

ADVISORY PANEL MINUTES
Anchorage Hilton Hotel
Anchorage, Alaska
April 8-13,2002

Advisory Panel members in attendance:

Alstrom, Ragnar	Jacobson, Bill
Benson, Dave	Kandianis, Teresa
Boisseau, Dave	Mayhew, Tracey
Burch, Al	Nelson, Hazel
Ellis, Ben	Norosz, Kris
Enlow, Tom	Preston, Jim
Falvey, Dan	Ridgway, Michelle
Farr, Lance	Steele, Jeff
Fields, Duncan	Stephan, Jeff
Fraser, David	Yeck, Lyle
Fuglvog, Arne	

C-1 Observer Program

The AP recommends the Council adopt Alternative 3 to extend the Observer Program through 2007 with the following recommendations:

Motion passed 14/2.

- 2.4.1 Change the observer certification and decertification process to ensure that it is compliant with the APA
Select option 4 (i) that grandfathers currently certified observers
Motion passed 15/2
- 2.4.2 Change the observer certification criteria and standards of behavior to clarify and strengthen these regulations
1. Develop criteria that would require an individual to disclose their past criminal record in the hiring process, consistent with present federal hiring practices.

2. The following changes would be made to Standards of Behavior (A): (Legal issue)

Observers must perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program. *Motion passed 14/1*

3. The following changes would be made to Standards of Behavior (D) (Legal issue):

Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to:

- (1) Violating the drug and alcohol policy to be established by the Observer Program in cooperation with other stakeholders;
- (2) Engaging in the use, possession, or distribution of illegal drugs;

- (3) Engaging in sexual relations with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or nonperformance of the observer's official duties.

Motion passed 15/2

- 2.4.3 Replace the observer provider (contractor) certification and decertification process with an APA compliant permitting process similar to that used for other NMFS Alaska Region permits.

9. (i) they would have grandfather rights under the new regulations and would not have to reapply

Motion passed 15/2

- 2.4.4 Change the duties and responsibilities of observer providers (contractors) in order to eliminate ambiguities and to strengthen the regulations governing the relationship between NMFS and the observer providers

- 1. The following changes would be made to the items currently listed as observer provider responsibilities and duties in the regulations at:

- b. Two sub-options for 50 CFR §679.50 (i)(2)(ii): (Non-legal issue)

- i) Ensuring that only observers with valid North Pacific groundfish observer certification provide observer services and that these observers are: 1) fit for duty at the time of embarkation, and 2) have successfully completed all NMFS required training before deployment. Fit for duty means the observer is fully capable of performing all their assigned duties.

And accepting lettres c-n as written, with the exception of element h, which would remain at status quo.

Motion passed without objection.

A motion to remove item N failed 15/3.

We the minority feel that this item should remain status quo. This requirement, particularly in regards to observer illness, has confidentiality concerns which were brought out in public testimony and discussions.

Signed Jim Preston, Tracey Mayhew, and Al Burch

- 2. The following changes would be made to the existing conflict of interest regulations for observer providers:

- (ii) Observer providers must assign observers without regard to any preference by representatives of vessels and shoreside facilities other than when an observer will be deployed.

Motion passed without objection.

- 3. The following would be added to the current list of observer provider responsibilities and duties:

- (ii) Observer providers must furnish a NMFS produced pamphlet of information describing the observer job to all observer candidates prior to hiring.

Motion passed without objection.

- c. Observer providers must verify that the vessel has a valid USCG safety decal before placing an observer onboard.

- d. Observer providers must allow observers on pollock catcher vessels delivering shoreside the time necessary to complete their sampling at shoreside plants.

- e. Observer providers must ensure that their observers complete their vessel and/or plant surveys before performing other jobs or duties which are not part of NMFS groundfish requirements.

2.5 Option 2 for Alternatives 2 and 3: Grant NMFS the Authority to Place NMFS Staff and Other Qualified Persons Aboard Vessels and at Plants

Modify the suboption: Cap NMFS staff deployment days at 36,750 days *Motion passed 16/1*

Modify the suboptions for affected entities and the number of deployment days:

1. Groundfish and halibut vessels less than 60' would be exempt. The AP requests NMFS identify specific data needs for this fleet, then work with industry associations to develop a voluntary pilot program to test appropriate criteria for vessel selection and data gathering needs. *Motion failed 6/10.*

2. Halibut vessels greater than 60' would not have to modify their fishing schedules to accommodate NMFS observers, and when possible, deployment of a NMFS staff observer should help the vessel meet existing groundfish observer requirements in addition to gathering new information. *Motion passed 15/2.*

Minority Report

We the undersigned members of the AP believe a voluntary pilot program is the appropriate mechanism to develop criteria for this fleet. The analysis notes several provisions of the current plan that would have to be suspended to place observers on the fleet. There will be undoubtedly be others identified as observers are deployed. Giving NMFS the authority to mandate ourselves before these issues are resolved could lead to severe impacts, few of which are identified in the analysis. Signed: Dan Falvey, Ragnar Alstrom, Jeff Steele, Hazel Nelson, Ben Ellis.

Additionally, the AP recommends to the Council that the Observer program expand current observer training to include a full safety day once every two years to bring its curriculum up to IPHC standards. *Motion passed unanimously.*

The AP is concerned with the direction guiding the North Pacific Groundfish observer program. NMFS has not clearly defined the long term objectives of the program. This lack of definition makes it difficult to evaluate the current program. More importantly it makes it difficult to evaluate proposed changes. At present, proposed changes are treatment of symptoms - band aids - that do not resolve the underlying disease and that have continually increased program costs. This conservation burden is not shared equally among those who benefit from it.

The AP suggests that the OAC consider that a first step in the long term restructuring process be development of a problem statement accompanied by identification of goals and objectives. Included should be a cost benefit analysis that identifies sectors benefitting from the observer program contrasted with those who pay for the program. If possible, costs should be ranked as a percent of revenue. *Motion passed 15/0/1*

We recommend the Council allow the current observer program to sunset on its current schedule, December 31, 2002, and then direct it to be redesigned from the ground up in a cooperative effort between industry and NMFS. *Motion failed 10/7.*

Main motion passed 15/3.

Minority report.

We the undersigned members of the AP believe the existing observer program should sunset. The current inequities in cost/coverage, in addition to the often conflicting and inappropriate scope of observers duties are beyond correction. We support developing a new observer program more focused on scientific data needs and equitable cost sharing in replacement of the current plan. Signed: John Bruce, Al Burch, Ben Ellis, Jim Preston, Tom Enlow, Jeff Steele.

C-2 Halibut/Sablefish IFQ program

(a) Final action on IFQ Implementation amendments:

The AP recommends the Council support the 4 recommendations of NMFS staff.

(b) Final action on Community QS purchase plan amendments:

The AP requests the Council adopt Alternative 2: Allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents (as defined by the following elements and options).

Element 1. Eligible Communities (Gulf of Alaska Communities only)

Rural communities with less than (Suboption 2: 1,500 people), no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut/sablefish fisheries: Communities meeting the above criteria should be listed as a defined set of qualifying communities. Communities not listed, must apply to the North Pacific Fisheries Management Council to be approved for participation in the program.

Element 2. Ownership Entity

- (b) New non-profit community entity
- (c) New non-profit entity formed by an aggregation of several qualifying communities.
- (e) Regional or Gulf-wide umbrella entity acting as trustee for individual communities

Element 3. Use Caps for Individual Communities

- (b) 1% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS.
- (d) ... Communities in 3A and 3B can not buy halibut quota share in 2C and communities in 2C cannot buy halibut quota shares in 3B.

Element 4. Cumulative Use Caps for all Communities

- (e)Communities would be limited to (3%) of 2C, 3A or 3B halibut QS and (3)% of the SE, WY, CG or WG sablefish QS in each of the first five years of the program, 15% total, and upon review of the program the remaining quota share up to communities' individual use caps can be purchased.

Element 5. Purchase, use and sale restrictions.

Block Restrictions (Block restrictions are retained if the community transfers QS.)

- (c) Allow communities to buy blocked and unblocked shares.
However individual communities will be limited to 10 blocks of halibut QS and 5 blocks of sablefish QS in each management area.

Suboption 3: Restrict community purchase of blocked (halibut) quota share to blocks of shares which, at the time of the implementation of sweep provisions (1996 for halibut), exceeded the following minimum poundage of IFQ:

- (a) For Areas 2C and 3A, minimum halibut IFQ poundage of 3,000 pounds.
- (b) For areas SE, WY, CG, and WG, minimum sablefish IFQ poundage of 5,000 pounds.

Vessel Size Restrictions (Vessel size restrictions are retained if the community transfers the QS)

- (b) QS held by communities under this program would be exempt from vessel size (share class) restrictions while the QS is owned and leased by the community.

Sale Restrictions:

- (a) Communities may only sell their QS:
 - (c) for one of the following purposes:
 - (a) generating revenues to sustain, improve, or expand the program
 - (b) Liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.

Use Restrictions

- (a) Leasing of community quota share shall be limited to an amount equal to 50,000# of halibut and (50,000#) of sablefish IFQs, inclusive of any IFQ owned, per transferee.
- (b) Leasing of community quota share shall be limited to an amount equal to 50,000# of halibut and (50,000#) of sablefish IFQs, inclusive of any IFQ owned, per vessel .

Element 6: Communities participating in the program must adhere to the following performance standards established by NMFS in regulation.

- (a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community. (Residency criteria similar to that established for the subsistence halibut provisions shall be used and verified by affidavit.)

The following should be seen as goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated when the program is reviewed. When communities apply to the program they must describe how their use of QS will comply with program guidelines. This information will be used as a benchmark for evaluating the program.

- (b) Maximize benefit from use of community IFQ for crew members that are community residents.
- (c) Insure that benefits are equitably distributed throughout the community.
- (d) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

Element 7. Administrative Oversight

- (A) Require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:

- (a) Certificate of incorporation
 - (b) Verification of qualified entity as approved in Element 2
 - (c) Documentation demonstrating accountability to the community
 - (d) Explanation of how community intends to implement the performance standards.
- (B) Require submission of an annual report detailing accomplishments. The annual report would include:
- (a) A summary of business, employment, and fishing activities under the program
 - (b) A discussion of any corporate changes that alter the representational structure of the entity
 - (c) Specific steps taken to meet the performance standards
 - (d) Discussion of known impacts to resources in the area.

Element 8 Sunset Provisions

- (b) Review program after 5 years.

Motion passed 13/8.

A motion to adopt Alternative 1, Status Quo, failed 14/6/1

Minority Report

The minority wish to commend the makers of the motion, and the work that was done to craft it. We believe that the motion, while well intended, lacks detail and the public scrutiny necessary to insure it addresses the problem statement.

The addition of communities as quota share owners is a radical shift from the existing program. This radical shift will not accomplish the goal in the problem statement of, "minimizing adverse economic impacts" on these struggling, small, remote, coastal communities. These communities have socio-economic problems that are deeper and more far reaching than can be addressed with this motion.

The second part of the problem statement states, "The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities." The addition of communities and the resulting management entities increases the pool of possible buyers that will compete with new entrants outside these communities. The communities or the managing entities are non-profit and can compete for the available quota on a non-tax dollar basis which puts them at a distinct advantage in the marketplace.

There is nothing in this motion that by regulation forces the monies gained by the lessee to stay in the communities, there is no legal requirement that the fish be caught with the vessels crewed by people from the community, and the fish does not need to be delivered or processed in the community.

The AP received public testimony from 4 people, 3 of which testified against the concept of allowing communities to own quota shares. There was no testimony from any of the 45 communities to the need for this program.

Signed: Craig Cross, John Bruce, Dave Benson, Jeff Steele

C-3 Halibut Subsistence

The AP recommends that the Council adopt Alternative 3, modified as follows:

Part 1: Areas 4C, 4D, and 4E — Eliminate Gear Restrictions

Part 2: A: In areas 3A, 3B, 4A and 4B— allow stacking of a maximum of 3 times the number of hooks on a single unit of gear per trip, provided that the subsistence users are on board the vessel. No proxy provisions.

B: In area 2C, excluding Sitka LAMP, 30 hooks and 20 fish per day is the individual and vessel limit (no stacking, no proxy).

Part 3: Add to part 3 (A), (B) and (C) and part 4 (area 2C– Sitka LAMP) a community harvest program as specified by the halibut subsistence committee as specified on page 33 of the analysis, with the inclusion of Sitka as an eligible community. Community harvest permits may not be used in the Sitka LAMP.

Additionally, the AP requests the Council Halibut Subsistence Committee work with NMFS to develop and issue community harvest permits to federally recognized tribes and other groups that can demonstrate an established pattern of harvest that includes community harvesters. We further consider the implementation of community harvest permits an essential part of the halibut subsistence management plan.

Part 3 (A): in area 3A, Kodiak road zone and Chiniak bay:

1. 5 hooks
2. 20 fish annual limit
3. No proxy system
4. Allow stacking of a maximum up to 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel.

Part 3 (B): In area 3A, PWS:

1. 5 hooks
2. No fish annual limit
3. No proxy system
4. Allow stacking of a maximum up to 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel.

Part 3 (C). In Area 3A Cook Inlet:

1. 5 hooks
2. No fish annual limit
3. No proxy system
4. Allow stacking of a maximum up to 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel.
5. Cook inlet boundary, No action (retain Council lines)
A motion to retain the Board of Fisheries lines failed 4/8/5.

Part 4: In area 2C Sitka Sound Lamp Area.

September 1 to May 31

1. 30 hooks/vessel, power hauling allowed.
2. 10 halibut per day/vessel
3. No annual fish limit
4. No proxy system

June 1 to August 31

1. 15 hooks per vessel, no power hauling, no proxy, no stacking
2. 5 halibut per day/vessel
3. No annual fish limit
4. No longline fishing area four nautical miles south and west of Low Island (see chart)

Part 5: Adopt a ceremonial, cultural and educational harvest permit system modeled after USFWS existing system as recommended by the Halibut subsistence committee.

Part 6: For Areas 4B, 4C, 4D and 4E, add a provision allowing retention of legal size halibut for subsistence use by residents of qualifying area 4 communities while CDQ fishing on their own vessels. These retained subsistence caught halibut shall be marked while CDQ fishing and would not count against CDQ harvest.
Motion passed 10/7

Part 7: The AP requests the Council, NMFS, ADF&G, and IPHC assist the Sitka ADF&G Advisory Committee and other interested groups in gathering information, on an annual basis, on the halibut, rockfish, and ling cod removals by all user groups in the Sitka LAMP and other local areas.

Motion passed 16/1/1

C-4 CDQ Policy Amendment Package

The AP recommends the Council add the additional issues in the analysis to be included in the document for final action in June. However, additional analysis of these items is contingent on staff's ability to release document for public review in time for final action during the Council's June 2002 meeting.

1. The analysis should address the question of whether revenues generated from fisheries related investments are in fact, fisheries related.
2. Under alternative 2, further discussion regarding resistance by potential investment partners based on state oversight, ie, page 150 of the analysis.
3. Amplify analysis regarding how much of an equity position in an investment partner creates a CDQ project necessitating state oversight.
4. Analysis expanded with discussion of possible available fisheries related development projects within regions
5. Expand discussion on pages 67-69 regarding escape clauses and criteria for reallocation. Discussion should include the possibility that reallocation would not be to another CDQ group but remained unallocated.d
6. Under issue 4, add another alternative that would exempt halibut from the foundation allocation.
7. Add an option that would provide a foundation allocation of 5% pollock to each of the CDQ groups.

Motion passed unanimously.

C-5 BSAI Crab Rationalization

The AP recommends that the Council consider the following refinements to the crab rationalization analysis:

1.4 Initial allocation of QS

1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

(a) Calculation of QS distribution.

Add a suboption for Amendment 10 replacement vessels, that replaced sunken vessels as follows:

For each of the fisheries for which such a vessel holds valid endorsement for any years between the sinking of the vessel and the entry of the replacement vessel to the fishery, allocate QS according to a range of 0 to 100% of the vessel's average history for the qualifying years unaffected by the sinking. *Motion passed unanimously.*

(b) Basis for QS distribution:

Add a new Option 4. For eligibility criteria in section 1.2, the distribution of QS to the LLP license holder shall be on a fishery-by-fishery basis. Such distribution shall be based on (i) the catch history of the vessel on which the LLP license and endorsements are used; or (ii) the catch history of the vessel from which the LLP license and endorsements were transferred to the vessel on which the LLP license and endorsements are used. For the purposes of this paragraph, vessels shall include those replaced in accordance with Amendment 10 to the LLP. With the exception of Amendment 10 replacement vessels, catch histories from different vessels shall not be combined for any single fishery, nor shall distribution of QS be based, in whole or in part, on any catch history of any vessel not lawfully U.S. documented and endorsed as a fishing vessel at the time such distribution is made. License transfers for purposes of combining LLPs must have occurred by January 1, 2002. *Motion passed unanimously.*

1.4.2.7 Brown king crab (based on biological season)

A motion to create a new qualifying period 1999/2000-2001/2002 failed 8/13.

1.6 Transferability and Restrictions on Ownership of QS/IFQs:

1.6.1 Persons eligible to receive QS/IFQs by transfer:

Add a suboption under option 2 and 4 that would allow BSAI CDQ qualified communities to be eligible to receive QS/IFQ by transfer (other than any QS designated to owner on board). *Motion passed 10/9*

1.7 Use of IFQs

1.7.1 Use by harvesting sectors -

1.7.2.3 Allowances for Catcher/Processors:

Modify Option 5 as follows: Only catcher processors that both caught and processed crab onboard their qualifying catcher processor vessels in any BSAI crab fishery during 1998 or 1999 will be eligible for any CP QS in any IFQ or Coop program. *Motion passed unanimously.*

Add an option to create use it or lose it provision (In the context of binding arbitration...)

a) Harvester quota share holders must fully utilize their Class A harvesting quota shares in the season while a fishery is open or lose the amount that is not utilized for one season in the next season. The unused quota shall be distributed:

1. To all quota share holders in the fishery proportionally
2. To all quota share holders in the fishery equally
3. To open delivery

Class A quota redistributed shall retain its regional designation

Motion passed unanimously.

1.7.3 Catch accounting under IFQs -

Add a new Option 5. ADFG and BOF will address the concerns of discards, highgrading, incidental catch and the need for bycatch reduction and improved in season monitoring to coincide with implementation of a rationalization program. *Motion passed unanimously.*

1.8 Other Optional Provisions

Option 5. Owner On Board Option

Add suboption: Any transfer of QS designated at initial allocation as “owner on board” quota would count against “1st refusal” requirement. *Motion passed unanimously.*

1.8.5 Sideboards:

Add a new sideboard option with the following options:

1. Non AFA vessels that qualify for QS in the rationalized opilio crab fisheries would be limited to their
 - a) groundfish catch history excluding sablefish or
 - b) pcod catch historyin the GOA fisheries. The years for qualification would be 1995-1999.

2. Sideboard exemptions:

1. exempt vessels from sideboards which had opilio landings in the qualifying years of:
 - Option a. <100,000 pounds
 - Option b. <70,000 pounds
 - Option c. <50,000 lbs
3. exempt vessels with more than 100, 200, or 500 tons of GOA cod total landings in the years 95-99
4. vessels with <10, 50 and 100 tons total in the qualifying period would be prohibited from participating in the GOA cod fishery.
5. administer the program on an individual vessel basis

Motion passed unanimously.

2.3 Initial allocation of processing quota shares

Add a new Option 4. If the buyer can be determined to be an entity other than the entity on the fish ticket, then the IPQ shall be issued to that buyer.

Add a new sub-option (i): The qualifying years for issuance of IPQ in the Western Aleutian Islands (Adak) red king crab fishery will be:

Option A. 1992/93 to 1995/96

Option B. Pro rata to Western Aleutian Islands brown king crab IPQ

Option C. 0 – 50% of IPQs would be allocated to the community of Adak

Motion passed unanimously

2.5 Implementation of the open delivery processing portion of the fishery:

Add a new option 2. In CDQ communities that currently (April 2002) do not have a shoreside crab processing facility, crab delivered to a processing plant which is subsequently built and owned at least fifty percent (50%) by the CDQ group representing that community shall be exempt from Class A share ITQ provisions.

Option 1. Including regionalization

Option 2. Excluding regionalization

Motion passed unanimously

2.7.2 Use caps: modify the range in options as follows:

Option 1. Annual use caps ranging from 30% - ~~60~~ 80% of the GHY (or TAC) by fishery.

Option 2. Annual use caps of quota share equal to the largest PQ holder's share in each specific fishery.

Add a new Option 3. No use cap when the TAC designated for a region is less than 1 – 4 million pounds in a season.

Motion passed unanimously.

2.8.3 Binding Arbitration

The AP requests that the Council appoint a technical working group to further assess the means to implement a system of Binding Arbitration as part of the crab rationalization program for all alternatives considered. The working group should be charged to return with a report to the Council in June, 2002. The AP recommends that the working group include staff support, NOAA GC, and representatives of the AMA, the processors, and harvesting groups. Further we request that the Council/NMFS provide the resources to attempt to bring in representatives of the harvest and processing sector from the Newfoundland crab fishery, who participated in the process with John Sackton, the arbitrator.

Additionally, the AP recommends costs of arbitration and market research be funded by one-quarter of one percent of the federal fee on the ITQ program from the fisheries subject to the rationalization plan – distributed equally to an arbitration fund to the harvesters legally constituted collective bargaining association.

a) One quarter of one percent of the program for enforcement and management

Motion passed unanimously.

Elements of the binding arbitration process:

The AP recommends adding the following additional options:

1. Arbitration may bind:
 - Option 1. All harvesters
 - Option 2. Only fishermen associated with a particular processor entity
 - Option 3. All processors
 - Option 4. Only the processor associated with a particular group of harvesters
2. The arbitrator shall base its decision on
 - Option 1. Historical sharing of revenues in the fishery
 - Option 2. Historical revenues and costs of the fishery
 - Option 3. Distribution of revenues in excess of variable costs in the fishery

- Option 4. All of the above and any other relevant factors the parties present to the arbitrator
 - 3. An arbitration decision may be enforced by
 - Option 1. Standard contract law provisions
 - Option 2. Use it or lose it provisions for both harvesters and processors
 - Option 3. Specific performance requirement
- Motion passed unanimously.*

3.0 Regionalization Elements

3.2 Regional categorization of processing and/or harvesting quota shares

Modify 3.2.1 as follows: Categorization will be based on all historical landings. Periods used to determine regional percentages are as follows:

- Option 1. 1995 - 1999
- Option 2. 1997 - 1999

Add new Option 3.

- 1. There shall be no regional designation when the percentage associated with the region is 0 – 8%.
- 2. There shall be no regional designation of the Baridi fishery shares.
- 3. There shall be no regional designation of the Bristol Bay red king crab fishery shares.
- 4. Pribilof red king crab Class A shares shall all be designated for the Northern Region.
- 5. Pribilof blue king crab Class A shares shall all be designated for the Northern Region.

Motion passed unanimously.

3.4 Alternative Regionalization/Community Protection:

Recategorize and add a new option 2:

Option 1. Processing history may leave an eligible community of origin in which the history was established with permission of the eligible community. The processing QS may change communities with negotiated agreement between the processor and the originating (eligible) community; these agreements will be filed with the Secretary of commerce thirty days prior to the quota share leaving the eligible community.

"Eligible communities" shall be defined as any community in which aggregate (community) landings exceeded 0-8% of the species for which processor QS is awarded during the qualifying period.

"Community landings" for closed fisheries will be determined using a formula that mirrors "processor option one" as defined in the current analysis.

Add a new Option 2:

Under this option, processor quota shares are subject to regional designations as set forth in Section 3.1, 3.2 and 3.3. A processing quota share holder may switch processor quota from one region to another region (on an annual or permanent basis) by compensating the community that is impacted by that change. A processor must provide compensation only if it switches from one region to another region. A change in location of processing within a region does not require compensation to a community. Compensation for a permanent departure from a region is only required one time; a subsequent change to another region does not require further compensation by the processing share quota owner. A switch of the region of processing under this option would include the following elements:

1. This option does not displace the regional designation of Class A shares or the processing of quota delivered under Class A shares. It instead provides an option for the delivery and processing of quota from Class A shares using IPQ into a different region upon compensation (in a manner and form acceptable to the effected community) to switch to another region.
2. The community to be compensated would be determined by the community that received the raw fish tax associated with the IPQ being transferred. The options for determining the community include:
 - (a) The community to which the raw fish tax was paid in 1, 2, 3 or 4 years prior to the proposed transfer;
 - (b) The community to which the raw fish tax was paid in the period used to determine eligibility for the issuance of IPQ;
 - (c) The community to which a majority of the raw fish tax was paid in the period designated in a or b above.
3. The processor that pays the compensation to the community may designate the harvester that also is allowed to switch from the original region to another region. The harvester is free to accept or reject that designation.
4. The option applies only to IPQ and corresponding Class A shares. It does not apply to any processing of Class B shares nor to Class B shares themselves.
5. The entity entitled to negotiate on behalf of the community shall be designated by one of the following: The State of Alaska or the United States Department of Commerce.
6. This option may be addressed through a trailing amendment.

Motion passed unanimously.

- d. Community Development Allocation (based on existing CDQ program):

Modify as follows:

Option 5. For the Aleutian Islands brown king crab fishery, the percentage of resource not utilized (difference between actual catch and GHL) during base period is allocated to the community of Adak *Motion passed unanimously.*

6.1 Coop model with the following elements and options:

Modify as follows:

1. Individual harvesting and processing histories are issued to both catcher and processors and catcher processors.

(Harvesters under Section 1.3.2 which meet program qualifications. Processors under Section 2.1, 2.3, and 2.4 (Options 1-4) which meet qualifications of the program).

8) Duration of coop agreements.

Add a Suboption . A harvester quota share holder may exit the cooperative at any time after one season. One season shall mean the season established by the Alaska Board of Fisheries for the fishery associated with the quota shares held by the harvester.” *Motion passed unanimously.*

Add a new element 7.0: Implement a systematic data collection system for economic data, sufficient to monitor the relative distribution of both revenue and “quasi-rents”/profit in the processing and harvesting sectors. *Motion passed unanimously.*

Finally, the AP recommends the problem statement be modified to remove the language in the final sentence stating “retain parity” and replace with “achieve equity.” *Motion passed unanimously.*
The following motion failed 7/13.

Minority Report

The following AP members believe that the Bering Sea Crab Rationalization Alternatives document should include the following option for analysis:

Initial Allocation of Harvester QS (option 1.2 new sub-option)

(a) Reserve (0-20%) of QS pool for allocation to eligible processors (as defined by 2.1) to be distributed according to the formula in 2.3. This allocation would be in lieu of IPQ allocations.

The current analysis is focused on a strict one pie option or a complete two pie system. Interested parties are generally polarized behind one model or the other. The two pie option clearly shifts bargaining power toward the processing sector and depends entirely on a successful arbitration model – which is yet to be achieved – for processor accountability. On the other hand, the one pie option minimizes processor concerns. A third option within the one pie concept, which recognizes processor desire for equity and provides QS for processors but does not provide a class of processor shares (IPQs) issued in perpetuity, will provide a middle ground for stakeholders and become a better choice for the Council.

Early recommendations by Scott Matlich, the State’s economist, identified that a one pie system, modified in this way, was a model that would protect processors.

A modified one pie system is similar to current rationalization systems and its results are more predictable. The two pie approach is entirely theoretical, abstract and has never been tried. Its evaluation in the analysis, based on game theory, may not be reliable. Adopting the two pie system could have significant unintended consequences.

Concerns processors have about keeping their traditional fishermen in a rationalized fishery can be addressed by processor issued harvesting shares. The processors can use their shares as incentives to existing fishermen, leverage to obtain new fishermen or realize their value through having them fished on a harvesting vessel.

A two pie system in combination with rationalization, is likely to result in high transaction costs associated with matching up appropriately designated pieces of the two pies.

Signed by: David Fraser, Dan Falvey, Michelle Ridgway, Hazel Nelson, Duncan Fields, Jeff Stephan

(b) Bering Sea Crab EIS

The AP appreciates the staff’s efforts in developing the preliminary draft materials on the EIS for the FMP for BSAI King and Tanner Crab fisheries. The AP recommends the Council request staff to build the analysis to include discussion of the following issues:

1. Clarify, prioritize and develop objectives and benchmarks for the conservation goals identified in the problem statement.
2. Develop a table summarizing the conservation goals and objectives that the public may use to efficiently contrast the environmental benefits and impacts of the alternatives and elements.
3. Include a discussion of the suite of mitigation tools which may be applied to address resource conservation concerns emerging under each alternative.

4. Expand discussion of impacts to the human environment under each of the various rationalization alternatives considered in the analysis.

Motion passed unanimously.

C-7 AFA

(a) IR/IU

The AP recommends that the document be sent out for public comment on track for a Council decision on flatfish IR/IU modification in June, 2002. The following changes on that section of the document should be made:

1. Expand the discussion of each alternative to include how each alternative meets or fails to meet the intent of Congress's inclusion of the "to the extent practicable" clause for bycatch reduction measures as set out in the Congressional Record of September 27th 1996.
2. As per the SSC's minutes, add a qualitative discussion of the costs associated with processing essentially "valueless" IR/IU flatfish species, additional transportation costs, modification costs for CVs such as hold modifications necessary to segregate flatfish from target species, and potential environmental as well as economic costs associated with disposal of unmarketable flatfish catches.
3. Include the summary tables and graphs used in the presentation
4. Add an option to delay implementation of the 100% standard for years - *Motion passed 19/1.*

The AP further recommends that the suite of alternative bycatch reduction measures in the current analysis be separated from the IR/IU package and be developed into an expanded analysis of alternative bycatch avoidance and discard reduction measures for PSC and groundfish species.

These measures should include but not be limited to: PSC and other bycatch management pools (modeled after the AFA halibut and crab bycatch management under coops); HMAP or deck sorting of halibut for trawlers; required or voluntary use of halibut excluders.

The intent of breaking off the alternative bycatch measures is to develop the "creative thinking" on alternative bycatch reduction measures referenced in the April 8, 2002 letter from Dr. Balsiger. The focus of evaluation for each potential measure should be to examine how each would effect savings in halibut or other PSC mortality, savings in bycatch or discard of groundfish, including method to establish, monitor, IR/IU standards. and enforce realistic ii or both. These measures would be developed by an industry workgroup, in consultation with Council and NMFS staff, MRAG, and NOAA GC.

This committee would be charged with reporting back to the Council as soon as possible and no later than October 2002.

Motion passed 18/1.

(b) Additional sideboards for winter Pacific cod fishery

The AP recommends the Council not send out the analysis for public review. We request the following modifications be made and the document be brought back for further review prior to release. The information in the draft EA for amendment 73 and in public comment indicates that the concerns of the 3 "traditional cod vessels" may have components other than direct AFA impacts. This issue requires a broader problem statement than the proposed "prevent AFA impacts" problem statement.

Problem Statement.

The problem statement should be revised to incorporate elements of the problem statement the Council developed for the fixed gear split and cod endorsement analysis which focused on preventing impacts to vessels with a history of investment and dependence on cod from the entry of new vessels.

The Analysis

The analysis should attempt to distinguishing AFA impacts from other elements are at work that impact CV cod vessels, both AFA and non-AFA. Areas that should be explored in the analysis include:

- a) TAC changes - The absolute amount of catch per vessel is partly a function of TAC changes (270,000 MT in 1997 vs 188,000 MT in 2001). Cod TACs have been lower in recent years, so on average most vessels have seen reductions in catch that may not reflect a change in the share of the catch
- b) SSL regulations in place in various years (area closures and seasonal apportionments) that have reduced the available grounds and intensified the need to race for the seasonal apportionment.
- c) Latent licenses becoming more active through the entry of non-AFA vessels without a long term dependence on the cod fishery may have eroded the historic share of the traditional non-AFA cod. (RAM LLP database show there are 38 CV non-AFA trawl permits for the BS in addition to the 3 "traditional" non-AFA vessels)
- d) Increased effort by the pot cod fleet, particularly in 2000 when opilio was delayed, may have reduced the area available to the trawl CV's.
- e) Unintended consequences of the "Exempting vessel" provisions.
 - exemptions may have created a "race for the sideboard" that provides an incentive for non-exempt vessels to start early to avoid being the "last man standing."
 - exempt vessels may have increased their post afa share of cod catches relative to their catch history

Questions for the analysis:

How many latent licenses exist in the Bering Sea CV trawl sector for non-AFA vessels?

What are the participation patterns for AFA and non-AFA Bering Sea CV's in the cod trawl fishery at various thresholds i.e., 250k, 500k. (the "Matulich" style figures used in the fixed gear cod endorsement analysis)?

What are the catch history shares from 1995-2002 as a % of TAC of:

- the 3 traditional cod vessels
- other "latent"(?) non-AFA catcher vessels
- the AFA non-exempt vessels
- the AFA exempt vessels
- non-LLP endorsed trawl CV's fishing in state waters

What are the post AFA catch shares from 1995-2002 as a % of TAC and the daily/weekly participation patterns of:

- the 3 traditional cod vessels
- other "latent"(?) non-AFA catcher vessels

- the AFA non-exempt vessels
- the AFA exempt vessels
- non-LLP endorsed trawl CV's fishing in state waters

CPUE - Does a statistical analysis demonstrate there are significant changes to CPUE that are directly attributable to change in the number of vessels on the grounds during January and February, separate from inter-annual variation in CPUE?

Has redistribution of effort under AFA provided offsetting benefits in market opportunities and reduced competition in March?

Alternatives

The alternatives should be expanded to include:

- eliminating latent licenses in the BSAI CV cod fishery
- a "3 pool approach" with minimum landing requirements in a set of qualifying years
- limits on the number of AFA vessels fishing prior to the 5th week of the fishery in stat area 655430
- limit Alternative 2 restrictions to area 655430
- Alternative 2 be modified to explicitly state that AFA exempt vessels are exempted from this alternative

Motion passed 19/0

Finally, the AP endorses the SSC's comment encouraging the parties to continue working towards a negotiated agreement. *Motion passed 18/0.*

(c) Single Geographic Location Change

The AP recommends the Council adopt the following problem statement and release the document for public review:

SGL problem statement: Existing regulations require AFA inshore floating processors to operate in a single geographic location when processing BSAI targeted pollock. The result is a lack of flexibility and inefficient use of these facilities. The problem for the Council is to develop an FMP amendment to remove this restriction in the BSAI while providing continued protection for GOA groundfish processors. The Amendment should increase flexibility for these facilities to provide opportunities for reduced delivery costs and enhanced product quality while avoiding negative environmental impacts.

Motion passed 17/0.

Additionally, the AP recommends the Council substitute the following for Alternative 2:

Allow AFA-qualified inshore floating processors to operate in more than one location during a fishing year while processing BSAI pollock. The AFA qualified inshore floating processors would be required to process Gulf Pacific cod and Gulf pollock from where they are currently processing Gulf groundfish and could not establish a new processing location within the Gulf.

Motion passed 19/0.

C-10 SSL Measures

The AP recommends the Council delay the release of the trailing amendments until the SSC concerns are met and that new data from the Miller-Freeman survey be included in the analysis. *Motion passed 12/3.*

Further, the AP requests the Council appoint representatives from the 2 closed areas, 4 and 9, to the SSL committee, and any other working group that addresses the trailing amendment for Steller Sea Lion provisions.

Motion passed 14/1.