

MINUTES

163rd Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
October 8-14, 2003
Anchorage, Alaska

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North Pacific Fishery Management Council

Stephanie Madsen, Chairman
Chris Oliver, Executive Director

Telephone: (907) 271-2809



605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Fax: (907) 271-2817

Visit our website: <http://www.fakr.noaa.gov/npfmc>

Certified Stephanie D. Madsen
Stephanie Madsen, Chair

Date June 9, 2004

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163rd Plenary Session NORTH PACIFIC FISHERY MANAGEMENT COUNCIL October 8-14, 2003 Anchorage, Alaska

The North Pacific Fishery Management Council met October 8-14, 2003, at the Sheraton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met October 6-7 and the Advisory Panel met October 6-11 at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Stephanie Madsen, Chair
Stosh Anderson
Jim Balsiger
David Benson
John Bundy
Tony DeGange
Kevin Duffy/Earl Krygier

Dennis Austin, Vice Chair
Dave Hanson
Arne Fuglvog
Roy Hyder for Lindsay Ball
Hazel Nelson
RADM James Underwood/CAPT Richard Preston
Edward Rasmuson

NPFMC Staff

Chris Oliver, Executive Director
Cathy Coon
Jane DiCosimo
Elaine Dinneford
Diana Evans
Mark Fina
Nicole Kimball

Diana Stram
Bill Wilson
David Witherell
Gail Bendixen
Maria Shawback
Shannon Vivian
Darrell Brannan

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Support Staff

Lisa Lindeman, NOAA-GCAK
Lauren Smoker, NOAA-GCAK
John Lepore, NOAA-GCAK
Jeff Passer, NMFS Enforcement
Jay Ginter, NMFS-AKR
Bruce Lehman, IPHC
Lew Queirola, NMFS-AFSC
Ken Hanson, NMFS Enforcement
Herman Savikko, ADF&G
Sally Bibb, NMFS-AKR
Ed Hines, NMFS-AKR
Greg Cashen, Alaska Dept. of Commerce

Jon Kurland, NMFS-AKR
Marcus Hartley, Northern Economics
Doug DeMaster, AFSC
Jim Fall, Alaska Div. of Subsistence
John Kingeter, Enforcement
Bubba Cook, NMFS-AKR
Ben Muse, NMFS-AKR
Grant Thompson, AFSC
Melanie Brown, NMFS-AKR

Scientific and Statistical Committee

Rich Marasco, Chair
Keith Criddle
Steve Hare
Mark Herrmann
Pat Livingston

Jack Tagart, Vice Chair
Ken Pitcher
Terry Quinn
Doug Woodby

Advisory Panel

Dave Boisseau
Al Burch
Craig Cross
Tom Enlow
Dan Falvey, Co-Vice Chair
Duncan Fields

Dave Fraser
Bill Jacobson
Teresa 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:

Ed Dersham, ABOF
Craig Cross
Robert Mikol
Jim Paulin
Max Misavansky
Jack Hill
Shari Gross
Joe Kyle
Beth Stewart
Joe Childers
Donna Parker
Doug Hoedel

Frank Kelty
Greg Baker
Eric Hollis
Lori Swanson
Bob Alverson
Marcus Alden
Heather McCarty
Al Burch
Patience Mercurief
Thorn Smith
John Henderschedt
Brent Paine

Paul MacGregor
Gerry Merrigan
Ron Clarke
Glenn Reed
Phillip Lestenkof
Bill Orr
Robert Williams
George Metz
Bob Wohl
Margie Bauman
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)

Vice Chairman Dennis Austin called the meeting to order at approximately 8:07 a.m. on Wednesday, October 8, 2003. Jim Balsiger administered the oath of office to new Council members Dave Benson, Arne Fuglvog, and Ed Rasmuson.

Election of Officers - By unanimous vote, Stephanie Madsen was elected Chair and Dennis Austin Vice Chair of the Council for a term of one year.

Agenda - The agenda was approved as submitted.

Minutes of Previous Meetings - The minutes of the December 2002 and February 2003 were approved as submitted.

B. REPORTS

The Council received written reports from the Executive Director (Agenda item B-1), NMFS Management (B-2), Coast Guard & NMFS Enforcement (B-3), ADF&G (B-4), and U.S. Fish and Wildlife, on sea otters and short-tailed albatross.

DISCUSSION RESULTING FROM REPORTS

Executive Director's Report

Council members were asked to provide Chris Oliver with any input for the Council's response the NAS questionnaire for the study on the use of best scientific information. The Council deferred discussion to the GOA Rationalization agenda item on the State's request for Council funding and interaction with the Alaska Board of Fish task force to review alternatives and options relative to state waters fisheries under the Council's GOA rationalization project.

U.S. Coast Guard Report

The Coast Guard is holding public hearings on a potential new regulation that would require an automated identification system (AIS) on all vessels 65 feet or greater operating anywhere in U.S. waters. The Council asked staff to include notice of the upcoming December 5 hearing on in Seattle in the Council's newsletter.

NMFS Enforcement

Jeff Passer advised that NMFS Enforcement is investigating allegations of false statements to the Council which is a violation of the Magnuson Act. During the investigation it has become clear that few people are aware of the prohibition. Council members decided to post information on this issue at the sign-up table for public testimony during Council meetings and to include a notice at the top of each sign-up sheet.

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ABOF Update

Ed Dersham, Chairman of the Alaska Board of Fish, updated the Council on activities of the Board relating to Council issues. Regarding the process of appeals for halibut subsistence eligibility, the Board expressed a desire to participate and provide recommendations to the Council on appeals. Council staff has been provided with the Board's suggestions for the process and how it would interact with the Council on appeals.

Regarding Gulf rationalization, the Board will address this during their February 2004 meeting. The Board will attempt to refine options to address the parallel fisheries and the State-managed cod fishery after the Council takes final action on GOA groundfish rationalization. The Board approved a workgroup made up of 12 public representatives and three BOF members to work on the Gulf issues.

FORMAT FOR COUNCIL MEETING MINUTES

Each agenda item will begin with a copy of the original “**Action Memo**” from the Council meeting notebook. This will provide an “historical” background leading up to the current action. This section will be set in a different 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 and Advisory Panel 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) **Receive report from Joint Protocol Committee and staff report on State groundfish fisheries.**
- (b) **Review discussion papers on: alternative descriptions, LLP transfers, open access fisheries, monitoring issues, community protection options, and GOA crab/salmon bycatch.**

BACKGROUND

State issues

The Council revised its draft suite of alternatives, elements, and options for rationalizing Gulf of Alaska groundfish fisheries in June 2003. The Council adopted three options for managing State of Alaska parallel fisheries as a placeholder for additional review and consideration by the Alaska Board of Fisheries Item C-1(a)(1). The options were referred to the Joint (Board and Council) Protocol Committee during its July 28, 2003 meeting. The committee report is under Item B-4 supplemental.

The committee recommended that the Board adopt the following timeline: (1) State staff would report to the Board at its October 2003 work session on its progress in identifying a possible management solution(s); (2) the Board would identify a work group in October 2003 to address the issue; the work group would report on its recommendations to the Joint Protocol Committee at its December 2003 meeting; (3) the Board would meet with the Council in February 2004; (4) the Board would refine the options or recommend a preferred alternative at its February 2004 meeting; and (5) the Board would report its recommendations to the Council in April 2004. The BOF notice for forming the task force is under Item C-1(a)(2). A report on the formation of the Board task force and timeline will be provided during the meeting. A discussion paper identifying the issues now deferred to the State is under Item C-1(a)(3).

Discussion papers

In June 2003, the Council adopted a matrix of three alternatives to rationalize the GOA groundfish fisheries for analysis (Item C-1(b)(1)). The matrix noted, "Because of the number, diversity, and complexity of GOA groundfish fisheries, no single alternative will be appropriate for all fisheries. Mixing and matching should be expected by sector upon further analysis." Guidelines for preparing an Environmental Impact Statement (EIS) state, "it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public."

To assist the Council in differentiating between its individual alternatives, Council and NMFS staff have prepared five discussion papers. One paper proposes an approach to address the complexity of analyzing the proposed alternatives and the multitude of remaining options in the EIS/RIR/IRFA (Item C-1(b)(2)). It identifies two key issues that need further development by the Council. The Council should consider the interaction of the Gulf groundfish rationalization program with the halibut and sablefish IFQ program, either adopting specific elements and options or developing a plan for addressing these issues. The Council should develop a full set of the rules that govern Southeast Outside groundfish fisheries. Refining the options for communities and captain and crew shares would also greatly streamline the analysis. Attachment A1 to the discussion paper lists the elements and options adopted by the Council in June 2003. Attachments A2 and A3 responds to the Council request for staff to fill in the matrix with the appropriate elements and options for it adopted in June 2003 for Alternatives 2 and 3, respectively.

A report on the frequency with which License Limitation Permit transfers also include provisions governing catch history responds to a Council request from June 2003 (Item C-1(b)(3)). A paper on the open access fisheries addresses NMFS concerns regarding: (1) administration of very small open access and associated bycatch allocations; (2) the open access jig fishery; and (3) groundfish species not included in the proposed program (Item C-1(b)(4)).

A paper on monitoring rationalized groundfish fisheries identifies important implementation issues that the Council should consider in its identification of realistic monitoring options for analysis in the EIS (Item C-1(b)(5)). The paper identifies that monitoring of halibut PSC shares and secondary species likely will be the most challenging part of a new monitoring program.

A paper on community protection options is intended to assist the Council in clarifying three specific options and several general questions on how the four proposed community programs fit into the context of the three EIS alternatives (Item C-1(b)(6)). These clarifications will guide the contractor in preparation of the sociological analysis in the EIS.

The Council currently has a placeholder for potential salmon and crab bycatch measures in its suite of alternatives. A summary of GOA crab and salmon bycatch was requested by the Council in April 2003. The discussion paper (Item C-1(b)(7)) provides a review of available bycatch data (amounts, timing, and location) and recommends that bycatch control measures focus only on chinook salmon and Tanner crab. Further, the discussion paper provides a set of possible alternatives for analysis.

Staff will also report on its plans to provide additional analyses of selected program components, in cooperation with the contractor, over the next few Council meetings. These analyses will assist the Council in its continued refinement of the alternatives (i.e., narrowing the range of options) prior to the preparation of the EIS/RIR/IRFA. Development of appropriate options for allocating catch history to State water and parallel groundfish fisheries are required before the environmental impacts of such allocations can be analyzed in the draft EIS. While some of the analyses can be conducted over this winter, receipt of the BOF report in April 2004 on those options likely results in a full preliminary draft EIS not being available until some time after April. October may be the most realistic target for completion of the EIS for formal review.

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2.2.2 Eligibility

LLP participation

Option 1. Eligibility to receive catch history is any person that holds a valid, permanent, fully transferable LLP license.

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

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

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 vessel have been transferred, the distribution of harvest shares 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.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. 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 2. 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.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

Option 1. Status Quo –Federal TAC taken in federal waters and in state waters, during a ‘parallel’ fishery, plus state-water fisheries exist for up to 25% of the TAC for Pacific cod.

**Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.
No ‘parallel’ fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and**

Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____ %) allocation of the federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

The SSC did not address this agenda issue.

Report of the Advisory Panel

The Advisory Panel recommended revising the matrix of EIS alternatives with the following additions/changes:

- Replace mandatory co-op element with voluntary co-ops.
- Replace open access element with individual fishing quotas.
- Add a second option to high producing fixed gear CVs requiring a linkage to processors.
- Remove “don’t fish” option for both CPs and CVs and clarify that vessels not joining a co-op may fish open access with reduced PSC allowance.
- Add a 3rd option to fixed gear CV high producing vessels and trawl CVs which would require no processor delivery restrictions.

The Advisory Panel also made additional recommendations to the discussion points provided by Council staff. Please see the AP Minutes, Appendix II to these minutes, for the entire set of recommendations.

DISCUSSION/ACTION

Stosh Anderson provided a written motion, “GOA Motion Addressing 29 Staff Topics, Friday, October 10, 2003, 2:41PM, Modifying June 2003 Council Motion.” However, Council Chair Stephanie Madsen suggested that rather than approving or disapproving the entire package provided by Mr. Anderson, that the Council instead identify the package elements the Council is considering and then direct staff to use Mr. Anderson’s materials and results of the Council discussion and return to the Council in December with a discussion paper identifying intent, any pitfalls, or problems and the Council could then begin finalizing the elements and options. Ms. Madsen suggested there are a lot of materials to be reviewed and considered before the Council can begin to finalize elements and options for an EIS. The Council did provide some comments for staff consideration. Mark Fina, Council staff, indicated that in December staff would attempt to put all of the relevant information in one document rather than providing several individual ones. Council member Dave Benson requested staff include the problem statement in the December materials. Appendix III to these minutes contains final Council recommendations for staff.

C-2 CDQ Issues

ACTION REQUIRED:

- (a) **Review proposed appeals process**
- (b) **Review discussion paper on eligible CDQ communities**

Background

- (a) **Review proposed appeals process**

In June 2002, the Council approved Amendment 71 to the Fishery Management Plan for the Groundfish Fishery of the BSAI, to address policy and administrative issues in the CDQ Program. Among the many recommendations within Amendment 71, the Council elected to define the allocation process in regulation, including an expanded State hearing and comment process, but without an appeals process. NMFS has advised the Council that Federal regulations must be revised to provide an opportunity for the CDQ groups to appeal NMFS’s determination to approve or disapprove the State’s CDQ allocation recommendations, in order to comply with the Administrative Procedure Act.

NMFS has prepared a discussion paper to provide additional information to the Council about a proposed administrative appeals process, which NMFS believes must be included in revisions to the CDQ allocation process. This paper presents the timeline and milestones associated with a revised

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allocation process and indicates that the appeals process will lengthen NMFS's part of the CDQ allocation process by up to six months. The discussion paper will be provided at the meeting.

NMFS will request that the Council include the administrative appeals process in its recommendation for the regulatory amendments associated with Amendment 71. If the Council does not agree to add the administrative appeals process to Amendment 71, it is likely that the Alaska Regional Office would have to recommend disapproval of the Council's recommendations on Issue 1 of Amendment 71, and preparation of a separate rulemaking by NMFS to revise regulations at 50 CFR part 679 to include an administrative appeals process for CDQ allocations.

NMFS also will ask the Council if it wants to continue to require the State to consult with the Council about its CDQ allocation recommendations. Council consultation currently is required by NMFS regulations, but is not necessary to comply with the Administrative Procedure Act. Removing this requirement would save time in the allocation process. In lieu of the consultation, the Council could request status reports on CDQ allocations from the State and NMFS at any Council meeting.

(b) Review discussion paper on eligible CDQ communities

In October 2000, NMFS received a letter from one of the CDQ groups challenging the 2001 - 2002 CDQ allocations recommended by the State of Alaska. This letter posed questions about the specific regulatory language pertaining to CDQ eligibility and, more generally, about the eligibility status of some of the communities currently participating in the program. Currently, community eligibility criteria for participating in the CDQ Program is included in the Magnuson-Stevens Act (added in 1996 under the Sustainable Fisheries Act amendments), the BSAI FMP, and in Federal regulations, but the exact wording of the criteria differs among the three documents.

Given the rules of statutory construction, the eligibility criteria in the Magnuson-Stevens Act take precedence over the eligibility criteria set forth in Federal regulations (50 CFR 679.2), to the extent there is any conflict between the statutory and regulatory language. The letter challenging the CDQ allocations prompted NMFS to examine this issue, and to initiate the effort, a legal opinion was requested from NOAA GC on whether and where inconsistencies exist between the criteria listed in Federal regulations and that listed in the Magnuson-Stevens Act, as well as how to interpret and apply the statutory criteria for community eligibility.

Based on the conclusions of that opinion, the Federal regulations (and BSAI Groundfish FMP) must be revised to be consistent with the eligibility criteria in the Magnuson-Stevens Act, and only communities that meet that criteria can be listed as eligible communities in regulation and participate in the CDQ Program. The legal opinion further concludes that NMFS must review the eligibility status of each of the 65 communities that have previously been determined eligible by NMFS, either through rulemaking or administrative determination, relative to the eligibility criteria in the statute. The legal opinion was issued August 15, 2003, and was sent to the Council on August 21.

Both an FMP and regulatory amendment are necessary to effect the proposed changes. Staff has prepared a discussion paper at the request of NMFS to discuss various issues related to community eligibility in the CDQ Program and to propose an analytical approach that will address the existing inconsistency between Federal regulations, the BSAI FMP, and the Magnuson-Stevens Act. This paper represents a preliminary analysis of CDQ eligibility issues that will be subsequently developed into a formal RIR/IRFA analysis for Council review. The two primary alternatives proposed for analysis are attached as Item C-2(a). The entire discussion paper, with several attachments, was distributed to you on September 16.

Given the eligibility concerns raised and the conclusions of the legal opinion, the agency must remedy the regulatory and statutory inconsistencies and ensure that all participating communities meet the eligibility criteria in the Magnuson-Stevens Act prior to the next allocation cycle. NMFS is requesting that the Council initiate the FMP and regulatory analysis necessary for these amendments. NMFS

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estimates that initial review of a draft analysis would need to occur at the February Council meeting, with final action in April 2004, in order for a rule to be effective by January 2005. The schedule for the final rule is driven by the upcoming allocation cycle (2006-2008); the CDQ groups will start developing Community Development Plans to support their allocation requests for that cycle sometime in late 2004.

Some of the CDQ groups are asking Congress to clarify its intent that all 65 communities currently participating in the program meet the eligibility requirements of the Magnuson-Stevens Act. While Congressional action is not guaranteed, should Congress take action to deem all 65 communities eligible to participate, the FMP and regulatory amendments proposed would be simplified, but not unnecessary. The Council and NMFS would still need to revise the FMP and Federal regulations to make the eligibility criteria consistent with that in the MSA, and staff would recommend the same timeline for making these changes. The primary difference that would likely result from Congressional action is that a re-evaluation of each of the 65 participating communities would no longer be necessary.

Neither the SSC nor the Advisory Panel addressed this agenda issue.

DISCUSSION/ACTION

Jim Balsiger moved that the Council direct staff to develop a draft EA/RIR/IRFA for an FMP amendment and regulatory amendments to make the eligibility criteria for the CDQ Program consistent with the eligibility criteria in the Magnuson-Stevens Act. This draft analysis would include a review of the eligibility status of all 65 communities currently participating in the program unless Congressional action makes this review unnecessary. NMFS will take the lead in the analysis, with initial review expected in February 2004, and final action in April 2004.

The motion was seconded by Kevin Duffy.

Dr. Balsiger pointed out that difficulties associated with the inconsistency between statute language and NMFS regulations require this action. Similar concerns were expressed during public testimony.

The motion carried without objection (Mr. Rasmuson was not in attendance).

With regard to the issue of a formal administrative appeals process, it was determined that if the Council wishes to add this process to the current Amendment 71, the Council must move to amend the previously adopted motion on Amendment 71; this will take a 2/3 vote since there has been no public notice and one Council member is not present (Rasmuson). Council members asked staff to provide a copy of Amendment 71 and provide a brief review the next day. At that time Sally Bibb, NMFS, reviewed the current Amendment 71 and explained how an appeals process would be included. Mr. Rasmuson was in attendance for the discussion and vote.

Jim Balsiger moved to amend action previously taken by the Council on Amendment 71. That action was Issue 1 of Amendment 71. The amendment would be that the Council amend its motion on Amendment 71, Issue 1, to add an administrative appeals process to NMFS review of the State's CDQ allocation recommendations, and to add a requirement to extend current CDQ allocations if the State's recommendations for new allocations cannot be implemented by NMFS by the end of the allocation cycle. Additionally, the Council recommends a 6-month appeals process described in Option 2 of NMFS's October 9, 2003 discussion paper. The motion was seconded by Kevin Duffy and, after discussion, carried without objection.

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C-3 Essential Fish Habitat/Habitat Areas of Particular Concern

ACTION REQUIRED:

- (a) Review Preliminary Draft EIS for EFH, and identify preliminary preferred alternatives for describing EFH, identifying habitat areas of particular concern (HAPC), and minimizing the effects of fishing on EFH.**
- (b) Finalize HAPC Proposal and Review Process**

BACKGROUND

Preliminary Environmental Impact Statement

A preliminary draft environmental impact statement (EIS) for EFH was distributed on September 8. The Executive Summary of the 2,468 page analysis is attached as Item C-3(a). The EIS evaluates three actions: (1) describing EFH for fisheries managed under an FMP; (2) adopting an approach for identifying HAPC within EFH; and (3) minimizing to the extent practicable the adverse effects of fishing on EFH. Alternatives considered for each were as listed below.

EFH Description

- Alternative 1: No EFH Descriptions.**
- Alternative 2: Status quo.**
- Alternative 3: Revised general distribution.**
- Alternative 4: Presumed known concentration.**
- Alternative 5: Ecoregion strategy.**
- Alternative 6: EFH described only in EEZ.**

HAPC Approach

- Alternative 1: No HAPC Identification.**
- Alternative 2: Status quo.**
- Alternative 3: Site based concept.**
- Alternative 4: Type/site based concept.**
- Alternative 5: Species core area.**

Minimization of Fishing Effects on EFH

- Alternative 1: Status quo.**
- Alternative 2: GOA rockfish bottom trawl closures.**
- Alternative 3: GOA slope closure to rockfish bottom trawling.**
- Alternative 4: Bottom trawl closures in all areas.**
- Alternative 5A: Expanded bottom trawl closure areas.**
- Alternative 5B: Expanded bottom trawl closures areas with additional AI measures.**
- Alternative 6: Closure of 20% area to all bottom tending gear.**

At this meeting, the Council will review the preliminary draft and identify a preliminary preferred alternative for each of the three actions. The Council's preliminary preferred alternative would then be identified in the official Draft EIS, which must be published by January 16, 2004. The NMFS recommendations on preferred alternatives are included in Appendix E, which is attached as Item C-3(b).

HAPC Proposal and Review Process

During the June 2003 meeting the Council reviewed the EFH Committee's process to identify and evaluate potential 'habitat areas of particular concern' (HAPC). The draft process was incorporated into the EIS as Appendix J (Item C-3(c)). At this meeting the Council will need to make a preliminary decision on the HAPC process, so that it can be included within the draft EIS and released for public

comment. Decisions need to be made regarding (1) HAPC criteria, (2) priorities, and (3) a stakeholder process.

The Council had previously noticed that they plan to initiate the HAPC process by November 2003. The Council may wish to initiate a call for proposals at this meeting, as a first step to identifying, analyzing, and adopting HAPC designations. Note that the revised settlement agreement requires that “final regulations implementing HAPC designations, if any, and any associated management measures that result from this process will be promulgated no later than August 13, 2006, and will be supported by appropriate NEPA analysis.”

Report of the Scientific and Statistical Committee

The SSC provided extensive comments on the EFH EIS. Please see the SSC Minutes, Appendix IV to these minutes, for those comments.

Report of the Advisory Panel

The AP also provided the Council with extensive recommendations for the EFH EIS; please see the AP Minutes, Appendix II to these minutes.

DISCUSSION/ACTION

David Witherell, Council staff, reviewed the timeline involved in completing the EFH EIS in order to comply with the court case: At this meeting the Council will adopt preliminary preferred alternatives and a process for identifying habitat areas of particular concern. The draft EIS must be published by January 16, 2004. Staff will revise the current document, identifying the Council’s preliminary preferred alternatives, and send it out for a 90-day public comment period by that date. Then, the Council will come back and select the final preferred alternatives; by June of 2005 the final EIS must be released, and the regulations must be implemented by 2006. Staff also pointed out that a 60-day call for HAPC proposals would go out as soon as possible after this meeting.

It was clarified that the Council may choose a different preferred alternative during final action later in the process, as long as the option is covered in the analysis.

Earl Krygier moved to approve the recommendations of the Advisory Panel [see AP minutes, Appendix II to these minutes], with the following amendments:

Amendment 1, (under C-3(b) HAPC Proposal and Review Process, “recommendation for HAPC priorities for 2003 RFP”)

The Council recommends that the priorities for HAPC proposals should focus on specific sites within two specific types of HAPC for the 2003 call for proposals:

- 1. Seamounts in the EEZ, named on NOAA charts, that provide important habitat for managed species.**
- 2. Largely undisturbed, high relief, long-lived hard coral beds which provide habitat for juvenile life stages of rockfish, or other important managed species.**

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Nominations shall be based upon best available scientific information, and include the following features:

- a) document presence of juvenile rockfish**
- b) sites must be within EFH for FMP rockfish species**
- c) sites must be largely undisturbed and occur outside core fishing areas**

Amendment 2. (under the section on the “Review and Stakeholder process”)

Amend: Call for proposals for HAPC process to read:

- 1) HAPC proposals should be solicited every 3 years; and**
- 2) On the same cycle as the regular plan or regulatory amendment cycle;**
- 3) HAPC site proposals will be focused on specific HAPC types designated by the Council.**

The motion was seconded by Ed Rasmuson.

Mr. Krygier pointed out that his motion recommends the Council adopt Alternative 3 under EFH and Alternative 3 for HAPC, instead of the AP’s recommendations to adopt Alternative 4 for each. Mr. Krygier said that he and others on the EFH Committee felt that Alternative 4 may be too restrictive in some instances and not provide flexibility to staff to move ahead.

The following motions and editorial changes were made to the main motion:

- Instead of a new “Technical Review Committee” as recommended by the AP, the Council chose to use the appropriate Plan Team. If necessary, the Council may refer the proposals to the Enforcement Committee or another appropriate technical committee for review. [Bundy/Anderson; no objection]
- Clarified the wording for the paragraph describing who may submit HAPC proposals to read: “Any member of the public may propose a HAPC, including fishery management agencies, other government agencies, scientific and educational institutions, non-governmental organizations, communities, industry groups.” [Benson/Nelson; no objection]
- Focus of HAPC proposals for the 2003 call for proposals relating to coral beds should be concentrated on the Aleutian Islands. [Fuglvog/Rasmuson; carried 7 to 4, with Anderson, Bundy, Krygier and Hyder voting against] It was pointed out that both the AP and SSC recommended this as a priority for the first call for proposals.
- The Council slightly revised and clarified item 2, under “Council priorities for initial (2003) Request for Proposals,” as follows:
 2. Largely undisturbed, high relief, long lived hard coral beds, with particular emphasis on those located in the Aleutian Islands, which provide habitat for life stages of rockfish, or other important managed species. Nominations shall be based upon best available scientific information, and include the following features:
 - a) Sites must have likely or documented presence of FMP rockfish species.
 - b) Sites must be largely undisturbed and occur outside core fishing areas.[Rasmuson/Anderson; 1 objection (Krygier)]

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- The first paragraph of the section entitled, "Evaluation of Candidate HAPCs," was revised to read as follows:
"The teams should evaluate each proposal on the basis of how well it meets the Council HAPC priorities, the requirements established above for formatting the proposals, the four considerations for HAPC set forth in the EFH final rule, and determine whether designation and any management measures are warranted. The teams should give all considerations equal attention."
[Balsiger/Fuglvog; no objection]
- The call for HAPC proposals was set for November 1, 2003 to January 10, 2004. [Anderson/Hyder; no objection]

The final motion, as amended, carried 10-1, with Anderson voting against. A copy of the final Council motion is found in Appendix V to these minutes.

C-4 IR/IU

ACTION REQUIRED

1. **Receive Committee report**
2. **Discuss implementation issues for Amendment C**
3. **Finalize alternatives for Amendment A**

BACKGROUND

In October 2002 the Council voted to delay implementation of 100% retention requirements (IR/IU) for flatfish in the BSAI, until June of 2004, in order to pursue alternative means of reducing bycatch/discards of flatfish and other groundfish (Amendment 75). However, in May of 2003, that action was only "partially approved" by the Secretary of Commerce (SOC), effectively eliminating any IR/IU requirements for flatfish in the BSAI. Despite this action on Amendment 75, the Council is continuing to pursue two additional IR/IU amendments in the BSAI, Amendment A and C, (now Amendment 80 and 79, respectively). In the GOA, full retention of flatfish still applies; however, exemptions approved under Amendment D essentially exempt every sector from these requirements due to low discard rates by the fleet.

Action on Amendment 79

In June 2003, the Council completed final action on Amendment 79, which establishes an overall minimum groundfish retention standard for non-AFA trawl catcher/processors greater than 125'. The groundfish retention standard program will be phased in over a four-year period starting in 2005 with the initial minimum retention standard set at 65% of total groundfish catch. In 2006, the minimum retention rate will increase to 75%, followed by 5% increases in both 2007 (80%) and 2008 (85%). At the same time, the Council took final action on a separate regulatory amendment for adjusting the time period in which the Maximum Retainable Allowances (MRA) for pollock is enforced. The MRA amendment changes the timing of when pollock retention standards are enforced from any point during the trip to the time when the product is offloaded from the vessel. Changing the enforcement period is anticipated to reduce pollock discards since vessel operators will not be required to discard pollock if they exceed the retention standard early in a trip. Both amendments are currently being finalized for NOAA review.

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During the June 2003 meeting, the Council requested the IR/IU Technical Committee review several issues concerning implementation of the Amendment 79. These issues included: 1) review of the Council's action on Amendment 79 and discussion of implementation issues; 2) identification of options to achieve the pollock MRA objectives; and 3) discuss and develop options for vessels under 125' in the non-AFA head and gut sector. The Committee met in August to address these issues and the minutes of their meeting are attached under Item C-4(a).

Action on Amendment 80

In April the Council reviewed a discussion paper and decision tree for proposed Amendment A (now Amendment 80), that would develop a cooperative structure for the Non-AFA Trawl CP sector. At the April meeting, Amendment 80 was expanded to include allocation alternatives for dividing BSAI groundfish and PSC species among all BSAI fishing sectors. At the June 2003 meeting, the Council requested the IR/IU Technical Committee review the components and options for both sector allocations and the Non-AFA Trawl Catcher/Processor cooperative program and provide recommendations to the Council at their October 2003 meeting.

Currently, Amendment 80 is scheduled for initial review in February 2004 and final action in June 2004 (though initial review in April 2004 may be a more realistic timeline). Based on input from the Committee, the components and options for Amendment 80 have been revised to include the Committee's recommendations. The revised components and options for sector allocations (Appendix A), the revised components and options for establishing a Non-AFA Trawl Catcher/Processor cooperative program (Appendix B), and the preliminary identification of two alternative Non-AFA Trawl Catcher/Processor sector cooperative structures that are proposed to be analyzed in the amendment package (Appendix C) are included under Item C-4(b). In addition, two discussion papers have been prepared by staff. The first paper, Item C-4(c), addresses three preliminary concerns by the IR/IU Committee using TAC as denominator in calculating sector allocations. The second paper, Item C-4(d), addresses the PSC allocations alternatives.

The SSC did not address this agenda issue.

IR/IU Technical Committee - Recommendations of the Committee are found under Agenda Item C-4(a) in the Meeting Notebook.

Report of the Advisory Panel

Regarding Amendment 79 implementation issues, the AP supports the IR/IU Technical Committee's recommendations—that if changes are made to the pollock ICA, NOAA fisheries should document and report to the Council at its December meeting that such change was consistent with the intent of the Council's MRA actions in June 2003, and whether such changes were attributable to increased harvesting of pollock by a given sector, or other factors.

For Amendment 80(a) and Amendment 80(b), the AP recommended accepting the recommendations of the IR/IU Technical Committee, with several recommended changes (see AP Minutes, Appendix II to these minutes for the entire set of recommendations).

DISCUSSION/ACTION

Roy Hyder moved that the Council approve the recommendations of the Advisory Panel, including accepting the recommendations of the IR/IU Technical Committee, with respect to Amendments 79 and 80(b), and the AP's additional recommendations for changes to Amendment 80(a). The motion

was seconded by Arne Fuglvog. Mr. Hyder clarified that the motion did not include the minority report on page 5 of the AP Minutes.

The following changes/clarifications were made during Council discussion:

- Amendment 80(a): Under Component 7, add the years 1995-1997 (Sector Catch History Years). [Benson/Bundy; no objection]
- Amendment 80(a): Under Component 7, add the year 2003 to all options as a additional set of options. [Bundy/?; no objection]
- Under Options 7.1 and 7.4, delete (a)–excluding 2000, because of injunction; and (c)–excluding 2000 and 2001. [Bundy/Benson; no objection]
- Under Component 8, add back in Options 8.3–Retained catch of the sector over the TAC; and Option 8.4–Total catch of the sector over the TAC. [Krygier/Anderson; 8 to 3, with Balsiger, Benson, Hyder opposed]
- Under Component 9: Sector allocations for BSAI P. cod, the following recommended changes were passed to the IR/IU Technical Committee for further review:
Option 9.1 – add:
Suboption 9.1.1: The <60' CV fixed gear (pot and H&L) sector and jig sector combined allocation is to be:
 - a.) 2%
 - b.) 3%
 - c.) 4%

Suboption 9.1.2: Rollovers between sectors shall be done as follows:

- a.) as in current regulation
- b.) as in current regulation and in Amendment 77
- c.) Other

Option 9.2–add:

–Rollover provisions as in:

- a.) current regulations
- b.) current regulations and Amendment 77

Option 9.3–add:

Rollover provisions as in current regulation.

[Original amendment–Fuglvog/Nelson; amended by Austin/Fuglvog to send to committee; no objection]

- Clarification of wording for Component 10: CDQ and proportionate PSQ allocations. [Nelson/Anderson; no objection]
- Component 12 - refer issue to IR/IU Technical Committee for review and recommendations. [Bundy/Fuglvog; no objection]

There were no changes to the main motion with respect to Amendment 80(b). The main motion, as amended, carried without objection. A copy of the Council’s final action is found in Appendix VI to these minutes.

C-5 SSL

ACTION REQUIRED

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Receive report from Steller Sea Lion Mitigation Committee and discuss next steps.

BACKGROUND

During its April 2003 meeting, the Council asked the Steller Sea Lion Mitigation Committee (the old name of this committee was the RPA Committee) to convene and begin work on a new charge. The Council's charge was two-fold: 1) to review the National Research Council Committee's report on SSL decline and determine the feasibility of implementing the Committee's recommendations, and 2) to review current Steller sea lion protection measures in the Gulf of Alaska for possible regulatory changes that would provide some economic relief to Gulf communities.

1. National Research Council Committee Report

The Steller Sea Lion Mitigation Committee (SSLMC) was tasked with reviewing the National Research Council committee's report on the decline of the Steller sea lion (SSL) in Alaska. The Executive Summary of the NRC committee report is attached (Item C-5(a)). In the NRC report, the NRC committee recommended conducting an experiment on fishing effects on SSLs. The SSLMC discussed how the recommended experiment might be conducted, and some of the scientific and legal issues that would have to be addressed in the design of such an experiment. Many of these issues were discussed in a document prepared by the Alaska Fisheries Science Center (attached as Item C-5(b)). A subcommittee of SSLMC members was assigned the task of recommending further action on this issue.

The SSLMC's Subcommittee on Experimental Design discussed the complexities involved in testing how fishing may affect SSLs, concluding that the key concern would be the design of the experiment. The subcommittee noted the experiment will be difficult to conduct given the large number of uncertainties and factors that could be influencing SSLs and the potentially significant obstacles to such an experiment because of the Endangered Species Act. The subcommittee felt, however, that there may be organizations, universities, or independent scientists that would have ideas or approaches, and that it would be worth while to solicit these ideas from the scientific community at large.

Therefore, the subcommittee recommended that a Request for Proposals be prepared and released by the Council. This RFP would ask for interested scientists to submit proposals for developing a conceptual design for an adaptive management experiment. If the Council approves, the RFP could be released to the public before the end of this calendar year. Elements of the draft RFP are provided in the attached Item C-5(c). The subcommittee or the full SSLMC would review the proposals that were received, make a selection of a contractor, and the Council would contract with the successful bidder. The terms of the procurement likely would include a requirement for a draft report/research design by mid to late 2004. The committee would then evaluate the design and recommend further action to the Council. Dr. Doug DeMaster, chair of the subcommittee, will be available for questions.

2. Review of Proposals for Regulatory Changes in the Gulf of Alaska

The SSLMC met several times (June, July, and August 2003) to receive and review proposals for changes in the groundfish fishing regulations in the Gulf. After screening 15 proposals, the SSLMC recommends a draft suite of measures that could be implemented in the Gulf to provide some additional fishing opportunities for fishermen yet preserve the level of protection to Steller sea lions embodied in the current sea lion protection measures.

In its deliberations, the SSLMC repeatedly encountered problem areas in Gulf fisheries that they felt need attention from the Council. The committee members believe that many of these problem areas could be resolved through the Council's Gulf Rationalization program. However, the committee also

noted that completion of Gulf Rationalization may take many years, and therefore wishes to have Council approval to move forward with the regulatory changes described below and in the attached document. The committee strongly endorses the Council's efforts toward Gulf Rationalization, and asks that the Council proceed expeditiously to provide for more rational fisheries in the Gulf. More specifically, the committee would like the Council to consider, first, implementing quota splits among gear types and sectors, and then proceed with other measures to rationalize Gulf groundfish fisheries. See page 4 of the attached Minutes of the SSLMC's August 2003 meeting (Item C-5(d)) for a summary of the committee's sentiments.

Attached Item C-5(e) is a draft package of proposed measures the SSLMC refers to the Council for their initial review. If the Council wishes to proceed with these measures, the package would be submitted to NMFS for their review and comment and for informal consultation under Section 7 of the Endangered Species Act. The SSLMC is prepared to meet with NMFS if necessary to modify these proposed regulation changes based on the NMFS review. This package would then be developed by NMFS and Council staff into an EA/RIR/IRFA for Council review and initial action at its April 2004 meeting (pending other staff tasking priorities). After public review, and final Council action in June 2004, the package would then proceed through the process of notices and regulation writing, with the measures being effective for the 2005 fishing season.

The SSLMC proposes that the regulations implementing the GOA Groundfish FMP be amended to provide the following changes. These changes are grouped in two general categories:

1. Open to groundfish fishing additional area around three GOA Steller sea lion haulouts and one rookery, and close to groundfish fishing areas around four GOA Steller sea lion haulouts.

A. Open the closed area around the Marmot Island SSL rookery to 10 n mi for pollock trawling during the A and B seasons. All other fishing restrictions around Marmot Island would remain as is. Close the area around the SSL haulout on Sea Otter Island to 20 n mi to pollock trawling during the A and B seasons.

B. Open the closed area around the Puale Bay SSL haulout to 3 n mi for pollock trawl fishing during January 20 through June 10. All other fishing restrictions around Puale Bay would remain as is. Close the area around the Cape Douglas/Shaw Island SSL haulout to 20 n mi to pollock trawling during January 20 through June 10.

C. Open the closed area around the Kak Island SSL haulout to 3 n mi for Pacific cod pot fishing. All other fishing restrictions around Kak Island would remain as is. Close the area around the Kilokak Rocks SSL haulout to 10 n mi to Pacific cod pot fishing.

D. Open an area around the Castle Rock SSL haulout to the shoreline for Pacific cod pot fishing. Open an area around Castle Rock from 3 to 10 n mi for Pacific cod trawl fishing; this opening would be effected by changing the SSL protection measures around Atkins Island, which overlaps Castle Rock. Allow NMFS discretion to work with industry to design an enforceable open area that is equivalent to a wedge or approximately a quarter circle west and north of Atkins Island.

2. Amend regulations implementing the GOA groundfish FMP to provide changes in procedures for Pacific cod TAC apportionment and pollock TAC rollover in the Pacific cod and pollock fisheries, and eliminate the required stand-down periods between seasons in the pollock fishery.

A. This proposal has two options: 1) Change the season dates and apportion the annual Pacific cod TAC in the GOA so that 60 % of the TAC can be fished in an A season (January 1 through March 31), 20 % in a B season (April 1 through August 31),

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and 20 % in a C season (September 1 through November 1 for trawl gear, September 1 through December 31 for fixed gear). This recognizes that Pacific cod TAC would be first apportioned to non-Pacific cod directed fishery bycatch needs, with the remainder of the TAC apportioned 60/20/20; or 2) Retain the current season dates and apportionment but change regulations so that 60 % of the Pacific cod TAC in the GOA (both the directed cod fisheries and cod bycatch in other fisheries) is taken in the A season (January 1 through June 10). Between-season harvest of cod TAC (bycatch in other fisheries) would be subtracted from the B season TAC.

B. Remove the two-week stand-down period periods between the A and B seasons and between the C and D seasons in the GOA pollock trawl fishery. Allow continuous fishing from the A season into the B season (and from the C season into the D season) until either the quarterly TAC is reached in the A season (and C season) or the B season (and D season) ends.

C. Change the method for rolling over underharvested pollock TAC in the Western/Central Regulatory Areas in the GOA pollock trawl fishery. Roll over any unharvested TAC within the same region and up to the 20 % limit of the seasonal apportionment so that any unharvested TAC apportioned to an area may be further rolled over into the remaining open areas in proportion to the projected pollock biomass in those areas (as estimated by the Plan Teams at the beginning of each year).

Members of the SSLMC:

Larry Cotter, Chair	John Iani
Dave Benson	Terry Leitzell
Jerry Bongen	Denby Lloyd
Julie Bonney	Chuck McCallum
Shane Capron	Matt Moir
Tony DeGange	Bob Small
Doug DeMaster	Beth Stewart
Steve Drage	Jack Tagart
John Gauvin	John Winther
Sue Hills	

The Advisory Panel did not address this agenda issue.

Report of the Scientific and Statistical Committee

The SSC received a report from the Steller Sea Lion Mitigation Committee regarding two tasks assigned by the Council in April 2003 (described in the first paragraph of the Action Memo above). The SSC's full comments can be found in Appendix IV to these minutes.

DISCUSSION/ACTION

After receiving staff reports, the following motion was made:

Kevin Duffy moved that the draft proposals for regulatory changes in the Gulf of Alaska be sent to NMFS for initial review and informal consultation on their possible effects on Steller sea lions. After NMFS review, the Steller Sea Lion Mitigation Committee will meet with NMFS to modify or change the proposal package as necessary and bring an analysis of the proposed measures back to the Council as soon as practicable. The motion was seconded by John Bundy and carried without objection.

It was clarified that the proposals Mr. Duffy referred to were those identified as 1ABC and 2ABC in the

Action Memo.

C-6 Halibut Subsistence

ACTION REQUIRED

- (a) Discuss halibut subsistence regulations.
- (b) Final action to include Ninilchik as an eligible community.
- (c) Discuss process for handling petitions from other communities.

BACKGROUND

Status of regulations

At its June 2003 meeting, the Enforcement Committee reported that NMFS Enforcement Division is allowing the sale of subsistence caught halibut up to the \$400 customary limit approved by the Council, even though it was clear that the Council intent was not to create a new commercial fishery. The Council requested that NOAA and Council staffs meet to confer on the issue of sale and barter of subsistence halibut. A report from that meeting is attached as Item C-6(a)(1).

The Enforcement Committee also reported on inconsistencies in State and Federal subsistence regulations regarding the disposition of rockfish caught while halibut subsistence fishing. The NMFS RAM Division contracted a report on this issue (Item C-6(a)(2)). It is unclear what action, if any, is needed at this time. The potential for inconsistent regulations was understood by the Council when they defined legal gear.

ADF&G Subsistence Division has been contracted by NMFS Alaska Region to implement a subsistence halibut harvest survey (Item C-6(a)(3)). Staff is available to provide a summary of the proposed survey, as requested by the Council in June 2003. A letter dated July 10, 2003 from the International Pacific Halibut Commission on subsistence halibut harvest monitoring is under Item C-6(a)(4).

A status report and request for additional clarifications on a draft proposed rule will be presented by NMFS staff (Item C-6(a)(5)). The rule implements the Council's April 2002 preferred alternative for revising the halibut subsistence program consistent with the Board of Fisheries recommendations to address the potential local effects of subsistence halibut fishery on halibut and rockfish populations.

Ninilchik

In September 2002, the Council received a proposal to include Ninilchik to the list of eligible rural places in regulations that authorize and manage the halibut subsistence fishery. The Council initiated an analysis in December 2002 and scheduled final action for April 2003. The Council tabled the action because the petitioner had not received the required state or federal finding of eligibility. A letter from US Fish and Wildlife Services (USFWS) staff was received in May 2003 (Item C-6(b)(1)) and action was rescheduled. There are numerous additional Cook Inlet communities that could be included using the Federal Subsistence Board's (FSB) findings.

Eligibility criteria for communities and Federally-recognized Alaska Native Tribes were explicitly based on criteria used by the State of Alaska Board of Fisheries (BOF), but also referenced the Alaska National Interest Lands Conservation Act (ANILCA) to include Federally-qualified participants but did not identify them or where they could fish. As a result, Ninilchik was not listed as an eligible community because the Council's list of eligibility communities was based on State criteria, which

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deems the entire Kenai Peninsula as urban. The Council recognized that some rural communities (those not explicitly named in its initial list) may seek a finding of customary and traditional use of halibut and thereby secure subsistence eligibility for its non-Native residents. The Council specifically stated that such petitions will be reviewed by the Council after it receives a finding of customary and traditional use of halibut from the appropriate State or Federal bodies. A petition from a Ninilchik resident was received by the Council in September 2002. USFWS staff notified the petitioner in writing that it appears to meet that standard.

Under Alternative 2, the Council will consider whether to add Ninilchik (and Happy Valley residents) to its list of eligible communities for halibut subsistence use. If included, the Council must decide where these participants may fish (i.e., subject to the State non-subsistence area closure and an expanded closed area under draft proposed regulations or in any waters open to Federally-qualified participants). Adding Ninilchik would result in an additional 650 non-Native residents (and perhaps 497 Alaska Native and non-Native Happy Valley residents under an option) who could retain halibut for subsistence purposes. Over 90% of Ninilchik and Happy Valley households used halibut for food. A total of 34,000 total pounds of halibut were harvested, with an average of 85 lb. per household, and 32 lb. per person. In 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 September 8, 2003.

Petitions from other Communities

Since the subsistence halibut fishery opened, Council and NMFS staff have received numerous calls and e-mails from Alaska communities/residents who are ineligible for the program and are seeking inclusion. Most of these calls are from residents of rural places with fewer than 25 people, below the minimum for identification as a census designated place (e.g., Funter Bay on Admiralty Island, Herring Cove near Saxman, Port Tongass Village near Ketchikan). Other ineligible communities are census designated places near others that are eligible (e.g., Naukati Bay on Prince of Wales Island). Residents of Cooper Landing, and Nikolaevsk also wish to be included. An ineligible Tribe (Qutekcaq Native Tribe) in Seward also seeks inclusion. Council staff requests clarification as to whether a "paper" petition must be received by an appropriate agency, or whether phone or email petitions are satisfactory.

The Alaska Board of Fisheries (BOF) and the Federal Subsistence Board (FSB) are two agencies that have agreed to provide recommendations to the Council on the customary and traditional use of halibut for communities that appeal for inclusion in the regulations defining the NMFS subsistence halibut fishery. The Joint Protocol Committee recommendations for how the State might address appeals are under Item B-4 supplemental. The BOF defined its appeals process at its October 3-5, 2003 work session (item C-6(c)(1)).

In its letter to the Council dated June 10, 2003 Item C-6(c)(2), USFWS staff identified the FSB's annual proposal cycle (January to March), regional advisory council meetings (September to October), which lead up to its annual meeting in December. However, many of the petitions will be handled by staff, who will apply the FSB's findings of customary and traditional use of fish for the geographic areas in which the petitioner resides, since those findings are not community based. A report prepared by Council staff in March 2003 (Item C-6(c)(3)), lists a number of communities that USFWS staff offered for consideration at the request of the Council. Note, however, that the list does not include numerous additional communities deemed rural by the FSB (Item C-6(c)(4)), but which are deemed urban by the BOF (for which petitions may be forthcoming). USFWS staff will be on hand to provide additional information.

The SSC did not address this agenda issue.

Report of the Advisory Panel

The AP requested that the Council take no action to include Ninilchik as an eligible halibut subsistence community. Additionally, the AP recommended that the Council appoint a committee to address concerns about and changes to current subsistence halibut regulations (See AP Minutes, Appendix II to these minutes for the list of eight issues).

The AP also requested that the Council clarify the following subsistence halibut provisions as they apply in the Sitka LAMP:

- 8.1 The Low Island registration area is a 2 (?) circle extending E, S, & W of Low Island.
- 8.2 Power hauling is prohibited in this area during the summer months, but longlines with reduced gear provisions would still be allowed.
- 8.3 Ceremonial permits should be allowed in the LAMP during the non-summer months.

And, the AP requested that the Council clarify that the Community Harvest Permit is indeed a permit that liberalizes halibut subsistence regulations and could be revoked if abused.

DISCUSSION/ACTION

The Council had a lengthy discussion regarding discrepancies between State regulations and Council-approved regulations in respect to legal gear in Prince William Sound, Cook Inlet and Kodiak. Earl Krygier pointed out that the State's main concern is local depletion of rockfish. Several motions were offered and then withdrawn in attempting to address these concerns. One problem was whether to rescind previous action taken (in April 2002), or to initiate a new amendment. It was determined that some members of the Council wished to include new options that were not analyzed in the April analysis.

Stosh Anderson moved to delete Sections 3A, 3B, 3C and 4 in the Council's April 2002 motion dealing with halibut (2). The motion was seconded, but the voice was unidentified.

Further clarification by staff stressed that Parts 1 and 2 of Parts 3A, 3B, & 3C, and Parts 1 and 2 in both places they appear in Part 4 of the April motion are to be deleted. However, the parts relating to the proxy system and stacking are not to be deleted.

The motion carried, 10-1, with Krygier voting against.

Stosh Anderson moved to initiate a regulatory amendment, labeled "Halibut (3)", to deal with the issues that were deleted from "Halibut (2)" in the previous motion, plus the following additional issues:

- 1. Conflicting State of Alaska and Federal regulations with regard to the halibut fishery, i.e., hook limits and other regulations that are found to be in conflict.**
- 2. Possession issues—possession limits.**
- 3. Concerns of sale.**
- 4. Bare-boat charter vessel issue.**
- 5. Rockfish, lingcod conservation issues.**
- 6. Annual harvest and/or daily harvest limits in areas of Kodiak, Cook Inlet, Prince William Sound.**

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The motion was seconded by Hazel Nelson.

Earl Krygier moved to amend Mr. Anderson's motion to provide additional clarifications for staff: for the issue on hook limits that staff analyze 5, 10, and 30 hooks; and require mandatory retention of rockfish and if the legal amount of rockfish allowed under State regulations were caught, it would cause a person to stop fishing for that day. With regard to the possession limit, analyze options of either no possession limit, or a possession limit of 2 daily bag limits. With regard to the charterboat issue, consider the options of (a) allow use of charterboats, or (b) adopt the language of the State of Alaska definition to redefine a charterboat vessel as State-licensed and restrict their use in the subsistence fishery to the owner and identified immediate family members (father, mother, brother, sister, children, legally adopted children). The motion was seconded, but the voice was unidentified.

Arne Fuglvog moved to amend, in the analysis on the issue of sale of subsistence-caught halibut, analyze: (a) no cash sales; (b) \$100; (C) \$400. The analysis would apply these different options for different IPHC areas. The motion was seconded by Stosh Anderson, and carried without objection.

Arne Fuglvog moved to amend that the amendment package include an option of a prohibition on retention of subsistence-caught halibut on a vessel while commercial fishing, except in Areas 4C, 4D, and 4E. [Exception added for clarification after Council discussion]. The motion was seconded, but the voice was unidentified.

Jane DiCosimo, Council staff, pointed out that in the Council's April 2002 action, the Council specifically added a provision that allows retention of legal size halibut for subsistence use by residents of qualifying Area 4 communities while CDQ fishing on their own vessels. Mr. Fuglvog clarified that his intention is not to stop this particular practice. His motion would be only applicable in Areas 2C, 3A, 3B, 4A, and 4B.

Mr. Fuglvog's motion failed, 6 to 5, with Anderson, Austin, Fuglvog, Hyder and Rasmuson voting in favor.

Mr. Krygier's motion, which carried Mr. Anderson's motion, carried without objection.

Hazel Nelson moved to add an issue to the regulatory package previously voted on to provide an opportunity to fish under community harvest permits, educational permits, and ceremonial permits in non-traditional use area by tribes whose traditional fishing grounds are located within these areas, provided that there is a 20-fish per day bag limit for community harvest permits fished in non-subsistence use areas. The motion was seconded by Arne Fuglvog.

Stosh Anderson moved to amend to cap the number of permits on any one vessel at any one time, analyzing the following options: 1 permit, 2 permits, or 3 permits. The motion was seconded by Roy Hyder and carried without objection.

Ms. Nelson's amendment, as amended, carried without objection. Staff pointed out that data from the first subsistence survey will not be available until June 2004, and suggested that this analysis be drafted for review in October of 2004.

Ed Rasmuson moved to accept the Advisory Panel's recommendation that the Council take no action to Ninilchik's request for inclusion in the list of eligible communities for halibut subsistence. The motion was seconded by Arne Fuglvog and carried unanimously.

There was considerable discussion regarding eligibility and how communities should proceed before

requesting eligibility. To clarify additional USFWS determinations, **Earl Krygier moved that the Council request that the Federal Subsistence Board (not USFWS staff) provide halibut customary and traditional use determinations for individual petitioning communities that qualify as rural by Council standards.** The motion was seconded by Arne Fuglvog and carried without objection.

The Council received a report from the Alaska Board of Fisheries which set up a process during its October worksession to address appeals concerning eligibility. The Board agreed to provide recommendations for any communities that seek to be included on the Council's list of eligible communities for subsistence use of halibut. The Board will take public testimony during its February 2004 meeting and schedule appeals during future cycles and forward recommendations on those appeals to the Council.

D. FISHERY MANAGEMENT PLANS

D-1(a) Aleutian Islands Pollock Fishery

ACTION REQUIRED

Receive staff report on history of the Aleutian Islands pollock fishery and give direction on how to proceed.

BACKGROUND

At its June 2003 meeting, the Council reviewed the issue of re-opening the Aleutian Islands to a directed pollock fishery. The Council noted that it has considered this issue in several recent meetings, but has not chosen to re-open the AI until additional analyses are completed. NMFS reminded the Council that technically the AI is open to the pollock fishery, but that it hasn't been prosecuted in the past several years because no pollock TAC was apportioned to this area (other than the amount needed for bycatch in other target fisheries). NMFS also noted that the agency does not consider a closure of the AI directed pollock fishery as a necessary Steller sea lion conservation measure. In June, the Council asked staff to go back into the records and develop a history of Council actions related to opening/closing the AI to a directed pollock fishery.

The attached report (Item D-1(a)(1)) provides a timeline of Council discussions and actions relative to the AI pollock fishery. Below is a summary of some of the salient points in the history of this issue.

- 1 The Aleutian Islands have been open to a directed pollock fishery since inception of the MSFCMA, and had remained open through 1998, with TACs during the 1990s ranging from 23,800 to 100,000 mt.**
- 2. A November 1998 special Council meeting was convened to address SSL and groundfish fishery issues. The Council reviewed draft NMFS RPAs that suggested a suite of conservation measures for SSLs, including closure of the AI directed pollock fishery as an option for a "protection zone". The Council scheduled action on the RPAs for their December meeting.**
- 3. The Council took final action on the SSL issue in December 1998, and recommended a suite of SSL protection measures including closure of the AI to a directed pollock fishery. An emergency rule closed the AI for 1999 (the AI remained closed to a directed pollock fishery through 2000).**
- 4. Court challenges to the 1998 BiOp, and to the TAC setting process during next two years, led to the development of an FMP-level BiOp in 2000; the 2000 RPA excluded a closure to a directed pollock fishery in the AI. The Council rejected the RPA based on public comments and other concerns and formed its RPA Committee.**

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5. The Council's RPA Committee developed a revised RPA which was included as one of the alternative actions in the 2001 NMFS EIS and BiOp.
6. The Council met in October 2001 to review the 2001 EIS and BiOp, and chose its preferred alternative, which was the RPA Committee's alternative (# 4), with modifications that closed the AI to a directed pollock fishery in 2002 but opened it in 2003 (outside SSL critical habitat and with a 40/60 TAC split); the Council requested analysis of a trailing amendment that would analyze the effects of opening the AI to a pollock fishery.
7. At the Council's April 2002 meeting, an EA for a trailing amendment to open the AI to a directed pollock fishery was reviewed and sent out for public review (with a request for some revisions – which were included in the review draft).
8. In October 2002, the Council approved Alternative 2 in the trailing amendment package, maintaining the AI pollock fishery closure for another year. The motion recognized a need for more information with which to better evaluate the effects of opening this fishery, including a cumulative impacts analysis and other analyses requested in the Council motion. During Council discussion, NMFS pointed out that the closure is not a SSL conservation issue. Staff were tasked with gathering the information listed in the motion.
9. In April 2003, the Council asked for a report on progress in preparing the information requested in October 2002. NMFS reported that some of the analyses were being conducted as part of other projects.
10. In June 2003, the Council repeated their desire to have additional analysis available to determine whether to re-open the AI to a directed pollock fishery; the Council requested a review of the history of this issue for review at their October 2003 meeting.

The full report, attached Item D-1(a)(1), provides a more detailed account of the history of Council actions on the AI pollock fishery issue. This document has seven attachments, two of which are the Council-requested transcripts of the SSL discussions at the October 2002 meeting.

At this point the Council could consider several actions: 1) keep the AI closed by not apportioning TAC for a directed pollock fishery, 2) develop a new NEPA document that would evaluate the impacts of opening, or closing permanently, the AI to a directed pollock fishery, or 3) wait until the Programmatic Groundfish SEIS is complete and take action under its policy umbrella. The Programmatic Groundfish SEIS does provide for a management policy framework within which the Council could address this issue in the near future. Should the Council wish to permanently open (or close) the AI to a directed pollock trawl fishery, the analysis of this measure could tier off the Programmatic Groundfish SEIS once the Council's selected policy is adopted.

Neither the SSC nor the AP addressed this agenda issue.

DISCUSSION/ACTION

Earl Krygier moved to have NMFS at the December meeting, if possible, produce a document covering the cumulative effects of opening the Aleutian Islands after being closed for a 5-year period, taking into account the issues having to do with forage fish and other fisheries, including the Donut Hole issue. The motion was seconded by Hazel Nelson.

After some discussion, **John Bundy moved a substitute motion that NMFS commence a NEPA analysis to reopen the Aleutian Islands pollock fishery, looking at cumulative effects involved with the pollock fishery.** The motion was seconded by Roy Hyder and carried without objection.

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There was discussion regarding whether this would be a NEPA analysis or an Environmental Assessment at this time. Dr. Balsiger indicated that an Environmental Assessment would be prepared, but probably could not be completed for Council review in December. Council members said that they would discuss timing of the analysis during staff tasking.

D-1(b-d) F40 Recommendations; Non-Target Species; 2004 Preliminary Groundfish Specs

ACTION REQUIRED

- (b) Receive NMFS response to F40% Report.
- (c) Receive report from non-target species ad hoc working group and Council committee.
- (d) Take final action to adopt preliminary and interim 2004 groundfish specifications and GOA Plan Amendment 63 to separate skates from "other species" category.

BACKGROUND

NMFS response to F40 Report

In October 2001, in conjunction with the actions taken to address Steller sea lion issues, the Council 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. A letter from Dr. DeMaster, attached as Item D-1(b)(1), outlines the NMFS response to the F40 panel report, which includes an updated report (Item D-1(b)(1)).

Non-target Species Management

In 2002, an ad hoc working group was formed to address management issues related to sharks and skates (before the Council during 1998-2000), the "other species" category (circa 2000-2001), and all non-target groundfish species (since 2002). At its fourth meeting, held in September 2003, the group examined several case studies for how the proposed management system might work. The minutes from all four meetings are attached (Item D-1(c)(1)).

In August, 2003, the Council appointed a Non-target Species Committee (Item D-1(c)(2)). An organizational meeting is scheduled for the evening of October 8. The proposed tasking for this committee include identification of efficient methods for monitoring non-target catch, improving abundance estimates of non-target species, and development of harvest recommendations that build sustainable populations of non-target species. A committee report will be provided during the Council meeting.

Preliminary and interim 2004 groundfish specifications and GOA Plan Amendment 63

At this meeting, the Council will recommend interim catch specifications for BSAI and GOA groundfish. Specifications include catch limits (OFLs, ABCs, and TACs) and prohibited species bycatch limits. Final specifications, which are adopted by the Council in December and approved by the Secretary each year, supercede the proposed and interim specifications sometime in February of the new fishing year.

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The Groundfish Plan Teams met in September to prepare recommended interim specifications for 2004, based on updated projections. Since 2002, the Plan Teams provided interim projections of next year's OFLs and ABCs based on estimates from the previous year's SAFE report, rather than simply 'rolling over' the specifications. Only species in Tiers 1-3 (age structured assessments) have projections, others are rolled over (Item D-1(d)(1)). Using the newer methodology, the Plan Teams recommended projected groundfish specifications for 2004 are attached as Item D-1(d)(2). Reports from the BSAI, GOA, and joint plan team meetings are provided under Items D-1(d)(3-5). The EA/RIR/IRFA for the 2004 specifications was mailed to you on September 29, 2003. The executive summary of the analysis is under Item D-1(d)(6).

TAC Considerations for State Pacific Cod Fishery

Since 1997, the Council has reduced the GOA Pacific cod TAC to account for removals of not more than 25% of the Federal Pacific cod TAC from the state parallel fisheries. Preliminary information indicates that neither Chignik nor Cook Inlet achieved its GHL, and therefore would remain at its current allocation. Using the area apportionments of the 2003 Pacific cod proposed ABC recommended by the Plan Team, the federal TAC for Pacific cod would be adjusted as listed at right.

Specifications	Western	Central	Eastern	Total
ABC	18,649	26,254	2,897	47,800
BOF GHL	4,662	6,038	290	10,990
(%)	25	23	10	23
TAC	13,987	20,216	2,607	36,810

Prohibited Species Catch Limits

In the Gulf of Alaska, Prohibited Species Catch (PSC) limits are established for halibut. The total PSC limit for all fisheries and gear types totals 2,300 mt. The following 2003 halibut PSC apportionments were instituted for the Gulf of Alaska groundfish fisheries:

2003 Trawl		2003 Hook and Line		
Jan 20 - Apr 1	550 mt	1st trimester	Jan 1 - Jun 10	250 mt
Apr 1 - Jun 29	400 mt	2nd trimester	Jun 10 - Sep 1	5 mt
Jun 29 - Sep 1	600 mt	3rd trimester	Sept 1 - Dec 31	35 mt
Sept 1 - Oct 1	150 mt			
Oct 1 - Dec 31	300 mt	DSR	Jan 1 - Dec 31	10 mt
TOTAL	2,000 mt			300 mt

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Season	<u>Trawl fishery categories</u>		
	Shallow Water	Deep Water	Total
Jan 1 - Apr1	450 mt	100 mt	550 mt
Apr 1 - Jun 30	100 mt	300 mt	400 mt
Jun 30 - Sep 1	200 mt	400 mt	600 mt
Sep 1 - Oct 1	150 mt	any rollover	50 mt
Oct 1 - Dec 31	no apportionment		300 mt
TOTAL	900 mt	800 mt	2,000 mt

For the 2004 fishery, NMFS in-season management states that the third seasonal halibut PSC allocation in the GOA and BSAI will be available on July 4th.

In the BSAI, PSC catch limits are established for halibut, red king crab, Tanner crab, opilio crab, and herring. These PSC limits are further allocated among gear types and apportioned by target fisheries. The 2003 bycatch limits and apportionments are attached as Item D-1(d)(7).

GOA Plan Amendment 63 to separate skates from the “other species” category

The analysis prepared for specifications also includes GOA Plan Amendment 63 to separate GOA skates from the “other species” category (which also includes sharks, squids, sculpins, and octopus). The proposed action is an interim measure to address conservation concerns for a rapidly developing fishery around Kodiak for two skate species, and the need to have this fishery develop in a sustainable manner. It includes two alternatives for managing GOA skates and three options for how to set specifications. Currently skates are managed under the “other species” category TAC. The GOA FMP does not authorize a separate ABC or TAC for the skate complex, nor for any of the individual species which make up that complex. Instead a TAC is calculated for the five taxonomic groups as a percent (5%) of the total TAC for all of the combined GOA species. The proposed action would allow specifications to be set for two skate species and/or a skate complex and allow for regional apportionments. The ad hoc working group recommended Alternative B. The Joint Plan Teams recommended Alternative B, Option 3. The executive summary of the analysis is under Item D-1(d)(6). The alternatives and options are listed below.

- Alternative A. No action.
- Alternative B. Remove skates from the “other species” category and add them to the target category.
- Option 1. A single GOA wide OFL for the skate group, and management area ABCs for the skate group.
 - Option 2. A single GOA wide OFL for skates, and ABCs for key skate species in each management area
 - Option 3. Management area OFLs and ABCs for each key skate species.

Report of the Scientific and Statistical Committee

F40 Review. The SSC received a report from Dr. Grant Thompson on the Alaska Fishery Science Center’s (AFSC) review of the F40 report by Goodman, et al. Further work will be done by AFSC to evaluate harvest strategies of rockfish in the next year to more fully address this issue. The SSC did not provide further comment.

Non-Target Species Committee/Ad hoc Workgroup. The SSC did not address this agenda issue.

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GOA Amendment 63 & 2004 Preliminary Groundfish Specs.

Regarding GOA Amendment 63, to separate skates from the “other species” category, the SSC noted that the urgency of the issue is reflected in catch data for skates in 2003 that confirmed that skates have become the target of a directed fishery concentrated in the Central Gulf of Alaska Region. The SSC recommended that skates be separated from the “other species” group. Please see the SSC Minutes, Appendix IV, to these minutes for more extensive comments with regard to OFL and ABC determinations.

The SSC also received reports on the preliminary SAFE sections for sablefish, Aleutian Islands pollock, northern rockfish, a stock production model, forage fish, and Dover sole, and noted that stock production models, which can be applied to species lacking a time-series of age data, assume instantaneous responses, which might be problematic for rockfish species that have large lags in recruitment.

With regard to the preliminary groundfish specifications for 2004, the SSC agreed with the GOA plan team that a rollover approach for GOA pollock, instead of the projection approach which would have given a large increase in TAC, seemed reasonable given the low biomass value from the 2003 Shelikof Strait survey results. The SSC supported the Plan Team-proposed ABC and OFL specifications.

Report of the Advisory Panel

F40 Review. The AP did not address this agenda issue.

Non-Target Species Committee/Ad hoc Workgroup. The AP did not address this agenda issue.

GOA Amendment 63 & 2004 Preliminary Groundfish Specs.

The AP recommended the 2004 TACs for BSAI groundfish be set by rolling over the 2003 TAC, except for those species that have a lower 2004 ABC. For these species, the AP recommended the TAC be equal to ABC. The AP also recommended apportionment of PSC limits as outlined in the Action Memo in the meeting notebooks (pages 2-3) with the following suggested changes:

1. Halibut not be seasonally apportioned
2. Interim specifications be set at 0
3. 35% of red king crab (zone 1) cap is made available in red king crab rock sole category

For GOA groundfish, the AP recommended that the 2004 TAC be set by rolling over the 2003 TACs, except for those species that have a lower 2004 ABC. For those species, the TAC would be set equal to ABC. The AP also recommended reducing the Pacific cod TAC by the apportionment to the State waters fishery. Further, the AP recommended approval of the PSC apportionments in total for GOA as outlined in the Action Memo, and that the Council approve a rollover of the 2003 discard rates.

The AP recommended approval of GOA Amendment 63 and provided recommendations for OFL, ABC and TACs. Please see the AP Minutes, Appendix II to these minutes, for the entire set of recommendations.

DISCUSSION/ACTION

F40 Review

The Council also received Dr. Thompson's report and commented that this critique of the Council's management strategy is very healthy and worthwhile. No Council action was taken on this issue.

Non-Target Species Committee/Ad hoc Workgroup

The Council received a update on recommendations of the ad hoc working group on proposed management changes for non-target species. The group is recommending that the Council consider creating a non-target species category in the BSAI and GOA groundfish FMPs. The working group will continue to work with the Target Species Committee to discuss and define a structure for a possible FMP amendment and to develop a discussion paper for Council consideration at a future meeting.

GOA Amendment 63 and Preliminary Groundfish Specifications for 2004

GOA Amendment 63

Ed Rasmuson moved to adopt Amendment 63, Alternative B, to move skates from the "other species" category. The motion was seconded by Earl Krygier, and carried without objection.

Council members said that this action will address conservation concerns for a rapidly developing fishery around Kodiak for two skate species.

Arne Fuglvog moved that the Council request additional information be provided in December on biomass estimates and incidental catch of skates in existing fisheries. This would include:

- **Incidental catch (or best estimate) of skates by area by specific groundfish fisheries (gear and target species) in recent years (1997-02).**
- **Incidental catch (or best estimate) of skates by the halibut fishery in recent years (1997-02).**
- **Examination of the general limitations (if any) of assessing the biomass by the trawl survey.**
- **Examination of the variability of the maximum depth surveyed in different years by the trawl survey, and how that is integrated into the biomass estimate.**
- **Examination of the sablefish survey to look at skate bycatch information to determine distribution.**

The motion was seconded by Ed Rasmuson and carried without objection.

Preliminary Specifications for 2004

Roy Hyder moved to approve the AP recommendations, with the clarifications provided in a hand-out and previously provided during the AP presentation (See AP Minutes, Appendix II to these minutes for total recommendations and clarifications.) The motion was seconded by Ed Rasmuson and carried without objection. See Appendix VII for final Council action on preliminary GOA/BSAI 2004 harvest specifications.

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D-1(e) TAC-setting Process

ACTION REQUIRED

Final action on BSAI and GOA Plan Amendments 48/48 to revise the TAC-setting process

BACKGROUND

Amendments 48/48 to revise the TAC-setting process

The proposed action under BSAI and GOA Plan Amendments 48/48 is to amend the process by which harvest specifications would be established in future years, eliminate certain TAC reserves, and update the fishery management plan language. Objectives for the revised process include managing the Alaska groundfish fisheries based on the best available scientific information and providing meaningful opportunity for useful public comment, provide additional opportunity for Secretarial review, minimize unnecessary disruption to fisheries and public confusion, and promote administrative efficiency.

Numerous versions have been previously reviewed by the Council as NMFS has responded to evolving legal and administrative environments. A September 17, 2003 letter from Dr. Balsiger provides a history on this action and notes that a preferred alternative has not been identified (Item D-1(e)(1)). The revised analysis was mailed to the Council on September 8, 2003. The executive summary is under Item D-1(e)(2). The alternatives are listed below. The Joint Plan Teams recommended Alternative 5 and Option C, if the status quo was no longer possible for legal reasons.

- Alternative 1. Status quo. (Publish proposed specifications, followed by interim and final specifications)**
- Alternative 2. Eliminate publication of interim specifications. Issue proposed and final specifications prior to the start of the fishing year based on projections of TACs.**
- Alternative 3. Issue proposed and final harvest specifications based on an alternative fishing year schedule (July 1 to June 30).
Option 1. Set sablefish TAC on a January through December schedule.
Option 2. Reschedule the December Council meeting to January.**
- Alternative 4. Use stock assessment projections for biennial harvest specifications. Set the annual harvest specifications based on the most recent stock assessment for Year 1 and set harvest specifications for Year 2 based on projected overfishing level (OFL) and ABC values. Set PSC limits annually**

- Alternative 5. Establish 18 months harvest specifications (Year 1 and first half of Year 2)
Option: Annually set sablefish harvest specifications for all of Year 2.**
 - Stand Alone Options:**
 - Option A. Abolish certain TAC Reserves**
 - Option B. Update FMPs to reflect current fishing participants and harvest specifications process. Option C. Set biennial harvest specifications for certain GOA target species/complexes.**

Report of the Scientific and Statistical Committee

The SSC noted that conflicting objectives has led to consideration of five different alternatives. The SSC recommended against Alternative 3, because changing the fishing year could have unknown repercussions and unintended consequences. The SSC also recommended against Alternatives 2 and 4, because those are

based on projections and hence do not use the most current data. Therefore, the SSC recommended that Alternative 5 best meets the two principal objectives: assuring adequate opportunity for meaningful public input on final specifications, and utilizing the most recent survey and fishery data when developing ABC and OFL recommendations.

With regard other options under consideration for the amendment, the SSC recommended the following:

- With regard to sablefish, the SSC notes that Alternative 5 may not work well and recommends that NMFS and the Plan Teams work further to find a solution for this issue.
- Supports rewriting the FMPs to be more accurate.
- Supports Option C, utilizing a biennial specifications process for certain GOA species, because it should promote efficiency in the TAC-setting process and utilizes new survey information as it becomes available.

Report of the Advisory Panel

The AP recommended the Council adopt Alternative 5, inclusive of stand-alone options B and C, but not including stand-alone Option A. Further, the AP recommended a pot and hook-and-line sablefish option that would maintain the status quo process for specifications for pot and hook-and-line sablefish, if a second proposed rule is required. If a second proposed rule is required, this option would issue a separate final specification for pot and hook-and-line sablefish.

DISCUSSION/ACTION

John Bundy moved to approve the recommendations of the AP, with the following change: In the second sentence of the AP recommendations, language would be edited as follows (old struck out; new underlined):

...Further, the AP recommends a pot and hook-and-line sablefish option that would ~~maintain the status quo process for specifications for pot and hook-and-line sablefish,~~ would modify the specifications process if a second proposed rule is required. . . .”

The motion was seconded by Arne Fuglvog, and carried without objection.

D-1(f) Repeal of VIP

ACTION REQUIRED

Review discussion paper on repealing the Vessel Incentive Program

BACKGROUND

In June 2003, the Council initiated an amendment to repeal the Vessel Incentive Program, given concerns about the effectiveness of the program and its potential for additional administrative burden due to increased legal standards. NMFS staff prepared a discussion paper as the first step in consulting with the Council to develop alternatives for analysis. It was mailed to you on September 29, 2003. The executive summary is attached as Item D-1(f).

Neither the SSC nor AP addressed this agenda issue.

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DISCUSSION/ACTION

John Bundy moved to initiate an analysis to repeal the Vessel Incentive Program, with the following alternatives to be analyzed:

- Alternative 1. No Action. Do not repeal the VIP.**
- Alternative 2. Modify the VIP to reduce the frequency of rate of publication**
 - Option 1. Publish rates once a year**
 - Option 2. Incorporate rates in regulation to eliminate the need for publication**
- Alternative 3. Remove the regulatory authority for the VIP**
 - Option 1. Eliminate the VIP at the FMP level and eliminate from the regulations**
 - Option 2. Eliminate the VIP from the regulations**

The motion was seconded by Jim Balsiger and carried without objection.

Council members discussed the possibility of considering a monitoring program and asked that staff put a discussion of the issue on the December meeting agenda.

D-2 Crab Management

ACTION REQUIRED

- (a) Take final Action on Pribilof Islands Blue King Crab Rebuilding Plan.**
- (b) Receive report from Crab Plan Team, approve revised Terms of Reference, and approve SAFE.**

BACKGROUND

Pribilof Islands blue king crab rebuilding plan:

The Pribilof Islands blue king crab stock was declared overfished on September 25, 2002 according to the criteria in the BSAI crab FMP. The biomass was below the MSST for this stock and there were no signs of recovery in the trawl survey data. A workgroup comprised of ADF&G, NMFS and Council staff prepared an EA of proposed alternative rebuilding plans. The draft analysis was presented to the Council for initial review at the June 2003 meeting. At that time the Council selected alternative 2D as their preliminary preferred alternative to forward to the Board of Fisheries for their October review. The revised public review draft was released in August. The executive summary of the EA (amendment 17 to the FMP) is attached as Item D-2(a). The full analysis was mailed to you on August 21, 2003. The Crab Plan Team reviewed the draft at their September 2003 meeting. Due to concerns regarding the stock's vulnerability to overfishing, the poor precision of survey estimates, and the limited bycatch information available for this stock, the Plan Team recommended alternative 3B as the preferred harvest strategy. The Board of Fisheries will review the rebuilding plan and select its preferred harvest strategy on October 4th. Staff will present an update on the Board of Fisheries decision. The Council must approve the rebuilding plan at this meeting in order to meet the timeline under the MSA for the development of a rebuilding plan for an overfished stock.

Crab Plan Team and Stock Assessment and Fishery Evaluation Report:

The Crab Plan Team met September 22-24, 2003, to review the status of stocks and to compile the annual Stock Assessment and Fishery Evaluation (SAFE) report. The SAFE report was mailed to you on September 29th, 2003. Minutes of the Crab Plan Team meeting are attached as Item D-2(b). The Crab Plan Team amended their Terms of Reference to allow for at least one additional annual meeting of the plan team in the spring, and to allow for the Team to review the status of stocks prior to the

state's GHL determinations. The revised Terms of Reference are attached as Item D-2 (c) and the related changes to the meetings are summarized in the minutes. The Crab Plan Team also proposes to amend the overfishing definitions as currently defined in amendment 7 to the BSAI crab FMP. The rationale for the need to revise these definitions as well as a proposed workgroup and draft schedule for analysis are summarized in the attached Crab Plan Team minutes.

The Advisory Panel did not address this agenda issue.

Report of the Scientific and Statistical Committee

Pribilof Blue King Crab Rebuilding Plan - The SSC noted that the Pribilof blue king crab stock continues to decline despite multiple years without fishing pressure. After examination of the simulation results, the SSC determined that five of the eight options lead to rebuilding within 11-12 years, with 90% probability. Given the depressed stock status, and the apparent lack of pre-recruit crab, there is only a small chance of rebuilding in the next 10 years unless there is an unforeseen recruitment event. The SSC commended the crab plan team for establishing a workgroup to develop proposals to revise the overfishing definitions for BSAI crab and requested periodic updates of progress and of the direction in which the review is proceeding.

BSAI Crab SAFE - The SSC requests that the status of stocks report include an historic evaluation of fishery management performance, including graphs of the guideline harvest levels compared to the actual catches. Similarly, the SSC requests the inclusion of a graphical retrospective evaluation of exploitation rates in comparison to rates specified in the harvest strategies.

The SSC also expressed support for modifications to the Plan Team's Terms of Reference to specify two meetings each year.

DISCUSSION/ACTION

Rebuilding Plan

Stosh Anderson moved to choose Alternative 3B as the Council's preferred alternative in the Pribilof blue king crab rebuilding plan, Amendment 71 to the Crab FMP. The motion was seconded by Kevin Duffy and carried without objection.

Mr. Anderson pointed out that this alternative has also been recommended by the Alaska Board of Fish and is more conservative than the Council's preliminary preferred alternative chosen in June 2003. Council members believe this alternative is more appropriate because of concerns regarding the rebuilding potential of this stock, potential vulnerability to overfishing, the poor precision of survey estimates, and the limited bycatch information available.

Plan Team Terms of Reference

Dennis Austin moved to approve the Plan Team's recommendations for revisions to the Team's Terms of Reference (found in Council meeting notebook, under Agenda D-2(b) - "Draft BSAI King and Tanner Crab Plan Team Minutes, September 22-24, 2003"). The motion was seconded by Hazel Nelson and carried without objection.

Crab SAFE

Hazel Nelson moved to approve the preliminary Crab SAFE document for public review. The motion was seconded by Arne Fuglvog and carried without objection.

D-3 Staff Tasking

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1. Receive report from IFQ Implementation and Cost Recovery Committee, and review IFQ proposals received.
2. Review tasking and provide direction to staff, and discuss direction to Committees.

IFQ Committee and IFQ Proposals

The Halibut IFQ Implementation and Cost Recovery Committee is scheduled to meet on Sunday, October 5, 2003. The Committee will review new proposals to amend the commercial halibut IFQ program and review the suite of 1999 proposed amendments that the Council adopted for analysis in 2000 (Item D-3(a)(1)). Nineteen new proposals are included in (Item D-3(a)(2)). The committee report will be provided during the meeting.

Staff Tasking

A summary of the status of Council projects and a three-meeting outlook is attached as Item D-3(b). Many of the staff have been busy preparing data and discussion papers for the GOA rationalization project (Jane, Mark, Nicole, Elaine, David, Cathy, and Diana S). Jon is back from military duty, and has been working on the IR/IU analysis. Bill has been working with the Steller Sea Lion Mitigation Committee, and will likely work on any analyses that flow from the committee process. Diana Stram and Diana Evans will be updating the scallop and groundfish FMPs, updating species profiles, and revising the programmatic groundfish SEIS. Darrell will continue to work with contractors on the IR/IU analyses, and assist with other analysis. I have been spending a substantial amount of my time organizing the national fisheries conference. My immediate task is to prepare the Alaska regional presentation and paper for the proceedings. Some of the other staff will also be involved as rapporteurs, and will assist the moderators with preparation of the panel summaries. David has taken on the task of proceedings editor, so he will be working on publishing the conference proceedings after the meeting.

Committees

A membership list for existing committees is attached as Item D-3(c). The Council may want to take this opportunity to review the list of committees, determine which ones are still necessary, modify membership, or revise tasking for each committee if required. In particular, I wish to draw the Council's attention to issues relating to several committees.

In 2001, the Council established a Halibut Charter IFQ Implementation Committee to assist the Council with development of proposed regulations. Appointments for membership of this committee have yet to be made. We may wish to hold off on this committee until we submit the analysis for Secretarial review, which is anticipated later this year. Attached as Item D-3(d) are letters expressing interest for appointment to the Charter IFQ Committee.

The GOA Community QS Purchase Committee has been appointed, but will need some guidance from the Council regarding the task of this committee. I would suggest that an immediate objective of this committee would be to review the proposed rule, which we anticipate will be published in mid-October. They could then meet in early November, and provide comments during the 30-day public comment period. After the rule is in place, and communities are actually participating and buying QS, the committee could play a role in reviewing and proposing changes to the program.

A Northern Fur Seal Committee has been appointed, but will also need some guidance as to the objectives and tasking for this committee. Possible tasking may include reviewing the Draft EIS on subsistence harvest regulations, and working with the Pribilof Islands Collaborative stakeholder group on their proposals to modify fishery regulations. The committee plans to meet sometime after the Council meeting, but no date has set.

The SSC did not address this agenda issue.

Report of the Advisory Panel

The AP requested the Council schedule time on the December agenda for the following:

1. To receive the report from the IFQ Implementation Committee
2. To provide the public with the opportunity:
 - (a) to comment on the proposal priorities that were developed by the IFQ Implementation Committee;
 - (b) to provide comment on halibut and sablefish fishery issues
3. To take action, as necessary, on IFQ Implementation issues.

DISCUSSION/ACTION

GOA Community QS Purchase Committee

The Council discussed tasking for the committee. Staff suggested that an immediate objective of the committee would be to review the Proposed Rule, which has just been published, and provide comments to the Council on those regulations. Once the Rule is in place and communities are actually participating in buying quota share, the committee then might play a role in reviewing and proposing changes to the program, if necessary. Because the comment period on the Proposed Rule will end before the next Council meeting, there was discussion how the committee might interact with the Council before submitting formal comments. Council members were uncomfortable with the committee submitting comments without Council review, but it was pointed out that committee members can comment on the rule as individuals, but not as representing the committee or the Council. Ms. Madsen suggested that she, appropriate Council staff, and Hazel Nelson, Chair of the Committee, will discuss future tasking for the committee.

Northern Fur Seal Committee

Staff advised that this new committee needs additional guidance and direction for tasking. Staff suggestions included reviewing the draft EIS being prepared for subsistence fur seal harvest regulations, and working with the Pribilof Islands collaborative stakeholder groups on their proposals to modify fishery regulations.

IR/IU Technical Committee

The committee will be dealing with Council actions concerning small boat issues in IR/IU and it was pointed out that the committee currently does not have a representative of the small boat fleet. Ms. Madsen advised she plans to appoint a small-boat representative to the committee.

Funding for Board of Fish for GOA Rationalization Efforts

Dennis Austin moved to approve the funding request from ADF&G for \$25,000 to support the Board of Fish in their GOA rationalization work. The motion was seconded by Arne Fuglvog and carried without objection [Earl Krygier (State representative) abstained from the vote].

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NEPA Analysis for Aleutian Islands Pollock Fishery

The Council discussed a possible timeline on this analysis. Because the Council can control the fishery by not assigning a TAC, Mr. Bundy (maker of the motion to initiate the analysis) suggested that there is no rush. Staff was requested to provide the Council with a proposed timeline at the December meeting.

Sablefish & Halibut IFQ Issues

Arne Fuglvog moved to agenda halibut/sablefish IFQ issues on the December agenda, including all the issues recommended by the Advisory Panel (see under AP Report above), and to take action as necessary. The motion was seconded by Dave Benson, and carried without objection.

The Council also discussed their 'rules of discussion' with regard to scheduling IFQ issues at the end of the meeting. The rule was initially enacted because shortly after the IFQ program was passed there were scores of proposals submitted for changes to the program, bogging down the Council agenda at every meeting. Council members pointed out that is possible that the rule may no longer be needed. Mr. Fuglvog pointed out that for public participation it is inconvenient for them to appear in front of the AP early in the week and have to wait until the end of the meeting to address the Council. Mr. Fuglvog suggested that the rule be changed to allow placing the issue on the agenda at the pleasure of the Chair and Executive Director. There was no objection from Council members on this suggestion.

Salmon Bycatch

John Bundy moved to add to the tasking list a discussion paper on Bering Sea/Aleutian Islands salmon bycatch. The motion was seconded by Dennis Austin and carried without objection. Mr. Bundy pointed out that his intent would be to discuss the timing and content of such a paper at the December meeting. Mr. Bundy said that he is proposing this based on testimony from industry that the Chum Salmon Savings Area and Chinook Savings Area are fairly restrictive to reduce salmon bycatch and, in fact, are forcing vessels to fish in other areas with higher bycatch rates. Boats fishing inside the areas after they are closed are finding lower bycatch rates (CDQ groups with their own individual salmon bycatch caps may continue fishing until their cap is reached). Mr. Bundy would like the discussion paper to look at that particular situation and also explore whether or not 'hot spot authority' (i.e., the way co-ops handle it) would be a better management tool to reduce bycatch, and if so, how to go about it.

Crab EIS

The Council discussed timing for release of the Crab EIS to public comment and whether there is enough time to revise the document and release it early enough for review for Council action in December. In June 2003 the Council approved a motion to withhold release until Congress had considered the issue.

John Bundy moved to release the Crab EIS as soon as is feasible, but no later than November 23, 2003. The motion was seconded by Stosh Anderson.

After some discussion, **Stosh Anderson moved a substitute motion:**

To amend a previously adopted action, and moved the following substitute:

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Strike the sentence, “Hold off [releasing document] until we get clear and adequate insight from Congress”, and insert:

The BSAI Crab Rationalization EIS shall be provided to the public on or before November 24, 2003. The Council shall review the BSAI Crab Rationalization Plan for adequacy at the December 2003 Council meeting. The EIS shall be released for [formal] public review if it is found adequate after the December 2003 meeting.

The motion was seconded by Arne Fuglvog.

Dave Benson moved to amend to schedule Council review of the EIS at the February 2004 Council meeting. The motion was seconded by Earl Krygier and carried with Stosh Anderson and Roy Hyder objecting.

The amended motion carried without objection.

ADJOURNMENT

There being no further business before the Council, Chair Stephanie Madsen adjourned the meeting at 1:16 p.m. on Tuesday, October 14, 2003.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

**October 2003 Meeting
Anchorage, Alaska**

PERSONS GIVING PUBLIC COMMENT

B Reports

Joe Sullivan, Mundt MacGregor

C-1 GOA Rationalization

Craig Cochran, Midwater Trawlers Cooperative
Tim Blott, Ocean Beauty Seafoods
Dan Hull, Cordova District Fishermen United, Groundfish Division
Buck Lukaitis, North Pacific Fishermen of Homer
Ilia Kuzmin, K-Bay Fisheries
Yakov Reutov, K-Bay Fisheries
Dan Falvey, Fisherman
Beth Stewart, Aleutians East Borough
Bob Krueger, Fisherman
Joe Childers, Western GOA Fishermen
Charlie Parsons, Fisherman; Mike Alfieri, Fisherman
Chuck McCallum, Gulf Communities of Lake & Peninsula Borough, & Chignik Seiners
Association
Fred Christensen, KANA (Native Corporation)
Lori Swanson, Groundfish Forum
Dorothy Childers, Alaska Marine Conservation Council
Joe Sullivan, representing the City of Kodiak
Duncan Fields, Gulf of Alaska Coastal Communities Coalition
Tim Henckel, Kodiak Crewman's Association
Bob Alvorsen, Fishing Vessel Owner's Association
Julie Bonney, Alaska Groundfish Data Bank
Dave Fraser, F/V Muir Milach

C-2 CDQ Issues

Steve Rieger, Eugene Asicksik & Don Mitchell, Norton Sound Economic Development Corp.
Robin Samuelson & Paul Payton, Bristol Bay Economic Development Corp.; Ragnar Alstrom,
Yukon-Delta Fisheries Development Association; Robert Williams, Coastal Villages
Region Fund

C-3(a) EFH/HAPC – Preliminary Review of EIS

Jason Brune, Resource Development Council
 Ben Enticknap, AK Marine Conservation Council
 Jon Warrenchuk, Juneau citizen & fisherman
 Whit Sheard, The Ocean Conservancy
 Joe Moore, individual
 Ron Clarke, Marine Conservation Council
 Terry Leitzell, Icicle Seafoods
 Glenn Reed, Pacific Seafood Processors Association
 Donna Parker, High Seas Cooperative
 Heather McCarty, Central Bering Sea Fishermen’s Association
 Ed Richardson, Pollock Conservation Cooperative
 John Gauvin, Groundfish Forum
 Julie Bonney, AK Groundfish Data Bank
 Jim Ayers, Oceana
 Janice Searles, Plaintiffs’ representative
 Joe Sullivan, representing City of Kodiak
 Michelle Ridgway, individual
 Paul MacGregor, representing At Sea Processor’s Association
 Thorn Smith, North Pacific Longline Association

C-4 IRIU

Dave Wood, US Seafoods
 Larry Cotter, Aleutian/Pribilof Island Community Development Association; and Eric Olson,
 Bristol Bay Economic Development Corp.
 John Hendershedt, Premier Pacific Seafoods
 Susan Robinson, Fishermen’s Finest
 Gerry Merrigan, Prowler Fisheries
 Donna Parker, High Seas Catcher Cooperative
 Brent Paine, United Catcher Boats
 Paul MacGregor, At-Sea Processor’s Association
 Ed Luttrell and Lori Swanson, Groundfish Forum
 Jan Jacobs, American Seafoods and Robert Williams, Coastal Villages Region Fund

C-5 SSL

Beth Stewart, Aleutians East Borough
 Julie Bonney, AK Groundfish Data Bank
 Chuck McCallum, Chignik Seiners Association and Lake & Peninsula Borough
 Craig Cochran, Midwater Trawlers Cooperative

C-6 Halibut Subsistence

Gerry Merrigan, Petersburg Vessel Owner's Association
 Sky Starkey, AK Native Subsistence Halibut Working Group
 Iver Malutin, KANA (Kodiak Alaska Native Association)
 David Bill, Nunakauyak Traditional Council

D-1(a) Groundfish Management – AI Pollock Fishery Mgmt

PT combined for all D-1 issues.

D-1(b) Groundfish Management – F40 Recommendations

No Public Testimony on this issue

D-1(c) Groundfish Management – Non-Target Species Report & Ad Hoc Work Group

No Public Testimony on this issue

D-1(d) Groundfish Management – Groundfish Specs & Amd. 63 (separating skates)

Ilia Kuzmin, K-Bay Fisheries – OUT OF ORDER, AS LEAVING TOWN.
 Gerry Merrigan, Petersburg Vessel Owner's Association
 Julie Bonney, AK Groundfish Data Bank

D-1(e) Groundfish Management – Final Action on TAC-Setting Process

Gerry Merrigan, Petersburg Vessel Owner's Association
 Ron Clarke and Paul MacGregor, Marine Conservation Alliance
 Lori Swanson, Groundfish Forum

D-1(f) Groundfish Management – Review Discussion Paper on Repeal of VIP

Brent Paine, United Catcher Boats

D-2 Pribilof Blue King Crab Rebuilding Plan

Steve Minor, City of St. Paul
 Frank Kelty, City of Unalaska
 Arni Thompson, Alaska Crab Coalition

D-3 Staff Tasking

Brent Paine, United Catcher Boats and Joe Sullivan, representing Coop Groups
 Joe Sullivan, representing City of Kodiak
 Heather McCarty, Central Bering Sea Fishermen's Assoc. and Joe Sullivan

D-3 Staff Tasking (cont'd)

John Garner, North Pacific Crab Association
Dorothy Childers, AK Marine Conservation Council
Michelle Ridgway, Individual