

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON FISHERIES**

January 29, 2007

8:08 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Kyle Johansen  
Representative Peggy Wilson  
Representative Bryce Edgmon  
Representative Lindsey Holmes

**MEMBERS ABSENT**

Representative John Harris  
Representative Gabrielle LeDoux

**COMMITTEE CALENDAR**

OVERVIEWS(S):

ALASKA BOARD OF FISH

- HEARD

NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to report

**WITNESS REGISTER**

JIM MARCOTTE, Executive Director  
Board of Fisheries (BOF)  
Boards Support Section  
Alaska Department of Fish & Game (ADF&G)  
Juneau, Alaska

POSITION STATEMENT: Presented an overview of the BOF meeting process, and responded to questions.

STEPHANIE MADSEN, Chair  
North Pacific Fishery Management Council (NPFMC)  
Anchorage, Alaska

POSITION STATEMENT: Presented an overview of the NPFMC, and responded to questions.

CHRIS OLIVER, Executive Director  
North Pacific Fishery Management Council (NPFMC)  
Anchorage, Alaska

POSITION STATEMENT: Presented specific aspects of the NPFMC overview, and responded to questions.

#### **ACTION NARRATIVE**

**CHAIR PAUL SEATON** called the House Special Committee on Fisheries meeting to order at [8:08:40 AM](#). Representatives Wilson, Johansen, Holmes, and Edgmon were present at the call to order. Representative LeDoux was on an excused absence.

#### OVERVIEW: ALASKA BOARD OF FISH

[8:09:11 AM](#)

CHAIR SEATON announced that the first order of business would be a presentation by the Alaska Department of Fish and Game (ADF&G), Board of Fisheries (BOF).

JIM MARCOTTE, Executive Director, Board of Fisheries (BOF), Boards Support Section, Alaska Department of Fish & Game (ADF&G) began by noting that the board's process has a "high public profile." He explained that the core function of the BOF is the allocation of fisheries resources. Directing the committee's attention to slide 3 [page 2] of his presentation, entitled "Main Function Of The Board: Allocation," he paraphrased from the written statement [original punctuation provided]: "By taking on the task of resolving fishery disputes, the board takes the politically-charged issue of allocation away from the fishery managers and politicians." Mr. Marcotte explained that the board is highly responsive to public input. Additionally he noted that the board's authority is generally within the 3 mile, offshore limit with the federal agency governing the 3-200 mile limit. The board members are appointed by the Governor and confirmed by a joint session of the legislature. He named the seven current board members, explained that they serve staggered terms, and stated that two member's terms will expire at the end of June, 2007.

[8:13:16 AM](#)

MR. MARCOTTE reviewed the major steps in the proposal process. In April, the board solicits proposals for consideration. Those received are posted on the BOF website, as well as mailed to approximately 2,800 people on the board's mailing list; including members of this legislative committee. The public review and comment period lasts for 3-6 months, with meetings scheduled from October to March. Following the board meetings, any new regulations get "packaged up" for a final review by the Department of Law (DOL), prior to being reviewed and signed by the Lieutenant Governor. New regulations are effective 30-days following the Lieutenant Governor's approval. Mr. Marcotte pointed out that, for expediency, regulations may be developed under the board's "emergency action authority," however, regulations created by this authority are not permanent. He described how the board addresses issues for the different fisheries, and geographic areas of the state, on a rotating, three-year basis.

[8:16:03 AM](#)

MR. MARCOTTE directed the committee's attention to the sample proposal form on slide 7 [page 4], and noted that proposals are received in a variety of formats, however each proposal must provide: 1) a description of the issue or problem; and 2) what the responder would like to see in the regulations. The board recognizes that most of the fisheries are "fully allocated"; therefore, a proposal will include a response to the question: "If the proposal is adopted, who would likely benefit and who would likely suffer?"

[8:16:55 AM](#)

MR. MARCOTTE referenced slide 8 [page 4], and explained the pie chart: slightly more than half of the proposals are received from the public with the remainder are received from local fish and game advisory committees, groups and associations, federal regional advisory councils, village councils, the boards itself, and ADF&G.

[8:17:39 AM](#)

MR. MARCOTTE described the typical agenda for a board meeting beginning with introductions, ethics disclosures and staff reports. The oral public testimony typically takes up the bulk of the meeting with each member of the public awarded five minutes, and advisory committee members allowed 15 minutes. The aspect of the meeting divides the board into committees, or

"break out groups," to deliberate the various proposals with members of the public and advisory boards. For "detail-specific" issues, the "break-out" committees may come up with a solution, which goes back to the full board as a recommendation. For larger policy issues, the committee process helps to identify the scope of the issues prior to the full board discussion that follows. Afterwards, the meetings are summarized and posted on the board website.

[8:19:56 AM](#)

REPRESENTATIVE WILSON commented that during the ethics disclosure aspect of the meeting, some of the board members must excuse themselves, despite their knowledge of the issue under discussion. They then become part of the public delegation and are restricted, despite their expertise, to 5 minutes of testimony. She opined that, although there may be a reason for these members to abstain from voting on a given topic, it may be important for them to be included for discussion purposes.

MR. MARCOTTE explained that a slide would be forth coming which would provide a response to the conflict issue; pertinent to HB 15.

[8:21:23 AM](#)

MR. MARCOTTE continued with slide 10 [page 5], indicating that about one-third of the proposals are adopted as submitted, while others are adopted after amendment. Some proposals may fail, or action on them may be deferred until a future meeting. In response to a question from Chair Seaton, Mr. Marcotte stated that some deferred proposals are considered at the final meeting for the year, which occurs in March, while others are taken up as part of the 3 year cycle agenda. He referenced 3 proposals from the most recent Bristol Bay meeting, which the board felt were unique "restructuring proposals," requiring additional information. These proposals will be on the agenda again, in the next Bristol Bay cycle.

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MR. MARCOTTE stated that 68 local fish and game advisory committees generating topics for review. The joint advisory committee will have its annual meeting in October, 2007. These committees are made up of "local experts" who volunteer their time. Each advisory committee focuses on its regional or local issues, however, when the issues are brought to the BOF, a

"state-wide view" is imposed, and legal aspects are considered. In this process, he noted that, "often local concerns move forward, sometimes they don't." The state provides 4 seasonal support staff for the 1,000 members of the local advisory groups. Responding to Chair Seaton, he confirmed that prior to the early 1990's there existed a state-sponsored regional council system, whereby the chairs of each of the individual committees met to identify common issues. Although this was helpful, due to the expansion of federal subsistence interest, which provides 10 regional advisory councils (RACs), the state councils were curtailed. He affirmed the Chair's observation that these RACs do not look directly at non-subsistence uses.

[8:28:25 AM](#)

MR. MARCOTTE used the chart on slide 13 [page 7], to illustrate the number of proposals and the amount of oral and written testimony that was considered at the BOF meetings in January and December 2006. He explained that input comes from many state and federal agencies including: ADF&G, DOL, Commercial Fisheries Entry Commission (CFEC), Alaska Bureau of Wildlife Enforcement (ABWE)/Department of Public Safety (DPS), North Pacific Fishery Management Council (NPFMC), and the Office of Subsistence Management. He added that the BOF also holds periodic meetings with the NPFMC.

MR. MARCOTTE reviewed the legal and policy directives which the board must consider when deliberating decisions. This includes the "sustained yield principle," which is "anchored into the Alaska Constitution." A unique provision, it is instrumental in Alaska's fisheries management, and "has a unifying effect [as] it's one of the things that different fishing groups can all agree on; the value of sustained yield." In addition to the Alaska Constitution, there are a number of statutes that govern the boards operations, including the Board of Fishery Authority, Alaska Administrative Procedures Act, Open Meetings Act, and the Executive Branch Ethics Act.

[8:32:52 AM](#)

MR. MARCOTTE directed the committee's attention to the packet handout titled Summary of Board of Fisheries Vote Abstentions (2001-2006); briefly referred to as "conflicting out." The summary establishes that on a six year cycle, this action occurs about 10 percent of the time, on any given issue. Conflicts may arise depending on the meeting cycle, as a board member may only have a conflict in a given area.

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REPRESENTATIVE WILSON opined that, regardless of the region, many times the person with the most information on a situation/subject is unable to provide detailed input due to the requirement to conflict out. Although she agreed that abstinence from voting may be prudent, she stressed her concern for having a person with expertise on an issue, be limited to testifying as a member of the public; a 5 minute limit. She underscored that this is unfortunate, and asked which group, subsistence vs. sports fishing vs. commercial fisheries, is most effected by this requirement.

MR. MARCOTTE responded that conflicts generally occur where "there is an economic consideration", so it rarely shows up in subsistence issues.

REPRESENTATIVE WILSON stated that, regardless of the interest group being effected, the issue remains that the people with the most knowledge are not necessarily being allowed to participate fully, at the in-depth discussion level. She stressed that the decision makers should have "all the information at hand that is possible."

8:38:03 AM

CHAIR SEATON noted that there will be a bill before the committee regarding conflicting out. Also, he referenced legislative attempts to include the subsistence economy as an economic base; yet it appears that the board excludes the subsistence economy from the base and does not consider it a reason for a board member to conflict out.

MR. MARCOTTE confirmed Chair Seaton's understanding, but stated that at the board level, the Department of Law's recommendations are followed, which indicate that a conflict requires a "more direct or tangible" economic interest.

CHAIR SEATON requested that for future discussion Mr. Marcotte get an opinion from the Department of Law as "to how we are taking the subsistence economy and excluding it" from conflict of interest determinations.

8:40:27 AM

MR. MARCOTTE noted that the board must follow criteria governing allocation as found in AS 16.05. Other key statutes for the board are those governing management of wild and enhanced stocks, and subsistence. In addition to statutory criteria considered during the decision process, the board must also take into account the regulatory guidelines for policies governing the: Sustainable Salmon Fisheries; Escapement Goals; Mixed Stock Salmon Fisheries; and Emerging Fisheries.

[8:42:37 AM](#)

MR. MARCOTTE, explained slide 22 [page 11] and how a BOF agenda item may be rescheduled. This allows the public, ADF&G, or the board to identify action items which cannot wait until the next 3 year cycle. He fully described the time lines and procedures for rescheduling an issue. In response to a question he confirmed that any regional issue can be brought to the agenda out of cycle. Furthermore, there are emergency petition procedures for unforeseeable events, such as a regulatory or biological change. Subsistence items are also allowed an expedited review.

[8:44:59 AM](#)

MR. MARCOTTE reviewed some of the recent board actions, starting with the development of the Chignik [Cooperative] Fishery. The board revised some regulations, an action which was challenged in court. The state lost in court; as a result the Chignik cooperative to a limited entry fishery. In contrast, the state prevailed in a lawsuit which challenged board Proposal 52, that closed some commercial fishing openings at the mouth of the Copper River. Mr. Marcotte opined that the main reason the state prevailed in this lawsuit was because the board "did address the subsistence needs," and the court took this into consideration in upholding the board action. Mr. Marcotte reviewed the "complicated issue" of Chinook salmon allocation in Southeast, after a year-long process, the board adopted an abundance-based management plan for Taku River Chinook salmon in January 2006.

[8:47:27 AM](#)

MR. MARCOTTE summarized by noting that the board follows a structured, predictable process with a high level of public participation. The board strives to uphold the credibility of its public process.

8:47:58 AM

REPRESENTATIVE EDGMON, inquired how adequate the current funding level is, considering the high level of public participation requiring the board to "get out to where the constituents are."

MR. MARCOTTE replied that the current funding level appears adequate, but noted that budget cuts would "compromise the program." For example, he said, a previous budget cut resulted in the local fish and game advisory committees not on the road system to meet only once a year, due to travel costs. This caused their meeting schedule to fall below regulatory standards. Although the road system local committees can meet at virtually anytime, it was not possible to maintain a viable advisory committee system in the remote areas given the costs involved. Legislative funding increases, in the last two years, have provided each locale the ability to hold two advisory committee meetings a year. Another cost saving measure forced the board to meet only in the urban centers: Fairbanks, Anchorage, and Juneau. The increment increase has allowed the board to once again meet in the regional centers: Ketchikan, Dillingham, Homer, and Kodiak. Additionally, he noted, that four regional coordinators are funded for 10 months each year. Located in Fairbanks, Anchorage, Dillingham, and Kotzebue these biologists provide support to the regional advisory committees. Prior to budget cuts, a fifth coordinator position was located in Bethel, but has not been recouped. The other coordinators afford some support to the Bethel regional committees, but it remains a compromised situation.

8:51:49 AM

CHAIR SEATON asked whether there are any policy problems that hinder the board when proposals are received which require coordination with NPFMC for issues of 0-3 miles, as well as 3-200 miles, offshore. He asked to have the process explained.

MR. MARCOTTE stated that the process is new to him, however, the coordination works well and both bodies recognize each other's roles in managing the fisheries. He opined, "In general very excellent coordination." To Chair Seaton's follow-up, he responded that he is not aware of any board actions or regulatory implementation delays due to the need to coordinate with the federal fisheries meeting agenda cycle, or pending joint board and council meetings.

8:53:46 AM

CHAIR SEATON recalled an override closure provision whereby local committees could act to close a harvest area based on local knowledge, or assessment of an emergency. He asked whether this is still in place.

MR. MARCOTTE replied that, although this provision is in place, it has proven to be cumbersome and unwieldy due to the requirement to obtain concurrence from all the other advisory committees in the "areas of jurisdiction." Therefore it has not been used successfully in the last 10 years. Usually, he opined, if there is a management crisis in an area, ADF&G and BOF are "on top of that." In further response he stated that the override authority is a regulatory proviso.

[8:55:37 AM](#)

CHAIR SEATON referred to the difference between the allocation and management decision process employed by the board. Using the example of the "windows [closures] in Cook Inlet", having no relationship to the actual run timing of the fish, he asked:

Is the board addressing that problem [mandated closures], and at what level do these management plans go away from allocation and actually become management decisions ....

MR. MARCOTTE noted that many fisheries are managed around plans, which establish "some basic guiding ideas, maybe a target allocation between user groups," to give ADF&G in-season management tools; affecting gear restrictions, or emergency closures. He observed, "The department in general is very nervous about making allocative decisions;" preferring that the management plans deal with allocative aspects. Regarding the Cook Inlet example, Mr. Marcotte pointed out that there are several management plans, which have "some internal inconsistencies among them." Currently a draft summary is posted on the board's web site, soliciting public comments to identify the issues for the board meeting in April, 2007.

CHAIR SEATON cautioned that issues can arise if management plans become too specific. These concerns of this regard, are often brought to the attention of this committee by constituents. He posed a question for the BOF:

We [the committee] would like to ... look at that balance of where does a management plan become the

actual in-season management, and [thus] restrict or take away the authority of the Commissioner to manage the fishery for the biological parameters that the board has outlined.

[9:00:10 AM](#)

REPRESENTATIVE HOLMES asked for an update on the 2006 salmon industry restructuring recommendations, as set forth in the committee handout.

MR. MARCOTTE explained that the board worked with the legislature to establish a Commercial Salmon Industry Restructuring workgroup. Out of that workgroup came the recommendations contained in the committee packet titled Report and Recommendations to Alaska State Legislature, February 2006. Some proposals request making "fundamental changes in how a fishery operates." The board adopted the plan, but "how the board ... works with this is - we're in a little bit of new waters on it." There is a list of 11 questions for public input regarding fishery restructuring efforts, and the board can look at the "economic dimensions of changes on those fisheries." The board expects to determine which proposals can be characterized as restructuring proposals. The next step will be to "get back to the proposer's, ... ask for more information, and encourage them to bring a more complete analysis back to the board." Mr. Marcotte noted that much of the economic analysis, some of which is quite complex, will "fall to the stakeholder groups" because ADF&G does not have the capacity to complete an in-house economic analysis. The sole ADF&G economist is largely assigned to federal, not state, managed fisheries.

[9:03:58 AM](#)

The committee took a brief at ease from [9:04:29 AM](#) to [9:09:58 AM](#).

OVERVIEW: NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL

[9:09:58 AM](#)

CHAIR SEATON announced that the next order of business would be a presentation by the North Pacific Fishery Management Council.

STEPHANIE MADSEN, Chair, North Pacific Fishery Management Council (NPFMC), provided a brief history of the council. Established 30 years ago, it is guided by the Magnusson-Stevens

Act, and is one of 8 regional management councils. Ms. Madsen directed the committee's attention to the booklet titled Celebrating 30 Years of Sustainable Fisheries, which provides information on the history of the council. Of the NPFMC 11 voting members, 6 are from Alaska, 3 are from Washington State, 1 is from Oregon, and 1 is from the National Marine Fisheries Service (NMFS). Representatives from other state and federal agencies sit at the council table and are allowed to make motions, but are not voting members.

[9:12:49 AM](#)

MS. MADSEN explained that the council appoints 20 members to an Advisory Panel (AP). Appointments to the AP are pro-rated to reflect the makeup of the council. There is also a Science and Statistical Committee (SSC) that is appointed by the council. All issues go before both the AP and the SSC, and public comment is taken. For each agenda item, reports are received by the council from the staff, the AP and the SSC. The council then takes public comment. She reported that this results in a transparent, although slow process, and stressed that the council complies with various acts and executive orders. Being appointed by the governor, each council member takes a federal oath of service. Furthermore, she said that council members are required to file annual disclosure statements of financial interests related to fisheries issues that come before the council. Additionally, the National Oceanic and Atmospheric Administration General Counsel (NOAAGC), occupies a seat on the NPFMC and reviews the disclosure statements relative to the actions before the council. The NOAAGC notifies any council members if it appears there is a conflict of interest. If a conflict of interest exists, the member is precluded from all activities, and to testify they must go to the "other side of the table." In response to a question, she stated that the threshold for a conflict of interest is considered to be control of 10 percent of a fishery. In addition to financial interests, council members must disclose if they are employed by an interest or advocacy group.

[9:16:59 AM](#)

CHAIR SEATON asked whether there is a discernment between conflicts effecting voting, and conflicts which would prohibit a member from reporting.

CHRIS OLIVER, Executive Director, North Pacific Fishery Management Council (NPFMC) clarified that "the 10 percent rule"

dictates whether a council member can vote or not, whereas disclosure of a member's association with a group is simply a reporting rule.

[9:17:32 AM](#)

MS. MADSEN noted that the council schedules 5 meetings a year, with 3 held in Alaska. Furthermore, the NPFMC and the state Board of Fisheries (BOF) coordinate on proposals through an ad hoc joint protocol committee. The council and the BOF meet annually "as two complete bodies" to increase communication. These efforts to communicate seem to be working, although there have been some "rough spots" in the past.

MR. OLIVER added that despite communication efforts between the council and the BOF, delays in some BOF actions did occur in regard to the issues relating to the Steller Sea Lion.

[9:21:04 AM](#)

CHAIR SEATON reminded the committee that these overviews are to help the new members understand the various agencies. He encouraged the committee members to attend the BOF and NPFMC meetings, to enrich their understanding of the process and the complexities involved.

[9:22:16 AM](#)

MS. MADSEN stated that of the council's five fisheries management plans (FMPs), 3 of them "pretty much" defer management to Alaska, although the council retains some management authority, such as allocation or license issues. The 3 that are deferred pertain to salmon, crab, and scallop management. The other two FMP's cover Bering Sea/Aleutian Islands (BSAI), and Gulf of Alaska (GOA) groundfish.

[9:24:06 AM](#)

CHAIR SEATON said that despite the 5 FMPs in use, there has been a question of whether an additional FMP is needed for the Arctic-Beaufort Sea/Chukchi Sea areas. He asked if this leaves an opportunity for a "Mr. Big ... situation where we have people going out without any control from the state or the [federal government]."

MS. MADSEN replied that a discussion paper has been initiated to review the management of the Arctic waters, and to consider an additional FMP for that area. She reminded the committee:

If the council does not exercise its authority [an issue] defers to the state, but if the state is not set up to regulate that fishery it does not have authority either. ... Mr. Big ... was a scalloper that came from the East Coast. We [NPFMC] did not, at the time, have a scallop fisheries management plan. The state was managing that fishery, but outside 3 [miles] the state didn't have the authority to require that vessel to register. ... [Mr. Big] stayed outside 3 [miles] and fished unconstrained.

To prevent Mr. Big from having uncontrolled access to this fishery, the council had to shut down all scallop fisheries while it developed an appropriate FMP; a process that took nearly two years. Additional reasons that an Arctic FMP is being considered include climate changes, and the northward migration of certain species.

[9:26:48 AM](#)

MR. OLIVER briefly reviewed the BSAI Crab Rationalization Plan. This is a controversial plan with six main issues: 1) Tracking consolidation with potential revision to vessel use caps; 2) Magnuson-Stevens Act (MSA) reauthorization included a provision exempting custom processing in the North region (Pribilof) from processing share use caps to improve efficiency in processing; 3) Council is considering a similar amendment exempting custom processing in the Western Aleutians from processing share use caps; 4) 18 month review to examine arbitration and potential application of share splits; 5) Three year review will examine program comprehensively; and 6) Dispute over potential exemption from St. George landing requirement.

CHAIR SEATON expressed concern about community impacts, such as "processors buying out other processors and being able to move a quota out of the community where it [originated]."

MS. MADSEN replied that there is a "2-year stand-down," so no transfers are allowed until "things kind of settle out." Additionally, processing caps limit a single processors to no more than 30 percent of the quota. This limitation is to help assure that "there are ultimately always so many processors available."

MR. OLIVER added that regionalization landing requirements will maintain some level of processing in certain geographic regions. Within the regions, buy-outs may occur and some communities may be impacted. However, he stated that the 3 year retrospective will identify these issues.

[9:31:44 AM](#)

CHAIR SEATON underscored that this is a concern being shared with the committee regarding the crab rationalization. Additionally, he inquired about access to the NPFMC web site for further information and updates on these issues; to which he received assurance from Ms. Madsen that the NPFMC is "friendly" and kept current.

[9:32:52 AM](#)

MR. OLIVER established that the GOA Groundfish Rationalization Plan has been an issue for a number of years. The Steller sea lion closures had serious impacts to a number of the GOA fisheries. He opined that this rationalization plan has proven more complicated than in areas farther north due to the nature of the fishery, and the various vessel and gear types involved. A number of alternatives are being considered, including options on imposing individual fishery quotas (IFQs). However, due to the pending assessment of the Magnuson-Stevens Act, at the Governor's request, this plan is currently "on hold." The council is considering interim measures in lieu of the larger rationalization plan including, 1) a possible pacific cod sector split, and 2) license limitation program (LLP) revisions in the Gulf.

MS. MADSEN interjected that all of the fisheries, save for the jig fishery, have been under an LLP that was approved by the council in 1995-2000, establishing a barrier to entry. This will assist the council when considering removal of latent LLPs. In response to Chair Seaton, she said that this relates to the license only not the size of the vessel.

[9:36:45 AM](#)

MS. MADSEN directed the committee's attention to page 3, of the NPFMC Major Issues Summary handout, and highlighted the Salmon Bycatch efforts. She explained how the council has governed the bycatch via a series of management actions. Despite the management triggers and restrictions in place for the commercial

fleet, she said, "the salmon don't know that they are supposed to stay inside [of a certain] area when we kick the fleet out." Additionally, the salmon return count, location, and timing are difficult to predict despite management efforts.

[9:37:43 AM](#)

MR. OLIVER referred to the handout, page 4, and paraphrased how the council has been, and plans to, address this difficult situation [original punctuation provided]:

- Amendment 84 approved to exempt pollock fleet from regulatory closures pending participation in a voluntary rolling hotspot(VRHS) system.
- VRHS system: Vessels with high bycatch rates are subject to weekly closures (ranging 4-7 days) with financial penalties imposed for non-compliance.
- Formal implementation by the end of 2007 (currently EFP).
- Additional management measures under consideration include new closures and biomass-based caps.
- Alternatives for new closures and caps being refined for analysis in February/April 2007 with analysis anticipated for 2007.
- Alternatives and analysis for individual bycatch quotas (IBQs) in 2008/2009.
- Workshop at Science and Statistical Committee (SSC) on salmon bycatch in April 2007. Focus on salmon bycatch patterns, fleet behavior in response to VRHS closures and genetic information on salmon stock of origin.

[9:39:04 AM](#)

MR. OLIVER pointed out that, 2 years ago, the council eliminated the existing salmon closure areas because they proved to be counter productive in terms of fleet management. This brought the VRHS system into use, which is still under review. Permanent closure areas will be re-established following the review. He said that the SSC will include a report on updated genetic information to provide important stream of origin data. In summary, the high bycatch numbers are difficult to manage but do indicate an abundance of stock.

9:40:07 AM

MS. MADSEN noted that there are industry efforts to create salmon excluder devices, which will be afforded presentation time at the upcoming BOF meeting. Responding to a question from Chair Seaton, she stated that the bycatch fishery is primarily an issue with the Bering Sea troll fishery, however, some bycatch issues are occurring in the GOA troll fishery, as well.

9:41:04 AM

MS. MADSEN stated that halibut are an exception to the NPFMC 3-200 mile management authority. Being an international identified species, halibut are governed by three entities: the International Pacific Halibut Act (IPHA), the International Pacific Halibut Commission (IPHC), and NPFMC, which for this purpose governs the waters from 0-200 miles offshore. The charter limit issue is huge, she noted. The IPHC takes a leadership role in governing the health of the resource and abundance for catch purposes. Historically, once these determinations were made the allocation authorization was handled by NPFMC. Ms. Madsen acknowledged that the commercial interest is concerned about the erosion of their quota by the sport charter harvest. This issue is of primary concern in section [Area] 2C [Southeast]; 3A [GOA] has a growing concern but it has not achieved the proportions of 2C.

9:43:13 AM

MR. OLIVER explained that "a few years ago" the council adopted a guideline harvest level for the charter fishery. At the time, the limit was 125 percent of "what that current level was, to allow for some growth." He reported that the target has been exceeded the last couple of years, significantly in Area 2C, by as much as 40+ percent, thus pressure has been brought to bear on the council, and the other halibut governing agencies, to address the situation. The NPFMC has a guideline harvest level (GHL) trigger that, when reached, initiates actions to keep the catch within that level. This is a three prong action: 1) impose a moratorium on entry into the charter fishery, and the upcoming April meeting will address this aspect; 2) implement proposed measures which may include: 1) 1 trip per vessel per day, 2) no retention of halibut catch by skippers and crews, 3) annual catch limits of 4 or 5 halibut, 4) 1 fish bag limit for June, July, August, or entire season, 5) trophy size limit for second fish between 45 to 60 inches, 6) season closure date of August 15, August 31, or September 15, 7) day of the week

closure, 8) and/or minimum size limit of 32 inches. The earliest these measures could be implemented by the council is 2008. To bring the GHL into line for the 2007 season, the IPHC has stepped in to impose a 1 fish bag limit. This action is still under approval in Washington D.C. The NPFMC will continue with the third aspect of its three prong approach, which is to develop options for a share-based program, either client-days or quota shares, and to include some integration of management plans, for the long term.

9:46:08 AM

MS. MADSEN noted that although the NPFMC would like to respond in a timelier manner, the council is required to follow the administrative procedure act (APA), which "takes us some time." Because of the delay that these federal procedures create, the state is considering a request for congressional authority to be delegated to the BOF for limited scope management of halibut charter operations. The board has the capability of acting on a tighter time schedule and imposing in-season restrictions. An authority delegation of this nature would take time to establish, but it would provide a long term option.

9:48:05 AM

REPRESENTATIVE HOLMES inquired how the council determines charter vs. commercial allocations.

MS. MADSEN explained that, the guidelines were established based on the 1998-99 halibut charter industry removal statistics and then applying 125 percent. A fixed fish count was set, which did not "float" with abundance, up or down. Due to the growth of the tourism trade, and other stakeholders concerns, the council has been asked to revisit this decision.

CHAIR SEATON clarified that the GHL was based on poundage, not a percentage, of the total allowable catch. He asked how the allowable catch has varied since the GHL was set, and what proportion of the halibut harvest the charter catch poundage now represents.

MR. OLIVER restated the basis for the charter limit, and elaborated further that the quotas for halibut, since that decision was made, have trended upwards. Because of past quota increases, the charter figure has equated to a smaller percentage of the overall total. However, this year in Area 2C, the quota was decreased, causing the charter percentage amount

to increase, raising the question of whether the charter catch should be a fixed amount, or if it should float with the catch quota.

[9:51:26 AM](#)

CHAIR SEATON addressed the Pacific Cod Plan in conjunction with the bycatch issue in the GOA. He stated:

When they [NPFMC] did the statewide ... Pacific Cod plan where it moved up to 25 percent of the harvest from high 5 catch, troll, and long line fisheries to pot fisheries; we saved about 1.5 million pounds a year. ... That [catch percentage] was not taken off and redirected to the directed fishery ... it was just reallocated to further troll fisheries ... in the Gulf of Alaska.

[9:52:17 AM](#)

MS. MADSEN responded:

It was taken off the top ... so that also represented a decline to pot fishermen in the federal fisheries. It wasn't specifically targeted. That 25 percent didn't specifically come out of a troll and long line [fishery], it came off the top. We do have a federal pot fishery. The state guideline harvest comes off the top. ... The halibut ... [are] a prohibited species not a bycatch. ... There's a cap and it shuts down fisheries when it gets hit. ... It's a fixed number and it has not increased. The difficulty ... is you might be able to save it in the Bering Sea but that doesn't really help out the biomass of halibut in 2C or 3A. Your question about savings of halibut because of the ... 25 percent that went into the state waters, why wasn't there a savings in the halibut Protected Species Cap (PSC) ...

[9:53:21 AM](#)

CHAIR SEATON continued to describe effects which this federal management has had on the state managed fishery. He asked whether the council might consider reducing the halibut PSC and therefore provide some buffer to the charter usage, "in other words, making more available to all the directed fisheries."

MS. MADSEN responded:

Not on its own, ... we have had people wanting us to look more specifically at the PSC[s] ... both in crab and halibut. I think it definitely was a component as we moved towards a rationalization where the industry has tools to better manage its harvest. Reductions in bycatch and PSC are always, always part of those plans. But it is difficult when the industry doesn't have the ability to manage its fishery ....

MS. MADSEN directed attention to the committee handout, page 8, which outlines action being taken by the council to provide an Aleutian Islands Fishery Ecosystem Plan, and the Arctic Ocean Fishery Management Plan Initiative. She underscored that these are proactive measures being taken by the council. It is this type of work, she opined, that has caused the NPFMC to be held as a model around the United States for the Magnusson-Stevens Act, and the United States Commission on Ocean Policy (USCOPS). Additionally, she drew attention to pay 7, bulleting the Alaska Marine Ecosystem Forum work that is being addressed by the council.

[9:57:07 AM](#)

MR. OLIVER stated that the Steller Sea Lion (SSL) protection measures are complicated due to the Endangered Species Act (ESA), and the designation of critical habitat. Since being identified in 2001 under these designations, a comprehensive rearrangement of the fisheries throughout the Gulf, Bering Sea, and the Aleutian Chain has occurred. State involvement is called for and has been brought to bear. However, he stressed the need for the BOF and NMFS to work closely with NPFMC to avoid major conflicts. It is a difficult process, and the council is working to avoid the "domino effect" that can easily occur, when there are changes in the state water fisheries.

[10:00:44 AM](#)

CHAIR SEATON inquired whether the Kachemak Bay sea otter die off will become a council issue.

MS. MADSEN pointed out that the sea otters are under the jurisdiction of the United States Fish and Wildlife Service (USFWS). A representative of USFWS sits on the council to provide updates and opinions. Fisheries interaction or prey dependency is not cause for the sea otter decline, hence,

fishery restrictions will not have to be considered on the potential listing of the sea otters.

MR. OLIVER added that there has been a 90 percent decrease in the sea otter population in the Aleutians, primarily attributed to Orca whale predation.

CHAIR SEATON stated that the sea otter populations in Kachemak Bay suffer from a viral heart valve problem.

[10:03:07 AM](#)

MS. MADSEN introduced the vessel monitoring system (VMS), and explained how these devices are being utilized, and how they have become a mandatory piece of equipment in some areas. The trend is for all vessels to have these devices on board and to be monitored. Exemptions are available for vessels that may only be traveling through an economic exclusive zone (EEZ). The council is working with constituents in the use of these devices.

MR. OLIVER added that establishing the "who" and "where" of the use of a VMS, will be an action item on the agenda of the council's June meeting.

[10:06:36 AM](#)

REPRESENTATIVE JOHANSEN stated that the bycatch issue is of major concern in his district, and he requested the council's attention in that area, on behalf of his constituents.

MS. MADSEN pointed out that bycatch of prohibited vs. additional species mean very different things. Also, bycatch is more critical in some fisheries than in others. She noted that the council uses Amendment 79, as one management tool for bycatch.

[10:09:47 AM](#)

MR. OLIVER elaborated on the litigation issues of Amendment 79, which will be resolved and brought into effect in 2008, pending approval by the United States Secretary of Commerce. Amendment 80 is also pending Secretarial approval, and he explained how the bycatch reduction is addressed in this amendment. Responding to a question from Chair Seaton, he answered that it is a total reduction in the PSC for the troll fleet.

[10:11:58 AM](#)

CHAIR SEATON announced that, having attended the Pacific State Task Force on Fisheries, a report on the issues will be forthcoming from his office.

[10:12:42 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at [10:12:47 AM](#).