



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

March 20, 2007

Stephanie Madsen, Chair
North Pacific Fishery Management Council
605 W 4th Avenue,
Anchorage, AK 99501-2252

Dear Madam Chair:

Thank you for your February 12, 2007, letter requesting consideration of Council comments on the schedule and timing of the Steller sea lion Recovery Plan and the draft section 7 Biological Opinion (BO) on the fishery management plans for groundfish of the Bering Sea and Aleutian Islands management area and Gulf of Alaska. Your letter asked the agency to provide a detailed plan and schedule for completion of a revised draft recovery plan, draft BO, and analysis of management measures. Our response follows.

Steller sea lion Recovery Plan

NMFS currently is revising the draft Recovery Plan to include comments received from the five independent reviewers commissioned by the Recovery Team in early 2006 and from the public, including the Council, during the public review and comment period last summer. NMFS intends to release the revised draft Recovery Plan at the beginning of May 2007 for an additional 90-day public review and comment period. During this time period, NMFS also will schedule an additional independent peer review to be conducted by the Center for Independent Experts (CIE). We will coordinate with Council staff to develop the Terms of Reference for the CIE review. We hope to schedule this review during the month of June so that comments by the CIE review panel may be made available in July. If necessary, we can extend the 90-day public comment period so that the public, including the Council, has the benefit of the CIE review in developing comments on the draft recovery plan. Comments received from the CIE review and from the second public comment period will be incorporated into a final Recovery Plan, which we anticipate will be released to the public late this year.

Your letter also makes note of potential workshops on killer whale predation and Steller sea lion natality data. NMFS had contemplated the idea of workshops on these two topics as they relate to the questions posed in the analysis needed for the BO. However, we do not contemplate such workshops to be necessary for the development of a planning document such as the Recovery Plan. Our first priority now is finalizing the Recovery Plan prior to developing a draft BO. We will determine later whether a workshop is necessary to resolve the predation and natality issues for purposes of the BO.



Plan for completion of a draft BO

We have identified two possible strategies for the development of a draft BO and will need to work with the Council to develop a plan and schedule for the section 7 consultation process that best coordinates the finalization of the Recovery Plan, the Council's development of any proposed changes to Steller sea lion protection measures, and the analysis of alternatives for these changes. We have attempted to portray these related activities in the enclosed chart.

We recommend that the draft BO be developed in a two stage process. The first draft BO would be developed after the Recovery Plan is finalized and would analyze the status quo fisheries, as originally suggested. This approach would provide the Council a context for considering any changes to existing Steller Sea lion protections measures, which then could be assessed in a second draft BO. We would need to work with the Council to come to agreement on a strategy that best meets agency and Council objectives for this process. Regardless, given the interest in completing the Recovery Plan prior to completion of a draft BO, we anticipate that we would not resume working on the draft BO until late in 2007, our date of expected completion of the Recovery Plan. Although specific schedules that far into the future are difficult to predict, we would expect that a draft BO on the status quo fisheries could be available in April 2008. We remain open to a CIE review of the draft BO as originally planned. This could occur during May, prior to the Council developing its comments on the draft BO at its June 2008 meeting. Subsequent to the CIE review and depending on the scope of the Council's proposed changes to Steller sea lion protection measures, we may or may not need to develop a second draft BO prior to completing section 7 consultation.

NEPA Analysis of Management Measures

For purposes of discussion and the enclosed draft schedule of project activities supporting potential changes to Steller sea lion protection measures, we assume that the development of Council alternatives would be coordinated with the Steller Sea Lion Mitigation Committee recommendations and a draft BO on the status quo fisheries. The nature of the alternatives, associated controversy, and potential impacts on the environment would determine the nature of the NEPA process and document, as well as the analysis required under Executive Order 12866, and the Regulatory Flexibility Act. If an environmental impact statement is deemed the appropriate NEPA document, the scoping process could be initiated early in the process so that it may inform the Council's development of a preferred alternative. Depending on the nature of the proposed changes and based on our past experience in developing the current Steller sea lion protection measures, nearly 18 months could be required to complete the analytical and ESA consultation processes necessary to support the action and implement approved changes through federal rulemaking. Thus, depending on the nature of changes and associated processes, changes to the Steller sea lion protection measures may not be implemented until late summer 2009.

We will work with the Council to refine the process, strategy, and schedule for implementing any changes to Steller sea lion protection measures. As mentioned above, the schedules

presented on the enclosed spreadsheet are intended for discussion purposes and are meant to be illustrative of the sequential nature of the different processes leading to rulemaking to change these measures. Our first task is clear; to complete the Recovery Plan. The outcome and timing of that task will help inform subsequent activities.

Sincerely,

A handwritten signature in black ink that reads "Robert D. Mecum". The signature is written in a cursive style with a large, prominent initial "R".

Robert D. Mecum
Acting Administrator, Alaska Region

Enclosure

g:\fmgroup\stellers\council response rp-bo.ltr.doc

r:\region\2007\s\mar\Council response RP-BO.ltr.doc
Ssalveson:3-18-07

