council change the title of Element 6 below from “Underutilized species - includes” to “Incentive Fisheries”. The motion was seconded by Kevin Duffy and carried without objection.

Element 6. ~~Underutilized species~~ includes Incentive Fisheries

Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish.

Owners of shares must utilize all their shares before participating in incentive fishery in fisheries for which there is an open access fishery

Stosh Anderson moved to add a new suboption as shown below. The motion was seconded by Ben Ellis and carried without objection.

Suboption: The portion of historic unharvested TC associated with the west Yakutat subarea shall be available as an incentive fishery subject to the provisions of incentive fisheries.

The incentive fishery is limited to persons that hold harvest share and adequate PSC and bycatch species to prosecute these fisheries.

Issue 1. Eligibility to fish in the incentive fisheries

Option 1. Any person with a valid LLP

Option 2. Entities that have 20% or more U.S. ownership and at least 150 days of sea time with 10 mt of fixed gear QS or 50 mt of trawl QS.

Option 3. Entities that have 20% or more U.S. ownership with 10 mt of fixed gear QS or 50 mt of trawl QS.

Issue 2. Allocation of underutilized species in the incentive fisheries.

Option 1. Allocate catch share to the historical participants (closed class) of the underutilized species for the qualifying years. Available open access fishery quota is the available TAC for that fishing year minus the closed class fishery quota allocation as outlined below (open access fishery quota creates an incentive for fishermen to fish cleaner (either by gear conversion or reduction in halibut bycatch rates in other directed fisheries). If no halibut is allocated to the fishery through an open access set aside, the only entry mechanism is halibut savings.)

- Suboption 1. Allocate QS as a fixed allocation in metric tons. If available TAC is less than the total fixed allocation in metric tons, then reduce participants' allocation pro-rata amongst closed class QS holders.
- Suboption 2. Catch history is based on 125% of catch history. If available TAC is less than the total fixed allocation in metric tons, then reduce participants' allocation pro-rata amongst closed class QS holders.
- Suboption 3. For underutilized species, the combined total of all pounds landed during the qualifying years will be compared with the total TAC for the qualifying years to determine the percent of the fishery utilized. During each successive year the percent of the fishery utilized is applied to the total TAC with the resulting sum apportioned among qualifying vessels. The remaining TAC is available for an open access fishery.

David Fluharty moved the Council delete Element 7 below in its entirety. The motion was seconded by Roy Hyder. Dr. Fluharty believed that this type of entry level program was sending the wrong kind of signal in the context of the overall rationalization program. Stosh Anderson agreed with Dr. Fluharty in that most boats would have to go 80-90 miles offshore to participate in this fishery, but pointed out there were several places along the coast where you don't have to go that far to prosecute this fishery. He felt it was worth leaving in the motion and looking at it. Kevin Duffy agreed with Mr. Anderson and was inclined to leave the entry level program in the motion as he believed between this meeting and the June meeting there would be no analytical time focused on this issue. Hazel Nelson stated that if this element remained in the motion it could provide good information to base a future decision on. She did question, however, how an entry level rockfish program would fit in with the areas with existing state waters rockfish fisheries. Chairman Benton agreed and wondered if by the June meeting staff could have a discussion paper indicating the impact of this new program. Glenn Merrill, NMFS staff, agreed to have a discussion paper outlining who was in, who was out, how it might prevent an open access race for fish, etc., in a general sense for the June meeting. The motion failed 3-8, with Bundy, Fluharty and Hyder voting in favor.

John Bundy moved to insert "CV" in Option 1, as shown below. The motion was seconded by Ben Ellis and passed 8-3 with Anderson, Balsiger and Nelson voting against.

Element 7. Entry level rockfish program

- Option 1. Allow entry level jig and <60 ft CV longline harvests of Pelagic shelf rockfish
 - Suboption 1. include Pacific ocean perch
 - Suboption 2. a range of 3 to 15% of the TAC will be set aside to accommodate this fishery
 - Suboption 3. Determine catch accounting methods. Then, defer decisions on remainder of program to a trailing amendment.

Suboption 4. Catch of these vessels would be deducted from the following years TAC prior to distributing QS. After initial allocation, defer design of program to trailing amendment.

- Option 2. No entry level rockfish fishery for:
- Suboption 1. Gulf wide
 - Suboption 2. Central Gulf including West Yakutat
 - Suboption 3. Western Gulf

Element 8. Skipper/Crew and Second Generation

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Note: Skipper definitions needed to distinguish differences between sectors

- Option 1. No skipper and crew provisions
- Option 2. Allocate percentage to captain:
- Suboption 1. Initial allocation of 2% shall be reserved to qualified captains
 - Suboption 2. Initial allocation of 5% shall be reserved to qualified captains
 - Suboption 3. Initial allocation of 7% shall be reserved to qualified captains

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

Element 9. Communities

Hazel Nelson moved for the Council to add new language applicable to Element 9, Communities, as follows:

CDQ communities may not purchase or participate in the Gulf community fisheries quota or community purchase program. The motion was seconded by Stosh Anderson. Mr. Anderson stated he didn't think it was Ms. Nelson's intent to exclude people, but thought there were a couple Bering Sea communities that weren't CDQ communities. Chairman Benton clarified that intent was for staff to help identify some of the overlap or gray area communities in June. Mark Fina replied he was worried there wasn't enough information to break down into population thresholds, economic thresholds, etc., and didn't want to get into a situation of having to identify which ghost towns were in and which were out. Chairman Benton agreed, and understood the in-depth look would be for the whole analysis and probably wouldn't be available by June. The motion carried without objection.

Option 1. Regionalization

Issue 1. Regional Areas the following applies to both Central and Western Gulf areas:

If adopted, all processing share allocated to shorebased processors are categorized by region. Processing shares that are regionally designated cannot be reassigned to another region.

Catcher Vessel Harvest shares are regionalized based on where the catch was processed not where it was caught.

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Catcher processor shares and incentive fisheries are not subject to regionalization

Central Gulf: Two regions are proposed, which would be used to classify harvesting and (if adopted) processing shares: North - South line at 58 degrees 51.10' (Cape Douglas corner for the Cook Inlet Bottom trawl ban area)

The following fisheries will be regionalized for shorebased catch:

Pollock in Area 630, CGOA flatfish (excludes Arrowtooth flounder), CGOA Pacific ocean perch, CGOA northern rockfish and pelagic shelf rockfish (combined), CGOA Pacific cod (inshore), GOA sablefish (trawl), WY pollock

Western Gulf: The following fisheries will be regionalized for shorebased catch:

Pacific cod in Area 610, pollock in Area 610, pollock in Area 620

- Option 1. Dutch Harbor (including Akutan)/Sand Point
- Option 2. Kodiak/Sand Point
- Option 3. Both

Boundaries will be defined in June. (Stephanie Madsen commented that this statement referring to boundaries would probably need latitude/longitude lines in order to clearly distinguish each area.)

Issue 2. Qualifying years for regional shares

- Option 1. Consistent with preferred alternative under Element 1, Qualifying period

Option 2. Community Fisheries Quota (CFQ)

Issue 1. Administrative Entity

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Community level

Issue 2. Eligible Communities

- Option 1. Population:
 - a. Less than 1,500 residents
 - b. Less than 2,500 residents
 - c. Less than 5,000 residents
 - d. Less than 7,500 residents
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to the Central and Western Gulf management areas inclusive of Yakutat within 5 nmi

from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Hazel Nelson moved the Council insert a new (d) under Option 2 above as shown underlined. The motion was seconded by Kevin Duffy. Chris Oliver asked how Ms. Nelson defined "adjacent" in her motion. Stosh Anderson then spoke of a discussion about "adjacent" in the GOA Work Group where they considered it 10 nautical miles for (b), adjacent to salt water. He thought that could be applied to management areas as well.

After a short break for discussion, Kevin Duffy thought 5 nautical miles would work for "adjacent to salt water," and further clarified that on the south Alaska peninsula he understood this concept captured communities currently qualified under the Bering Sea CDQ program; they would not be qualified for purposes of this program. **Kevin Duffy moved to define qualifying communities would be within 5 nautical miles of salt water on the south side of the Alaska peninsula, adjacent to these management areas and would not include communities that are part of the Bering Sea CDQ Program (if they are within 5 nm).** The motion was seconded by Ben Ellis and carried without objection.

- Option 3. Economy (based on all fish).
- a. GOA fisheries dependent communities defined as communities with a range of greater than 10-30% of their base industry economy is harvesting or processing related. (includes all fisheries)
 - b. GOA fisheries supplemented communities defined as communities with a range of 5-10% of their base industry economy is harvesting or processing related. (includes all fisheries)
 - c. All GOA communities.

Staff will analyze other proxies that could be used to describe fishery dependence, such as the number of permits as a proportion of the population, historic processing or fishing data, or other data sources.

- Issue 3. Species
- Option 1. All rationalized groundfish species
 - Option 2. Limited to species that can be caught without (hard on) bottom trawling

Issue 4. Allocation

Harvester shares

- Option 1. 5% of annual TAC
- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC
- Option 4. 20% of annual TAC

Processing shares

- Option 5 5% of annual processing allocation
- Option 6. 10% of annual processing allocation
- Option 7. 15% of annual processing allocation
- Option 8. 20% of annual processing allocation

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Issue 5. Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels
- Option 2. Limited to residents of eligible communities
- Option 3. No limitations on who harvests shares

Issue 6. Use of Revenue

- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
- Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
- Option 3. Education, social and capital projects within eligible communities as well as governmental functions.

Option 3. Community Purchase Program

Eligible communities.

- Option 1. Population:
 - a. Less than 1,500 residents
 - b. Less than 2,500 residents
 - c. Less than 5,000 residents
 - d. Less than 7,500 residents

- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 miles of the Gulf Coast

- Option 3. Economy (based on all fish).

Staff will analyze other proxies that could be used to describe fishery dependence, such as the number of permits as a proportion of the population, historic processing or fishing data, or other data sources.

- a. GOA fisheries dependant communities defined as communities with a range of 10-30% of their base industry economy is harvesting or processing related (includes all fisheries).
- b. GOA fisheries supplemented communities defined as communities with a range of 5-10% of their base industry economy is harvesting or processing related. (includes all fisheries).
- c. All GOA communities

Option 4. Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT QS and holds these shares in trust for the communities, processors and crew members in the region to use as leverage to mitigate impact directly associated with implementation of a rationalization program.

Issue 1. QS Distribution

10-30 % of the Harvester QS shall be originally reserved for GOA CIFT associations. This QS will be a pool off the top before individual distribution of QS.

Issue 2. CIFT Designation

- Option 1. One CV CIFT for entire GOA (exclude SEO)
- Option 2. Regional CV CIFTs:
 - Suboption 1. Central GOA (Kodiak, Chignik)
 - Suboption 2. Western GOA
 - Suboption 3. North Gulf Coast (Homer to Yakutat)
- Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment.

David Fluharty moved to delete Option 4, Community Incentive Fisheries Trust (CIFT), in its entirety.

The motion was seconded by Roy Hyder. Dr. Fluharty recalled the Council discussing not including this option at the previous Council meeting, and pointed out the Advisory Panel clearly recommended (with a 6-12 vote) the Council remove this option. He also believed it would unduly complicate an already complex process which was highly allocative in nature, particularly for those currently struggling to stay afloat. Stosh Anderson asked for clarification in that he recalled the Council did include this motion at the previous Council meeting. Chris Oliver stated the Council did retain the CIFT option but pared it down to a decision on whether and how much it would be, deferring administrative structural details to a trailing amendment. Mr. Anderson did not believe the CIFT option was allocative in nature, but provided an opportunity for rents obtained from the quota share the CIFT would have can be retained with the harvesters and effect protections needed within the Gulf of Alaska in the transition to rationalization. Kevin Duffy concurred with Mr. Anderson's comments relative to the CIFT and reminded Council members they were shaping the document in an attempt to streamline. He believed there were many community protection options in the document and this was not the time to eliminate the CIFT option. The motion failed 4-7 with Austin, Bundy, Fluharty and Hyder voting in favor.

Option 5. Community Protection under Processing Shares

This option should be moved under Alternative 4.

Option 2. Communities will be allowed to buy processing history -- First right of refusal for communities for all processing history designated for that particular community that is sold to entities outside the community.

Note: Use provisions similar to the right of first refusal in the Crab rationalization program.

Element 10. PSC Crab, Salmon, and Other Species (Excluding Halibut)

Prepare a discussion paper to describe processes currently underway to address bycatch of salmon, crab and herring and other forage fish species (including FMP amendments and PSEIS options for crab bycatch). The paper should (1) provide timelines and how they relate to the GOA rationalization timeline; (2) describe fishery, survey, and habitat data sources that will be used. Based on the recommendations in the paper, the Council would determine if (1) existing processes are sufficient or if some measures need to be more closely linked to rationalization decisions, and (2) if other or additional management approaches are appropriate to include in a rationalized fishery in a trailing amendment.

Put Element 10 (PSC Crab and Salmon) on the same status with other trailing amendments (including skipper/crew shares; fee and loan program; CIFT issues). The discussion paper would be done parallel to the EIS similarly to how analysis of the other trailing amendments is planned.

Element 11. Review and Evaluation

Issue 1. Data Collection

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

Issue 2. Review and Sunset

John Bundy moved to delete the words “6 months prior to the sunset date” at the end of the first sentence in the paragraph below. The motion was seconded by Stephanie Madsen. In trying to explain how a sunset date works, Lisa Lindeman stated that in the FMP and in regulations there is a termination date for the program that’s set by the Council. If the sunset date is removed, there has to be an FMP amendment and a regulatory amendment which would take longer than 6 months; it implies a big plan amendment process. **Hazel Nelson moved to amend Mr. Bundy’s amendment so the first sentence of the paragraph below would read: “The program would sunset unless the Council decides to continue or amend the program.” The second sentence of the paragraph is retained as is. The motion also included modifying the Affirmative action paragraph shown below the Options, as indicated.** The motion was seconded by Stephanie Madsen and carried without objection.

The program would sunset unless the Council decides ~~affirmative action~~ to continue or amend the program ~~is taken by the Council 6 months prior to the sunset date.~~ The decision of whether to continue or amend would be based on an evaluation of the program's performance compared to its objectives.

- Option 1. 5 years after fishing under the program
- Option 2. 7 years after fishing under the program
- Option 3. 10 year schedule after fishing under the program
- Option 4. No sunset provision.
- Option 5. Formal program review at the first Council meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the problem statement and the Magnuson-Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

~~Affirmative action: The Council undertakes a written review of the rationalization program, solicits proposals to modify the program, conducts an analysis with elements and options of these modifications and follows through with final action.~~

Kevin Duffy moved to add a new Option 5, as shown underlined above. The motion was seconded by Stosh Anderson. Mr. Duffy stated he thought the formal program review kept the Council from having to set a sunset date and accomplishing other tasks on set dates. The motion carried without objection.

Element 12. Sideboards

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in SEO and BSAI groundfish fisheries.

~~Includes SEO.~~

Stosh Anderson moved to insert “SEO and” in the sentence shown above, and strike “Includes SEO” also shown above. The motion was seconded by Ben Ellis and carried without objection.

ALTERNATIVE 2. HARVEST SHARE PROGRAM

SUBALTERNATIVE 2: HARVESTER ONLY SHARE PROGRAM WITH A COOPERATIVE.

ELEMENTS 1 - 11 AND THEIR ASSOCIATED OPTIONS FROM ALTERNATIVE 2, SUBALTERNATIVE 1 ARE INCLUDED.

Option 1. Harvester only (1-Pie) Cooperatives

Suboption 1. IFQ Holder Cooperatives

1. Co-op formation is voluntary
2. Allocation of IFQ is determined under Alternative 3, Subalternative 1
3. Co-ops can be formed between:
 - a. Eligible Harvesters only
 - b. Harvesters and a Processor
 - i. At least 4 harvesters none of whom are owned by the co-op processor (using the 10% threshold rule)
 - ii. Processors can associate with more than one co-op each comprised of 4 or more harvesters none of whom are owned by the co-op processor (using the 10% threshold rule)
 - iii. Processors are limited to 1 co-op per plant for each specific gear type
 - c. CVs and CPs
 - i. Cooperatives will be segregated into CVs and CPs.
 - ii. Cooperatives will not be segregated into CVs and CPs.
4. Eligible processors are any legally licensed processing facility
5. Set co-op use caps at 25 to 75% of total TAC by species
6. Vessel use caps would be set at 1.5-2 X the individual cap if participating in the co-op and grandfather initial issues at their initial allocation
7. Overage and underage limits would be applied in the aggregate at the co-op level
8. Monitoring and enforcement requirements would be shared by co-op
9. Annual IFQ permit would be issued to the co-op
10. Duration of cooperative agreements
 - a. 1 year
 - b. 3 year
 - c. 5 year

11. Vessels (Steel) and LLPs used to generate IFQs used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments

12. Co-op allocations. Co-op members may internally allocate and manage the co-op's allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op's allocation of target species, non-target species and halibut mortality, as may be adjusted by interco-op transfers. Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement.

Suboption 2. Mandatory Co-ops (includes all co-op formation provisions from Suboption 1, Voluntary Co-ops, with the following additional provisions)

1. Co-ops must be formed before any QS is allocated as IFQ (a harvester can only receive an allocation of IFQ by joining a cooperative).

2. CPs would be allowed to form a sector co-op which does not need to meet conditions 3-8 below.

3. Allocation of IFQ to harvesters who elect to join a co-op is determined under Alternative 3, Subalternative 1.

4. Allocations to Co-ops will only be made under the following conditions:
Required Co-op agreement elements:
Harvesters and processors are both concerned that rationalization will diminish their current respective bargaining positions. Therefore, a pre-season co-op agreement between eligible, willing harvesters and an eligible, and willing processor is a pre-requisite This co-op agreement must contain:

1) A price setting formula for all fish harvested by the co-op

2) A fishing plan for the harvest of all co-op fish

5. Eligible harvesters who are also eligible processors cannot participate in price setting negotiations. A 10% ownership trigger will be used to determine the linkage between the harvester and the processor.

6. Eligible harvesters who are also eligible processors must participate in the co-op. A 10% ownership trigger will be used to determine the linkage between the harvester and the processor.

Lisa Lindeman questioned the use of the word "penalty" in 7(1) and 7(2) below as typically in an FMP the word "penalty" refers to actions by Enforcement. Chairman Benton responded by saying he thought it indicated some loss of quota share, not an FMP/Magnuson-style Enforcement penalty with a fine. Ms. Lindeman asked if staff could think of a different word, to which Mark Fina, NPFMC staff, suggested "forfeiture" or "share forfeiture". After further discussion, **Kevin Duffy moved to replace the word "penalty" with "share reduction" shown underlined in (2) below.** The motion was seconded by Stosh Anderson and carried without objection. Mr. Duffy clarified he intended this to be a global replacement throughout the motion.

7. Harvesters must declare prior to fishing which Co-op they will deliver to in a given year.

- 1) No penalty for moving between co-ops year to year
 - 2) A one year 10-20% penalty share reduction each time a harvester moves to a different co-op. There shall be a limit on the voluntary migration of harvesters from co-op to co-op such that no co-op loses more than 20% of its annual allocation in any single year.
8. Ownership and Usage of Co-op allocations
- a. At least 20% of the harvester allocation share owned by the co-op processor-owned vessels must be available for lease to other co-op harvesters, at prevailing market lease rates.
 - b. No mandatory leasing provision
9. QS holders that do not choose to join a co-op
- a. May fish in open access
 - b. Are not allowed to participate in the rationalized fisheries until they join a co-op

ALTERNATIVE 2. HARVEST SHARE QUOTA SHARE BASED PROGRAM

MOVE SUBALTERNATIVE 3. SECTOR ALLOCATION PROGRAM WITH COOPERATIVES INTO SUBALTERNATIVE 2 OF ALL ALTERNATIVES.

Management Areas, Gear, Elements 1: Qualifying periods, and 2: Qualifying landing criteria, of Alternative 2, Subalternative 1 apply throughout.

Element 3. SECTOR IDENTIFICATION

The following sectors are eligible to receive a sectoral allocation by area:

Option 1.	CP Trawl
Option 2.	CP Longline
Option 3.	CP Pot
<u>Option 4.</u>	<u>CV Trawl</u>
<u>Option 5.</u>	<u>CV Longline</u>
<u>Option 6.</u>	<u>CV Pot</u>

John Bundy moved to restore the AP's recommendation of Options 4-6, as shown above. The motion was seconded by David Fluharty. Mr. Bundy stated he thought by keeping the catcher vessel trawl allocation in this section, it might help reduce confusion of the AP's recommended Alternative 5, Sectoral Allocation to CVs and CPs. Stephanie Madsen stated she would not oppose this motion but would support the inclusion of catcher vessels because both the Council and Committee had already looked at sector allocations. The motion passed 10-1 with Anderson voting against.

The Council came back to this issue later in the meeting for discussion of possible reconsideration of the motion to include the CV sector (shown above in Options 4-6). **Stephanie Madsen moved to reconsider the motion shown above.** The motion was seconded by Stosh Anderson. Ms. Madsen was concerned that by allowing catcher vessels to form co-ops where there is more than one co-op per sector, there could be multiple co-ops. She was concerned that staff thought it might possibly be better as a stand-alone alternative. She was also concerned with the lack of participation in a CIFT program and that it didn't contain any elements on AFA co-ops. Dr. Balsiger stated he was thought it looked like there was protection for processors, but not for harvesters. Dr. Fluharty thought there might be a way to make it work by bifurcating the motion such that CVs were separate and keep the CP sector analysis as shown in the motion. Ben Ellis

asked if there was any other place in the document where the information was found if the CV sector was removed from the motion above. Mark Fina stated there was a good amount of overlap in Alternative 3 and that staff could come back in June and talk about potential gaps the Council may have to fill. **The motion to reconsider passed 9-2 with Austin and Fluharty voting against.**

Kevin Duffy stated he concurred with Ben Ellis' previous comment about being more consistent and clear in their direction to staff. **The Council then voted unanimously to include Options 4, 5 and 6 in Element 3, Sector Identification, shown above.**

Chairman Benton then tried to give clear direction to staff in the analysis to at least identify those components that would be germane to including catcher vessels under a sectoral split. He followed by asking Council members if that direction covered their concerns. Dr. Fluharty responded that a sector approach didn't really work and that was why it didn't come through the committee in the same way. He continued by asking if there was a way to identify the workability of it, and if so would like to see that in June. Council members agreed.

Element 4. Target Species

As listed in Alternative 2, Subalternative 1, Element 3, Issue 1 - a, b, c and Issue 3, Option 1, 9, and 11.

Element 5. Bycatch Species

As listed in Alternative 2, Subalternative 1, Element 4

- Option 1. Allocation of quota shares.
 - a) Allocate quota to all sectors based on sector bycatch rates.
 - Suboption 1. Based on average catch history by area and target fishery
 - Suboption 2. Based on 75th percentile by area by target fishery
 - b) Allocation will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.
 - Suboption: Other rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.
- Option 2. Retain these species on bycatch status for all sectors with current MRAs.

Element 6. PSC Species

- Issue 1. Accounting of Halibut Bycatch
 - Option 1. Halibut bycatch would be managed by NMFS at the sector level.
 - Option 2. Halibut bycatch would be managed at the co-op level
- Issue 2. Halibut PSC Allocation
 - Option 1. Initial allocation based on sector average bycatch rates for the qualifying years.
 - Option 2. Allocations will be adjusted pro rata to equal the existing PSC.

Element 7. Underutilized Incentive Species

- Option 1. Underutilized allocated Incentive species are available for harvest by any sector with sufficient PSC and bycatch to prosecute the fishery, once that sector's allocation of that underutilized species has been used.

Option 2. Incentive species are available for harvest, providing the vessel has adequate PSC and bycatch species, under the following conditions:

Suboption 1. If a sector does not form a co-op, the unallocated incentive species are available for harvest by the sector once that sector's allocation of the incentive species has been used.

Suboption 2. If a co-op is formed in a sector, the individual co-op member's apportionment of that species has to be used prior to that individual gaining access to the unallocated portion of the incentive species. The co-op member does not have to wait until all co-op members have used their individual apportionments.

Suboption 3. For vessels not participating in a sector co-op, the unallocated incentive species are available for harvest once the non-co-op sector's allocation of the incentive species has been used.

John Bundy moved to modify Element 7, Underutilized Species, by changing the existing language to Option 1, and adding an Option 2 as shown above. The motion was seconded by Stosh Anderson. Mr. Bundy stated his intent was to flesh out the incentive species issue. The motion carried without objection.

Element 8. Communities

As in Alternative 2, Subalternative 1, Element 9, Areas) and Option 2 (Community Fisheries Quota).

Element 9. Review and Evaluation

~~Issue 1. Review~~

~~Evaluate the results of program based on overall GOA rationalization objectives.~~

~~Issue 2. Sunset~~

~~Add per Alternative 2, Subalternative 1.~~

Chris Oliver, Executive Director, asked for clarification in substituting the same language developed for Alternative 2, Subalternative 1, Element 11, Review and Evaluation (see pp. 22-23 of these minutes), for Element 9, Review and Evaluation shown above (Alternative 2, Subalternative 3), and any other Review and Evaluation section contained in this motion. Chairman Benton responded affirmatively, to maintain consistency. Therefore, the language shown below replaces that language shown above in Element 9, Review and Evaluation, in its entirety.

The program would sunset unless the Council decides affirmative action to continue or amend the program ~~is taken by the Council 6 months prior to the sunset date~~. The decision of whether to continue or amend would be based on an evaluation of the program's performance compared to its objectives.

- Option 1. 5 years after fishing under the program
- Option 2. 7 years after fishing under the program
- Option 3. 10 year schedule after fishing under the program
- Option 4. No sunset provision.
- Option 5. Formal program review at the first Council meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the problem statement and the Magnuson-Stevens Act standards. This review

shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

Affirmative action: The Council undertakes a written review of the rationalization program, ~~solicits proposals to modify the program, conducts an analysis with elements and options of these modifications and follows through with final action.~~

Element 10. Sideboards

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI groundfish fisheries.

Element 11. Cooperatives

Members of a sector may choose to form a cooperative with a civil contract to manage harvest levels and other issues as determined by agreement of the cooperative.

NMFS will allocate quota to the cooperative based on the aggregate historical catch of target, bycatch and PSC species.

Cooperative will be responsible for managing the aggregate catch of the cooperative so as not to exceed the cooperatives allocation of target, bycatch and PSC species.

Vessels that choose not to participate in the cooperative are allocated the remaining sectoral TAC, bycatch and PSC allocations after deduction of the cooperative allocation and any other sector-wide deductions.

NMFS may establish a minimum level of cooperative membership by sector

- Option 1: Minimum number of license holders
- Option 2: Minimum percentage of catch history

Issue 1. Co-op participation

- Option 1. Co-ops are voluntary
 - Suboption 1. Co-op may be formed upon agreement of 100% of sector (AFA Offshore type co-op)
 - Suboption 2. One or more co-ops may form per sector upon agreement of a minimum percentage (50, 75, 80%) of:
 - a. eligible vessels in order to form co-op(s)
 - b. catch history in order to form co-op(s)
- Option 2. Co-ops can be comprised of one sector/gear type only
- Option 3. Co-ops from different gear groups may enter into inter co-op agreements.

Issue 2. Co-op Allocations

- Option 1. Co-op allocations will be based on same formula as used for sectoral allocations

Issue 3. Open Access

- Option 1. Any vessels that do not want to enter into co-op agreements will fish in open access. The aggregate catch history from non-participating vessels, based on same qualifying years, will go into the open access pool.

**ALTERNATIVE 3. HARVEST SHARE WITH CLOSED PROCESSOR CLASS
SUBALTERNATIVE 1 HARVESTER QS WITH CLOSED PROCESSOR CLASS**

**ELEMENTS 1-11 AND THEIR ASSOCIATED OPTIONS FROM ALTERNATIVE 2,
SUBALTERNATIVE 1 ARE INCLUDED. THIS APPLIES ONLY TO CV SHARES.**

Element 12. Harvester Delivery Requirements

50-90% of QS allocation will be reserved for delivery to the qualified closed trawl or fixed class processor. The other 50 -10% of QS allocation can be delivered to:

- i. any processor including CPs
- ii. any processor excluding CPs

Element 13. Closed Class Processor Qualifications

Option 1. To purchase groundfish, must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the years.

- Suboption 1. 1995 - 1999
- Suboption 2. 1995 - 2001
- Suboption 3. 1995 - 2002

a. Trawl eligible Processors

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

b. Fixed gear eligible Processors

- Suboption 1. 500 mt
- Suboption 2. 200 mt
- Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

i) Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

ii) Total catch - Trawl and fixed catch combined

- Suboption 1. 2,500 mt
- Suboption 2. 1,200 mt
- Suboption 3. 550 mt

d. Processors are defined at:

- Suboption 1. Processors are defined at the entity level
- Suboption 2. Processors are defined at the plant level

Option 2. Processor licenses would be issued to

- Suboption 1. Operator - must hold a federal or state processor permit.
- Suboption 2. Custom processing history would count for purposes of limiting
- Suboption 3. Facility owner

- Option 3. Transferability of eligible processor licenses
Processor licenses can be sold, leased, or transferred.
 Suboption 1. Within the same community
 Suboption 2. Within the same region

Option 4. Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed), by CGOA and WGOA regulatory areas:

Range 70% to 130% of TAC processed for all groundfish species for the largest closed class processor.

- Option 5. Processing Caps may apply at:
 Suboption 1. the facility level
 Suboption 2. the entity level

ALTERNATIVE 3. HARVEST SHARE WITH CLOSED PROCESSOR CLASS
SUBALTERNATIVE 2 - HARVESTER QS WITH CLOSED PROCESSOR CLASS
COOPERATIVE

ELEMENTS 1-11 AND THEIR ASSOCIATED OPTIONS FROM ALTERNATIVE 3, SUBALTERNATIVE 1 ARE INCLUDED. THIS APPLIES ONLY TO CV SHARES.

Option 1. Same provisions as Alternative 2, Subalternative 2, Option 1, Voluntary Cooperatives

Option 2. Same provisions as Alternative 2, Subalternative 2, Option 2, Mandatory Cooperatives

Element 12. Closed processor class cooperatives

Issue 1. Co-op delivery provisions

50-90% of the co-op allocation will be delivered to their linked trawl or fixed gear processor (see vessel - processor linkage below). The remaining 50 -10% can be delivered to any qualified closed class processor of the same type.

Issue 2. Initial Co-op allocations

Option 1. Each harvester is eligible to join a co-op with a qualified fixed gear or trawl closed class processor.

Option 2. Each harvester is initially eligible to join a co-op with the qualified fixed gear or trawl closed class processor to which the harvester delivered the largest amount of groundfish during the year prior to implementation.

Option 3. Each harvester is initially eligible to join a co-op formed with the qualified fixed or trawl closed class processor in to which the harvester delivered the largest amount of groundfish during the last [1, 2, or 3] years of the harvester allocation base period. If the processor with whom the harvester is eligible to form a co-op is no longer operating, the harvester is eligible to join a co-op with any qualified processor.

- i. Largest amount by species groupings (rockfish, flatfish, pollock, cod)
- ii. Largest amount by aggregate

ALTERNATIVE 4, HARVESTER AND PROCESSOR HARVEST SHARE PROGRAM (2-PIE)

**NEW SUBALT 1. (MIRROR THE LANGUAGE FROM SUBALT 1 FROM SUBALTS 2 AND 3; TO INSERT A SUBALTERNATIVE FOR A 2-PIE QS PROGRAM ONLY)
SUBALTERNATIVE 1, VOLUNTARY CO-OP WITH ALLOCATED IFQ/IPQ**

ELEMENTS 1-11 AND THEIR ASSOCIATED OPTIONS FROM ALTERNATIVE 2, SUBALTERNATIVE 1, ARE INCLUDED.

Element 12. Processing Sector- Applicable to Two pie (IFQ/IPQ) Cooperatives

Catcher Processor QS would be for all gear types & vessel class.

Binding Arbitration process, for failed price negotiation, between fishermen and processors.

Processor Purchase Requirements. Any processor within any Gulf community can buy IPQ shares from the Catcher processor sector.

Issue 1. Eligible processors

Option 1. U.S. Corporation or partnership (not individual facilities)

- Suboption 1. owner
- Suboption 2. operator - must hold a Federal or State processor permit
- Suboption 3. custom processor

Option 2. Individual processing facility by community

- Suboption 1. owner
- Suboption 2. operator - must hold a Federal or State processor permit
- Suboption 3. custom processor

Option 3. Processed Groundfish for any Groundfish fishery in the rationalization program for:

- Suboption 1. 2000 or 2001
- Suboption 2. Any year 1998-2002
- Suboption 3. 2001 or 2002

Issue 2. Categories of Processing Quota shares

Option 1. Target Species (species where there is a significant historical processor participation).

Area 610 pollock, Area 620 pollock, Area 630 pollock, WGOA Pacific cod, CGOA Arrowtooth flounder, CGOA Flatfish (excludes Arrowtooth flounder), CGOA POP, CGOA Pelagic Shelf Rockfish & Northern rockfish (combined), CGOA Pacific cod (inshore), WY Pollock.

Option 2. Non-target Species (species on Bycatch status throughout the year (e.g., Sablefish - trawl, Other rockfish, thornyhead, shortraker/rougheye).

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- Suboption 1. Allocate IPQ shares based on the Fleet bycatch rates by gear:
 - a. based on average catch history by area and target fishery
 - b. based on 75th percentile by area by target fishery
- Suboption 2. Exclude non-target species from IPQ awards
- Option 3. Regional categories - processing quota shares will be regionalized by species grouping as shown in the regionalization section if regionalization is adopted.
- Option 4. C/P will be issued C/P QS which combines the privilege of catching and processing product.

- Issue 3. Qualifying periods
- Option 1. 95-01 (drop 1 or 2)
 - Option 2. 95-2000 (drop 1 or 2)
 - Option 3. 98-01 (drop 1)
 - Option 4. 95-2002 (drop 1 or 2 or 3 years)

The following applies to all options:

- Suboption. Exclude 2000 for pot gear Pacific cod
- Option 5. 98-02 (drop 1 or 2)
- Option 6. 2000-02 (drop 1)

Jane DiCosimo, NPFMC staff, questioned the Council whether the Qualifying Periods shown above should be modified in the same way as Qualifying Periods in Alternative 2, Subalternative 1, Element 1 (shown on page 9 of these minutes). These modifications include adding "or 3 years" to Option 4, as well as new Options 5 and 6, shown underlined above. Chairman Benton responded that Council members indicated affirmatively.

- Issue 4. Percentage of season's TAC for which IPQs are distributed:
- Option 1. 100%
 - Option 2. 90% - the remaining 10% would be considered open delivery.
 - Option 3. 80% - the remaining 20% would be considered open delivery.
 - Option 4. 50% - the remaining 50% would be considered open delivery.

The following applies to all suboptions:

Processors that receive IPQ awards will be allowed to buy open access fish.

- Issue 5. Processing Shares Cap categories:
- Option 1. Applied by species groupings - Pollock, Pacific cod, Flatfish (excludes Arrowtooth), and rockfish.
 - Option 2. Applied to all groundfish species combined

- Issue 6. Ownership Caps on Processing Shares
- Option 1. Maximum share allocation in the fishery
 - Option 2. Maximum share allocation in the fishery plus 5%
 - Option 3. Maximum share allocation in the fishery plus 10%
 - Option 4. Maximum share allocation in the fishery plus 15%
 - Option 5. Select a cap between the average and maximum allocation with initial allocations grandfathered.

Issue 7. Use Caps: may select different options depending on sector, gear, etc.
Annual use caps on a company (facility) basis of

- Option 1. 30 percent to 60 percent of the TAC
- Option 2. The largest IPQ holding in the fishery at the time of initial allocation
- Option 3. Custom processing will be allowed
 - a) subject to use caps
- Option 4. No use caps in the event of a catastrophic event.
- Option 5. Emergency transfers of IPQ for weather conditions.
- Option 6. Vessel overages of QS not counted toward IPQ use caps.

Stephanie Madsen reminded the Council of two additional issues that needed to be added as trailing amendments. Those issues being a discussion paper on PSCs and the entry level program for rockfish. **David Fluharty moved the issues be added as trailing amendments.** The motion, shown underlined below, was seconded by Stosh Anderson and carried without objection.

TRAILING AMENDMENTS

1. Fee and Loan Program
2. Skipper/Crew Share Program issues:
3. Remaining issues of CIFT program
4. Discussion paper on PSCs
5. Entry level program for rockfish

Kevin Duffy stated he thought the Council needed to give some indication as to its preference for one alternative to give the public a sense of where it may be headed. Stosh Anderson believed outlining the Council's direction to staff as soon as possible and getting the best and most information into the analysis would help the process immensely. Chairman Benton stressed that the Council made a commitment to make the Gulf of Alaska Rationalization program its top priority. One dilemma has to do with NEPA and when to start identifying the preferred alternative and how to get it out there in a way while remaining in compliance with NEPA. The requirement is to get information out to the public as soon as possible and look at a reasonable range of alternatives while not foreclosing any particular alternative. The Council could identify at some point a preferred alternative indicating to the public what direction the Council was heading, but could choose another alternative just as easily. The Council wanted the public to help by telling it what elements and options need to be included and if it missed anything. Lisa Lindeman pointed out that NEPA requirements indicate the Council can identify a preferred alternative at the outset - but cannot make a decision until after analysis and input from the public. The main motion, as amended above, passed unanimously.

C-2 Crab Rationalization

ACTION REQUIRED

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

BACKGROUND

- (a) **The following items contained in trailing amendments will be presented to the Council at this meeting:**
- 1) **Arbitration System.** The Council will be presented the report of the arbitration committee and the analysis of two additional provisions that could be added to the Council's preferred arbitration program. One provision would direct an arbitrator to make a non-binding pre-season price signal that could be used by both sectors as a starting point for negotiations. The other provision would direct the arbitrator deciding the last arbitration proceeding to select the highest arbitrated price applicable to at least 7 percent of the IPQs in the fishery. This highest price could then be applied to all arbitrated deliveries.
 - 2) **Alternative protections for communities.** The Council will be presented the report of the community protection committee and the analysis of the elements of the right of first refusal on the sale of processing shares in favor of communities with demonstrated reliance on the crab fisheries.

The Council mailing included the analyses of the Arbitration and Community Protections, as well as the recommendations of the Community Protection Committee.

2. **Staff will update the Council on progress on the EIS and a brief discussion of the document that staff will present to the Council at the June 2003 meeting.**

Scientific and Statistical Committee Report

The Scientific and Statistical Committee did not address this agenda issue.

Report of the Advisory Panel

The Advisory Panel made specific recommendations to the Council on the issues of Binding Arbitration, A/B Shares, Community Protection, and Right of First Refusal. Recommendations for each issue follow.

Non-Binding Annual Arbitration

There will be a single annual fleet-wide arbitration to establish a non-binding formula under which a fraction of the weighted average first wholesale prices for the crab products from each fishery may be used to set an ex-vessel price. The formula is to be based on the historical distribution of first wholesale revenues between fishermen and processors, taking into consideration the size of harvest in each year. The formula shall be in the form of a benchmark price including identification of various factors such as product form, delivery time, and delivery location. The non-binding arbitration shall be based upon the Standard for Arbitration set out in the February 2003 Council motion, Item 1 including a. through i. The arbitrator in the non-binding arbitration shall not be an arbitrator in the last best offer binding arbitration(s).

Binding Arbitration

The arbitrator, in making the last best offer pre-season arbitration decision will review all of the arbitration decisions for that season and select the highest arbitrated price for a minimum of at least 7 percent of the market share of the PQ. This provision allows for the aggregation of up to 3 arbitration findings, that collectively equal a minimum of 7 percent of the PQS, to be considered for the highest price for purposes of this provision. If arbitration findings are aggregated with two or more entities, then the lesser of the

arbitrated prices of the aggregated entities included to attain the 7 percent minimum market share of PQ, shall become the minimum fleet-wide price, for all arbitrated prices of that season.

A and B Shares

After initial allocation, processors or their affiliates can no longer purchase B shares.

Processors defined as:

- Option 1. IPQ holder
- Option 2. Entity engaged in processing activity
- Option 3. Both

Processor Affiliates defined as:

- Option 1. AFA Standard – The 10% standard used for crab sideboards
- Option 2. MARAD Standards – 25% standard and the MARAD test
- Option 3. U.S. Coast Guard Controlling interest standard – Greater than 50% ownership
- Option 4. Determined by whether an IPQ holder has authority to control delivery of IFQ harvests, without regard to ownership interest level – determined by annual affidavit from QS holder.

Linkage/Severability of the A and B Quota Shares

The AP recommended the Council clarify its intent of its action at the April Council meeting.

Quota Shares: A-shares and B-shares are linked, and must be transferred in proportion.

Community Protection

The AP recommended the Council adopt the Community Protection Committee's recommendations with the following clarifications:

1. Request that NOAA Fisheries explore methods to assist communities, to the extent reasonable, in administration and enforcement of the right of first refusal. In addition, communities could enforce the right through contract law.
2. The right of first refusal is non-assignable by a community.
3. The fisheries exempt from the right of first refusal are the Western Aleutian Islands (Adak) red king crab, the Western Aleutian Islands golden king crab, and the Bering Sea *C. bairdi* fisheries.

General Right of First Refusal, Contract Terms

The AP recommended the Council adopt the following selections from the Crab Rationalization Errata, page 1, C:

Intra-company transfers within a region are exempt from this provision. To be exempt from the right of first refusal, IPQ's must be used by the same company. In the event that a company uses IPQs outside of the community of origin for a period of:

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1. 3 consecutive years.
2. ~~5 consecutive years~~

The right of first refusal on those processing shares (the IPQs and the underlying PQS) shall lapse. With respect to those processing shares, the right of first refusal will not exist in any community thereafter.

The AP recommended the Council adopt the following selections from the Crab Rationalization Errata, page 2, G:

The right of first refusal will be exercised by the CDQ group or community group by providing the seller within 60 days of receipt of a copy of the contract for sale of the processing shares:

1. notice of the intent to exercise and
2. earnest money in the amount of 10 percent of the contract amount or
 - a. ~~\$250,000 or~~
 - b. \$500,000

DISCUSSION/ACTION

Kevin Duffy moved the Council implement community protection measures for crab rationalization. The motion, handed out in hard copy, was seconded by Stephanie Madsen. Mr. Duffy stated the first part of his motion was recommended by the Community Protection Committee, supported unanimously, with two additions recommended by the Advisory Panel. He continued by saying this was an important right to protect the movement of processing activities out of a community after the two-year cool down period. It also provides an opportunity for every community to prevent the movement of quota when sold. It balances the need for the processing sector to consolidate and rationalize its activities in light of the low GHs and TACs being currently experienced. Exempted fisheries are those that are not regionalized. Stosh Anderson stated he would not support the motion as he believed it accomplished two things: if the quota shares in plants were valuable there are loopholes to get around it so communities will never have access to it, and that if capital is there that is obsolete or stranded, there are mechanisms to force communities to buy it. David Fluharty agreed with Mr. Anderson on some of the flaws in the motion, however, he supported the necessity to link processors with communities and indicated his support for the motion. The motion, as shown below, passed 10-1 with Anderson voting against.

Community Right of First Refusal on Sale of Processing Quota

1. General Right of First Refusal

For communities with at least three percent of the initial PQS allocation in any BSAI crab fishery based on history in the community except for those communities that receive a direct allocation of any crab species (currently only Adak), allow CDQ groups or community groups representing qualified communities a first right of refusal to purchase processing shares that are based on history from the community which are being proposed to be sold for processing outside the boundaries of the community of original processing history in accordance with the provisions below.

Entity Granted the Right of First Refusal

The right of refusal shall be established by a contract entered into prior to the initial allocation of PQS which will contain all of the terms specified in paragraphs A through I below. The contract will be between the recipient of the initial allocation of the PQS and:

1. the CDQ group in CDQ communities
2. the entity identified by the community in non-CDQ communities.

In non-CDQ communities, the community must designate the entity that will represent the community at least 90 days prior to the deadline for submission of applications for initial allocations of PQS.

Contract Terms

- A. The right of first refusal will apply to sales of the following processing shares:
 1. PQS, and
 2. IPQs, if more than 20 percent of a PQS holder's community based IPQs (on a fishery by fishery basis) has been processed outside the community of origin by another company in 3 of the preceding 5 years.
- B. Any right of first refusal must be on the same terms and conditions of the underlying agreement and will include all processing shares and other goods included in that agreement.
- C. Intra-company transfers within a region are exempt from this provision. To be exempt from the first right of refusal, IPQs must be used by the same company. In the event that a company uses IPQs outside of the community of origin for a period of *3 consecutive years*, the right of first refusal on those processing shares (the IPQs and the underlying PQS) shall lapse. With respect to those processing shares, the right of first refusal will not exist in any community thereafter.
- D. Any sale of PQS for continued use in the community of origin will be exempt from the right of first refusal. A sale will be considered to be for use in the community of origin if the purchaser contracts with the community to:
 1. use at least 80 percent of the annual IPQ allocation in the community for 2 of the following 5 years (on a fishery by fishery basis), and
 2. grant the community a right of first refusal on the PQS subject to the same terms and conditions required of the processor receiving the initial allocation of the PQS.
- E. All terms of any right of first refusal and contract entered into related to the right of first refusal will be enforced through civil contract law.
- F. A community group or CDQ group can waive any right of first refusal.
- G. The right of first refusal will be exercised by the CDQ group or community group by providing the seller within 60 days of receipt of a copy of the contract for sale of the processing shares:
 1. notice of the intent to exercise, and
 2. earnest money in the amount of 10 percent of the contract amount or \$500,000 whichever is less.

The CDQ group or community group must perform all of the terms of the contract of sale within the longer of:

1. 120 days of receipt of the contract, or
2. in the time specified in the contract.

H. The right of first refusal applies only to the community within the which the processing history was earned. If the community of origin chooses not to exercise the right of first refusal on the sale of PQS that is not exempt under paragraph D, that PQS will no longer be subject to a right of first refusal.

I. Any due diligence review conducted related to the exercise of a right of first refusal will be undertaken by a third party bound by a confidentiality agreement that protects any proprietary information from being released or made public.

2. GOA First Right of Refusal

For communities with at least three percent of the initial PQS allocation of any BSAI crab fishery based on history in the community that are in the area on the Gulf of Alaska north of 56°20'N latitude, groups representing qualified communities will have a first right of refusal to purchase processing quota shares which are being proposed to be transferred from unqualified communities in the identified Gulf of Alaska area.

The entity granted the right of first refusal and terms and method of establishing the right of first refusal will be the same as specified in the general right of first refusal.

3. Community Purchase Option

Allow for a community organization in those communities that have at least 3 percent of the initial PQS allocation of any BSAI crab fishery based on history in the community to be exempted from the restriction for the 150 days of sea time requirement under 1.6, Transferability and Restrictions on Ownership of QS.

4. Identification of Community Groups and Oversight

For CDQ communities, CDQ groups would be the entity eligible to exercise any right of first refusal or purchase shares on behalf of the community. Ownership and management of harvest and processing shares by CDQ groups will be subject to CDQ regulations.

For non-CDQ communities, the entity eligible to exercise the right of first refusal or purchase shares on behalf of a community will be identified by the qualified city or borough, except if a qualified city is in a borough, in which case the qualified city and borough must agree on the entity. Ownership and management of harvest and processing shares by community entities in non-CDQ communities will be subject to rules established by the halibut and sablefish community purchase program.

5. Right of First Refusal is Non-Assignable

The community right of first refusal is not assignable by the community group granted the right.

6. Fisheries Exempt from the Community Right of First Refusal

The bairdi, Western Aleutian brown king crab and Adak red king crab fisheries are exempt from the right of first refusal.

Mr. Duffy recalled staff recommending the Council make a statement for the record on why the community of Adak is not part of the right of first refusal. Mark Fina stated this was correct. Mr. Duffy continued by staying the reasoning was that Adak's 50 percent allocation of brown king crab is off the top and therefore the community can harvest and process their community allocation. No other community in the Bering Sea/ Aleutian Islands receives a direct allocation like this. CDQ communities receive it through their respective CDQ groups. With the regional component for the Western Aleutians in addition to the direct allocation, Adak's community protection needs have been fully addressed.

David Fluharty moved the Council adopt the non-binding annual arbitration element and the binding arbitration element of the BSAI Crab Rationalization Program (both recommended by the Advisory Panel), with additional language shown italicized below. The motion was seconded by Ben Ellis.

Non-Binding Annual Arbitration

There will be a single annual fleet-wide arbitration to establish a non-binding formula under which a fraction of the weighted average first wholesale prices for the crab products from each fishery may be used to set an ex-vessel price. The formula is to be based on the historical distribution of first wholesale revenues between fishermen and processors, taking into consideration the size of harvest in each year. The formula shall be in the form of a benchmark price including identification of various factors such as product form, delivery time, and delivery location. The non-binding arbitration shall be based upon the Standard for Arbitration set out in the February 2003 Council motion, Item 1 including a. through i. The arbitrator in the non-binding arbitration shall not be an arbitrator in the last best offer binding arbitration(s).

Binding Arbitration

The arbitrator, in making the last best offer pre-season arbitration decision will review all of the arbitration decisions for that season and select the highest arbitrated price for a minimum of at least 7 percent of the market share of the PQ. This provision allows for the aggregation of up to 3 arbitration findings, that collectively equal a minimum of 7 percent of the PQS, to be considered for the highest price for purposes of this provision. If arbitration findings are aggregated with two or more entities, then the lesser of the arbitrated prices of the aggregated entities included to attain the 7 percent minimum market share of PQ, shall become the minimum fleet-wide price, for all arbitrated prices of that season. *The arbitrator then takes the minimum fleet-wide arbitrated price and adjusts the other arbitrated findings, taking into consideration the standards of arbitration.*

Dr. Fluharty believed there was widespread agreement on the non-binding arbitration part of the motion as it was a useful element in moving toward price setting for crab rationalization. He further stated that the binding arbitration part of the motion was a good way to move ahead. Stephanie Madsen appreciated the last sentence being added as it afforded the opportunity to adjust the price after arbitration, however she didn't believe there was any detail on how long the process might take and also felt it was a disincentive to negotiate a price. Kevin Duffy stated he supported parts of the motion, but did not support other parts. He felt it was unfair to impose decisions on others who had no input into the arbitration process. Mr. Duffy further stated the last best offer structure on mandatory arbitration provided a means for every harvester to receive a neutral hearing on both price and terms of delivery; or, if the harvester chooses, to wait and opt into

the result of an arbitration. The standard for arbitration already protected all arbitrators with a minimum of harvesters' historical share of revenues, and B shares would provide additional price leverage for harvesters.

Kevin Duffy substituted the following for Dr. Fluharty's motion:

There will be a single annual fleet-wide arbitration to establish a non-binding formula under which a fraction of the weighted average first wholesale prices for the crab products from each fishery may be used to set an ex-vessel price. The formula is to be based on the historical distribution of first wholesale revenues between fishermen and processors, taking into consideration the size of the harvest in each year. The formula shall also include identification of various factors such as product form, delivery time and delivery location. The non-binding arbitration shall be based upon the Standard for Arbitration set out in the February 2003 Council motion, Item 1, including (a) through (i). As a part of this process, the arbitrator will review all of the arbitration decisions for the previous season and select the highest arbitrated prices for a minimum of at least 7% of the market share of the PQS. This provision allows for the aggregation of up to 3 arbitration findings that collectively equal a minimum of 7 percent of the PQS, to be considered for the highest price for purposes of this provision. If arbitration findings are aggregated with two or more entities, then the lesser of the arbitrated prices of the aggregated entities included to attain the 7 percent minimum market share of PQS shall be considered for purposes of developing the benchmark price. The arbitrator in the non-binding arbitration shall not be an arbitrator in the last best offer binding arbitration(s). This formula shall inform price negotiations between the parties, as well as the Last Best Offer arbitration in the event of failed price negotiations.

The motion was seconded by Stephanie Madsen. Mr. Duffy explained he attempted to pick up some components from what's been called "the Steele Amendment" identified in the AP minutes. He took a slightly different approach to the Steele Amendment by taking that information and using it the following year to inform the price-setting formula that occurs each year at the start of the season. Dr. Fluharty had difficulty understanding how this would inform the process. John Bundy stated he thought the effect of Mr. Duffy's motion would be to require the arbitrator to apply the Steele Amendment to the previous year. Stephanie Madsen saw the substitute motion as trying to avoid confrontations. Chairman Benton then asked Mr. Bundy if the intent of what's been called "the Bundy Amendment" was to get harvesters and processors to work together in a cooperative manner to develop a benchmark formula to help foster negotiations and help build that kind of relationship. If price negotiations totally fell apart, they could go to binding arbitration as a last step. Mr. Bundy responded that the Chairman had stated his goal very well adding that the language added by Mr. Duffy doesn't bind the arbitrator to treat the information one way or the other, but requires the arbitrator to look at it. Jim Balsiger stated he thought the Duffy motion improved the Bundy amendment, but also deleted the Steele amendment. He believed there needed to be something stronger as it was intended to support the harvesters, not create unfair leverage. He thought that by removing it, they removed the strength the harvesters need. Dr. Fluharty then stated that binding arbitration was not an inexpensive thing to do and not something people are going to jump into. Stosh Anderson agreed with Dr. Fluharty and Dr. Balsiger pointing out he saw a mechanism in the top half to deal with the size of the harvest in year 1, but in the bottom half of year 2 he didn't see a function in the mechanism for the arbitrator to review. Roy Hyder also concurred with the comments of Dr. Fluharty and Dr. Balsiger. Ms. Madsen brought up an earlier conversation about a 3-legged stool and pointed out that binding arbitration was not one of those legs; the three legs were harvesters, processors and communities were. She saw arbitration as one of the nails that goes into the stool that holds it all together, and B shares as a nail that holds it to the top of the seat. She added that she also saw arbitration as a means to shore up the harvesters' fair share of the rents. Ms. Madsen also pointed out that there are five other options that harvesters and processors have before they get to binding arbitration and those would be exhausted before having to start binding arbitration.

Chairman Benton had two questions: what was magic about 7%, and how would this motion affect the processors as a class? He thought the 7% was a low number where a group of small processors could set a price by forcing a situation. He also could see a situation where a large processor could use the Steele amendment to jack up the price, absorb the loss, and push out competitors.

Dr. Fluharty stated he thought the 7% came out of the historic AMA. In counting processors today, there's somewhere between 13 and 16 - relatively half are below 7% and the others are above it. He further stated he thought processors would tell you they were price takers in the world market and harvesters would say that they're downstream of that, so the ability to do this has to be looked at in that context. Stephanie Madsen recalled hearing in public testimony that 7% is typically what has happened. Today, the processor has a choice whether they take the higher price. There may be circumstances however, where a harvester due to location or ability to work with processors is willing to take that price to support the processor. Under the Steele amendment, the processor won't have that choice - he would have to take the price everyone else paid. Ms. Madsen also recalled hearing in testimony that last season the 7% was made up by only two processors - so two processors have the potential to set the price for everyone else, with no consideration to the individual operators' ability to pay. She saw this as a major concern for those people who wanted to be sure there is a variety of processors in the marketplace to provide those markets. The motion passed 6-5 with Anderson, Balsiger, Fluharty, Hyder and Nelson voting against.

John Bundy then moved the following motion on the relationship of A and B shares, by way of clarifying Council's intent.

Crab harvester quota shares held by Individual Processing Quota processors and persons affiliated with IPQ processors will only generate class A annual Individual Fishing Quota, so long as such quota share is held by the IPQ processor or processor affiliate.

IPQ processors and affiliates will receive Class A IFQ at the full poundage appropriate to their harvester QS percentage.

Independent (non-affiliated) harvesters will receive Class B IFQ pro rata, such that the full Class B QS percentage is allocated to them in the aggregate.

"Affiliation" will be determined based on an annual affidavit submitted by each QS holder. A person will be considered "affiliated" if an IPQ processor controls delivery of a QS holder's IFQ.

The motion was seconded by Stephanie Madsen. Mr. Bundy stated he thought this clarified confusion on previous motions passed by the Council on the integrity of B shares. The purpose of B shares, primarily, was to give harvesters and the marketplace independent market information corresponding to shares that were freely deliverable and didn't have to correspond to processing shares. This motion clarifies that B shares will always be with harvesters. Ms. Madsen believed this was a good clarification and maintained the value of potential B shares for those processors that currently have harvesting shares. Chairman Benton then asked Mr. Bundy if he intended for the RAM Division to recognize the Council's intent in their development of an affidavit to make it as tight as possible. Mr. Bundy responded affirmatively, adding that he hoped this approach would supplant all A/B Share discussions and issues in the AP minutes, as well as bring more unity between processors and harvesters.

Ms. Madsen asked Mr. Bundy about the one thing that wasn't in his motion: that the A/B share connection is embedded in his intent, and the Council addressed how those linked shares will be apportioned annually. Mr. Bundy again responded affirmatively. Chairman Benton suggested the Council address the "linkage"

issue separately as it wasn't clearly stated in Mr. Bundy's motion. Stosh Anderson agreed, and the motion carried without objection.

Roy Hyder moved the Council clarify its understanding and expression of reaffirming its understanding that A shares and B shares are linked, and must be transferred in proportion, as per the AP's recommendation. The motion was seconded by Stephanie Madsen.

Stosh Anderson stated he realized the intent of the motion, but didn't think the Advisory Panel had the information just adopted by the Council in the previous motion. He further stated there would be only one class of quota share issued and NMFS' RAM Division would look at that share and determine the ratio of IFQ to be issued based on that share. Mark Fina described it as the quota shares allocated to all harvesters at the outset of the program and every quota share, at that stage, is identical. When the RAM Division administers the program, they look at who holds that quota share and then give them all A shares if they're processor controlled, or A/B at a 90:10 ratio if they're not processor controlled. Then, if you say that A and B shares must be linked when they're transferred - the quota share is implicitly linked anyway. Mark's interpretation was that the IFQs transferred by harvesters would also be linked if they were leased. He further requested the Council be clear whether this was their intent or not, as it could have very different consequences, such that A shares and B shares always go to the same location if the IFQs are linked as well.

Chairman Benton separated the two issues, the first being the nature of quota share in that all quota share is created equal. That quota share generates an IFQ - either A or B if you are a non-affiliated harvester, or if you're a processor or an affiliated harvester it generates A shares. That maintains all of the B share components in the non-affiliated harvester pool. The second issue is what happens with transfers - so if a processor or an affiliated vessel or owner sold that quota share to a non-affiliated harvester it would generate A and B IFQ. The question of leasing IFQ was not addressed. Stosh Anderson reminded the Council they agreed you don't "lease" IFQ, you "sell" IFQ because it's an annual occurrence.

Chairman Benton clarified that, because of different interpretations of quota share, the Council's last action defined processors and their affiliates only get A share IFQ generated from their quota share. Mark Fina added he believed the A/B components of the quota share are linked, and the previous motion took care of who gets the IFQs of which type. Mr. Hyder agreed this discussion was within the intent of his motion.

The motion carried unanimously.

Stosh Anderson then moved a purchase moratorium of C shares by PQ holders and by harvesters affiliated with PQ holders (affiliated as defined by the June 2002 motion).

- 1. the period of the moratorium is two years after implementation.**
- 2. establish a control date of April 5, 2003 for PQ holders and affiliates from acquiring history that future shares would be granted or transferred to them (PQ holders and their affiliates).**

The motion was seconded by Roy Hyder. Mr. Anderson recalled in discussions held previously they talked about the aspects of preserving the harvest share pool - not just the A/B share - but to ensure that pool exists. He believed the Council would be going through significant changes in this process including a lot of consolidation, potential buy-back program, and industry participants, because to recently low quotas, are no longer in a very favorable position. Mr. Anderson felt the Council needs to protect this sector from predation and his motion would accomplish that, without locking it into place for so long that economic efficiencies couldn't be achieved over a longer period of time. Mr. Anderson also stated he intentionally left catcher-processors out of his motion due to provisions previously established for them.

Chairman Benton suggested Mr. Anderson strike the word “future” as Council members recognize there will be future PQ holders, and it could lead to confusion about what it means. Mr. Anderson agreed that would be along his lines of intent, although he originally left it in there so as to create a discussion about it.

Roy Hyder asked for clarification of the word “affiliated” and recalled it being defined in the June motion, but he wanted Mr. Anderson to verbalize his intent. Mr. Anderson believed the Council used the 10% rule in June in defining affiliates and there are individuals who will be restricted from acquiring more shares in the time period from today’s date to two years after implementation. Mr. Hyder asked if he understood this measure could potentially put an independent harvester getting into the business into a place where he gets caught up in the creditor/borrower relationship and be cut off. Mark Fina replied there were instances where the 20% ownership of a corporation might bring a few people into control, but thought NMFS would look at the entire circumstance surrounding the two parties to determine whether the control threshold had been passed.

Chairman Benton ruled the motion out of order adding it could be taken up in a different way at a later time. Mr. Anderson replied he understood the merits of their discussion and therefore concurred.

Kevin Duffy requested generation of an addendum covering the trailing amendments or amendment to the report originally done on the Crab Rationalization Program be submitted to Congress informing them what actions have been subsequently taken by the Council. The Chairman received concurrence from Council members, thereby negating the need for a motion.

C-3 Steller Sea Lions

ACTION REQUIRED

- (a) **Receive draft remand order response**
- (b) **NRC report on Steller Sea lion/fishery interactions -schedule discussion for future action**
- (c) **Receive report from NMFS on Aleutian Islands pollock trawl closure**

BACKGROUND

(a) Remand Order

On October 19, 2001, NMFS issued a Biological Opinion that the groundfish fisheries in the BSAI and GOA, and parallel fisheries for pollock, Pacific cod, and Atka mackerel in State waters, if conducted under a suite of Reasonable and Prudent Alternatives (RPAs), would not jeopardize Steller sea lions and would not adversely modify their critical habitat. This 2001 BiOp was challenged in District Court (*Greenpeace, American Oceans Campaign, and Sierra Club vs. NMFS, et al., No. C98-492Z*). Judge Thomas Zilly responded to this challenge with a court order on December 18, 2002, stating that aspects of the 2001 BiOp were arbitrary and capricious, and remanded his order to NMFS for further action (Item C-3(a)(1)). The order is effective until June 30, 2003 (thus the BiOp and the RPAs remain effective until that date).

The Remand Order presents two areas where the Court determined that NMFS was arbitrary and capricious in its conclusions. One was the BiOp’s conclusions that Steller sea lions were not in jeopardy based on the zonal approach to fishery management in Steller sea lion critical habitat. Judge Zilly pointed out discrepancies in the sea lion telemetry data that allowed one to reach other conclusions. Second, Judge Zilly found that NMFS failed to analyze the likely effects of the RPAs on Steller sea lions, their prey, and their critical habitat.

NMFS prepared a plan to respond to Judge Zilly's Remand Order (See memorandum from James W. Balsiger to William T. Hogarth dated January 16, 2003, Item C-3 (a)(2)). NMFS' plan is to prepare a supplemental document that is an addendum to the 2001 BiOp which provides additional analyses that respond to Judge Zilly's two issues:

- The factual basis in the telemetry data, including new data, for the relative weighting of importance of critical habitat zones around SSL rookeries and haulouts, and
- A comparison of the 1999 "jeopardy" fishery pattern analyzed in the FMP BiOp and the fishery pattern under the revised RPAs in the 2001 BiOp.

At this meeting, the Council will receive a draft 2001 BiOp Addendum prepared by NMFS that responds to the Remand Order. NMFS will provide an overview of the document and the conclusions reached.

NMFS will accept comments on this draft document until mid April. NMFS plans to file the final BiOp Addendum with the Court in early June 2003.

(b) National Research Council Report on the Decline of Steller Sea Lions in Alaskan Waters

In November 2000, Congress directed the Council to sponsor an independent scientific review by the National Academy of Sciences of the causes of the Steller sea lion decline and the potential efficacy of the new management regimes imposed on GOA and BSAI groundfish fisheries to avoid jeopardizing the sea lions and causing adverse modification of their habitat. NAS directed their National Research Council to empanel a group of experts to prepare a report on this issue. The NRC's Committee on the Alaska Groundfish Fishery and Steller Sea Lions completed their report in early 2003. This report, entitled "Decline of the Steller Sea Lion in Alaskan Waters - Untangling Food Webs and Fishing Nets", presents the Committee's findings on:

- (1) The current status of knowledge about the decline in the Steller sea lion population in the BSAI and GOA,
- (2) The relative importance of food competition and other possible causes of population decline and impediments to recovery,
- (3) Critical information gaps in understanding the interactions between Steller sea lions and Alaska fisheries,
- (4) The kind of research programs needed to identify and assess human and natural causes of sea lion decline, and
- (5) The components of an effective monitoring program with effective measures for evaluating various management approaches.

The Executive Summary of the report is attached as Item C-3(b)(1). The report was previously provided to the Council and its SSC and AP.

At this meeting, the Council may discuss the NRC findings and potential actions by the Council in response to the report.

(c) Report on Aleutian Islands pollock fishery closure

At its October 2002 meeting, the Council made a final review of the analysis of two trailing amendments to the Supplemental Programmatic EIS, one on the Aleutian Islands pollock fishery allowance and the other on the Board of Fisheries exemptions. These trailing amendments were to provide additional measures for Steller sea lion protection for implementation during the 2003 season. The proposed amendments were comprised of five alternatives. The Council approved Alternative 2, maintaining the closure of the Aleutian Islands pollock fishery for one year. But the Council also requested additional information on this issue, and approved a Work Plan for a comprehensive review of the effects of reopening the Aleutian Islands pollock trawl fishery, including:

- The current Steller sea lion stock structure within the Aleutian Islands,
- A consideration of the current theory and information regarding localized fishery depletions and sea lion densities,
- The importance of such prey densities and forage availability to weaned pups and nursing females,
- The most current telemetry information on weaned pups and foraging outside of critical habitat in the Aleutian Islands,
- The cumulative effects on these sea lion age classes resulting from multiple fisheries on sea lion prey in the Aleutian Islands (Atka mackerel, Pacific cod, pollock), and
- An analysis of cumulative impacts arising from reopening the Aleutian Islands pollock fishery on bycatch of target and non-target species, forage fish or other prey of Steller sea lions and potential impacts on other fisheries.

NMFS will provide an update to the Council on this issue. Their letter is attached as Item C-3(c)(1)

Scientific and Statistical Committee Report

The Scientific and Statistical Committee reviewed a draft addendum to the Endangered Species Act, Section 7 on Consultation, Biological Opinion and Incidental Take Statement prepared by Bill Wilson (Council staff) and Shane Capron (NMFS). The SSC suggested staff had made a good start on answering questions from Judge Zilly in his December 2002 remand and had several suggestions for improving the draft addendum. Those suggestions can be seen in their entirety in the complete SSC minutes, attached as Appendix III.

The SSC also discussed restoring trawl fishing for pollock in the Aleutian Islands. The 2002 Biological Opinion found no jeopardy in fishing outside of critical foraging habitat and therefore, the SSC determined a resumption of this fishery outside of critical habitat was strictly an issue of whether the TAC would support the fishery.

Report of the Advisory Panel

The Advisory Panel received NMFS' draft response to Judge Zilly's remand order as well as written copies of the NRC report on fishing interactions with Steller sea lions, and NMFS' report on the Aleutian Islands pollock trawl closure.

DISCUSSION/ACTION

There was no action scheduled for this issue on the Council's agenda, however discussion included the fact that due to staff workload conflicts, staff's response to Judge Zilly's remand was not completed. The letter attached to the Agenda Memo (C-3(c)(1)), however, outlined what had happened to date.

Stephanie Madsen asked if the Chairman was considering reconstituting the RPA Committee and possibly taking up that discussion under Staff Tasking. The Chairman replied he was interested in discussing it.

Dr. Fluharty mentioned that although the Council hadn't really had the chance to think about the NRC Panel's large-scale adaptive management experiment, it was something the Council may want to have the SSC look at. Chairman Benton added this might also be appropriate to look at under Staff Tasking.

Dennis Austin wanted to make sure the SSC's comments would be taken into consideration for implementation. Mr. Austin then **moved the Council forward the nine (9) suggestions outlined in the SSC Minutes to the authors of the Addendum for their consideration.** The motion was seconded by David Fluharty. Kevin Duffy added he wanted this motion to be taken in a positive spirit and thought the SSC's comments would be taken into consideration and make the document that much better. Mr. Austin agreed this was his intent. Chairman Benton asked Dr. Rich Marasco, Chair of the SSC, if the SSC had considered the reasons to retain the Aleutian Island pollock management measures and the Council's concerns about adequate NEPA review and cumulative effects. Dr. Marasco responded that the SSC did not have that discussion. Chairman Benton then asked Mr. Austin if his motion carried that intent, to which Mr. Austin replied affirmatively.

John Bundy recalled an earlier Council discussion where it was not saying it would have to do several extra things, including reopening the Aleutian Islands to fishing, but that it was a fairly simple proposition. The Aleutians were closed to pollock fishing as an issue of protecting Steller sea lions and it had been determined several times that Steller sea lions were not an issue. However, many people wanted an analysis done to show those things didn't cause the closure. Chairman Benton's recollection was the Council looked at an analysis for reopening the Aleutians to pollock fishing, but it didn't have a NEPA analysis to look at. There was concern about reopening a fishery without a NEPA analysis and the Council wanted the additional analysis done prior to doing so. The Council also acknowledged it thought it had the Steller sea lion component and management measures and the cumulative effects on the Aleutian Islands for some of the other fisheries.

Dr. Balsiger mentioned there was a work plan outlined on the back of his letter laying out what the Council requested from the Agency and it did not say to do an EIS or an Environmental Assessment, but include a variety of pieces of information. In terms of allowing a fishery in the Aleutian Islands, the Council also does a NEPA document before setting a TAC. Chairman Benton suggested one way of handling this was that in setting the schedule for the June meeting, bring forward the existing Environmental Assessment that was available previously and see if it is still adequate. The Council could then make a determination of whether or not to reopen the pollock fishery in the Aleutian Islands.

Dennis Austin's motion carried without objection.

C-4 Essential Fish Habitat

ACTION REQUIRED

- (a) Receive progress report on EIS development.
- (b) Review mitigation objectives and research plan.

BACKGROUND

Staff will provide a progress report on the development of the EIS for the EFH amendments. A packet of materials was mailed out to you last week. These materials included a draft table of contents for the EIS and RIR, drafts of Chapters 1 & 2, a discussion paper on research and monitoring approaches, and an unpublished draft manuscript on living substrates. Staff will provide a brief overview of these documents, and also review how the SSC concerns (regarding conceptual approach, goals and objectives, research plan, and analytical components) have been addressed to date.

In February, the Council provided additional guidance and definition regarding the alternatives to minimize the effects of fishing (motion attached as Item C-4(a)). Included in the suite of mitigation alternatives is Alternative 5B, which contains a number of measures designed to reduce the effects of fisheries on corals and sponges in the Aleutian Islands area. Measures contained in Alternative 5B include additional monitoring requirements, coral/bryozoan and sponge bycatch limits, designated 'open areas' where bottom trawling is allowed, closure of areas with high coral and sponge bycatch rates and low target species CPUE, and a reduction of groundfish TAC by amount that historically came from the closure areas.

Since the February meeting, NMFS staff has applied the methodology used for the Aleutian Islands component of Alternative 5B to the Bering Sea and Gulf of Alaska, to determine whether or not the approach merits evaluation as an additional alternative. A letter from Dr. Balsiger regarding this effort, along with the resulting closure area maps, is attached Item C-4(b). NMFS staff will be on hand to report their findings.

Scientific and Statistical Committee Report

The SSC heard staff reports by Council and NMFS' staffs who addressed some of the SSC's concerns from the December 2002 and February 2003 meetings. While the SSC understood it was not possible for staff to address all of the issues and meet a June 2003 deadline, many of its concerns remain. The SSC therefore identified a reduced set of recommendations for the analysts to address. The following list includes all of the SSC's recommendations but does not include all supporting information for each recommendation. That support information can be found in the complete SSC minutes, attached as Appendix III.

1. The Fujioka-Rose model description and results should be included in the EFH documentation.
2. The need (or lack of need) for additional effort reduction and/or gear modification measures should be further justified for each of the alternatives.
3. An attempt should be made to refine the criteria used to construct the alternatives.
4. In analyzing Alternative 5B, total removals should be considered in addition to the catch and bycatch rates.
5. Difficulties in implementing Alternative 5B, as discussed by staff, should be included in the analysis and documentation.
6. As discussed in the SSC's January 2003 minutes, the upcoming analysis should include the following for each alternative: (1) ability to meet the stated objectives; (2) biological consequences

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arising from implementation of the proposed management action; (3) economic and social costs and benefits by sector and community; and (4) enforceability.

The SSC also reviewed a draft discussion outline of Research and Monitoring Approaches for Evaluation of EFH Mitigation Alternatives. The SSC believed that experiments could be designed to measure the consequences of individual acts of fishing.

Report of the Advisory Panel

The AP applauded the efforts by Council staff and NMFS in clarifying the rationale behind development of EFH mitigation alternatives, research priorities associated with the alternatives, and the update on the contents of the Environmental Impact Statement (EIS).

The AP recommended the Council consider the following modifications to the EFH EIS process:

- a. Research priorities: request the research plan add elements exploring potential benefits of EFH mitigation measures for productivity of FMP species.
- b. Request the EFH Committee be tasked with refining the HAPC process and provide input to the Council at the June meeting.
- c. Request NMFS and NMFS Enforcement provide information on an appropriate application of gear definitions to address habitat protection goals of Alternative 5B and allowing “pelagic trawls in off-bottom mode”.
- d. Drop the coral and sponge bycatch component of Alternative 5B.
- e. Drop the TAC reduction component of Alternative 5B.
- f. Dinglebars should be added to gear excluded from closed areas in Alternative 6.

The AP amended their motion by adding they did not support the extension of Oceana’s Alternative 5B approach to the Bering Sea and Gulf of Alaska for the following reasons:

- It is late in the process and the current proposal would move EFH back substantially with additional analysis and the time needed for review.
- Preliminary analysis shows it is inappropriate because it shows the average rate of coral, sponge and bryozoan bycatch is lower in the closed area than in the open area.
- The existing sea lion closure areas, when superimposed on the open areas, would greatly reduce “open” area.
- The effects of currents and food distribution fluctuation over broad shelf areas in the Gulf of Alaska and Bering Sea means groundfish species move widely over shelf areas. The proposed Alternative 5B approach would not accomplish FMP objectives.

DISCUSSION/ACTION

Roy Hyder moved the Council approve the modifications to the EFH EIS process recommended by the Advisory Panel including (a) through (f) and the four bulleted items in the second paragraph. The motion was seconded by John Bundy. Stephanie Madsen questioned staff about deleting the bycatch and TAC-reduction components of Alternative 5B (d and e above) as there was public testimony both ways. David Witherell replied the analysis would probably include separate information and could include a discussion about the effects of deleting these components. **Stephanie Madsen moved to amend the motion by deleting (d) and (e) with the clarification the Council request staff to look at coral and sponge**

bycatch on a vessel-by-vessel basis as well as a fishery-by-fishery basis. The motion was seconded by Earl Krygier and carried with Roy Hyder objecting.

Ms. Madsen questioned why the Council wanted to leave in the last four bullets of the motion as they expressed the AP's opinions and every Council member may not agree with them. **Ms. Madsen moved to amend the motion by deleting the second paragraph, including all bulleted items.** The motion was seconded by Hazel Nelson and carried without objection.

Stosh Anderson moved to strike the language in (b) and insert the following, as indicated below:

- ~~b. Request that the EFH Committee be tasked with refining the HAPC process and provide input to the Council at the June Council Meeting.~~**
- (b) The Council directs the EFH Committee to develop a HAPC process. The EFH Committee shall report to the Council at the June Council meeting its recommended process for identifying and evaluating potential HAPC areas. The evaluation shall include efficacy, scientific review and appropriate mitigation measures. The process developed to identify and implement HAPCs will be incorporated in the EFH EIS. The Council further directs the EFH Committee to initiate the HAPC process prior to November 2003, and implement these HAPCs through the EFH implementation process.**

The motion was seconded by Dennis Austin. Mr. Austin reminded Council members there was some concern expressed in public testimony how this could go astray and that the Council was not positioning itself to achieve the court-ordered mandate under the assumption it would receive an extension in time. He believed this motion was the most the Council could do to provide assurance to the plaintiffs and the court that it was sincere in its commitment and need for an extension to construct a quality product that everyone can be proud of and can live with. Mr. Austin further stated this motion achieved the most the Council could do to put into public record its commitment, and this action would assure people are comfortable with granting the Council the extension it needs.

John Bundy questioned if the sentence that read "The process developed to identify and implement HAPCs will be incorporated in the EFH EIS" meant the process the Council adopts would be described in the EFH EIS? Mr. Anderson replied affirmatively, adding it wouldn't be any geographic areas or any particular HAPCs, it would just be the process the Council intends to use. Dr. Balsiger recommended following the course he outlined in February where NMFS' EFH staff continued working as if they were going to get the extension and not worry about the August 2003 deadline. However, after voluminous public testimony against it, he was interested in whether the Council was willing to take the same gamble. If not, the Council should put together a "crash team" to put together the document with an eye toward delivery of August 2003. Chairman Benton mentioned the Council would get a report from the Committee in June and was hoping it would know if they had an extension before then.

Stephanie Madsen felt uncomfortable having a motion in front of her in anticipation of receiving the time extension, and recommended Dr. Balsiger put together a "crash team". She believed the Council needed to make a commitment that the HAPC process may be appropriate, more appropriate than including alternatives in the EIS, and the Council is committed to that process because they strongly believe that.

Chairman Benton clarified two things: for the alternatives under EFH, including mitigation alternatives - one of which is in the Aleutian Islands - if chosen by the Council, NMFS would write the regulations and implement it without further amendments. With HAPC, the Council would direct the Committee to come up

with a process for identifying HAPCs - including how to handle proposals, how to handle the public, how to incorporate science - and bring that to the June meeting. At that point the Council would discuss and possibly adopt that process as part of the EFH EIS. Depending on how that came out, the "initiate" language would kick in as a statement of intent from the Council. The "implementation" part of the motion meant the EFH EIS regulatory process of identifying EFH mitigation alternatives would go forward while the Committee is developing HAPC proposals. At some point in this schedule, the Council would adopt a preferred alternative, NMFS would write the regulation on EFH and the alternatives there. Meanwhile, the HAPC process is moving along and at some point a suite of proposals would come before the Council for action - analysis, public comment, etc. - and then come back to the Council for further action, and then they would be incorporated as specific amendments. A good analogy would be under EFH the Council might adopt Alternative 5B in the Aleutians with a mixture of open and closed areas and management measures under the EIS. Similarly, under the HAPC process somebody might look at all or a subset of the Alternative 5B approach in the Bering Sea. They would come back before the Council as specific HAPCs as a subsequent amendment to the Council's suite of management measures. Stosh Anderson agreed the Chairman's comments were very consistent with his motion and intent. Stephanie Madsen also agreed with the Chairman's comments, but didn't believe the motion accomplished it.

John Bundy moved to amend the amendment by adding the language shown underlined below and deleting the language shown stricken out. The motion was seconded by Stosh Anderson.

- (b) The Council directs the EFH Committee to develop and recommend a HAPC process. The EFH Committee shall report to the Council at the June Council meeting its recommended process for identifying and evaluating potential HAPC areas. The evaluation shall include efficacy, scientific review and appropriate mitigation measures. The process developed to identify and implement HAPCs will be incorporated in the EFH EIS. The Council ~~further directs the EFH Committee~~ intends to initiate the HAPC process prior to November 2003, and to implement these any HAPCs through the EFH implementation process.**

Mr. Bundy stated that between now and June the Committee would develop and recommend to the Council a process. The changes in the last couple lines are to say it may or may not be the EFH Committee that does it, and when the Council talks about initiating and implementing, it should be talking about the Council not a Committee. The motion to amend Mr. Anderson's amendment carried without objection.

Stephanie Madsen the moved to amend the amendment such that the last sentence would read as follows:

The Council intends to initiate the HAPC process prior to November 2003 and to implement any HAPCs on the same schedule as EFH FMP amendments. The motion was seconded by Stosh Anderson.

Chairman Benton, understanding the EFH Program in its entirety was developed through the EIS, asked Ms. Madsen's what would happen when the Council adopted EFH alternatives? He saw the possibility of it being an expression that the Council would do HAPCs outside of that process because the original amendment did it through the EFH implementation process, and Ms. Madsen's amendment removed HAPCs from the EFH implementation process leaving the possibility of future Councils to make that decision. Ms. Madsen read the language on the EFH implementation process as the Council would not do any HAPCs after that either. She did not intend to stop the HAPC process, similar to the EFH not stopping after 2006, and not limiting future Councils from doing HAPCs. Ms. Madsen's amendment carried without objection, and Mr. Anderson's amended amendment passed with Roy Hyder objecting.

The Council then discussed their reasoning for not incorporating Alternative 5B into EIS process. Stephanie Madsen reminded the Council the AP's minutes reflect Alternative 5B was not appropriate or timely as it moved EFH back substantially with additional analysis necessary and the time needed for review. Dr. Fluharty added that proponents of the Alternative 5B approach in the Aleutian Islands seemed useful relative to other areas as one cross-cutting analysis. Hazel Nelson also agreed Alternative 5B was not appropriate at this time and pointed out several conservation actions taken by the Council including scallop dredge restrictions, pot gear restrictions, trawl gear restrictions, allowable gear restrictions which prohibit the use of unlisted gear types such as gillnets, explosives, chemicals and other gears that may have adverse effects on EFH; under marine protected areas the Council has instituted habitat conservation areas such as the Bristol Bay trawl closure area, Red King crab savings area, Kodiak trawl closure area, southeast Alaska trawl prohibition, Cook Inlet trawl closure area, Sitka Pinnacles marine reserve, and Steller sea lion and Walrus Islands closure areas; under seasonal groundfish closure areas is the herring savings area, chum salmon savings area, and chinook salmon savings area; under harvest limits are optimum yield limits which cut back the participation in the fishery; for effort reduction and limitation, under forage fish prohibition, the Council instituted the groundfish and crab vessel moratorium, scallop vessel moratorium, groundfish and crab license limitation, and scallop license limitation; under fishery rationalization programs is the halibut and sablefish IFQ program, and groundfish and crab CDQ program; the American Fisheries Act, and other fishery regulations protecting fish habitat including the roe stripping prohibition and EFH designations. Ms. Nelson added that it was important for the public to note that the Council has already done a lot. John Bundy stated the SSC pointed out early on that the HAPC process needed to be driven by more independent and professional scientists and be science-based without shortcutting the stakeholder process. Stosh Anderson added that in addition to the other comments on applicability of the open area concept, the Alternative 5B concept, in the Bering Sea and the Gulf, the EFH Committee spent quite a bit of time and built a very adequate record on its original suggestions. Mr. Anderson spoke with staff and agreed they would like SSC participation in developing the scientific review process between now and June.

Chairman Benton asked Council members if they felt they needed to incorporate by reference, the SSC's fairly extensive comments into the motion. **Dennis Austin moved to amend the motion on the table by incorporating by reference the SSC's extensive comments.** The motion was seconded and carried without objection. The amended main motion passed unanimously.

Stosh Anderson brought up one last issue for discussion, being the common definition of terms. He spoke of staff generating, through Team EFH, a combination of literature, how the State uses terms, and how the Council uses terms. Mr. Anderson handed out a list of these terms and asked Dennis Austin to shed some light on what the Joint Protocol Committee's actions might be. Chairman Benton asked staff to make those available to the public and bring them back at the June meeting where they could hear public testimony on the list and get their input. He didn't believe the Council was in a position to adopt a preliminary list at this time. Dennis Austin said he hadn't thought the list needed to be adopted by the Council and spoke of the Joint Protocol Committee's intent at a staff working level that the definitions are in fact what they intended to use. Chairman Benton agreed there was no need for a motion, but still thought they should be made available to the public for debate as well.

Dr. Fluharty brought up another issue not needing a motion, but expressed interest in seeing different portrayals of data, truncated years, not full data sets, etc. in the analysis and in talking with staff he believed there would be a more consistent presentation in the analysis looking at EFH in a more dynamic manner. He did not intend to set standards, but liked having the suite of data available. He further encouraged staff to take these concepts into their work practice and be very explicit about which data sets are being used.

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The Council then had a long discussion about EFH litigation and the deadlines imposed, specifically the way HAPC and the EIS process are tied together. Chairman Benton mentioned to the Council that developing the final draft of the EIS as the court currently stipulates, is required by August of 2003. Seeking an extension of that date, most "hallway communications" included completing the EIS by August 2005, start a HAPC process by November 2003 (in the same time frame as EFH amendments), and if any HAPC identified or mitigation measures were identified in that process they would also be implemented simultaneously for amending the FMP with EFH measures. He indicated that if the Council followed this, it expected the plaintiffs to agree to the extension which applies only for producing the final draft of the EIS, due in August 2004. The other deadlines would remain the same. The August 2006 deadline for implementation would also remain. Dr. Balsiger stated NMFS expected the plaintiffs to agree to the extension. Stephanie Madsen agreed with the Chairman's description adding she would have liked thinking the Council could have gotten an extension on the Record of Decision (ROD) date of 2006 but was confused as to what a ROD meant versus implementation. She believed the ROD date was 2006 - being the Secretary's "decision" and then after that was a process of regulations that would implement it. Dr. Balsiger clarified the original court order, which NMFS was attempting to have changed, required a ROD in August 2005, so following that it gives NMFS 12 months to write regulations and have them on the books. The plaintiffs were not willing to discuss moving that final implementation date of August 2006. Ms. Madsen stated she didn't mind having dates in the stipulation, but didn't want any assumption there will or will not be HAPCs in the stipulation. Dr. Balsiger stated that was his understanding as well, and wanted to make it clear that the HAPC process may not find any HAPCs and if not, there is nothing to implement. The HAPC process may find some HAPCs, and HAPCs don't have to have mitigation. The Council might identify a HAPC that's a canyon someplace in which there's no possibility of fishing or no possibility of damage and there is no mitigation - it's just an identification. But if a HAPC is discovered that is very vulnerable, and the Council believes it needs protection, it would be implemented by the August 2006 date.

Chairman Benton then stated there were a couple issues that needed discussion. If there was a court stipulation, the actual stipulation signed between NMFS and the plaintiffs would not mention designating HAPCs, it would just be talking about extension of time for getting the EIS and ROD completed. The other piece of it was he understood the Council would ask the EFH Committee to identify a process which the Council would review proposals, involve the public, look at the science, and make recommendations for HAPCs - it was a process, not designation. Then, moving into EIS - the process would be part of the overall EFH package. Separate from the EIS, the Council would - along a parallel path - look at potential HAPC candidate sites. He understood this was different from getting the EIS done. Chairman Benton then asked how all this affected meeting the Council's statutory requirements, and whether the parallel HAPC process, after the Council put a HAPC process in the EIS, affected staffing, workload, and the timing of meeting those statutory requirements because the same people working on that would be working on the HAPC parallel process. Dr. Balsiger responded the Chairman was correct, and it would be very difficult. Chairman Benton thought it would be very useful that before the stipulation was signed, some Council members look at it so it knew what the Council was getting into - it could be a difficult situation.

John Bundy stated his understanding was the Council passed a motion to task the EFH Committee to develop and recommend a process and the Council then intended to commence that process. He didn't think the motion identified a date, and he stated the intent the Council would complete the initial round including implementing it by the August 2006 date. He did not believe the Council was signing a stipulation or contract, it was the Council's motion done in good faith. But he did have concerns about what might get added into the stipulation, on top of what the Council did, and he thought it appropriate the Chairman or at least someone from the Council be involved and have a chance to prevent miscommunication. Stosh Anderson added his motion was amended from "these HAPCs" to "if there are any HAPCs", so he believed the Council's motion clearly did not mandate it had to have HAPCs by any particular date. He added if the

Council identified there are appropriate HAPCs in the first iteration, then he believed it was clear from the wording of the motion that “they would be implemented on the same timeline as the schedule for EFH FMP implementation.” Mr. Anderson stated further that in consultation with staff on the process between now and August 2006, trying to lay out timelines and what it would take legally and practically to accomplish the tasks outlined, there were enough gaps to afford staff to work on both projects. Ben Ellis spoke of conversations with people in the public involved with the plaintiffs on the language of the implementation date being on the same timeline as EFH FMP. Those individuals didn’t have a problem with that timeline and understood it to be as outlined earlier by Chairman Benton. Stephanie Madsen concurred with the way Dr. Balsiger’s understanding of the Council’s motion, however she believed there was concern about putting dates in the stipulation because it might put the Council into a box. The Chairman agreed with Ms. Madsen adding he believed the Council voted in good faith about doing the EIS, getting the HAPC process part into the EIS, and then a parallel separate procedure to see if it could designate HAPCs. He saw two problems: one being staffing and what that meant, and how the Council would act if it did not receive the extension. The other problem being was what goes into the court order. It was one thing to have a Council motion saying it would do one thing, but hard and fast dates in a court order - especially a court order saying that if the Council doesn’t do it the Secretary would do it - were another thing. He saw, in the parallel process, the Council making its best effort to get it done. But if it wasn’t able to accomplish it, the judge would tell the Secretary to go point out a bunch of closed areas as HAPCs. Dr. Balsiger clarified that was not his understanding - that there would be a secretarial takeover of the HAPC process if the Council didn’t accomplish that. Lauren Smoker pointed out two things: the government can’t agree to things it doesn’t have the authority to agree to. NMFS didn’t agree to change EFH designations - they agreed to develop an EIS that would re-examine alternatives to the EFH designations and, if the Council and the Agency selected an alternative that is different than current regulation the Council and the Agency would undertake necessary rulemaking to implement that change. The second point she spoke of was whenever entering into stipulations with advanced deadlines, there could be things that could hang up the ability to get the product out by the agreed upon date. She believed that if there has been good faith efforts by the Council and the Agency to comply with all the deadlines and milestones, discussion would begin with the plaintiffs on advancing that timeline through a new court order.

Chairman Benton asked Dr. Balsiger for the opportunity to review the stipulation, if possible, and stated the Council needed to proceed as if it would meet the law, and the law right now says it needs to have something in August 2003. If there isn’t an answer by the June meeting, the Council would just have to figure it out. He complimented NMFS and its staff on doing a yeoman’s job trying to deal with this situation while still keeping it in the Council process. Dr. Balsiger thanked the Chairman for his statement of the Council’s support.

C-5 Programmatic Groundfish SEIS

ACTION REQUIRED

- (a) Receive Progress Report and Update on Schedule
- (b) Receive report on the multi-species model used for analysis and review its assumptions (SSC only)

BACKGROUND

In June 2002, the Council adopted a suite of four policy alternatives and accompanying frameworks for analysis in the revised draft Programmatic SEIS for the BSAI and GOA Groundfish Fisheries (PSEIS) (Item C-5(a)). In the process of developing the analysis, and with the concurrence of the PSEIS Steering Committee/Chairman’s Workgroup, minor adjustments were made to the framework. An

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annotated version of the spreadsheet is attached as Item C-5(b), detailing where modifications were made from the Council's June 2002 version. A narrative summary of the alternatives and their example FMPs is attached as Item C-5(c).

Some of the alternative policies call for re-opening or further restricting the fishing area in the BSAI and GOA. Although the PSEIS decision will be at a policy level, illustrative maps have been created for various example FMP bookends, to inform the analysis of a more or less restrictive spatial policy. These maps in poster form will be displayed during the PSEIS agenda item. Statistics on the example FMP bookend spatial restrictions are included in Item C-5(d).

In addition, the Council will receive a report on the Court's recent decision to reduce the work schedule for completing the PSEIS by 8 months. A new revised schedule will be presented showing NOAA Fisheries issuing a revised Draft PSEIS in September of 2003, with a final document being released during the summer of 2004. A Record of Decision on the PSEIS will be issued no later than September 1, 2004. To achieve this aggressive schedule, the Council will have to select a preliminary preferred alternative at its June 2003 meeting. Region staff will review the necessary steps to accomplish this task so that the Council's decision can be included in the revised Draft PSEIS. Following the June meeting, the document will be prepared for public review. The detailed revised schedule is attached as Item C-5(e).

Other effects of the Court-mandated deadline include shortening the public review period to the required minimum 45-days, requiring all electronic comments to be submitted using an agency web-based portal system, and perhaps scheduling a special meeting for the Council to review and select its final preferred alternative next spring.

Attached as Item C-5(f) is a copy of the powerpoint slides for Dr. James Ianelli's report to the SSC on the multi-species model used in the PSEIS analysis.

REVISED SCHEDULE

- **June 2003** overview of the revised draft PSEIS presented to Council; Council will determine its preliminary preferred alternative, to be included in the revised draft PSEIS
- **Sep-Oct 2003** public review of revised draft PSEIS
- **Oct-Dec 2003** synthesis and review of public comments
- **December 2003** comment summary presented to Council
- **Spring 2004** Council finalizes its preferred alternative
- **Summer 2004** Final PSEIS released for public review
- **September 2004** Record of decision

Report of the Scientific and Statistical Committee

The SSC received an update on development of the Groundfish PSEIS from Steve Davis (NMFS) and Diana Evans (NPFMC staff), and a presentation by Dr. Jim Ianelli (AFSC) on modeling work analyzing impacts of the various alternatives in the Groundfish PSEIS. The purpose of the presentations was twofold: 1) update developments since the 2002 Council meeting, and 2) allow for a technical assessment of a "multi-species technical interaction projection model". Following resolution of a court action, an expedited timeline was reached resulting in a Record of Decision by September 2004. The Council will need to select its preferred

alternative by June 2003 with final determination in Spring 2004 to meet this deadline. The SSC noted very little time was available for public comment and full analysis of the alternatives had been severely curtailed.

The SSC had several concerns on the modeling work presented by Dr. Ianelli, and recommended the results not be deleted, but rather appropriate caveats and limitations of the modeling be carefully described. The SSC requested documentation on the model used in the analysis as well as the criteria used in significant determinations.

The complete list of SSC concerns can be found in their minutes, attached as Appendix III.

Report of the Advisory Panel

The Advisory Panel did not address this agenda issue.

DISCUSSION/ACTION

The Council received a staff report by Steve Davis and Diana Evans on the progress and schedule of the DPSEIS, however, there was no Council action on this issue.

C-6 BSAI Pacific Cod Allocation

ACTION REQUIRED

Initial review of fixed gear Pacific cod allocation amendment (BSAI Amendment 77).

BACKGROUND

Effective in September 2000, BSAI Amendment 64 apportions the fixed gear share of the BSAI Pacific cod TAC among the fixed gear sectors as follows:

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

This amendment sunsets on December 31, 2003. In October 2002, the Council initiated a new plan amendment (BSAI Amendment 77) to retain or alter these allocations, and the problem statement and alternatives for analysis were approved at the December Council meeting. Amendment 77 proposes implementing separate allocations to hook-and-line catcher processors, hook-and-line catcher vessels, pot vessels, and catcher vessels <60' LOA, with the option to split the pot vessels' allotment between pot catcher processors and pot catcher vessels. In essence, this action would continue to further split the 51% of the BSAI Pacific cod TAC allocated to fixed gear vessels among the above sectors based on recent catch histories.

This amendment package considers four primary alternatives, including the no action alternative (Alternative 1). The status quo alternative would continue the fixed gear Pacific cod apportionments approved by the Council under Amendment 64, which fairly closely represent harvests in this fishery over the period 1995-1998, with an additional allocation for catcher vessels <60' LOA. A third alternative would apportion the fixed gear BSAI Pacific cod TAC according to catch histories by sector during 1995 - 1999. Finally, a fourth alternative is included to apportion the pot share of the BSAI Pacific cod TAC between pot catcher processors and pot catcher vessels. There are also several

options provided to address BSAI Pacific cod quota reallocated to and within the fixed gear sectors, as well as an option for a five-year sunset provision.

Similar to the original action, Amendment 77 is intended to respond to concerns that the stability of this fully utilized fishery is threatened by increased competition, driven in part by recent increases in the market value of cod products. While participants in the BSAI fixed gear Pacific cod fishery include longline and pot fishermen with extensive catch histories, absent a gear split, there is no mechanism that would prevent one sector from increasing its effort in the fishery and eroding another sector's relative historical share. The original fixed gear split was approved as a step to promote stability in the BSAI Pacific cod fishery until comprehensive rationalization is completed. The Pacific cod endorsements required under Amendment 67 and implemented in 2003 are considered a further step in this process. The Council noted that prior to the expiration of Amendment 64, it intended to reconsider the issue in light of the impending Pacific cod endorsement requirement on permits issued to fixed gear vessels $\geq 60'$ under the License Limitation Program.

Because Amendment 77 includes an alternative that would split the pot share of the TAC between pot catcher processors and pot catcher vessels, both issues (the overall fixed gear split and the pot split) are addressed in two separate problem statements guiding analysis of this proposed action. The alternatives for analysis and the problem statements are included in the executive summary, attached as Item C-6(a). The analysis was sent to you on March 14. Initial review is scheduled for this meeting, with final action scheduled in June.

Scientific and Statistical Committee Report

The SSC received an overview of the Draft EA/RIR/IRFA for proposed Amendment 77 to the BSAI FMP. The proposed action addresses harvest allocations for the fixed gear allocation fisheries for Pacific cod formally addressed by Amendment 64, which expires December 31, 2003. The SSC recommended the document go out for public review after staff addressed a few minor inconsistencies. The SSC noted the document was very well written and appreciated the excellent presentation by Nicole Kimball.

Report of the Advisory Panel

The Advisory Panel commended Council staff on an excellent analytical document and recommended the Council direct staff to release the Amendment 77 initial analysis for public review.

DISCUSSION/ACTION

Roy Hyder moved the Council accept the AP recommendation and release the Amendment 77 initial analysis for public review. The motion was seconded by Stephanie Madsen. Dennis Austin noted for the record the SSC made the same recommendation, and the motion carried without objection.

C-7 IR/IU

ACTION REQUIRED

- (a) **Review proposal for Amendment 'A' (multi-species H&G co-ops), and associated allocation issues**
- (b) **Initial review of Amendment 'C' (minimum groundfish retention standards)**
- (c) **Discuss relationship of Amendment 'A' and Amendment 'C'**

- (d) Final action on Amendment 'D' (5% exemption from flatfish IR/IU requirements)

BACKGROUND

In October 2002 the Council voted to delay implementation of IR/IU flatfish regulations for the BSAI until June of 2004, and initiated analyses for a suite of trailing amendments designed to mitigate, or potentially replace, full retention requirements for flatfish in the BSAI. The Proposed Rule for the delay was published last week, with comments due by early May. Amendment A, originally to establish PSC cooperatives for the H&G sector, was discussed at the February 2003 meeting, and expanded to be a multi-species cooperative for that sector. Recognizing the necessary allocations which would be required to make such a cooperative viable, the Council expanded the membership of the IR/IU Technical Committee and requested they develop a specific proposal (alternatives, elements, and options) for a multi-species cooperative for review by the Council in April. At the February 2003 meeting, the Council put on hold further development of proposed trailing Amendment B (to create specific bycatch/discard caps for BSAI flatfish).

In February 2003 the Council reviewed an initial discussion paper for Amendment C, which would establish a minimum groundfish retention standard as a possible replacement for the 100% flatfish retention requirements. Monitoring and enforcement concerns identified by the agency last fall were further addressed in the February draft and included provisions for additional scale and observer requirements intended to make the H&G cooperative a viable alternative. In February the Council passed a motion to continue development of Amendment C, including further analysis of several issues identified by the AP and the IR/IU Committee, and bring that document to the April meeting for initial review. At the February meeting the Council also reviewed Amendment D, which would establish exemptions to the IR/IU flatfish retention requirements for sectors with less than 5% bycatch rates of the relevant flatfish species, and released that document for public review and final action at this meeting.

The Council has requested expedited development of Amendments C and D, with Amendment A to be developed as soon as practicable. The status of each of these amendments, and the relationship among them, is discussed further below.

Amendment A

The IR/IU Technical Committee has met twice since the February meeting to focus on development of a multi-species cooperative proposal for the H&G sector. The minutes from those meetings are attached as Item C-7(a)(1), and the specific list of elements and options (in the form of decision points) developed by the Committee is under Item C-7(a)(2). That list of decision points would form the basis for formal analysis after review and approval by the Council. The list includes options for necessary allocations of target and PSC species to the H&G sector in order for the proposed co-op to operate (but does not address allocations of these species to other sectors operating in the BSAI fisheries). Staff and the Committee Chair will provide an overview for the Council at this meeting. Completion of a formal analysis could be done by the October meeting for initial review, and final action in December. Implementation might be possible by June of 2004, assuming that all monitoring and enforcement issues are adequately addressed, and that the necessary management structures can be in place by that time, though this is likely an overly optimistic timeline.

Amendment C

This Amendment was scheduled for initial review at this meeting, and possible final action in June. Due to a number of factors, staff were unable to fully develop the analysis of Amendment C and the

additional issues identified in February into a comprehensive EA/RIR/IRFA in time for this meeting. However, the major portions of the analysis, including the relevant information and data, are contained in the analysis, and are not significantly changed from the February draft. We will present a summary of the analysis at this time and identify the issues which would benefit from further clarification. For example, the specific fisheries/sectors to which this amendment would apply should be clarified, given the implicit relationship to Amendments A and D. For example, to affect other than the H&G sector, the retention standard would have to be set at such a high level as to likely render compliance by the H&G sector impossible (unless different standards were established by sector). The analysis could then be streamlined and focused in the appropriate context, and possibly completed after this meeting for release to the public in May, and still take final action in June. Alternately, the analysis could be brought back in June for formal initial review, with action delayed until October. Implementation by June 2004 should be possible under either scenario. Further considerations in this regard are discussed below.

Relationship and Timing of Amendments A, C, and D

One issue raised in February was whether, from a NEPA process perspective, Amendments A, C, and D were all alternatives to 100% flatfish retention requirements, and therefore should be combined in a single NEPA document for consideration at one time. As developed by the Council, these trailing amendments are not mutually exclusive, and could be implemented either separately or in combination, or not at all. From a strict NEPA perspective, it does not appear that it is necessary to combine these proposed amendments. However, from a practical perspective, it may be prudent to consider at least two of them in combination, Amendments A and C. This does not require that the analytical documents be combined, simply that they be considered, approved, and implemented on a parallel track, particularly if implementation of Amendment C is viewed to be impractical without concurrent implementation of Amendment A; i.e., that cooperatives are necessary to comply with minimum groundfish retention standards. It is also true that Amendment C could be approved ahead of Amendment A, with the intent that A would be subsequently approved, and implemented either concurrently or as soon as possible after implementation of C.

Amendment D will provide exemptions for certain sectors if 100% flatfish retention requirements go into effect in 2004 in the BSAI (these exemptions would also apply in the GOA, which was not included in the delay). There does not appear to be any downside to moving forward with final action on Amendment D at this meeting.

Amendment D

Amendment D was reviewed in February, including approval by the SSC, and released for public review following the February meeting. Final action is scheduled at this meeting. The Executive Summary is included as Item C-7(d)(1). Staff will review the analysis and alternatives at this time.

Scientific and Statistical Research Committee Report

The SSC received a staff presentation by Marcus Hartley (Northern Economics), which suggested that cooperatives envisioned under Amendment A could induce changes in vessel and fleet behavior that would increase incentives to cooperate to minimize discards. This was also mentioned in public testimony. The SSC noted the analysis of Amendment C needed to address problems associated with the product recovery rates (PRRs) used to back calculate retained catches. The SSC did not recommend releasing the EA/RIR for Amendment C for public review until the completed analysis is reviewed by the SSC, AP and Council.

Report of the Advisory Panel

The AP made specific recommendations to the Council under each subissue as follows:

- C-7(a) IRIU Review of Amendment A proposed analysis - The AP recommended the Amendment A go forward for further analysis with the following changes:
1. Add a new section (Decision Point) 27.1.1: the PSC bycatch allowances referred to above should also be analyzed using the years 2000-2002.
 2. Revise Decision Point 8 as follows:
The vessel owner must be eligible to own a fishing vessel under Marad, and
8.1.1: To be eligible, a vessel must have caught with trawl gear and processed between 1998-2002 a) 100 mt, b) 150 mt, c) 500 mt, or d) 1000 mt.
8.1.2: To be eligible, a vessel must have caught with trawl gear and processed between 1997-2002 a) 100 mt, b) 150 mt, c) 500 mt, or d) 1000 mt.
Second generation owners of eligible vessels remain eligible as long as they can register under Marad regulations for fishing vessels.
 3. The draft decision tree should clarify that the “catch history” of the boats that are found eligible in Decision Point 8 will determine the “catch history” applied when making sector apportionments in Section 26.
 4. The removal of Paragraph 20.1 under Decision Point 20 - “Elimination of LLP gear designations”.

- C-7(b) IRIU Initial Review of Amendment C (minimum groundfish retention standards)

The AP recommended the Amendment C analysis be sent out for public review with the following changes:

1. Add a new Decision Point 7 - “MRA Compliance Accounting” - with the language contained in Amendment A, Section 2.1.2, Status Quo Plus 2.
2. Include an expanded discussion regarding whether or not PRRs (Product Recovery Rates) provide an accurate representation of current production practices.

- C-7(c) IR/IU Relationship of Amendments A and C

The AP recommended Amendments A and C be linked and integrated at the earliest possible time.

- C-7(d)(1) IR/IU Amendment D (5% exemption from flatfish IR/IU requirements)

The AP recommended the Council adopt Alternative 2, with Subalternative 2.1. The intent of the AP is to exempt all fisheries from the IR/IU flatfish regulation with the exception of the following:

- a. BSAI non-AFA crawl CP Pacific cod fishery (Non-AFA and AFA trawl catcher processor fisheries are defined as separate fisheries)
- b. BSAI flathead sole fishery (CDQ and non-CDQ)
- c. BSAI non-AFA rock sole fishery (CDQ and non-CDQ)
- d. BSAI non-AFA yellowfin sole fishery (CDQ and non-CDQ)

DISCUSSION/ACTION

Roy Hyder moved the Council adopt the AP recommendations in their entirety. The motion was seconded by Stephanie Madsen. In support of his motion, Mr. Hyder referred to the SSC minutes, but did not include them in his motion. The Council agreed to address the issues in reverse order, beginning with (d) working back to (a), and then vote on the entire package.

In an effort to clarify the FMP language, Sue Salvesson asked if the Council intended, when periodically reviewing discard information under subalternative 2.1, to look at the 5% threshold only for the most recent three years as to whether a fishery will be added or removed from the exempted list. She continued by asking if the Council wanted that kind of specific criteria in the FMP locking in the Council in terms of what it will be considering and the time frame it will be considering when it makes a decision to add or remove vessels from the exempted list, or if it was very vague in terms of what information the Council will be considering (including the threshold) which is how it was laid out under subalternative 2.1. Chairman Benton understood if the Council chose subalternative 2.1 there was no periodic review, whereas subalternative 2.2 outlined a more definitive process on how to look at fisheries in the future. Stephanie Madsen spoke of her concern along this line as well. She didn't believe subalternative 2.1 gave the industry any assurance about the future because it wouldn't know when the Council would initiate it or under what criteria to assess whether a vessel was on the exempted list or not. Ms. Madsen felt more comfortable with subalternative 2.2 understanding that 2002 would be the baseline year, and move forward from there. She further understood it would work by providing the 5% exemption for those fisheries on a sector basis that can stay under 5% discard in the flatfish fisheries, they would be exempt from the regulations that would kick in for the Bering Sea in June of 2004 and would kick in for the Gulf of Alaska as soon as this amendment passed. She believed this exemption applied to the current IR/IU regulations for the two flatfish species that would kick in June of 2004 and the next Council action for Amendment C would be to establish groundfish retention rates, possibly for a specific sector only, and those people outside the H&G CP fleet would have to comply with IR/IU in June 2004 and are eligible for the 5% discard exemption examined on a regularly scheduled review by NMFS. They would not be required to comply with the groundfish retention standards being considered in Amendment C.

Ms. Salvesson questioned to what extent Amendment C supercedes Amendment D, and for what sector. If the Council's assumption is as stated by Ms. Madsen, the H&G catcher/processor fleet, Amendment C would not supercede Amendment D except for that fleet. Chairman Benton attempted to capture the Council's intent by stating there were IR/IU regulations for yellowfin sole and rock sole going into effect (100% retention) and the Council started looking at ways to improve that program. One way of improving it was Amendment D and its relationship with the June 2004 program. It provided an adjustment to the program where those fisheries having operational characteristics of being under the 5% threshold over time would be exempted from the regulation. Another way the Council was looking at improving IR/IU was a combination of Amendment C and a co-op program under Amendment A. Amendment C was another adjustment to the IR/IU program. Chairman Benton believed Amendment C would apply to a subset of the fleet that needed to have, and would benefit from, an adjustment especially if it was in combination with a co-op. Whoever fell under the rules of Amendment C wouldn't be subject to the IR/IU program, but those who didn't fall under Amendment C would be subject to IR/IU with these adjustments. Based on this discussion, **Stephanie Madsen moved to amend the motion by replacing subalternative 2.1 with subalternative 2.2.** The motion was seconded by Ben Ellis. Ms. Madsen clarified the intent of her motion by stating a scheduled regular review of the fisheries and whether they are on the list of vessels under the 5% retention threshold based on the chart on page 5 of the analysis should be required. Additionally, Ms. Madsen stated the effect of this action would be that the listed vessels on the AP motion are the current fisheries that would not be

exempt, but it was not her intent they were the only fisheries outside the exemption forever and a review process would be undertaken to assess all other fisheries included in Amendment D.

David Fluharty pointed out a key difference in that it was quite possible, if review came every three years, that someone could exceed the threshold for all three years and it would probably be four years before the Council could implement the change. Marcus Hartley interpreted subalternative 2.2 such that if a fishery in year 1 that is exempt all of a sudden went to 20% discard, the Council wouldn't get to the rulemaking process for two years and the rule wouldn't go into place for 4 years.

Sue Salveson summarized the discussion by saying there would be an FMP amendment establishing the 5% threshold for a fishery being added or removed from the exempted list based on a past 3-year rolling average. Council discussion on how to implement that was it would receive an annual report from NMFS on the rolling average and based on that information the Council would have to adjust the exempt list through rulemaking or not, but the potential for rulemaking exists. It could be up to a year before it goes into effect, and it would be in place until the next adjustment. Potentially the Council could be looking at an annual process.

Sue Salveson proposed a substitute amendment whereby NMFS would annually bring forward to the Council the most recent three years of information for discard rates in the Bering Sea and Gulf of Alaska fisheries, and based on that information the Council would recommend to NMFS whether or not to initiate a regulatory amendment to revise its list of exempted fisheries and NMFS would proceed to do so. This assessment would be conducted on an annual basis and rulemaking would only be contingent on the need, based on the information brought forward to the Council in their recommendation to NMFS. Chairman Benton asked if Ms. Salveson intended the standard for review to be 5% exemption standard and the 3-year average, to which Ms. Salveson replied affirmatively. The motion was seconded by David Fluharty. The substitute amendment carried without objection.

The Council then moved into discussion of Amendment D. Lauren Smoker prefaced the discussion by stating it would be helpful if Council members addressed how Amendment D is consistent with the National Standards, and in particular National Standard 9 requiring the Council and NMFS to minimize bycatch to the maximum extent practicable. Ms. Smoker also requested Council members to address the 5% threshold percentage and why that percentage was appropriate.

John Bundy, in stating his support of the motion, stated the analysis the Council received indicated that 100% retention of these two flatfish species as a blanket requirement exceeds practicality. The 5% is a reasonable level at which to set the standard for bycatch allowance. If knowledge comes forth at a later time indicating the percentage needs to be changed, the Council would address it then. Hazel Nelson added the analysis also indicates the potential impact of the IR/IU rules for flatfish on some sectors of the groundfish fisheries of the Bering Sea and Gulf of Alaska creates the possibility that some entities currently participating in these fisheries might be compelled to discontinue their participation due to the economic burden the rules could place on their operation.

The Council then moved on to discussion of Amendment C. Stephanie Madsen wanted to state her intent for the record that if she could make the decision today, it would be that Amendment C would only apply to the H&G catcher/processor fleet. Sue Salveson said NMFS had several outstanding issues with the analysis for Amendment C and asked staff if they felt they could still come back in June with a fully fleshed-out analysis after being asked to address additional decision points addressing the MRA standard. Marcus Hartley indicated staff could include sufficient information in Amendment C for the Council to see the implications of its decisions for a final decision in June.

John Bundy moved to amend the motion at existing Decision Point 6 (and the new Decision Point 7 recommended by the Advisory Panel) by replacing the language with the following:

Decision Point 6: What is the disposition of incidental catch allowances of pollock?

Status Quo: A predetermined percentage of the pollock TAC would be set aside for use as incidental catch. Up until the point the incidental catch set-aside has been caught, all pollock must be retained up to MRB standards. After the incidental catch set-aside has been caught, pollock could not be retained by non-AFA vessels.

the following two suboptions could augment the status quo and are not mutually exclusive. Insert NMFS language that defines directed fishing.

Status Quo Plus: NMFS manages ICA for pollock as it does now, but adjust MRB rates to insure that the historical bycatch requirements of pollock in the non-pollock fisheries are not exceeded. MRB rate adjustments can be made by NMFS managers either in-season or inter-annually to discourage increased bycatch (incidental catch) of pollock should pollock harvest amounts indicate that this is occurring. MRB rate adjustments could be made between 0 and 49% subject to the stipulation that non-AFA vessels are not engaged in directed fishing for pollock at any point in their trip. The intent of this approach is to allow increased retention of pollock without increasing the relative bycatch requirements of the non-pollock fisheries.

(bycatch requirements are defined as the amounts of bycatch needed to harvest the species subject to cooperative management defined in Decision Point 1 of Amendment A. Consideration must be given to historic bycatch rates and total bycatch levels, as well as changes in comparative biomass levels of the species involved. Bycatch requirements would be funded by the current pollock ICA.)

Status Quo Plus 2: Additionally the Council might consider action that would change the way MRB compliance is accounted for in fishing trips. Currently, it is enforced at any point in the trip. Other options for consideration would be enforcement of MRB compliance on other time periods. The intent of this approach is to allow increased retention of pollock without increasing the relative bycatch requirements of the non-pollock fisheries.

(other periods to be analyzed would include trips as defined by NMFS, weekly reporting periods, or trips as defined as the period of time between port calls. This portion of the analysis would also include the issue of dealing with this issue as part of an inter-co-op agreement.)

The motion was seconded by Stephanie Madsen and carried without objection.

The Council then moved on to discussing Amendment A. Hazel Nelson moved to delete Decision Points 26.1.2, 26.1.4 including suboption 26.1.4.1, and Decision Point 26.1.6 from the Amendment A Decision Tree, as shown below. The motion was seconded by Ben Ellis.

26.1 With the exception of Pacific cod which will be apportioned as in 26.2.2, the CO-OP Program shall be allocated the percentage of the TAC of each species of groundfish from Decision Point

1, that is equal to the average of the annual percentage of harvest by CO-OP Eligible vessels in the years specified in the suboptions below, relative to the amount of such species harvested by all vessels during the same period. In other words:

- **Catch of CO-OP Eligible Vessels ÷ Catch of All Vessels = CO-OP Percent**
- **CO-OP Percent × TAC = CO-OP Program Apportionment**

26.1.1 The average of annual catch percentages from 1995-1997 will be used.

~~**26.1.2 The average of annual catch percentages from 1995-1998 will be used.**~~

26.1.3 The average of annual catch percentages from 1995-2002 will be used.

26.1.3.1 Optionally exclude 2001 because of the injunction.

~~**26.1.4 The average of annual catch percentages from 1998-2002 will be used**~~

~~**26.1.4.1 Optionally exclude 2001 because of the injunction.**~~

26.1.5 The average of annual catch percentages from 2000-2002 will be used.

~~**26.1.6 The annual catch percentages from 2002 will be used.**~~

Ms. Nelson stated she intended to bracket the issues and reduce the alternatives. She felt her motion did this by retaining 26.1.1 which were the AFA years, 26.1.3 which was the compromise of a broad spectrum of years, and 26.1.5 capturing recency. John Bundy brought up that this motion now included three options, but only one had a suboption to exclude the injunction year of 2001 (26.1.3). **Mr. Bundy moved to amend the amendment by adding the same suboption to 26.1.5, as indicated below.** The motion was seconded by Stosh Anderson and carried without objection. The amended amendment then carried without objection.

26.1.5.1 Optionally exclude 2001 because of the injunction.

Ben Ellis moved to insert a new suboption 26.2.3 for fixed gear and two suboptions as follows:

26.2.3 Fixed Gear

26.2.3.1 Allocation per the table on Page 104 of Amendment 77 with rollover.

26.2.3.2 Allocation per the table on Page 104 of Amendment 77 without rollover.

The motion was seconded by Earl Krygier. John Bundy stated he didn't think this motion was appropriate here - he agreed it was a good issue, but it didn't belong in this Decision Tree motion. He further stated the analysis made it clear the intent was for the head and gut fleet and along with the intent of allocation issues, the concept was to look at the whole thing carving out one slice that would go to the head and gut fleet. Chairman Benton agreed that allocation issues were part of what needed to happen overall. Mr. Bundy pointed out if the public had been aware the Council was going to discuss allocations, it would have been brought up in testimony. Chairman Benton was concerned that down the road a co-op might be delayed because the Council hadn't discussed allocation issues. Dennis Austin had the same concerns as Mr. Bundy, adding the issue wasn't mature and the public had not been put on notice, so he didn't feel ready to vote yet. Mr. Ellis' amendment passed 6-5 with Austin, Salveson, Bundy, Fluharty and Hyder voting against.

Ben Ellis then moved to insert a new 26.3, CDQ Allocations, including the four suboptions shown below:

26.3 CDQ Allocations

- 26.3.1 7.5%**
- 26.3.2 10%**
- 26.3.3 15%**
- 26.3.4 20%**

The motion was seconded by Stosh Anderson. John Bundy then restated his objection to the previous motion. The motion passed 6-5 with Austin, Salvesson, Bundy, Fluharty and Hyder voting against.

Mr. Ellis moved to **add a new 26.4, Other Trawl Allocation, with the suboptions indicated below:**

26.4 Other Trawl Allocation

- 26.4.1 For AFA Vessels - allocate to co-ops, subject to AFA rules**
- 26.4.2 For Non-AFA Vessels - sector allocation**

The motion was seconded by Stosh Anderson. John Bundy stated he felt there had to be the ability to peel off the broader inquiry at the June meeting because he felt the Council was shifting a flatfish bycatch issue and expanding it to the rationalization of groundfish in the Bering Sea issue. He stated further that rationalization of groundfish in the Gulf of Alaska was much more complicated and felt the analysis would probably need many more decision points.

Dave Fluharty stated he would not support the motion as he felt the effects of taking this action were already included in the analysis and completely changed what the IRIU Committee and AP had accomplished. John Bundy added there had to be the ability to peel off the broader inquiry at the June meeting as he felt the Council was shifting a flatfish bycatch issue and expanding it to a rationalization of groundfish in the Bering Sea issue. Chairman Benton added that Marcus pointed out in his presentation that a lot of the data with regard to who's in/who's out, years, and who catches what, would be in the tables that he's going to prepare for the analysis; irrespective of whether or not the allocation issues are dealt with by the Council. He further stated that it does put the public on notice that they should be thinking about this and be prepared to offer suggestions to the Council at the June meeting.

Sue Salvesson stated she understood a staff assumption of sector-wide splits of all fish in the BSAI for Amendment A. Chairman Benton stated those bits and pieces were included in the Decision Tree and as elements and options. Dennis Austin stated his support of the motion because the votes are so close and questioned how it would affect the linkage of Amendments A and C in final implementation. Mr. Ellis responded it was necessary to pull out the section that needed to move forward to link it to Amendment C so it wasn't 'held hostage' in Amendment A and the Council had the ability to do so at the appropriate time. The motion passed 8-3 with Bundy, Fluharty and Hyder voting against.

Hazel Nelson questioned whether the words "after deduction of the CDQ program," found at the end of the first sentence of 26.2.1 should also be applied to 26.1. Marcus Hartley replied this was staff's presumption and the words would be added to the Decision Tree for the June meeting.

Stephanie Madsen moved the Council add the following options to the second paragraph of Decision Point 27.1 relative to historic usage, as follows:

- a. 60% of total use of the PSC allowance during the same period**
- b. 75% of total use of the PSC allowance during the same period**
- c. 90% of total use of the PSC allowance during the same period**

This motion would bundle together the PSC with the allocation. Ms. Madsen further stated her intent was to look at where the thresholds are and instead of getting 100% of historic use relative to the total. The motion was seconded by Ben Ellis and with one objection.

John Bundy moved the Council modify the first sentence of 26.1 and add new language to 26.3.1 and 26.3.2. Deleted language is shown stricken out, and new language is shown underlined.

26.1 ~~With the exception of Pacific cod which will be apportioned as in 26.2.2, t~~The CO-OP Program shall be allocated the percentage of the TAC of each species of groundfish from Decision Point 1, that is equal to the average of the annual percentage of harvest by CO-OP Eligible vessels in the years specified in the suboptions below, relative to the amount of such species harvested by all vessels during the same period. In other words:

- **Catch of CO-OP Eligible Vessels ÷ Catch of All Vessels = CO-OP Percent**
- **CO-OP Percent x TAC = CO-OP Program Apportionment**

26.3.1 Total Catch over Total Catch

26.3.2 Retained Catch over Retained Catch

The motion was seconded by Stephanie Madsen. Mr. Bundy stated this motion was for clarification purposes and would make the analysis more clear. Chairman Benton asked if the Council had in the past looked at retained catch over TAC? Mr. Bundy responded saying people working on the issue have done it both ways and for purposes of defining directed fisheries retained catch was typically used. However, total catch tended to be used when talking about bycatch allocations. Marcus Hartley added he had information for both retained catch and total catch, and that halibut/sablefish IFQs were done using total catch to total catch. He also believed the AFA was done on a total catch to total catch basis. Marcus further clarified that if the Council used total catch over total catch and multiplied it by the TAC, then 100% of the TAC would be allocated to various sectors. However, if it used retained catch over retained catch and multiplied it by the TAC, there would be fish left over - only 70% of the TAC would be allocated. The motion carried without objection.

The Council then broke for lunch while an updated version of the main motion was created, incorporating all amendments thus far. Chairman Benton then announced that due to a family emergency, Earl Krygier had to leave the meeting. Having a clean printed version of the motion in front of them, the Council resumed its discussion and continued amending the document, as presented below.

Decision Point 26. How will sector-level apportionments of groundfish to the non-AFA Trawl CP Sector be determined?

26.1 Non-AFA Trawl CP Sector shall be allocated the percentage of the TAC of each species of groundfish from Decision Point 1, that is equal to the average of the annual percentage of harvest by Non-AFA Trawl CPs (as defined by Decision Point 8) in the years specified in the sub-options below, relative to the amount of such species harvested by all vessels during the same period (after CDQ allocations). In other words:

Catch of Non-AFA Trawl CP Sector ÷ Catch of All Sectors = Non-AFA Trawl CP Percent

- **Non-AFA Trawl CP Sector Percent x post-CDQ TAC = Non-AFA Trawl CP Sector Apportionment**

26.1.1 The average of annual catch percentages from 1995-1997 will be used.

~~**26.1.2 The average of annual catch percentages from 1995-1998 will be used.**~~

26.1.3 The average of annual catch percentages from 1995-2002 will be used.

26.1.3.1 Optionally exclude 2001 because of the injunction.

~~**26.1.4 The average of annual catch percentages from 1998-2002 will be used.**~~

~~**26.1.4.1 Optionally exclude 2001 because of the injunction.**~~

26.1.5 The average of annual catch percentages from 2000-2002 will be used.

26.1.5.1 Optionally exclude 2001 because of the injunction.

~~**26.1.6 The annual catch percentages from 2002 will be used.**~~

26.2 Pacific cod allocations will determined using one of the following methods:

26.2.1 The Non-AFA Trawl CP Sector will be allocated a no less than 18.3 percent of the Pacific cod TAC available after deduction for the CDQ program. *(This allocation equals the current Trawl CP apportionment of Pacific cod less the 5.2 percent that has been established as the AFA-CP harvest sideboard.)*

26.2.2 Pacific cod shall be apportioned in the same method used in 26.1 for all other allocated species.

26.2.3 Fixed gear

a. Allocation per Amendment 77 with rollover

b. Allocation per Amendment 77 without rollover

26.3 CDQ Allocation

26.3.1 7.5%

26.3.2 10%

26.3.3 15%

26.3.4 20%

26.4 Other Trawl Allocation

26.4.1 For AFA Vessels: Allocate to Co-ops, subject to AFA rules

26.4.2 For Non-AFA Vessels: Sector allocation

26.5 For purposes of apportionments in 26.1.1 - 26.1.6 harvests will be defined using one of the following:

26.5.1 Total Catch over Total Catch

26.5.2 Retained Catch over Retained Catch

The analysis will discuss the disposition of catch histories of the nine trawl CPs retired under AFA.

Decision Point 27. How will sector-level apportionments of PSC to the non-AFA Trawl sector for be determined?

27.1 Prohibited speices bycatch allowances shall be initially assigned to fishery groups (e.g. the rock sole, flathead sole, other flatfish group) based on the relative historic usage by the non-AFA Trawl CP Sector (as defined by Decision Point 8) during the period used to determine the groundfish sector apportionments (see Decision Point 26), expressed as a percentage of the total PSC allowance.

The non-AFA Trawl CP Sector shall be initially assigned an amount of each PSC allowance by fishery group based on the non-AFA Trawl CP Sector's historic usage during the period used to determine groundfish apportionments, relative to the total use of the PSC allowance during that same period.

For example, if the non-AFA Trawl CP sector used 40 percent of the halibut PSC used by the trawl fleet in the Pacific cod fishery during the period used to determine groundfish apportionments, the non-AFA Trawl sector would be initially assigned 40 percent of the halibut PSC initially assigned to Pacific cod trawl fisheries. Within the non-AFA Trawl sector, apportionments of PSC shall be based upon the method(s) described in Decision Point 13.

Options to apply relative historic usage at the following percentages:

27.1.1 60%

27.1.2 75%

27.1.3 90%

27.2 Apportion PSC allowances to sectors in proportion to groundfish apportionments to sectors determined in Decision Point 26.

For example, if the non-AFA Trawl CP sector is are allocated 33.9 percent of the trawl apportionment of Pacific cod, the non-AFA Trawl CP sector would be allocated 33.9 percent of the halibut PSC allowance made for trawl Pacific cod.

AMENDMENT D MOTION:

NMFS will forward annually to the Council the most recent information on discard rates in BSAI and GOA fisheries, and based on that information, using a 3-year rolling average of discards at the 5% threshold rate, a regulatory amendment process would be initiated to change the list of exempted fisheries. The assessment will be conducted on an annual basis and rulemaking would commence only if the list of exempt and non-exempt fisheries changes. NMFS will examine the possibility of using the annual specifications process as the vehicle for potential regulatory change.

Sue Salvesson stated that sections 26.3 and 26.4, which were added by amendment, didn't really fit under Decision Point 26 because it pertained to the non-AFA trawl CP sector only. Chris Oliver responded that it may be cleaner to separate them so it doesn't confuse the language issue with the (H&G) non-AFA trawl CP sector. Chairman Benton countered that Section 26 was originally allocating to the co-op and within the co-op - to and within the fleet. Embedded within that are a series of other allocation issues. He then suggested rewriting the first paragraph. Mr. Oliver suggested replacement language for section 26.1, which the Council agreed upon and Ben Ellis moved the Council adopt. After conferring with the parliamentarian (Dave Hanson), the Chairman ruled the amendment out of order as it was the third revision to the same paragraph. The Council did agree, however, that the language shown on the updated copy of the motion did not correctly reflect their amendments to section 26.1. As the motion to amend that paragraph was originally made by John Bundy, he restated his amendment for Council clarification.

Chairman Benton reminded the Council that due to Mr. Krygier's absence there were 10 voting Council members and a vote of 5-5 would fail.

Dave Fluharty moved the Council reconsider its vote on Section 26.1.4 and 26.1.4.1. The motion was seconded by Hazel Nelson. Chairman Benton reminded the Council that vote on that amendment was unanimous. The motion to reconsider carried without objection.

Dave Fluharty moved the Council adopt Section 26.1.4 and 26.1.4.1. The motion was seconded by Hazel Nelson. These sections were removed by a previous amendment, thereby re-including them if Dr. Fluharty's amendment passed; which it did without objection.

Dennis Austin wanted to take another run at firming up the linkage between Amendments A and C by **moving the Council add the language shown underlined below to the AP's recommendation under C-7(c).**

The AP recommends that Amendments C and A be linked and integrated at the earliest possible time, with implementation to occur concurrently.

The motion was seconded by Dave Fluharty. Chairman Benton associated himself with Mr. Austin's remarks to move forward by using the ideas of the industry captured in Amendment A. He further felt the Council told the industry it wouldn't hold up implementation of IRIU forever. Mr. Austin's amendment carried without objection.

John Bundy stated he would be voting against the motion as there was a lot in it that he didn't like and reminded the Council the SSC did not support releasing the analysis for review without many improvements.

The amended main motion passed 8-2 with Bundy and Fluharty voting against (Krygier absent).

C-8 Observer Program

ACTION REQUIRED

Review draft schedule and outline for potential analysis to restructure the North Pacific Groundfish Observer Program design and funding mechanism.

Background

At its October 2002 meeting, the Council tasked the Observer Advisory Committee (OAC) to develop a problem statement and alternatives to restructure the North Pacific Groundfish Observer Program (Observer Program), to be presented at the February Council meeting. In order to facilitate further progress by the committee, NMFS developed a discussion paper which proposed a problem statement, scope, and general alternatives and issues for long-term, significant revisions to the Observer Program. The OAC met in January with the primary purpose of reviewing this paper and providing recommendations to the Council. At its February meeting, the Council reviewed the discussion paper and the draft OAC report, and approved the following problem statement for restructuring the Observer Program:

The North Pacific Groundfish Observer Program (Observer Program) is widely recognized as a successful and essential program for management of the North Pacific groundfish fisheries. However, the Observer Program faces a number of longstanding problems that result primarily from its current structure. The existing program design is driven by coverage levels based on vessel size that, for the most part, have been established in regulation since 1990. The quality and utility of observer data suffer because coverage levels and deployment patterns cannot be effectively tailored to respond to current and future management needs and circumstances of individual fisheries. In addition, the existing program does not allow fishery managers to control when and where observers are deployed. This results in potential sources of bias that could jeopardize the statistical reliability of catch and bycatch data. The current program is also one in which many smaller vessels face observer costs that are disproportionately high relative to their gross earnings. Furthermore, the complicated and rigid coverage rules have led to observer availability and coverage compliance problems. The current funding mechanism and program structure do not provide the flexibility to solve many of these problems, nor do they allow the program to effectively respond to evolving and dynamic fisheries management objectives.

Further, the Council recommended that staff develop a timeline and structural outline for a potential analysis based on the recommendations of the Council and the OAC to restructure the Observer Program design and funding mechanism to address the data quality and disproportionate cost issues resulting from the current program structure. The primary alternative would propose a new funding mechanism and program structure for all Gulf of Alaska (GOA) groundfish vessels and processors under which observer coverage would be financed using a combination of user fees and Federal funding. This would include a suboption to extend the new program to cover all groundfish vessels that currently have less than 100% coverage requirements in the BSAI.

Included in the analytical outline is a list of decision points for the Council relevant to finalizing the alternatives for analysis. These decision points will be refined and developed into formal alternatives and options upon approval. The analytical outline also contains a point-by-point discussion of major issues that arose during the development of the Research Plan in the early 1990s and that ultimately lead to the demise of that proposal. The Council expressed interest in reviewing these past issues before proceeding too far with the development of a new program. The analytical outline was sent to you on March 24 and is attached as Item C-8(1) (revised slightly from the mailed version). The draft timeline is also included in the revised version of the analytical outline.

The Council does not need to take any specific action on this agenda item. The analytical outline is provided at the request of the Council and is intended to indicate the overall context in which the analysis will be structured. The Council may want to confirm this direction for staff, or make alternative recommendations, at this time. Upon approval of the general direction, timeline, and the list of decision points, staff will begin developing a preliminary analysis for review in October 2003.

Scientific and Statistical Committee Report

The SSC reviewed a draft schedule and outline for potential analysis for the restructuring of the Groundfish Observer Program. The SSC suggested the draft might benefit from a review of alternative mechanisms for funding observer programs. They also encouraged the inclusion of a brief discussion of alternative program designs and why they are or are not appropriate for monitoring North Pacific fisheries.

Report of the Advisory Panel

The AP continued to encourage NMFS to request full federal funding for the Alaska observer program prior to implementing changes to the program. The AP appreciated the staff's work on identifying and discussing observer issues and encouraged the Council move forward with the review and outline of potential issues for analysis.

DISCUSSION/ACTION

Chairman Benton asked if the Council would be receiving a report only or if there was further Council action necessary. Chris Oliver responded that staff would be laying out the game plan of how it intended to proceed and what the elements and options would be in the analysis. He didn't know if it required a motion by the Council unless it had changes or alterations to that direction. Chairman Benton then asked if the Council's concurrence would indicate to the staff to kick off the analysis and plan amendments required to make adjustments to the observer program, to which Mr. Oliver replied affirmatively.

The Council then received a brief staff report from Nicole Kimball. Chairman Benton stated he thought all Council members were supportive of the staff's report and progress. Chris Oliver stated it was staff's intent to bring something back for the Council to look at in October.

C-9 Halibut Subsistence

ACTION REQUIRED

- (a) Final action on whether to include Ninilchik as an eligible community.**
- (b) Review discussion paper on additional communities and discuss next steps.**

BACKGROUND

Final action to include Ninilchik as an eligible community

In October 2000, the Council adopted a preferred alternative to define halibut subsistence in Alaska; this action is pending Secretarial approval. In April 2002, the Council approved five amendments to the proposed regulations based on recommendations by the Alaska Board of Fisheries (Board). The current proposed action (include Ninilchik as an eligible community) is supplemental to the April 2002 EA/RIR and would thus become the sixth proposed regulatory amendment prior to submission to the Secretary of Commerce.

The Council adopted a dual (State and Federal) standard for halibut subsistence eligibility in its original October 2000 preferred alternative. The Council explicitly adopted a list of rural places and Alaska federally-recognized Tribes with a finding of customary and traditional use of halibut for subsistence based on State of Alaska criteria. The Council also referenced Federal law as being a second way to qualify for eligibility.

The Council stated its intent that residents or Tribal members who believe that their rural place or Federally recognized Alaska Native tribe was inadvertently left out of the tables, or who are seeking eligibility for the first time, are encouraged to petition either the Alaska Board of Fisheries or Federal Subsistence Board for a customary and traditional uses designation before petitioning the Council for inclusion as an eligible community or Tribe. A resident of Ninilchik submitted such a petition in September 2002. Although Ninilchik does not meet the Council's State-based set of criteria, it does meet the Federal definition of rural and is within a larger area that has been found to have a customary and traditional use finding for subsistence.

Final action is scheduled on a proposal to include Ninilchik on the list of eligible rural places whose residents would be allowed to harvest halibut for subsistence purposes, which is currently under Secretarial review. Inclusion of Ninilchik would add approximately 650 non-Native residents (and perhaps 500 Alaska Native and non-Native Happy Valley residents under an option) who could retain halibut for subsistence purposes. A total of 34,000 total pounds of halibut were harvested by those residents, with an average of 85 lb per household, and about 32 lb per person. Translated to number of fish, residents harvested 2,079 halibut, or an average of 5.2 per household. Sport rod and reel and commercial longline gear comprised 95 and 5 percent, respectively, of halibut harvests. These harvests are not characterized by ADFG as subsistence use.

The analysis was mailed to the Council on March 18, 2003. The management action alternatives are:

Alternative 1: No action.

Alternative 2: Add Ninilchik to the list of rural places eligible to harvest halibut for subsistence use.

Option: Include the community of Happy Valley under the federal definition or rural for Ninilchik.

At this meeting, the Council will take final action on this issue.

Discussion paper on additional communities

Council staff prepared a discussion paper addressing the potential of an additional 4,117 residents of 20 communities which may meet Federal criteria for rural and customary and traditional uses of "fish." This list was generated by USFWS at the request of the Council. These communities have not received a "rural" or "halibut subsistence" finding by the Federal Subsistence Board (FSB) but appear to meet the Council's criteria using Federal standards. Residents of these communities could petition the Council for a determination of eligibility once they are found to meet FSB standards. Six of those communities have Alaska Native Tribes, which also could petition to be included.

Although all listed communities appear to meet the Federal rural definition, it is unclear which communities rely on halibut for subsistence use given their geographic location and population structure. Staff recommends that the Council review the list of communities and demographic information in the discussion paper and provide additional guidance to staff. The Council also may choose to review its policy of using both state and federal standards as the basis for its own eligibility criteria, given the policy issues raised under the dual standard.

Table 1. Summary of communities identified as meeting Federal criteria for "rural" and "fish subsistence."

Rural Place	Population	% Alaska Native	# Alaska Native	# non-Native	Tribal status
Akiachak	622	96.4%	600	22	Tribe
Aleneva	92	1.5%	1	91	
Atmautluak	291	95.9%	279	12	Tribe
Covenant Life	142	2.0%	3	139	
Ekwok	114	93.8%	107	7	Tribe
Eyak	159	8.3%	13	146	Tribe*
Game Creek	35	8.6%	3	32	
Halibut Cove	26	2.9%	1	25	
Kasigluk	527	96.7%	510	17	Tribe
Kupreanof	23	0.0%	0	23	
Kwethluk	693	94.8%	657	36	Tribe
Lutak	43	10.3%	4	39	
Mud Bay	158	4.4%	7	151	
Naukati Bay	110	9.6%	11	99	
Nunapitchuk	512	95.9%	491	21	Tribe*
Port Clarence	22	0.0%	0	22	military base
Portage Creek	48	86.1%	41	7	CDQ group
Shemya Station	27	0.0%	0	27	military base
Thom's Place	12	13.6%	2	10	
Tuluksak	461	94.2%	434	27	Tribe
Total	4,117		3,164	953	

Scientific and Statistical Committee Report

The SSC did not address this issue.

Advisory Panel Report

The AP chose to take no action on this issue, however, made the following comment: Staff responded to several questions regarding the "customary and traditional use" designation for Ninilchik and staff's list of similarly situated communities. Consequently, the AP was not comfortable choosing either of the alternatives in the analysis.

DISCUSSION/ACTION

Earl Krygier moved to table indefinitely the halibut subsistence issue on Ninilchik. The motion was seconded by Stephanie Madsen. Mr. Krygier stated numerous other communities are considering whether or not they are interested in pursuing their eligibility. The Council set up a procedure requiring communities to obtain a customary and traditional (C&T) use finding through either the Board of Fisheries or the Federal Subsistence Board. Stosh Anderson pointed out there are some communities having a legitimate concern and questioned whether the Council wanted to table the issue indefinitely. Chairman Benton clarified it could always go back and bring the issue up, but felt locking the Council into a time-certain date was setting itself up. Earl Krygier also pointed out that the AP struggled with this issue and came to a similar conclusion - there wasn't not enough substance there. Roy Hyder commented that if the Council tabled something longer than a couple meetings, it would typically get lost. Mr. Krygier withdrew his motion with the concurrence

of Ms. Madsen. Mr. Krygier then moved to postpone the halibut subsistence issue dealing with Ninilchik indefinitely. The motion was seconded by Ben Ellis and carried without objection.

C-10 CDQ Program

ACTION REQUIRED

Final action on CDQ “other species” exemption regulatory amendment.

BACKGROUND

Over the past several years, CDQ (Community Development Quota) Program participants have repeatedly identified the “other species” CDQ allocation as being inadequate to support the bycatch needs of CDQ target fisheries, particularly at the individual group level. The “other species” complex is one of the groundfish TAC categories allocated to the CDQ Program. It consists of sharks, skates, sculpins, and octopus. These species are caught concurrently with CDQ target species such as pollock, Pacific cod, sablefish, and Atka mackerel. Failure to harvest all of its target allocations due to inadequate “other species” CDQ could diminish a CDQ group’s royalty income. This could in turn impact the accomplishment of projects intended to foster economic development in western Alaska communities.

In 2001 and 2002, the Council addressed the “other species” CDQ issue by requesting that NMFS modify how the CDQ non-specific reserve is calculated. NMFS accomplished this via emergency rulemaking associated with the BSAI groundfish specifications in those years. The CDQ non-specific reserve offers CDQ groups a means to augment the amount of annual “other species” CDQ they receive, but its effectiveness has been diminished since 1999 due to a variety of factors associated with the annual groundfish specifications process. Modifying the contributions to this reserve in 2001 and 2002 ensured that it could in turn contribute adequate quota to the “other species” CDQ category in an amount that would fully support the catch of “other species” in CDQ target fisheries. This modification to the CDQ non-specific reserve was not made during the 2003 annual BSAI specifications process.

At the February 2003 Council meeting, CDQ Program participants requested that the Council take action to exempt “other species” CDQ from being allocated to individual CDQ groups and that this species category instead be managed at the sector level, via alternative in-season management measures available to NMFS. In turn, the Council requested that NMFS develop an analysis specific to this issue for action at the April 2003 Council meeting. This will be initial review of this analysis. However, selection of a preferred alternative and final action by the Council at this meeting could facilitate preparation of rulemaking that would alter the way that NMFS allocates and manages the “other species” CDQ reserve in 2003. If final action is deferred to a future Council meeting, the possibility that NMFS might be able to effect such changes in 2003 is decreased.

NMFS has prepared an Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis to examine alternatives associated with this issue. The alternatives both considered and rejected for analysis are listed below. Should the Council select Alternative 2, this action would represent a regulatory amendment. Should one of the rejected alternatives be considered, it may necessitate an FMP amendment.

The analysis was distributed prior to the Council meeting. The executive summary is attached as Item C-10(1)

Alternatives considered:

Alternative 1. No action: continue to allocate the “other species” CDQ reserve among each of the six CDQ groups.

Alternative 2. Allow the “other species” CDQ reserve to be managed as a single reserve rather than as separate allocations to each CDQ group.

Option 1. Eliminate the CDQ non-specific reserve.

Alternatives considered but rejected:

Rejected Alternative 1. Continue to allocate “other species” CDQ to each CDQ group and increase the amount of the CDQ non-specific reserve available to be released to the “other species” CDQ category.

Rejected Alternative 2. Do not allocate “other species” to the CDQ program.

Rejected Alternative 3. Increase the amount of the “other species” TAC that is apportioned to the “other species” CDQ reserve.

Scientific and Statistical Committee Report

The SSC did not address this issue.

Advisory Panel Report

The AP recommended the Council adopt Alternative 2, Option 1.

The AP also encouraged the Council to request NMFS implement an emergency rule for the remainder of 2003 regulating “other species” as provided in Alternative 2, Option 1. The AP Minutes included a brief synopsis of their discussion on this issue pointing out that each of the CDQ groups who testified supported this option, and it was clear to the AP that the CDQ groups have forgone significant economic value because of the current system for allocating “other species”.

DISCUSSION/ACTION

The Council first received a staff report by Obren Davis (NMFS). **John Bundy moved the Council adopt the following motion:**

Adopt Alternative 2, to allow the “other species” CDQ reserve to be managed as a single reserve rather than as separated allocations to each CDQ group, and to adopt Option 1 to eliminate the CDQ non-specific reserve.

The motion was seconded by Ben Ellis. Mr. Bundy supported his motion by stating it was uniformly agreed by all testifiers as well as the analysis that this alternative is the correct way to go. Allocating the other species as a pool to the CDQ groups makes a lot of sense because it avoids a very small restraining cap. Mr. Ellis also pointed out that not only does the AP support this, but so did every person who testified before the Council. The motion carried without objection.

John Bundy moved the Council request the Secretary to adopt an emergency rule to implement this change as soon as possible. The motion was again seconded by Ben Ellis. Mr. Bundy stated this was a request and thought discussion with the Agency would be helpful. He further stated he believed that an emergency rule required a conservation-based reason. Ben Ellis remarked he wanted this to go into the EA because it would curtail and continue to underutilize the quota available.

Chairman Benton spoke in favor of the emergency rule and recalled when the Council adopted the multi-species program and its restrictive nature. He remembered the reason at the time was the Council's belief that if it set up a multi-species program with caps in place, the fishery would be able to operate efficiently because the CDQ fishery is like a rationalized manner and could do so without distorting the fishery.

D-1 Groundfish Issues

(a) **Discuss future actions resulting from F40 Report**

In October 2001, in conjunction with the actions taken to address Steller sea lion issues, the Council also approved a motion to conduct an independent scientific review of our basic F40 harvest policy relative to National Standards. The intent of this review was to determine whether changes need to be made to account for individual species needs or ecosystem needs. In December 2002, the Chair of the panel, Dr. Dan Goodman, provided the Council with a final report (available on our web site). In summary, the review panel found that the current harvest strategies were sufficiently conservative for most stocks. However, the panel recommended that alternative harvest strategies be explored for some species, notably rockfish. The panel also recommended well designed monitoring programs be implemented as an approach to ecosystem-based management. The Council requested that NMFS scientists review the review panel's report, and provide recommendations to on how to incorporate the findings into our management process. NMFS staff will provide a report at this meeting.

(b) **Rockfish/non-target species management**

Over the past few meetings, the Council has received progress reports from NMFS on research and management of BSAI red rockfish. Dr. Anne Hollowed, AFSC, will brief the Council on the Center's rockfish research plans (Item D-1(b)(1)). Council staff will report on the recommendations from the second meeting of the non-target ad hoc committee, which is developing a general framework for separating non-target and target species.

Scientific and Statistical Committee Report

The SSC received a report from Grant Thompson (AFSC) regarding recommendations presented in the review of the NPFMC harvest policy by the independent scientific review team (F₄₀ Committee) chaired by Dr. Dan Goodman. The SSC focused on three issues, including a more conservative harvest rate for rockfish, further improvements to the current harvest strategy, and whether changes are needed in the Tier formula for ABC and OFL. Further clarification of the SSC's comments on these issues can be found in both sections D-1(a) and D-1(f) of their minutes, attached as Appendix III.

Advisory Panel Report

The AP did not address this agenda issue.

DISCUSSION/ACTION

The Council heard staff reports from both David Witherell (D-1a) and Jane DiCosimo (D-1b). **Hazel Nelson moved the Council establish a Committee on Rockfish and Other Species that is broadly represented by the industry and charged to work with the Agency Ad Hoc Work Group.** The motion was seconded by Roy Hyder. Chairman Benton commented the idea was not to replace the Ad Hoc Work Group, but to add to it. Jim Balsiger then stated he didn't believe it was an "Agency" Ad Hoc Work Group, but also included Council staff and should include ADF&G personnel as well. Ms. DiCosimo stated the Work Group included Plan Team members, AFSC and Council staff, but weren't voting on issues - only informal brainstorming sessions. Jane added the Work Group didn't really know if they were at the point where industry should be involved as it was merely at a technical point right now. Ms. Madsen stated that instead of redefining the Committee, losing the ad hoc portion, maybe the Council should appoint people as the intent of the motion was to build the bridge between industry and ad hoc. Ms. DiCosimo stated the group had acknowledged it would like at least one more session before being reconstituted as it might hamper group discussion.

Chairman Benton stated there was no reason why the ad hoc group wouldn't do its job and no reason the Council couldn't appoint a committee including a couple Council members. Roy Hyder supported the Chairman's approach stating his understanding of the motion to form a Council committee that at some point would provide the ad hoc group a voice. Chairman Benton offered the Work Group could meet with the Council committee and use them as a sounding board and then report the process to the Council at the October meeting.

The motion carried without objection.

Stephanie Madsen asked about the direction of the F40 Report as well as the SSC's recommendations. Chairman Benton responded that the Council was selecting a preferred alternative for the SEIS in June and possibly the Council could visit the F40 Report then. **Dennis Austin moved the Council agenda a progress report with regard to the SSC's recommendations on the F40 Report (D-1a).** The motion was seconded by Roy Hyder and carried without objection.

(c) Review status of TAC-setting plan amendments.

Since 1997, the Council and NMFS have recognized the need to revise the harvest specifications process to meet a number of objectives, including allowing for meaningful public review and comment on proposed specifications. Litigation in other regions regarding their harvest specifications process focused on the administrative process used to implement the specifications and compliance with the Magnuson-Stevens Act (MSA) and the Administrative Procedure Act (APA). The Alaska Region has reviewed the results of these court cases and advised the Council in the development of the analysis of alternatives. The latest version of the EA/RIR/IRFA for Amendments 48/48 was prepared for the October 2002 Council meeting at which the Marine Conservation Alliance (MCA) presented two additional alternatives for Council consideration. Action on the harvest specifications process was postponed until the appeal of the ruling of the 9th Circuit Court in NRDC v. Evans regarding public review and comment requirements for harvest specifications under the MSA and the APA was completed and analyzed by NOAA General Counsel (GC). The Court completed its decision in December 2002, and the Council was briefed by NOAA GC on the result in February 2003.

On February 24, 2003, NOAA GC received MCA's interpretation of the results of the appeal of NRDC v. Evans and the implications for the alternatives provided by MCA in October 2002 (Item D-1(c)(1)). MCA stated that, with minor modifications, its proposed alternatives should be considered viable for analysis and consideration for the harvest specifications process revision. NOAA GC will provide the Council advice on whether the MCA alternatives meet the statutory requirements and should be included in the revised EA/RIR/IRFA of harvest specifications process. A memo from Jonathan Pollard (NOAA GC) dated March 21, 2003, regarding this issue is attached as Item D-1(c)(2). If the MCA alternatives are added to the analysis, initial review could be scheduled in June and final action in October 2004. Final action on Amendments 48/48 could be scheduled as soon as June

2004, if those alternatives are not required to be analyzed. The executive summary of the October 2002 analysis is under Item D-1(c)(3).

Scientific and Statistical Committee Report

The SSC received a staff report by Sue Salveson (NMFS). The issue is a new alternative to TAC-setting using proposed and final rule-making. The proposed rule in October would contain a range of alternative TAC values. After preparation of the SAFEs and new TACs at the December meeting, NMFS would determine whether the new TACs are a logical outcome of the proposed rule. If yes, a final rule will be filed. If not, a new proposed rule will be initiated, or waiver for good cause sought in order to issue a final rule. The SSC endorsed consideration of this alternative as it was a minimally disruptive means of complying with administrative requirements while ensuring use of the most current stock assessment data.

Report of the Advisory Panel

The Advisory Panel did not address this issue.

DISCUSSION/ACTION

The Council heard a staff report by Jane DiCosimo (NPFMC staff) and Sue Salveson (NMFS) as well as comments by Lauren Smoker (NOAA-GC) on memos from Jonathon Pollard. Stephanie Madsen said she could move the Marine Conservation Alliance (MCA) proposal be included in the analysis, but wasn't sure when it should be scheduled for final Council action. Ms. DiCosimo stated the proposed MCA proposal was not completely different from those proposed by staff, so there wouldn't be much additional work. She added that it would make no difference whether final action was scheduled for June or December as changes would not be implemented in 2004. **Stephanie Madsen moved the Council include MCA's modified Alternative 2 proposal, summarized in Jonathon Pollard's memo dated March 28th, 2003 be included in the analysis and come back for initial review and possible final action in October, pending staff analysis.** The motion was seconded by Earl Krygier and carried without objection.

(d) Review request(s) for Exempted Fishing Permits

NMFS recently received two requests for exempted fishing permits (EFPs). The first request was from Trevor Jones of the Alaska Food Coalition, to test the application of the Prohibited Species Donation Program for halibut taken in Gulf of Alaska trawl fisheries. The EFP would authorize participating vessels to sort halibut at sea and retain the dead halibut for delivery to shoreside processors for donation to foodbanks. NMFS disapproved the EFP application based on legal concerns relative to IPHC regulations (letter attached as Item D-1(d)(1)).

The other EFP application was from United Catcher Boats, who is seeking an EFP to test a salmon excluder device in the BSAI pollock trawl fishery. Copies of the application were mailed out to you last week. NMFS has requested that the Council review the application and provide comments (Item D-1(d)(2)).

(e) Vessel Incentive Program rates for second half of 2003

The Vessel Incentive Program (VIP) to reduce Pacific halibut and crab bycatch rates in the BSAI and GOA trawl fisheries requires that bycatch rate standards be specified for purposes of vessel accountability under the VIP. The bycatch rates for the first half of 2003 were specified by NMFS for the start of the 2003 trawl fisheries. NMFS plans to publish the rates for the second half of 2003 in the *Federal Register* by July 1, 2003. These rates have remained unchanged since 1995. A summary table of 1999 - 2003 observer data on fishery bycatch rates and the bycatch rate standards is attached as Item D-1(e)(1).

(f) SSC comments on National Standards 1 guidelines

NOAA Fisheries recently published an advanced notice of proposed rule making for revision of the National Standard 1 guidelines, also known as the overfishing definitions (the Federal Register notice is attached as Item D-1(f)(1)). They are requesting comments on the effectiveness and appropriateness of the guidelines. Because the comment period was extended for an additional 30 days (through April 16), the SSC and Council will have an opportunity to provide comments to NMFS. In May 2000, the Council sent a letter to NMFS regarding the SSC's concerns with the existing overfishing guidelines (attached at Item D-1(f)(2)). We may want to send a letter reiterating these concerns. Comments from the Western Pacific Council are provided as Item D-1(f)(3).

(g) Review research priorities

The BSAI and GOA Groundfish Plan Teams revised the current list of research priorities during its November 2002 joint meeting (Item D-1(g)(1)). No revisions were provided by the Crab Plan Team. After receiving comments from NMFS and the SSC at this meeting, the Council will forward the priorities to NOAA for use in preparing its annual budget, as well as to the North Pacific Research Board (NPRB). These would be in addition to the thematic list of priorities drafted by Dr. Fluharty and approved by the Council in October 2002, which were forwarded to the NPRB.

Scientific and Statistical Committee Report

The SSC heard a report by John Gauvin on his application for an Exempted Fishing Permit (D-1d) to conduct a test for a salmon excluder device for pollock trawls. The permit would allow the cost recovery sale of pollock captured in the process of testing the effectiveness of the salmon excluder first for chum salmon in the fall of 2003 and then for chinook salmon in the winter/spring of 2004. The SSC was favorably impressed with the application and the experimental design and supports granting the permit hoping it may lead to improved salmon bycatch mitigation.

The SSC also heard a report by Grant Thompson (AFSC) and Dave Witherell (NPFMC staff) regarding National Standard 1 (D-1f). The SSC remained ready to assist the Council in providing comments to NMFS on proposed rulemaking due to problems encountered in attempting to implement guidelines related to NS-1. The SSC was pleased that NMFS is considering revising the guidelines and, once released, the SSC was interested in improving definitions of overfishing.

The SSC did not address the issue of VIP Rates for the second half of 2003 (D-1e).

The SSC reviewed the list of research priorities (D-1g) edited by the BSAI and Gulf Groundfish Plan Teams in November 2002. The SSC used this list to develop a short list of research topics needing immediate attention. The complete list can be found in the SSC Minutes, attached as Appendix III.

Report of the Advisory Panel

The Advisory Panel moved to approve the Exempted Fishing Permit (D-1d) for John Gauvin/United Catcher Boats. Its discussion included the goal of decreasing salmon bycatch being important to the AP and the panel was impressed with Mr. Gauvin's efforts to improve the efficiency of trawl gear.

The AP received a report on the remaining issues under Agenda Item D-1 from David Witherell, but did not address the issues as a group.

DISCUSSION/ACTION

The Council heard a report by John Gauvin and Brent Paine on their application for an Exempted Fishing Permit (D-1d) to test their salmon excluder device. **Kevin Duffy moved the Council endorse and express its support of the application for an EFP for the pollock trawl experiment expressed by John Gauvin and Brent Paine.** The motion was seconded by Ben Ellis and carried without objection.

Stephanie Madsen moved the Council approve NMFS' recommendations to use the same VIP rates in the latter half of 2003 that existed in the latter half of 2002. The motion was seconded by Ben Ellis and carried without objection.

Earl Krygier moved the Council request the SSC draft a letter for the Chairman's signature in regards to National Standard 1 in response to the Federal notice published on February 4th, 2003. The motion was seconded by Stephanie Madsen and carried without objection.

Chris Oliver reminded the Council the SSC provided a list of research priorities in both comprehensive format and also a list of higher priorities. The Chairman stated that, without objection from Council members, the Council would forward those lists to the appropriate individuals. No objection was heard.

D-2 Staff Tasking

A summary of the status of Council projects and a three-meeting outlook is attached a Item D-2(a). In addition to reviewing the list of projects and timelines, I would like to briefly review what the various staff currently have on their plates relative to tasking. A significant portion my time after this meeting will be devoted to the organization and development of materials for the Council conference in Washington D.C. in November, along with standard administrative, budget, and contract monitoring issues. I have also taken over for Jon McCracken as the Council staff lead on IR/IU issues (at the end of February, Jon McCracken was called up for active duty with the U.S. Air Force, for up to one year). David Witherell has assumed many of the office administrative duties, including personnel issues, meeting preparation, and overall planning and coordination for various Council projects. He is also assisting with the EFH analysis.

Dr. Mark Fina has been working full-time on the Crab EIS and related trailing amendments, and will soon begin to focus on the Gulf rationalization project, as well as provide guidance on other Council analyses. Jane DiCosimo is the Council's project leader for the Gulf rationalization project, which could easily be a full-time project for the foreseeable future, though she will be working on other issues as they become priority projects, including halibut subsistence, rockfish and other species, and IFQ amendments. Nicole Kimball has been working on the Amendment 77 analysis (BSAI fixed gear P. cod allocations), as well as redevelopment of funding options for the Observer Program which will be a major project this year. She will also be working on social and community impacts relative to Gulf rationalization and other projects.

Dr. Diana Stram has spent much of her time since joining the staff writing portions of the Programmatic Groundfish SEIS. In the coming months, she will be working on the Pribilof Islands blue king crab rebuilding plan, the scallop FMP update, and environmental impacts portion of the Gulf rationalization EIS. Bill Wilson got quickly up to speed in his first month on staff, working to assist with the addendum to the Steller sea lion BiOp, per the judges remand. In the future, he will be working with seabird bycatch and other protected resource issues related to the Gulf rationalization EIS and other projects. Diana Evans has been working full time on the Programmatic Groundfish SEIS, and is expected to remain primarily devoted to that project until completion. She will be assisting with other projects to insure NEPA compliance. Cathy Coon has been working full time on the EFH project with data analysis, and will continue to work on the EFH project until it is completed. Elaine Dinneford has been fulfilling data requests relative to Amendment 77, EFH, and a number of other short and long-term data projects, including assisting with AKFIN development.

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Given the number and magnitude of existing projects, I believe it is apparent that any additional projects will have to be initiated via outside contract assistance, or be considered at the expense of existing priorities. Over the past few meetings I carried forward several proposals related to the halibut/sablefish IFQ program, though in February you decided not to initiate work on those pending other priorities, and recognizing there are already IFQ amendments previously tasked and awaiting staff availability. Since then we did receive another new proposal (attached as Item D-2(b)), from the Alaska Longline Fishermen's Association, to change the product recovery rate for bled sablefish from the current 0.98 to 1.0. This change would apparently require a regulatory amendment.

This is also a good opportunity to inform you of some changes I have initiated with regards to our approach to completing analytical documents. In the past, each project was typically assigned to one staff person who had the responsibility for coordinating and completing all sections off the analysis. Because we now face more stringent analytical and regulatory streamlining requirements, I am working to develop a more team-oriented approach for completing analyses, where each staff contributes in their area of expertise to several of the ongoing projects and analyses. Our staff currently includes expertise in a broad range of fields, including resource economics, social/community considerations, fishery biology, protected resources, GIS, and oceanography. By applying the expertise of different people on the staff, my hope is that we can be more efficient with our time and provide better documents in the future. We have always done this to varying degrees, but now we are developing project workplans to more explicitly apply this approach.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

David Witherell and Chris Oliver briefed the Council on current staff tasking and issues brought up during this meeting. Council members discussed and/or took action on the following issues:

- Council members agreed to provide a letter of support for funding the short-tailed albatross recovery team. It was noted that the Council can not directly address Congress regarding funding issues; however, a letter can be sent to the Secretaries of Commerce and Interior expressing support for the program, with copies to the appropriate Congressional offices.
- Regarding the Steller sea lions and the NRC report, Council members pointed out that the report provides information that may allow reassessment of current management measures. Dr. Balsiger noted that there will probably be another Section 7 Consultation which will take into consideration all the new research, so the Council may want to wait until that is accomplished before considering any changes to the fisheries relative to SSL protection measures.
- SSL RPA Committee: The Council tasked the Committee, using with the NRC report, and working with NMFS, to examine the possibility of adjusting openings and closings in one area or a small subset of an area. The Chairman will also look at the composition of the Committee to determine whether changes or additions are needed.
- EFH: Council members discussed how to handle the required analyses by the Court-mandated deadline in August, if an extension is not granted. Council and staff need to assume the August deadline and dedicate the necessary resources to attempt to meet that requirement. Stosh Anderson told Council members that the EFH Committee is already working to set their specific timelines to work with staff to get a package ready for the June Council meeting. The Chairman will also talk with the SSC about the need to involve scientists on the committee or whether to form a separate scientific panel.

- MSA Reauthorization Committee: The Chairman will re-constitute the Committee to review and track current legislative proposals relative to the MSA, and asked for members to contact him if interested.
- The Council approved a new committee to organize the conference scheduled for November in Washington, D.C. The Council Chair would be the Chair of the committee through the end of the conference.
- The Council approved a motion that would request the BSAI groundfish plan team and appropriate agency staff to address several questions in context of their work on the SAFE for 2004:
 1. Has the pattern of fishing for Pacific cod in the BSAI changed in recent years with respect to catch locations, concentrations, timing, amount of catch by area and number and type of vessels?
 2. What seems to be driving these changes: environmental conditions, economics of fishing, location of facilities, etc.?
 3. Do these changes have conservation impacts for Pacific cod, other species like rockfish, or habitats?
 4. Do these changes and conservation issues have management implications for TAC-setting, seasons, gear and allocation?

There was some question whether this request would fall under the purview of the plan team or should be tasked as a more extensive analysis. Council staff and Dr. Fluharty (maker of the motion) said they had consulted with Dr. Grant Thompson of AFSC and received an indication that he would be willing to look more closely at this issue.

- The Council discussed a proposal from the Alaska Longline Fishermen's Association requesting a change in IFQ regulations. Because of the current staff workload, the Council has not requested new proposals although they continue to be received. There are several such proposals currently under review by the IFQ Implementation Committee. Council members suggested this proposal be forwarded to that Committee for review.
- The Council approved a motion to request staff to provide as soon as practicable an updated report on Gulf of Alaska salmon bycatch caps. It was noted that this would be more of a discussion, or 'white' paper, rather than an analysis and more than likely would not be accomplished until late in the year.
- The Council concurred that the Chairman and Executive Director should review current Council committees to determine which ones may be disbanded.
- The Council approved the appointment of Kerim Aydin and Robert Foy to the BSAI and GOA groundfish plan teams, respectively.

Chris Oliver also provided the Council with a report from the reactivated Enforcement Committee, chaired by Council member Roy Hyder. Representatives of NMFS Enforcement, NMFS management, Coast Guard, State Fish & Wildlife Protection, ADF&G participated in the meeting, as well as NOAA General Counsel. Members discussed the scope of the committee, timing and process, and committee membership. With regard to the scope of the committee, the committee determined that it would be most effective to address a limited number of specific critical issues, acknowledging that the purpose of the committee is to address such issues early in the Council development

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process, but that the committee would not be limited to commenting on enforcement aspects of a proposed management action. A critical part of the committee's role will be discussion and development of different monitoring and compliance approaches that would facilitate implementation of and compliance with proposed management programs. A more detailed written report was provided to Council members.

E. ADJOURNMENT

The meeting was adjourned at approximately 12:00 Noon on Tuesday, April 8, 2003.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

**April 2003 Meeting
Anchorage, Alaska**

PERSONS GIVING PUBLIC COMMENT

B-5 USF&W Report

Paul MacGregor, Ed Luttrell; Brent Paine, United Catcher Boats; John Gauvin
Thorn Smith, North Pacific Longline Association

C-1 GOA Rationalization

Glen Carroll, Fisherman
Craig Cochran, Midwater Trawlers Cooperative
Stoian Iankov, Fisherman
Matt Hegge, United Fishermen's Marketing Association
Joe Sullivan, for City of Kodiak
Kurt Lochran, Fisherman
Beth Stewart, Aleutians East Borough
Susan Robinson, Fishermen's Finest
Lori Swanson, Groundfish Forum
Dorothy Childers, Alaska Marine Conservation Council
Julie Bonney, AK Groundfish Data Bank
Gerry Merrigan, Prowler Fisheries
Jeff Stephan, United Fishermen's Marketing Association
Jerry Bongen, Fisherman
Jack Hill, Fisherman
Thorn Smith, North Pacific Longline Association
Chuck McCallum, Chignik Seiner's Association
Teresa Kandianis, Kodiak Fish Company
Bob Krueger, Fisherman
Joe Childers, Western Gulf of Alaska Fishermen

C-2 Crab Rationalization

Earl Comstock, CRAB Group
Mimi Tolva, Crab Boat Owner
Jake Jacobsen, AK Marketing Association
Joe Sullivan, representing F/V Ocean Olympic, Ocean Beauty & other vessel owners
Kevin Kennedy, TDX Corp; Ron Philemonof, Anderson Plant Group
John Garner, North Pacific Crab Association
Tom Casey, AK Fisheries Conservation Group
Gary Johnson, Peter Pan Seafoods
Frank Kelty, City of Unalaska; Steve Minor, City of St. Paul; Max Malavansky, City of
St. George; Simeon Swetzhoff, Mayor of St. Paul
Arni Thomson, Alaska Crab Coalition

C-2 Crab Rationalization (cont'd)

Terry Leitzell, Icicle Seafoods
Gary Painter, F/V Trailblazer

C-3 Steller Sea Lion

Julie Bonney, AK Groundfish Data Bank

C-4 Essential Fish Habitat

John Gauvin, Groundfish Forum
Josh Sladek Nowlis, AK Oceans Network
Ben Enticknap, Alaska Marine Conservation Council
Geoff Shester, Oceana
Ron Clarke & Heather McCarty, Marine Conservation Alliance
Whit Sheard, The Ocean Conservancy
Jim Ayers, individual
Donna Parker, United Catcher Boats
Dave Fraser, F/V Muir Milach
Julie Bonney, AK Groundfish Data Bank
Gerry Merrigan, Petersburg Vessel Owner's Association
Paul MacGregor, At-Sea Processors Association

C-5 Programmatic Groundfish SEIS

Donna Parker, High Seas Cooperative

C-6 BSAI Pacific Cod Allocation

Dave Fraser, F/V Muir Milach
Gerry Merrigan, Prowler Fisheries
Thorn Smith, North Pacific Longline Association
Bob Storrs, Unalaska Native Fishermen's Association

C-7 IR/IU

Donna Parker, Pollock Conservation Cooperative
Dave Wood, US Seafoods
Gerry Merrigan, Prowler Fisheries
Paul MacGregor, At-Sea Processors Association
Ed Luttrell & Lori Swanson, Groundfish Forum
Brent Paine, United Catcher Boats

C-8 Observer Program

No public comment

C-9 Halibut Subsistence

Issue postponed – no public comment

C-10 CDQ Program

Eric Olson, BBEDC
Simon Kineen, NSEDC
Dave Wood, US Seafoods
Gerry Merrigan, Prowler Fisheries

D-1 Groundfish Issues

D-1(c) Review Status of TAC-Setting Amendment Package

Ron Clarke, Marine Conservation Alliance; Paul MacGregor, Mundt-MacGregor

D-1(a,b) Discuss future actions resulting from F40 Report

Dorothy Childers, AK Marine Conservation Council

D-2 Staff Tasking

Julie Bonney, AK Groundfish Data Bank
Ron Clarke & Heather McCarty, Marine Conservation Alliance
Frank Kelty, City of Unalaska
Thorn Smith, North Pacific Longline Association

D-3 Other Business

N/A