

North Pacific Fishery Management Council

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MINUTES

202th Plenary Session

North Pacific Fishery Management Council

February 2 – 7, 2011

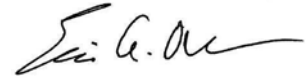
Renaissance Madison Hotel, Seattle, WA

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ATTACHMENT

1. Public Attendance Register
2. Time Log
3. AP Minutes
4. SSC Minutes
5. Enforcement Committee Minutes
6. Ecosystem Committee Minutes
7. Motion on C-3 (b) GOA Chinook salmon bycatch in the pollock fisheries
8. Newsletter

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APPROVED: _____

DATE: 4-5-11

The North Pacific Fishery Management Council met February 2-7, the AP met from January 31 – Feb 4, and the SSC met from the 31st through February 2 at the same location. The following Council, SSC and AP members, and NPFMC staff attended the meetings.

Council Members

Eric Olson, Chair
Dave Benson, Vice Chair
Sam Cotten
Duncan Fields
Dave Hanson
John Henderschedt

Roy Hyder
Dan Hull
Cora Campbell/Stefanie Moreland
Jim Balsiger
Don Rivard
Bill Tweit
ADM CC Colvin/Capt. Mike Cerne

NPFMC Staff

Gail Bendixen
Diana Evans
Jane DiCosimo
Mark Fina
Jeannie Heltzel
Nicole Kimball
Peggy Kircher

Jon McCracken
Sarah Melton
Chris Oliver
Maria Shawback
Diana Stram
Dave Witherell

Scientific and Statistical Committee

Pat Livingston, Chair
Susan Hilber
George Hunt
Lew Queirolo
Ray Webster

Farron Wallace
Sue Hills
Gordon Kruse
Terry Quinn
Robert Clark

Anne Hollowed
Jim Murphy
Kate Reedy Maschner
Robert Clark

* Absent: Seth Macinko, Kathy Kuletz, and Doug Woodby

Advisory Panel

Joe Childers
Mark Cooper
Craig Cross
John Crowley
Julianne Curry
Jerry Downing
Tom Enlow

Tim Evers
Jeff Farvour
Becca Robbins Gisclair
Jan Jacobs
Bob Jacobson
Simon Kinneen
Chuck McCallum

Matt Moir
Ed Poulsen
Beth Stewart
Lori Swanson
Anne Vanderhoeven

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Attachments 1 and 2 contain the public sign in register and a time log of Council proceedings, including those providing reports and public comment during the meeting.

Russell Smith, International Fisheries Negotiator with NOAA, addressed the Council members the morning of February 4th. He noted the position was created in the reauthorized MSA, with the goal of having coordination and oversight of NOAA's international fisheries and working to ensure that domestic policy is based on sound science, and with the intention of sustainable fisheries. He noted he works with other countries to make sure national policies are carried out, and works as a liaison and resource for national fisheries.

Mr. Hull moved, which was seconded, to approve the minutes of the previous meeting from December 2010. Motion passed unanimously.

A. CALL TO ORDER

Chairman Eric Olson called the meeting to order at approximately 8:07 am on Wednesday, February 2, 2011.

Mr. Bill Tweit participated in the entire meeting in place of Phil Anderson, WDF Director.

AGENDA: The agenda was approved as published.

B. REPORTS

The Council received the following reports: Executive Director's Report (B-1); NMFS Management Report (B-2); ADF&G Report (B-3); USCG Report (B-4); USF&W Report (B-5); and Protected Species Report (B-6).

Executive Director's Report:

Chris Oliver reviewed his written report, outlining the budget outlook and Council SOPPS. He also discussed letters the Council have from the direction at the last meeting; Salmon FMP and ACL requirements, and a letter regarding Council placement at regional partnerships and planning bodies. He also reviewed upcoming meetings and planning events, such as the Council Coordination Committee, and briefly reviewed outcomes. Lastly, he reviewed upcoming events during the meeting, and noted that the Council's Enforcement Committee had met the day prior, and a report will be given later in the week.

NMFS Management Report

Glenn Merrill briefly reviewed the status of various FMP amendments and a report on in-season management. Written reports were handed out for the notebooks. Martin Lloflad and Jennifer Mondragon presented a paper regarding electronic monitoring. They answered questions from Council members, and briefly discussed costs and applications of electronic monitoring along with evaluation objectives.

AFSC Annual Report

Dr. Bill Karp, Bob McConnaughey, and John Heifetz gave presentations from the Alaska Fisheries Science Center. Mr. Heifetz reported on sablefish recruitment factors; Dr. Karp gave an overview on projects at the AFSC, priorities, and how the projects reflect the purpose of "Generating scientific information and analysis necessary for the conservation, management, and utilization of Alaska's living marine resources."

ADF&G Report

Karla Bush (ADF&G) provided the Council with a review of the State fisheries of interest to the Council and answered general questions from the Council Members.

IPHC Report

Dr. Bruce Leman of the IPHC gave a report on the recent Annual Meeting and reviewed recommended catch limit considerations. He noted, and reviewed, the analysis the Commission has been tasked with and management recommendations.

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NOAA/Office of Litigation and Enforcement

Sherrie Meyers gave a report on NOAA Enforcement issues, and gave a powerpoint presentation. There was lengthy discussion on the 3 mile line between state and federal waters. NOAA OLE Attorney Susan Auer also briefly spoke on this issue, which was generally agreed to address during staff tasking.

USCG Report

Lt. Tony Keene of the USCG provided the Coast Guard Enforcement Report, following a brief address by Capt. Mike Cerne.

U.S. Fish and Wildlife Report

Don Rivard of USF&W provided an update, and handed out a written summary.

Protected Species Report

Jeannie Heltzel gave the protected resources report, and briefly outlined current Steller Sea Lion actions. Melanie Brown and Dr. Balsiger detailed the goals and expectations of NMFS concerning the current RPA. They fielded many questions from Council members, and reviewed the draft Center for Independent Experts (CIE) Statement of Work and Terms of Reference, and comments on the proposed timeline for a CIE review. It was generally agreed that further discussion would be during the staff tasking agenda item.

Roy Hyder gave the Enforcement Committee Report and briefly discussed the 3 mile boundary.

C-1 Halibut/Sablefish IFQ Program

(a) Initial review of Hired Skipper RIR/IRFA

BACKGROUND

In February 2010 the Council approved a problem statement and alternatives for analysis of a stakeholder proposal submitted to the Council during its 2009 call for IFQ proposals. The Council expressed its concern about apparent consolidation and reduced opportunities for new entrants/second generation fishermen to enter the halibut and sablefish IFQ fisheries. This action would promote an owner/operator catcher vessel fleet in the halibut and sablefish fixed gear fisheries off Alaska.

This analysis considers two alternatives. Alternative 1 is the No Action Alternative. Alternative 2 would prohibit the use by a hired master for QS transferred after a control date of February 12, 2010. The proposed action would apply to all (corporation and individual) initial recipients. For non-individual (corporate) QS holders, the effect of the proposed action would be a prohibition on transfers of additional QS, as NMFS would not process transfers that would be prohibited for use, except by operation of law. For individual initial recipients, the effect of the proposed action would be a requirement that the QS holder fish the IFQs themselves or transfer them to another QS holder (who also would be required to fish them).

NMFS staff has noted the high administrative burden for revising regulations (and administration of transfers) for a date in the past. The Council may wish to revise the control date to one coincident with the effective date of the final rule.

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Jane DiCosimo gave the staff report on this issue and answered questions from the Council members. Lori Swanson gave the AP report, and public comment was heard. Roy Hyder briefly gave the Enforcement Committee's report on this agenda item.

COUNCIL DISCUSSION/ACTION

Dan Hull moved, which was seconded, the following motion:

To release the amendment to prohibit the use of hired skipper privileges for future transfer of halibut and sablefish B, C, and D class quota shares after the control date of February 12, 2010 for public review and final action at the April Council meeting with the following revisions.

1. Add the word "transferred" to Alternative 2 as follows:

Alternative 2. Prohibit use of hired skippers of halibut and sablefish B, C, and D class QS transferred after February 12, 2010.

2. Add an option under Alternative 2 to allow the hired skipper provision to be retained for those QS swept up into blocks after the February 12, 2010 control date and before the effective date of the amendment.

3. Add an option under Alternative 2 to allow initial QS holders after the effective date to sweep up additional QS units to the amounts they own, with the provision that the new swept up blocks would not retain the hired skipper privilege.

4. Add data tables that show changes in QS owned by hired skippers by area for B, C, and D shares over the years 2000-2010, for individual initial recipients, and for 2nd generation QS holders.

5. Add data tables that show changes in the amount of individual IFQ (initial recipients and 2nd generation QS holder) that is harvested on a vessel of which that individual is not listed as an owner at the "first level", by area and year, for B, C and D shares over the years 2000-2010.

6. Add data tables that show the average QS holdings of individual and non-individual initial QS holders compared to 2nd generation QS holders by area, for B, C and D shares over the years 2000-2010.

7. Add data tables that show the annual transfers of QS holdings by area for B, C and D shares over the years 2000-2010.

8. Expand discussion of the effects of Alternative 2 on non-individuals.

9. Expand discussion of the comparison of the attrition rate of initial recipients of halibut and sablefish QS in 2C and SE where hired skipper privileges are allowed only for non-individuals, against the attrition rate in other areas.

The Council initiates a discussion paper in order to fully develop a prohibition on leasing and directs staff to work with NOAA OLE and the RAM Program to provide alternative leasing definitions and supporting analysis for consideration in October 2011.

Mr. Hull spoke to his motion and fielded questions from Council members. He noted his motion was a balance between initial recipients of QS, against the 2nd generation IFQ holders, and new entrants to the fishery, while meeting the original goals of the IFQ program of moving closer to an owner on board fishery. He also highlighted that the intent of the discussion paper is to not slow the process, but to link it. There were brief discussions regarding the requested data tables in the motion and anticipated regulations.

Mr. Tweit moved to amend the motion by adding the third alternative from the AP motion: an initial recipient who owns 50% of a vessel and hires a second generation quota share holder as a hired skipper will not be restricted by the limitation to be on board for additional quota that is

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acquired. The motion was seconded. Mr. Tweit spoke to his motion noting that an analysis of this alternative is necessary to decide whether or not this is enforceable, or relevant to the problem statement. Additionally, he noted that much public testimony noted that they would be unfairly disadvantaged, but would be less impacted if this third alternative would be included.

Questions and clarifications continued, and there was general discussion surrounding what information would be included in the analysis. Mr. Fields noted that by adding an additional alternative, it would delay the amendment package and implementation.

Motion failed 4/7 with Henderschedt, Hyder, Tweit, and Benson voting in favor.

Mr. Tweit moved to amend, which was seconded by Mr. Henderschedt, to strike the final paragraph in the motion. He spoke to his motion, saying that although this is something the Council wants to do, there are many more things that take priority and the Council should not make a commitment at this time. He noted that it should be brought up in staff tasking. Mr. Benson commented that by tasking Council staff in this way, it circumvents the committee process. Mr. Hyder noted he does not want to skip this issue, but would prefer to address the subject through the regular staff tasking process. Mr. Hull noted that the original intent was to not have the discussion paper tied to final action, but to have it linked. **Motion passed 9/2, with Cotten and Campbell voting in opposition.**

Mr. Fields moved, which was seconded by Mr. Cotten, to strike Alternative 3. There was brief discussion regarding redundancy, and staff clarified points in the Alternative. **Mr. Fields and Mr. Cotten withdrew the motion.**

Amended main motion passed unanimously.

(b) Final action on CQE Area 3A purchase of Area 3A D category halibut quota

BACKGROUND

The Council approved the Community Quota Entity (CQE) Program as an amendment to the halibut and sablefish IFQ Program in 2002 (GOA Amendment 66), and the program was implemented in 2004. Halibut quota share is designated under four vessel categories: freezer (catcher processor) category (A share); catcher vessels greater than 60' LOA (B share); catcher vessels 36' to 60' LOA (C share); and catcher vessels 35' LOA or less (D share). Under the original IFQ Program, only persons who were originally issued catcher vessel quota share (B, C, and D category QS) or who qualify as IFQ crew members¹ were allowed to hold or purchase catcher vessel quota share. Thus, only individuals² and initial recipients could hold catcher vessel quota share. The CQE Program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase halibut and sablefish catcher vessel quota share, in order to maintain access to these fisheries.

In order to participate, eligible communities must form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the IFQ resulting from the QS is leased to community residents annually. In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit the community and its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity.

¹IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2).

²Per 50 CFR 679.2: Individual means a natural person who is not a corporation, partnership, association, or other such entity.

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The existing CQE Program prohibits CQEs representing communities in IPHC regulatory Area 2C and Area 3A from purchasing D category halibut quota share; only B and C category are allowed to be purchased. Generally, D shares are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel. Category D quota shares are often used by smaller operations, or new entrants, and there is a relatively small amount of D share quota designated in each area. One of the primary reasons the Council established a prohibition on the CQE purchase of D shares was to help ensure that D shares would continue to be available to new entrants and crew members that wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for D shares, and result in more expensive, and fewer available, shares for individuals. CQEs, like any new entrant, have had difficulty in funding the purchase of QS, and very little QS has been purchased through the program to-date. Allowing CQEs to purchase the least costly category of QS may help facilitate the purchase of QS and participation in the program. In addition, D category QS corresponds to the type of vessel that most residents use in these smaller communities.

The proposed action would amend Federal regulations to allow CQEs representing communities in Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The prohibition on purchasing D category QS in Area 2C would remain. There are fourteen eligible CQE communities in Area 3A, eight of which have formed CQEs approved by NMFS to-date.

Nicole Kimball gave the staff report on this agenda item. The AP gave their report, and public comment was heard.

COUNCIL DISCUSSION/ACTION

Mr. Fields moved, which was seconded, to adopt Alternative 2. Community Quota Entities located in halibut management Area 3A are permitted to purchase Area 3A “D” category quota share with the following limitations:

- a. Area 3A “D” category quota share purchased by Area 3A CQEs must have the annual IFQ fished on “D” category vessels (≤35’ LOA).**
- b. Area 3A CQEs are limited in their cumulative purchase of “D” category quota shares to an amount equal to the total “D” category quota shares that were initially issued to individuals that resided in Area 3A CQE communities.**
- c. Area 3A CQEs may purchase any size block of “D” category quota share.**

Mr. Fields spoke to his motion, noting that this motion has limited impact on the halibut/sablefish program because the area is limited to Area 3A; CQEs are limited to 10 blocks each; and 90.4% of D class quota will continue to not be available to CQEs; and D class quota cannot be fished up on larger vessels. Mr. Fields noted that Alternative 2 will have no significant impact on existing fisheries, but can mitigate adverse impacts from the halibut/sablefish IFQ program on small, remote fishing communities.

There was general discussion among Council members, noting that the motion is responsive to NS 8, and adverse impacts on other fisheries is minimal. Mr. Henderschedt noted that keeping D share quota in a community and maintaining participation by residents is important and supports the motion. Mr. Hull noted his concern with potential conflicts between QS holders and CQE participants and noted that the Council should track the direction of the CQEs as they mature. Mr. Hyder noted his opposition to the motion, and is uncomfortable with community entities holding QS. Ms. Campbell noted that coastal

dependent communities have a goal of self-sustaining participation, and any change, however small, that removes a barrier to the success of the CQE program, she considers a worthwhile action.

Bill Tweit moved to amend, which was seconded, that the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions. Mr. Tweit noted he is confident that should there be concerns or areas in the draft regulations that aren't consistent with the intent of the Council, the Executive Director and the Chairman can bring them to the Council's attention. **Amendment passed without objection.**

Amended motion passed 8/3, with Benson, Hyder and Tweit objecting.

C-2 Amendment 80

(a) Discussion paper on Amendment 80 vessels and their replacements on GOA sideboards

BACKGROUND

At its June 2010 meeting, the Council tasked staff to bring back a discussion paper on the potential impacts of Amendment 80 vessels (and their replacement vessels) on GOA flatfish fisheries and West Yakutat and Western GOA rockfish fisheries.

Jon McCracken gave the staff report on this issue. Lori Swanson gave the AP report, and the SSC did not address this issue. Public comment was heard.

COUNCIL DISCUSSION/ACTION

Mr. Henderschedt moved, which was seconded, to not take any action regarding the potential impact on Amendment 80 vessels and their replacement vessels on GOA flatfish fisheries and West Yakutat and Western GOA rockfish fisheries. He spoke to his motion noting that he requested this paper, and found that it may be premature to address any sideboards at this time. He did want to emphasize that although the Council is not taking action at this point, it will not preclude the Council bringing this issue up in the future should it become necessary. Ms. Moreland noted that should specific concerns arise at a later date, she would support re-addressing this issue.

The motion passed unanimously.

(b) Final action to remove retention standard from the GRS program

BACKGROUND

In December, the Council released for public review a proposed action to remove the retention standard requirement from the Groundfish Retention Standard (GRS) program. At that meeting, the Council selected Alternative 2 as the preliminary preferred alternative. This alternative would remove the groundfish retention standard requirements from Federal regulations and require the Amendment 80 sector to report to the Council on an annual basis its groundfish retention performance. The proposed action would allow the Amendment 80 sector to internally monitor and administer its groundfish retention to meet the Council's retention goals described in Amendment 79.

Jon McCracken gave the staff report on this agenda item. Lori Swanson gave the AP report, and the SSC did not address this issue. Public comment was taken.

COUNCIL DISCUSSION/ACTION

Mr. Henderschedt moved to remove the GRS requirements from the federal regulations, and in addition, include a requirement that the AM80 sector would report to the Council on an annual basis the sectors' groundfish retention performance. The motion was seconded by Ms. Moreland.

Mr. Henderschedt spoke to his motion, noting that the GRS was implemented increase retention and utilization in the AM80 sector. The AM80 sector has substantially reduced the amount of bycatch, and the goals of Amendment 79 have been met. He briefly reviewed the history of the AM79, and noted that monitoring and enforcement of GRS has been more challenging than expected. He also noted that the industry supports the motion, and will report every year.

Lastly, he addressed the auditing process, and noted that there are differences in auditing procedures and reporting procedures and that they are two different things. A third party audit of groundfish retention performance is understood to be included in an annual report.

There was general discussion regarding agreements and reporting by industry to the Council. Ms. Moreland noted that this option is preferable over status quo.

Mr. Tweit moved to amend, which was seconded, that the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions. He spoke to his motion noting the regulations need to address reporting, and agreements, and that the Chairman and Executive Director would be able to flag areas of concern, should there be any. **The amendment passed without objection.**

Henderschedt spoke to his motion, and pointed out that it meets the National Standards, specifically reducing overfishing.

Amended main motion passed unanimously by roll call vote.

(c) Report on flexibility of using unspecified reserves in specification process to address Amendment 80 hard caps

BACKGROUND

In December, the Council requested staff prepare a discussion paper of the potential use of non-specified reserves or other alternative management measures for flatfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) by the Amendment 80 sector. The paper examines a possible method for providing Amendment 80 cooperatives with additional harvest opportunities for flathead sole, rock sole, and yellowfin sole without increasing the total allowable catch (TAC) assigned to those species. This approach would require regulatory changes that would need to be implemented outside of the annual harvest specification process. No changes would be possible before the start of the 2012 fishing season.

Glenn Merrill gave the staff report on this issue. Lori Swanson gave the AP report, and the SSC did not address this issue. Public comment was taken.

COUNCIL DISCUSSION/ACTION

Mr. Henderschedt moved to expanded discussion paper to address legal, practical, and policy implications of the proposed action, including consultation with NOAA General Counsel, In-season Management, and stock assessment scientists. The AP further recommends the Council request that the expanded discussion papers includes possible impacts on prohibited species bycatch, and examine the possibility of expanding the proposed action to include the CDQ sector. The motion was seconded by Mr. Benson. Mr. Henderschedt spoke to his motion noting that this has a potential as a TAC management tool to still address some of the bycatch issues brought up in public testimony. Mr. Balsiger supports the motion specifically because it will clearly not erode any protection of individual species and is under the targets identified, yet provides flexibility. There was brief discussion regarding the CDQ sector, and the 2M MT cap. **The motion passed unanimously.**

C-3 Salmon bycatch management

(a) BSAI Chum salmon bycatch EA/RIR

BACKGROUND

At this meeting the Council will take preliminary review of the draft EA/RIR for the BSAI non-Chinook (chum) Salmon Bycatch Management analysis. The draft analysis was mailed to you on January 19th, and provides a progress report on analysis undertaken to date. The draft analysis provides a comprehensive overview of the alternatives under consideration by the Council which were last modified in June 2010 as well as preliminary environmental impact analyses of these alternatives and additional background information on chum stock status and commercial and subsistence harvest information. The draft background information is provided at this time for consideration of the availability of information as well as to provide context on the issue and provide for comments and input on these sections during the outreach efforts over the next several months. The draft RIR is primarily comprised of background information on chum salmon subsistence and commercial fishery status and will be modified to include a formal socio-economic impact analysis once methodologies used in the Environmental Assessment impact analysis are finalized.

Dr. Diana Stram gave the staff report on this issue. Scott Miller and Nicole Kimball gave an overview on the RIR portion of the analysis. Dr. Jim Ianelli gave a report on the preliminary impact analysis. Dr. Alan Hynie gave a report on preliminary analysis of status quo. Lori Swanson gave the AP report, and public comment was taken. The SSC had given their report on this issue earlier.

COUNCIL DISCUSSION/ACTION

Ms. Moreland moved, which was seconded, the following problem statement, and forwards the analysis for initial review.

Problem Statement:

Magnuson Stevens Act National Standards direct management Councils to balance achieving optimum yield with bycatch reduction as well as to minimize adverse impacts on fishery dependent communities. Non Chinook salmon, (primarily made up of chum salmon) prohibited species bycatch (PSC) in the Bering Sea Pollock trawl fishery is of concern because chum salmon are in important stock for subsistence and commercial fisheries in Alaska. There is currently no

limitation on the amount of non-Chinook PSC that can be taken in directed Pollock trawl fisheries in the Bering Sea. The potential for high levels of chum salmon bycatch as well as long-term impacts of more moderate bycatch levels on conservation and abundance, may have adverse impacts on fishery dependent communities.

Non-Chinook salmon PSC is managed under chum salmon savings areas and the voluntary Rolling Hotspot System (RHS). Hard caps, area closures, and possibly an enhanced RHS may be needed to ensure that non-Chinook PSC is limited and remains at a level that will minimize adverse impacts on fishery dependent communities. The Council should structure non-Chinook PSC management measures to provide incentive for the pollock trawl fleet to improve performance in avoiding chum salmon while achieving optimum yield from the directed fishery and objectives of the Amendment 91 Chinook salmon PSC management program. Non-Chinook salmon PSC reduction measures should focus, to the extent possible, on reducing impacts to Alaska salmon as a top priority.

Additionally, the Council recommends the following changes/additions:

- 1. Change Component 5 – Rolling Hot Spot Program and its associated sub-option to its own alternative, Alternative 4;**
- 2. Expanded discussion of the sampling utilized in genetic stock analysis, including any caveats associated with the results of genetic stock analyses;**
- 3. Expand discussion of impacts of chum bycatch reduction measures on Chinook bycatch.**
- 4. Under the status quo, discussion of the Rolling Hotspot System (RHS) should include separate examination of the pre-2007 and post 2007 RHS agreements**

Option 4: Rolling Hot Spot (RHS) system

Similar to status quo (with RHS system in regulation), participants in a vessel-level (platform level for Mothership) RHS would be exempt from regulatory closure system below representing a large area encompassing 80% of historical bycatch. In this option, the suboption language would all be struck.

Ms. Moreland spoke to her motion, noting that the problem statement needs to consider competing objectives, and not overlook recent actions. The RHS system is providing for analysis of a hot spot system that is similar to status quo, but working from a new regulatory closure, while allowing analysts to continue work on existing regulations. Ms. Moreland answered questions from Council members, and provided clarifications. There was general discussion regarding the clarification between “chum” and “non-Chinook” throughout the analysis.

Mr. Benson moved to amend, which was seconded, to change “chum” to “non-Chinook” in the problem statement. Ms. Moreland agreed, however noted it was a small percentage. Motion passed unanimously.

Mr. Henderschedt moved to amend, which was seconded, to add an option under new RHS option 4: Area would be managed as a trigger closure with a trigger limit of

- a. 50,000 non-Chinook**
- b. 200,000 non-Chinook**

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He spoke to his motion noting that it is appropriate to manage these as a trigger limit closure; these are the two lowest of the 3 numbers chosen for hard caps that are analyzed throughout the document. There was brief discussion, and **the amendment passed without objection.**

Mr. Henderschedt moved to amend, which was seconded by Mr. Benson, to add a suboption to option 2, of alternative 3, component 1b: A trigger limit application would be re-distribute monthly percentages such that trigger limits are lower in months that chum bycatch composition is made up of relatively higher percentages of western Alaska chums.

Mr. Henderschedt spoke to his motion noting that there is a higher percentage of bycatch of WAK chums in the early half of the B season, and Asian chums in the latter half of the B season, but the Council can add certainty to this before June. It is worth looking at smaller percentages in the early part of the season, and ease up on the percentages in the latter part of June. The Council will have the ability to more specifically manage its bycatch measures and allow the fleet greater flexibility.

There was general discussion regarding the balance of numerous bycatch species, prioritizing the practicability, and to apply NS9 in a way that is most effective to the stocks we encounter in the North Pacific, including Asian chum. **The amendment passed without objection.**

Mr. Benson requested to have NOAA GC review NS 9 in the context of foreign aquaculture fish.

Mr. Rivard was re-assured by Ms. Moreland that the motion covers the Yukon-River Treaty, and there is an interest to ensure sufficient fish are available to meet all of Western Alaska's needs.

Mr. Fields moved to amend, which was seconded, to strike the words "top priority in June." He noted that the prioritizing process takes place during staff tasking, and that that timing and scheduling can occur at that time. **Amendment passed without objection.**

Main motion passed without objection.

(b) GOA Chinook salmon bycatch in the pollock fisheries: Review workplan and discussion paper on cooperative provisions.

BACKGROUND

In December 2010, the Council initiated two amendments to address GOA Chinook salmon bycatch. The first amendment package addresses Chinook salmon bycatch in the GOA pollock fisheries through a hard cap or a mandatory cooperative requirement, and is intended for expedited review and rulemaking. A longer-term amendment package will address comprehensive salmon bycatch management in all the GOA trawl fisheries, and will evaluate a broader suite of management measures to reduce bycatch.

Staff is currently working on the first analysis, which evaluates amending the GOA Groundfish FMP either to create a PSC limit for western/central GOA pollock fisheries, which would close the fishery once reached, and/or require all vessels participating in the western/central GOA pollock fisheries to be a member of a salmon bycatch conservation cooperative. The cooperative would include contractual requirements to retain all salmon until counted by an observer, and other salmon bycatch reduction measures. The Council requested that this action be completed on an expedited timeframe, ideally to be implemented within twelve months, and indicated that this action was an extremely high priority.

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The workplan addresses some outstanding issues on which staff is requesting Council direction. It is not possible for this amendment to be implemented in time for the beginning of the 2012 fishing year. Whether the Council chooses a hard cap (Alternative 2), a mandatory cooperative provision (Alternative 3), or both, the earliest these could be effective would be for GOA pollock fishing in the fall of 2012, the C and D pollock seasons. The workplan identifies some considerations that must be taken into account if the Council wishes to consider midyear implementation. Staff is requesting feedback from the Council as to whether it is advisable to continue to adhere to the most expedited timeline given these considerations.

As a part of the development of alternatives, the Council requested staff to prepare a discussion paper concerning certain aspects of a proposed system of cooperatives that would be intended to reduce Chinook salmon prohibited species catch (PSC). The paper addresses issues of cooperative formation, cooperative size, the need to create fishing opportunities for non-members of cooperatives, and cooperative reporting requirements. In addition, the paper briefly addresses the proposal that cooperatives require full retention of Chinook salmon to improve information concerning bycatch and its effects on stocks, and the interaction of the cooperative system with a proposed a Chinook bycatch hard cap in the fisheries.

Diana Evans and Mark Fina presented the staff report on this issue. Lori Swanson gave the AP report, and the SSC did not address this issue. Public comment was taken.

COUNCIL DISCUSSION/ACTION

Cora Campbell presented a lengthy written motion, which was seconded by Mr. Hull, and is attached to these minutes as ATTACHMENT 7.

Her motion was seconded, and she spoke to her motion. She noted changes from the package the Council had received earlier. The problem statement has been modified to reflect the new changes.

The changes in Alternative 2: PSC limits are intended to provide for the cap to be applied at the regulatory area level, while accounting for variability across years based on a historic catch, not a calculation that would be made annually. Additionally, the apportionment calculations have been changed to clarify that it is a fixed calculation. The intent has been to remove some of the floating elements of the package, while preserving a range of alternative caps for the Council to select. The motion also intends to clarify that the PSCs are discrete by area and overages in one area would not impact fishing in another area.

Ms. Campbell noted that at the time of final action, the Council will be selecting a number for the mid year implantation cap, however the motion provides a method to be used to calculate what a partial cap should be.

She also noted that additional co-op language from staff has been included. The language specifies what co-ops can and cannot do, and that it's a balance between the need to provide reasonable access to the fishery, and setting the bar of co-op formation high to encourage formation exchange.

There was general discussion regarding observer coverage, and the extent of tendering in the Western Gulf. Discussion continued regarding electronic monitoring as a substitute for increased observer coverage requirement, but it was generally agreed the regulations and implementation of electronic monitoring needed more development, and couldn't be included in this analysis at this time.

Ms. Campbell responded to questions regarding co-ops and formation, and noted that there should be some minimum threshold for co-op formation.

Mr. Henderschedt moved to amend, which was seconded, under Alternative 2, Component 1, Part B: following the word average, add, “dropping 2007 and 2010 from both time series.”

He spoke to his motion noting that in 2010 in the Western GOA and 2007 in the Central GOA, the bycatch of salmon was unusually high, and his concern is that those years may unfairly skew the average apportionments for the 5 and 10 year time series averages. His intent is to not advocate for one area or another, but use the best combination of averages to come to whatever number the council chooses at final action.

Mr. Cotten noted his concern about dropping numbers. Lengthy discussion followed regarding other years.

Mr. Fields made a substitute amendment, which was seconded by Mr. Hyder, to insert Mr. Henderschedt’s amendment as an option, instead of part of the choice. Mr. Tweit noted there is a difference regarding bycatch control and bycatch reduction, and data that supports both choices. He noted that the Council should pick the years that best reflect the need for bycatch control. **The motion passed 9/2 by roll call vote with Fields and Cotten in objection.**

Mr. Tweit noted his appreciation for the way the Commissioner structured the motion, and that bycatch control is only a portion of the larger task. He thanked the staff of NMFS and the Council for their efforts to get control measures in place and noted that it is incumbent on managers coast wide to ensure bycatch reduction. He noted he still has frustrations with the package, but can work through them as the process continues.

The amended main motion passed without objection.

C-4 Essential Fish Habitat

(a) Review proposed HAPC skate nursery sites and refine alternatives for analysis.

BACKGROUND

Habitat Areas of Particular Concern (HAPC) are geographic sites of special importance within the distribution of Essential Fish Habitat (EFH) for the Council’s managed species, which may require additional protection from adverse fishing effects. The Council has a formalized process within its Fishery Management Plans (FMPs) for selecting HAPCs. The Council periodically considers whether to set habitat priority types and issues a call for proposals. The sites proposed are reviewed by the Plan Teams to determine ecological merit. Sites are also reviewed for socioeconomic and management and enforcement impacts. This combined information is presented to the Council, which may choose to select HAPC sites for full analysis and implementation. The Council may also modify proposed HAPC sites and management and conservation measures during its review, and request additional stakeholder input and technical review.

In April 2010, the Council set a habitat priority type—skate nurseries—and issued a call for proposals in conjunction with completion of the EFH five-year review. Council staff initially screened proposals to determine consistency with the habitat priority type, HAPC criteria (rarity is required), and for general

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adequacy and completeness. At their fall 2011 meeting, the Groundfish Plan Teams reviewed the HAPC proposals for ecological merit. In October 2010, the Council selected a proposal from the Alaska Fisheries Science Center (AFSC) to forward on for further analysis. Council and agency staff have reviewed the proposal for socioeconomic and management and enforcement considerations.

Sarah Melton, Matt Eagleton, and Olav Ormseth gave the staff report on this issue. Lori Swanson gave the AP report, the SSC report on this issue had been given earlier, and both the Ecosystem and Enforcement Committee had reports on this agenda item. Public comment was heard.

COUNCIL DISCUSSION /ACTION

Mr. Tweit moved, which was seconded, that the Council initiate analysis of the 6 sites identified in the AFSC proposal using the alternatives as described in the HAPC discussion paper and problem statement, with changes as noted:

- **Adopt the Ecosystem Committee’s suggested rewording of “gear” as in their minutes;**
- **Include recommendations that the analysis include the USCG’s discussion regarding ability to discriminate between pelagic and non-pelagic gear;**
- **Option D be stricken from the analysis, but be identified as a research priority by the Council, as recommended by the Ecosystem Committee;**
- **The Council will consider this to be a single package and limit its current HAPC call to these 6 sites. In the future, egg concentration sites will be considered under a new HAPC proposal;**
- **Clarify that each of the 6 sites can be treated individually, both in terms in which alternative it fits, and which possible gear combinations that fit;**
- **Refer to each of the sites as “skate egg concentration” areas;**
- **Recommend that staff include in the analysis the AP, SSC, and Enforcement Ecosystem comments, particularly the issues related to shape of the area, and the AP’s recommendation of reviewing VMS tracks.**

Mr. Tweit spoke to his motion stating that while the Council will continue to examine rarity, the Plan Teams have already ranked the proposal and the SSC has reviewed and approved the criteria and definition of rarity. He recommended moving the package forward based on what we know about the sites identified, and commented that different sites may need different protection measures. There was brief discussion, and the **motion passed without objection.**

(b) Initial review of EA for EFH Amendments

BACKGROUND

In mid-January 2011, the Council received an initial review draft of an Environmental Assessment to amend all of the Council’s FMPs to update EFH information. The amendment analysis is based on the most recent 5-year EFH review, which was presented to the Council in April 2010, and documented in the Final EFH 5-year Review Summary Report (April 2010). The report reviewed EFH descriptions in five of the Council’s six FMPs (all except the Arctic FMP3), evaluated new information on EFH, assessed information gaps and research needs, and identified whether any revisions to EFH are needed or suggested.

3 A thorough assessment of EFH in the Arctic was evaluated when the Arctic FMP was adopted, in August 2009.

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Based on the 5-year review and the summary report, the Council identified elements of the EFH descriptions in the FMPs that should be updated and revised. Accordingly, the Council initiated an amendment analysis to update the FMPs with these revisions. There are eight actions included in this omnibus EFH amendment package, which correspond with the Council's recommendations from April 2010. The proposed actions are FMP amendments only; there are no regulations that will be changed as a result of these amendments.

Additionally, the Council's action in April 2010 initiated these amendments specifically for the five Council FMPs evaluated in the 2010 EFH 5-year review. Two of these actions, however, are also relevant for the Arctic FMP. The conservation recommendations for nonfishing threats to EFH have been refined and updated, and as this language is also included in the Arctic FMP, it would be appropriate to update it there as well. Also, the default timing for considering HAPCs in the Arctic FMP is identified as 3 years, and given that the default timing cycle is to be changed to 5 years in the other Council FMPs, a similar rationale exists for extending that amendment to the Arctic FMP.

Finally, as reported in the EFH 5-year review summary report, NMFS AFSC has been working on a methodology to refine the geographic scope of EFH for Pacific salmon in marine waters off Alaska. Currently, EFH is designated for all salmon species as all marine waters in the entire EEZ. The AFSC has developed a methodology that identifies associations between environmental conditions and the distributions of Pacific salmon in marine waters. Preliminary findings appear to indicate that the methodology will be very useful to refine EFH for the different life stages of each Pacific salmon. Given the timing of the salmon methodology, the draft EA does not include substantive revisions to salmon EFH; instead, it is anticipated that these changes would be analyzed in a subsequent amendment.

Diana Evans and Matt Eagleton gave the staff report on this issue. Lori Swanson gave the AP report and the SSC had given their comments earlier. Stephanie Madsen also gave the Ecosystem report on this issue. There was no public comment.

COUNCIL DISCUSSION/ACTION

Mr. Tweit moved, which was seconded, that the Council adopt the problem statement from the Ecosystem Committee, and release Actions 1-4 and 6-8 for public review, after addressing the comments from the Ecosystem Committee and SSC to the extent practicable. In particular, noting that the non-fishing action and HAPC action are relative to the Arctic FMP also.

He spoke to his motion noting that the Ecosystem Committee had recommended that action resulting from the Red king crab EFH discussion paper may be included if it is available before the package is finalized. Additionally, he noted that this action affects a larger audience than would normally be expected, and that outreach efforts to non-fishing stakeholders are recommended and encouraged. Reviews are expected at a 5 year cycle, but can be reviewed earlier if warranted. There was brief discussion regarding outreach, and Matt Eagleton (NMFS, Habitat Division) noted that he holds an "EFH 101" review for different agencies and organizations in different areas and walks through the regulations concerning EFH consultation. Staff clarified that the Council will have full flexibility to combine the crab discussion paper with this action as the timing allows.

There was general discussion regarding the anticipated peer review of the revisions to the salmon EFH determination methodology being developed by NMFS Auke Bay lab, and the timeline for expected completion. It was noted that action 5 was omitted from the motion to allow time for the peer review process and results, and that the revisions to salmon EFH would come before the Council following that process. **Motion passed without objection.**

C-5 Aleutian Islands Pacific Cod

(a) Review discussion paper on management implications of Bering Sea and Aleutian Islands Pacific cod ABC/TAC split; action as necessary

BACKGROUND

This discussion paper is intended to provide background information on the management implications of establishing separate Pacific cod sector allocations in the BS and AI, should the BSAI ABC and TAC be split into separate area ABC and TACs in a future specifications process. Currently, Pacific cod is managed on a BSAI-wide basis, and there are nine separate industry sector allocations established to divide the ITAC, in addition to the CDQ allocation. Should the BSAI ABC/TAC be split in the future, the Council stated its intent to consider how it would revise the current sector allocations in response. Absent recommendations from the Council, it is likely that NMFS would need to implement equal percentages of each sector's BSAI allocation in each area under current regulations (e.g., if a sector receives a 40% BSAI allocation, it would receive 40% of the BS ITAC and 40% of the AI ITAC. The CDQ Program would receive 10.7% of the BS TAC and 10.7% of the AI TAC.) This potential result has not been very favorable to date, as it does not reflect recent harvest patterns for each sector in the two areas.

The proposal to establish separate Pacific cod sector allocations between the Bering Sea (BS) and Aleutian Islands (AI) management areas was originally included as part of BSAI Amendment 85, but was removed from the amendment package prior to final action⁴, in order to allow the Council to evaluate this complex action on a separate timeframe. At its December 2008 meeting, the Council received a discussion paper on dividing BSAI Pacific cod sector allocations between the BS and AI, based on the alternatives that were originally evaluated in BSAI Amendment 85. During discussion, it was agreed that the upcoming release of the draft 2010 Steller sea lion Biological Opinion (BiOp) could significantly affect the proposed action; therefore, the Council opted to discuss the direction of the action after the Council received the BiOp and the final reasonable and prudent alternative (RPA). With the final BiOp and formal RPA released in December 2010, the Council scheduled another review of the discussion paper at this February 2011 meeting.

The paper provides a description of the problem statement and existing alternatives followed by an overview of past Council action on apportioning BSAI Pacific cod allocations. The discussion paper also includes a summary of the most recent estimate of the biomass distribution between the BS and AI, an overview of LLP area endorsements by sector, an update on the State water Aleutian Islands Pacific cod fishery, a brief description of the harvest distribution for Pacific cod between BS and AI by sector, a description of halibut PSC mortality in the BSAI Pacific cod fishery, an overview of Steller sea lion issues associated with proposed action, and finally, a description of the effects of the existing alternatives on the sectors. This paper has been updated to include harvest data through 2009.

The suite of alternatives originated with BSAI Amendment 8.

Nicole Kimball and Jon McCracken gave the staff report on this issue. The AP gave their report, and public comment was heard.

⁴Council final action was April 9, 2006. BSAI Amendment 85 was effective starting in 2008.

COUNCIL DISCUSSION/ACTION

John Henderschedt moved to forward the alternatives and options for analysis, with the following changes: Strike Alternatives 3 and 4. The motion was seconded by Ms. Moreland.

He spoke to his motion noting that the Council should have the best circumstances to make a conservation decision should a TAC split be determined necessary, which includes having a plan in place for dividing the 9 sector allocations for BSAI Pcod. This action would ensure a default position that is clear to NMFS and the industry, while providing maximum flexibility and not creating a conflict between sectors.

Mr. Benson noted he is not in support of the motion as he does not have full data and information on which to base his decision. Ms. Moreland noted that the intent is to provide direction to NMFS and to emphasize intent before a TAC split is made; thus providing a when allocation discussions arise.

Mr. Henderschedt noted alternative 3 has a disconnect between the resulting allocations and limitations on current sectors in the RPA, which will not change by the time the analysis is complete. Alternative 4 has no support from industry, and because of the multiple variables relative to both conservation and allocation issues, it's very difficult to consider.

Motion passed 9/2 by roll call vote, with Benson and Fields objecting.

C-6 Crab Management

(a) Final action of right of first refusal modification (and community measures).

BACKGROUND

At its February 2011 meeting, the Council revised alternatives for three actions that would modify community rights of first refusal on processing shares and a fourth action that would require community consent to use of processing shares outside of the community from which it originated (as defined by the rights of first refusal).

The first action would extend the time to exercise the right from 60 days to 90 days and the time to perform under the contract from 120 days to 150 days.

The second action eliminate the lapse of rights of first refusal. Currently, the right lapses, if the community fails to exercise the right on a processor quota share (PQS) transfer or if the yielded individual processing quota (IPQ) are used outside the community of the right holder for three consecutive years. The action would require any holder of PQS that was subject to a right of first refusal on implementation of the program to maintain a contract providing for a right of first refusal.

The third action would limit the assets to which the right applies. Currently, the right applies to any assets included in a contract that also includes PQS to which the right applies. The proposed action would apply the right to PQS only (and no other assets). The value of the PQS would be established by an arbitration process.

The fourth action creates a requirement that a community that benefits from a right of first refusal consent to any use of the yielded IPQ outside of that community.

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Mark Fina gave the staff report on this issue. The SSC did not address this issue, and Lori Swanson gave the AP report. Public comment was heard.

COUNCIL DISCUSSION/ACTION

Mr. Cotten moved to encourage crab rationalization stakeholders to work together within the industry to craft solutions, with respect to community protections associated with the right of first refusal and concerns from communities regarding potential loss of crab processing, that are acceptable to processor quota share (PQS) holders, right of first refusal (ROFR) holders, and communities. Stakeholder solutions will be considered by the Council during the next review of the analysis.

For purposes of strengthening community protections under circumstances where ROFR may lapse or IPQ may be processed outside the subject community, the ROFR holder should be considered the community entity. The motion was seconded.

Mr. Cotten spoke to his motion, noting that industry are willing to move ahead, and although he is not setting a time certain for a report from the committee, October 2011 was suggested. He is hopeful that the involved parties can help advance solutions for the problems that exist. There was general discussion regarding the stakeholder committee report, and it was generally agreed that it would be brought up during staff tasking. There was brief discussion regarding timing, and **the motion passed without objection.**

(b) Initial Review of change of IFQ/IPQ Application Deadline.

BACKGROUND

Under the crab program, annually issued individual processing quota (IPQ) have a one-to-one correspondence with a specific portion of the annually issued individual fishing quota (IFQ) pool – “Class A IFQ”. Use of either these IPQ or “Class A IFQ” requires matching with the other share type, on a pound for pound basis. To ensure applicants have adequate due process opportunity to contest any finding concerning qualification for an allocation, at the time of annual issuance of IFQ and IPQ, NOAA Fisheries sets aside quota (either IFQ or IPQ, as the case may be) in an amount needed to cover any possible claim of an applicant, should the final determination favor the applicant. As a result, any application disputes not finalized at the time of the allocation of IFQ and IPQ have the potential to strand quota of the other share type, in the event the applicant does not appeal or does not prevail on appeal (since the withheld quota cannot reasonably be issued to other qualified applicants). This action would move the application deadline from August 1st to June 15th to allow additional time to finalize some appeal filings and proceedings, thereby reducing the potential for stranded quota. At the suggestion of NOAA Fisheries, an option is also included in the analysis that would shorten the time to appeal initial administrative decisions denying a QS holder or PQS holder an allocation of IFQ or IPQ, respectively, from 60 days to 30 days. This shorter time for appeal could also result in more final administrative decisions, further reducing the potential for stranded quota.

Lastly, NOAA Fisheries would also like the Council to consider modifying the current regulations to provide that an IFQ or IPQ applicant’s failure to keep proof of filing an application would create a presumption that no filing was made. This regulation could serve a few purposes. First, applicants who keep records of filing would effectively resolve any dispute prior to an administrative finding that an application was not filed. Adopting a practice of maintaining records of filings would certainly aid applicants should NOAA Fisheries dispute the timely filing of an application. Secondly, resolution of initial administrative decisions on appeal could be streamlined. If the Office of Administrative Appeals

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relies on such a rule for any finding related to cases in which IFQ and IPQ applicants allegedly failed to apply for annual allocations, appellate determinations would be relatively certain. So, if (as is unlikely to happen) NOAA Fisheries were to deny an allocation despite a person's maintaining proof of filing, that person could feel confident that the decision would be reversed on appeal. On the other hand, a person denied an allocation who could not present proof of filing might be less likely to succeed on appeal. Whether this rule would have resulted in the dismissal of cases in the recent past where claimants successfully appealed initial denials of IFQ and IPQ is not certain.

Mark Fina gave the staff report on this issue. The SSC comments had been given earlier. Lori Swanson gave the AP report, and public comment was taken.

COUNCIL DISCUSSION/ACTION

Mr. Henderschedt moved, which was seconded by Mr. Benson, that the Council release the document for public review with the current alternative to change the filing deadline date, with addition of the following:

- **Reduce the time for filing an appeal from 30-60 days**
- **Add a statement that maintaining proof of timely filing of an application (e.g., fax record) creates a presumption of timely filing.**

Mr. Henderschedt noted there was general support both from the industry and NMFS, and this small adjustment would increase the program's efficiency, and the analysis is adequate and should be sent out for public review. There was brief discussion, and it was clarified that the intent was for final action to choose a single alternative that would both change the date, and limit the appeal time. **Motion passed without objection.**

D-1 Groundfish Management

(a) Discussion paper on Sablefish Recruitment Factors.

BACKGROUND

The Council's request for the discussion paper originated from the 2010 EFH 5-year review. The summary report for the 5-year review contained a recommendation by the groundfish Plan Teams that the Council consider establishing measures to conserve EFH from fishing threats to sablefish recruitment. Specifically, the stock assessment authors and the Plan Teams noted the following:

"Given the intense fishing in areas of sensitive habitat features as indicated in Figure B.2-3a,b (of the EFH EIS), more research should be done to evaluate the recovery rates of these features and their role in the survival and growth of the early juvenile life stage of sablefish and other species that inhabit those areas."

In April 2010, the Council considered the Team's recommendation, and asked for further information with which to evaluate how it should be addressed. The Council was specifically interested in understanding whether the problems with sablefish recruitment are habitat-driven, or is poor recruitment attributable to other factors. This discussion paper was presented to the Plan Teams in November 2010. The Teams supported the stock authors' conclusions that more coordinated efforts towards assessing the effects of fishing on habitat for multiple species are needed.

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Diana Evans presented a brief overview of this issue, which had been addressed under the B items. The Ecosystem Committee also had a brief report, as did the Advisory Panel. There was no public comment.

COUNCIL DISCUSSION/ACTION

Stefanie Moreland moved the Council take no action on sablefish recruitment factors. It was seconded by Mr. Hull. She noted this action would be consistent with Ecosystem Committee recommendations. The researchers on this project also reported more information was needed. Additionally, she recommended to continue to keep this item on the BOF Joint Protocol Committee's agenda for sharing information about areas in State waters that may be important to sablefish recruitment. **Motion passed without objection.**

(b) Discussion paper on GOA Trawl Sweep Modification.

In October 2010, in conjunction with final action on Gulf of Alaska (GOA) Tanner crab bycatch measures, the Council initiated a trailing amendment to implement trawl sweep modifications for nonpelagic trawls vessels fishing in the Central GOA. The proposed trawl sweep modification for the Central GOA would apply to all non-pelagic trawl fisheries (e.g., flatfish, Pacific cod, pollock, and rockfish).

During the October 2010 discussions, the Council recognized that there are some outstanding questions with respect to the extent research is necessary to ensure that the modifications are practicable in the fleet, and meet the Council's intent to reduce crab mortality. Given these issues, the Council requested staff prepare a brief discussion paper. The paper includes a discussion on the practicality of trawl sweep modification for different non-pelagic GOA fisheries, a discussion on effectiveness of the modification at reducing crab bycatch in the non-pelagic GOA fisheries, and a brief outline of the proposed research and field testing on GOA trawl vessels.

Jon McCracken gave the staff report on this agenda item. The AP report was given by Lori Swanson, and the Enforcement Committee report was given by Roy Hyder.

COUNCIL DISCUSSION/ACTION

Mr. Fields moved that the Council move forward with the testing plan of trawl sweep modifications in the GOA, as outlined in the discussion paper; however, it would be limited to the CGOA flatfish fishery only. His motion was seconded by Mr. Cotten.

He spoke to his motion, noting that the WGOA have not been part of the initial negotiations, for a variety of reasons; size of the fleet and horsepower involved being just a few. He noted that he is limiting the action to flatfish only, noting that rockfish doesn't have much bycatch, and cod bycatch is low. Crab savings will be maximized if limited to the flatfish complex, while still giving both the Council flexibility in managing the stocks. **Motion passed without objection.**

(e) Discussion of Octopus management.

BACKGROUND

This proposed action to revise management of octopuses is one of a suite of management issues that the Council requested in April 2010 to be addressed in a future discussion paper. The issues were considered by the Council in the context of meeting statutory requirements to implement annual catch

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limits (ACL) and accountability measures for groundfish, but were set on a separate timeline to allow required ACL elements to be implemented to comply with a statutory deadline of January 1, 2011.

Jane DiCosimo gave the staff report on this issue. Neither the AP nor the SSC addressed the issue, and there was no public comment.

COUNCIL DISCUSSION/ACTION

Mr. Fields moved, which was seconded by Mr. Cotten, that the Council take no action on this agenda item at this time. Mr. Fields spoke to his motion, noting that initially there was anxiety about creating a fishery for octopus, but the discussion paper was beneficial in pointing out that that concern has been proven to be a non-issue. Mr. Benson urged scientists to establish the discard mortality rate. There was brief discussion regarding grenadiers and it was generally agreed to address the issue under staff tasking.

The motion passed unanimously.

D-2 Staff Tasking

Chris Oliver briefly reviewed the items the Council had agreed to address under this agenda item. He also distributed and reviewed an updated three-meeting outlook, based on decisions that have been made at this meeting. Topics to be discussed included: Approve December minutes; Discuss the Observer Advisory Committee and provide direction; Revisit the 3 mile boundary line change; Steller sea lion discussion; Leasing of IFQs and Hired Skipper issue; ROFR stakeholder group and timing; Grenadiers and other species; BS/AI cod allocations and whether an industry committee is needed to address concerns; Enforcement committee's safety considerations; and NOAA Enforcement and definition of "charter" and does it include family and friends?

There were general questions and discussion regarding the timing for various items. Neither the AP or the SSC addressed this issue, and public comment was taken.

COUNCIL DISCUSSION/ACTION

Mr. Hull moved to approve the December minutes, and his motion was seconded by Mr. Benson. The motion passed unanimously.

Observer Advisory Committee

Mr. Hull discussed the applicability of Electronic Monitoring in the restructured observer program and referenced the Council's previous motion to look at an EM alternative for the small boat fleet. He noted the Observer Advisory Committee will discuss this item at its next meeting and will report to the Council during the April meeting. He recommended the OAC be tasked with developing an EM alternative for the 40'-60' fleet (currently the unobserved vessels), so they may have an alternative to meet the requirements of the restructured observer program. He noted it will be important for NMFS to provide the data needs and priorities for this fleet at the OAC meeting, so the committee's work will be applicable and consistent with the program objectives.

There was general discussion, and Mr. Cotten wanted to the OAC agenda to include a discussion of the applicability of EM to other GOA vessels that are not <100% observed. Mr. Henderschedt noted that it is the Council's responsibility to establish objectives for management and data collection, and that the Council and committee should consider the appropriate tools with which to accomplish those objectives.

It was agreed that this was the general direction for the OAC at their future meetings.

Three Mile Boundary Line

Ms. Moreland moved, which was seconded, that the Council submit letter to NOAA with three points of discussion;

- 1. Request interim policy to let State fisheries proceed under State regulations through 2012 to provide for longterm resolution; The charted 3 mile line is essential to fisheries management and enforcement and the Council highlights the current problem to insure better internal coordination in the future so that federal and state managers are informed of pending boundary changes in time to change regulations and avoid disruption of fisheries.**
- 2. Council intends to work as quickly as possible to address fishery management issues resulting from the new baseline and charted 3 mile line**
- 3. Even under an emergency action, it would take time to resolve differences between state/federal managements in the affected areas. Current fisheries are disrupted, causing loss of access to resources and negative impacts to state fisheries and communities. The Council requests NOAA to expeditiously implement and enforcement policy that allows the State to operate its fisheries in Kachemak Bay, Uyak Bay and similarly affected areas as they have in the past in recent years.**

Additionally, the Council draft a letter to the U.S. Baseline Committee Chair – requesting a review of the State's comments on this line. These comments are technical and require a review and resolution. The letter should also include a request regarding their expectations regarding process/timeline, so the Council can consider any potential and future changes and the timeline that may affect the Council's decision over the longer term and take action to resolve difference between state and federal regulations.

Finally, the Council request a discussion paper that describes differences between state/federal regulations, and the areas that have been affected by the recent federal action. This paper would help the Council and State sort through immediate impacts that have been put in place by changing the line: measures that had been in state regulations that are no longer in effect, and; the effects of re-distribution of effort. The Council may want to work with the Board of Fisheries for a coordinated solution.

Mr. Tweit remarked that letters should reflect that in the future, support should include the state and NOAA are very active partners in the marine spatial planning process, and this should help to avoid these sort of problems in the future. Ms. Moreland noted that while she supports marine spatial planning, the boundary change is a technical mapping issue that resulted in a shift in the 3 mile line.

There was brief discussion regarding the enforcement policy, and it was generally agreed that this letter would be a request to NOAA to not enforce regulations that are in conflict with state regulations.

Mr. Fields stated his support for the letters, and noted his concern for the immediate resolution of this issue, and questioned NFMS for a timeframe for the events addressed in the letter. Mr. Balsiger noted that these issues are of high importance to all areas of NMFS, including enforcement. Mr. Dersham

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commented about safety at sea and if the boundaries change, the fisheries and smaller boats may be forced into a more hazardous area.

The motion passed without objection.

Steller Sea Lions

Mr. Tweit requested that the Council submit a letter to NMFS that indicates the Council does not support a CIE review at this time, because of continuing concerns about the narrowness of scope of the Terms Of Reference The Council supports a peer review process that has extensive involvement by the States. The Council should also suggest that NMFS participate in the State of Washington and State of Alaska review, in an attempt to avoid dueling science. There was brief discussion, and Mr. Henderschedt noted that the review would be important in developing a scientific resource that can help develop alternative mitigation measures in the future. It was generally agreed that the Council would draft a letter including these points.

IFQ Leasing

Mr. Hull moved that the Council initiate a discussion paper on prohibiting leasing in the halibut and sablefish IFQ fisheries. It was seconded by Mr. Fields. He noted the Enforcement Committee discussed this issue briefly, and that NOAA office of Law Enforcement has a few cases that could be used to inform the Committee and could be used for reference for the discussion paper on IFQ leasing. Mr. Hyder clarified that the IFQ leasing is not tied to any current investigations, but if results are available, they will be used. The Enforcement Committee is recommending a discussion paper that staff involve NOAA Law Enforcement, RAM, and GC in order to understand those business relationships and determine whether they are creative vs. abusive. The definitions that support the kinds of structure the Council needs will be very technical. **There was brief discussion, and the motion passed without objection.**

Timing on ROFR package, and stakeholder committee

Mr. Cotten noted he has discussed this item with the involved public and the communities, and noted that they will be willingly participating and cooperating in this effort. He noted he is hesitant to provide specific direction at this time, and feedback can be requested from them at the April meeting. Mr. Fields noted that any participation would be on a voluntary basis, and not exclusive in any way. It was generally agreed that simply by expressing interest, the Council will consider that a stakeholder.

Octopus management

Mr. Hull noted that it was not possible to move forward with the proposed two alternatives at this time. Among other concerns, the plan teams don't have a good estimate of the biomass at this time, and discard mortality rates are unknown in sharks and skates. Jane DiCosimo noted that the Plan Teams have a voluntary initiative of Total Catch Accounting. She noted the Plan Teams have developed a comprehensive removal database, and through special observer projects and research efforts, discard mortality estimates are closer. Research proposals have been submitted to AFSC to further refine DMRs. Mr. Hull requested to have in the Staff Report in the August Plan Team meetings to express Council interest in the state of the science for our stocks and the understanding of the rates that are currently developed on other related stocks, and how they may or may not fit.

There was general agreement that the posters in the foyer were of interest, and are encouraged in the future.

BSAI Cod Split Committee

Chairman Olson remarked that since the BSAI Pacific cod allocation alternatives have been simplified, there is not an urgent need at this time to appoint a committee. If the need arises in the future, the Council will be free to do so.

Incorporating Safety Issues into Analyses

Mr. Hyder informed the Council of the Enforcement Committee's recommendation to include a discussion of potential safety issues associated with the action as part of the analysis process. Requiring the inclusion of potential safety issues in the enforcement and monitoring section of analyses would help ensure potential safety issues are brought up early in the development of management action thereby allowing the Council, Enforcement Committee, and the industry to address the safety issues early in the process. There was brief discussion, and it was generally agreed that this was the direction the Council would proceed.

Funding for Joint Agreements

Mr. Tweit suggested the Council draft a letter to NOAA and strongly encouraged NMFS to ensure that our States enforcement staff are engaged and consulted in the funding efforts in the Joint Enforcement Agreement. Mr. Hyder noted it may be useful to point out the staffing levels of NOAA enforcement, the size of the region, and the complexity of the fisheries, and that Alaska State Troopers are a big part of enforcement on the ground.

Definition of Charter

Mr. Dersham noted there was confusion regarding the definition of "charter." **Mr. Dersham moved, and it was seconded to have a short discussion paper to be brought back to the Council in April to have the appropriate staff report on what is status of a definition.** There was brief discussion, and the motion passed without objection.

Chinook GOA Bycatch

Mr. Cotten commented that the AP had recommended an outreach program be developed for the GOA Chinook salmon bycatch regulations. There was brief discussion. Concerns were noted that this issue is not different from other GOA issues, and people have had and will continue to have opportunities to participate. However, outreach may be necessary because final action is going to be taken in Nome. Mr. Tweit noted that this action has moved quickly, and it would be to the Council's benefit to do a little more outreach, but in most cases the Council process is sufficient. It was generally agreed that the Rural Community Outreach Committee will be tasked with this issue at a future meeting.

Vessel Replacement

Mr. Henderschedt moved, which was seconded by Mr. Benson, to proceed with a draft analysis with the issue of vessel replacement for Pacific cod catcher/processor hook and line sector. He noted that during public comment, the freezer longline sector had developed draft alternatives and a purpose and needs statement and agreed that making provisions for vessel replacement are an important aspect of the management of this fleet.

Mr. Fields moved, which was seconded, to amend the motion by having the Council draft a discussion paper, rather than move directly to an initial review analysis. He noted that this motion will start down a path that other fleets will follow, and a discussion paper may bring to light some problems in all fleets, and not just one specific fleet. Mr. Tweit was concerned that adding an extra step would slow down the process. Mr. Cotten noted his preference for a discussion paper in the event it will review all other options before the Council makes a decision. Discussion continued regarding safety of existing vessels, existing vessel replacement requirements, and timing of the issue.

The amendment passed 7/4 with Henderschedt, Tweit, Benson and Dersham in opposition. The amended main motion passed without objection.

Catch Accounting/Freezer Longline Co-op

Mr. Tweit requested to have an update or report during the B items at the next meeting on the work NMFS is doing with the Freezer Longline Co-op and catch accounting.

GOA Pacific Cod

Mr. Fields moved, which was seconded, that the Council's whitepaper on changing the A season opening date for WGOA Pcod fishery be expanded to a discussion paper regarding ALL GOA cod fisheries by area and gear type, including the relationships of the opening dates to GOA SSL RPAs, non-cod fisheries GOA fisheries, halibut bycatch, and processing considerations.

Mr. Fields spoke to his motion noting that the WGOA Pcod fishery may impact all the other fisheries in the GOA, and may also have market considerations, and related impacts in the SSL regulations. He noted that all the GOA needs to be reviewed, especially for efficiency and staff resources. Mr. Hendershedt noted this paper should be limited to just that, because the discussion paper may discover more areas that need to be examined, and in other directions. It was generally agreed items that are "non-starters" will not be evaluated. **The motion passed with no objection.**

NOAA Office of Law Enforcement

Mr. Hyder moved, which was seconded, that the Council should draft a letter encouraging appropriate staffing at the office of NOAA law enforcement. He noted industry support, and that it is important to fill the positions. It was generally agreed that the letter can be combined with the Joint Enforcement Agreement comment letter the Council is drafting. **Motion passed unanimously.**

The Chairman thanked everyone for their hard work throughout the week, and the Council adjourned at 12:05pm.