



MEMORANDUM

To: Phil Zavadil, City Manager

Cc: Jacob Mercurief, Mayor

From: Mateo Paz-Soldan, MPStrategies LLC

Date: February 19, 2024

Re: Results of February 2024 NPFMC Meeting

The following is a summary of the fishery issues of interest to Saint Paul that took place at the February 2024 meeting of the North Pacific Fishery Management Council (NPFMC or Council) in Seattle. Saint Paul representatives physically present at the meetings included Heather McCarty for CBSFA, John Wayne Melovidov and Lauren Divine for the St. Paul Tribe and myself for the City of Saint Paul (the Team).

The link to the NPFMC newsletter covering the meeting is included:

<https://www.npfmc.org/february-2024-newsletter/>

1. **Meeting with Alaska Department of Fish & Game regarding Crab Spend Plan:**

During the Council meeting, City and CBSFA representatives met with ADF&G representatives to discuss the NPFMC agenda and the State's position on various topics. Saint Paul thanked ADF&G for the Final Crab Spend Plan which includes a 1% set aside for Saint Paul and taking the community allocation of 5% off the top, thereby increasing the dollar amount destined to communities.

Saint Paul inquired about the status of the latest disaster request filed by the State on January 5th, 2024, for the 2023-24 Snow Crab season. The State indicated that there had been no response from the Secretary of Commerce as of yet. Saint Paul also inquired about the status of the draft Final Spend Plan filed on January 11, 2024. The State responded that as of yet there had been no response from NMFS or OMB about the State's proposed allocation plan.

2. **Crab Rationalization Program Review:**

The Council has scheduled a review of the Crab Rationalization Program for the June 2024 meeting in Kodiak, Alaska. It is possible that during, or as a result of, this review actions will be proposed at the meeting to amend or update various components of the program.

Chief among these will be the Binding Arbitration Formula between harvesters and processors, as well as the program's regionalization components. Concerning the first topic, processors are interested in adjusting the factors to be considered in the formula to include rising labor costs. As currently structured, the formula skews favorably to the harvesting sector and makes it difficult

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for the processing sector to operate profitably. This is an issue that directly affects CBSFA. Moreover, given its relationship with CBSFA as well as with Trident, this is an issue that affects the City as well.

Regarding regionalization, there will be an effort by harvesters and processors to at a minimum make regionalization “more flexible”, meaning to allow its requirements to be “relaxed” during low crab TAC years. This is something that may make economic sense, since there may not be enough crab TAC to justify firing up processing plants in both northern and southern regions. Moreover, politically it may be difficult for Saint Paul to resist this effort and prevent it from happening. Harvesters will be inclined to eliminate regionalization requirements. Processors may be willing to protect them, as long as the crab quotas and seasons allow these requirements to be economically viable.

At the October 2023 meeting, I had testified on behalf of the City on the draft Crab Program Review and had identified several issues with the workplan that needed reconsideration including the need for a Social Impact Assessment (SIA), consistent with SIAs developed for the 3 Year, 5 Year, and 10 Year reviews. I had also recommended that whether the workplan had an SIA or not, information modeled on the Halibut ABM SIA should be included, such as: 1) references up front to the legal standards, executive orders, and policies relevant to underserved Alaska Native and minority communities; and 2) information regarding the tribal, CDQ, ANCSA affiliation of the relevant crab dependent communities. This would ensure that the Council would have all the tools necessary to weigh the relevant national standards and other legal guidance in actions that might arise in the future to amend the Crab Program. The Council agreed.

In addition, I had noted that the organization of the workplan was flawed. The Crab Program was structured as a three legged stool, three pie, program among harvesters, processors and communities. I pointed out that there wasn't a community section in the draft, that included the elements that communities got out of the deal, namely: regionalization; increased CDQ crab percentage from 7.5% to 10%; ROFRs; and Cooling Off Periods. I argued that it was important to present these community provisions in an organized manner in order to measure whether the original objectives set out in the program's purpose and needs statement as to communities were met by the tools that were created for them. This work will also be important going forward in protecting regionalization as being responsive to NS4 and NS8, as well as considering whether new community protection tools are necessary.

The Council agreed with these major observations, but had resisted developing a separate full-fledged SIA and hiring the analyst necessary to do it. The good news is that since the October meeting, the Council has agreed to hire an analyst and to develop a SIA-like section.

Pursuant to the City and CBSFA's requests, I had also consulted with Council staff about the possibility of postponing consideration of this action item till the Fall of 2024, since June is a month during which fishermen on Saint Paul are engaged fully in the halibut fishery. After several conversations, Council staff indicated that given the busy schedule, if June wasn't used, the review wouldn't come back until at least April 2025. Given that this would be almost a year later, and upon consultation with the City and CBSFA, we agreed to maintain the June 2024 schedule.

3. **Bristol Bay Red King Crab:**

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The Council reviewed an initial EA/RIR that included action alternatives for closing areas important to the BBR stock in the Bering Sea. The closures would affect certain groundfish gears on a calendar-year basis in order to reduce BBR mortality and promote the optimum yield from this fishery.

The alternatives included annual closures of the BBR Savings Area to pelagic and non-pelagic gears, as well as pot and HAL gears, Alternative 2, and closure of Area 512 to cod pot fishing in years when a triggering mechanism is hit. This action intersected with another Council action seeking clarification of the definition of pelagic trawl gears, see 4 below.

CBSFA submitted written comments on the matter, and the City, CBSFA, and the Tribe testified on the matter before the AP and the Council, see **BBRKC 2-24 Testimony**, attached. The City also spoke with SSC representatives regarding the community impacts section of the EA/RIR which did NOT include an analysis of the crab dependent communities that would benefit from the conservation benefits of actions taken on the proposed alternatives. There was considerable public testimony both from the sectors advocating for BBR protections and the trawl sectors opposed to further restrictions.

Surprisingly, given the poor condition of the BBR stocks, the repeated efforts by crab dependent stakeholders including requests for emergency action to protect the BBR habitat and stocks, and the large amount of public testimony, the Council decided to take no further action, see Council BBRKC Motion 2-2024:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=569bb467-292b-4fb8-a596-29103afccbb8.pdf&fileName=C2%20Council%20Motion.pdf>

The Council made this determination due to uncertainty that any actions would benefit the BBR stocks, the potential for bycatch of other species such as chinook salmon and halibut, and the likelihood in its assessment that trawl and other gear sectors would be economically impacted.

Instead, the Council indicated that it planned to develop dynamic framework agreements based on inseason information and ongoing research projects for dynamic closures and crab avoidance measures for the BSAI trawl, pot and HAL sectors with measurable objectives to evaluate performance. The Council thus is signalling its support for stakeholder-led approaches to minimizing BBR bycatch and impacts on important habitat areas.

The Council also tasked staff with developing a discussion paper to inform options for incentivizing pelagic gear innovation with various objectives in mind including: bycatch minimization; minimizing pelagic trawl gear impacts on sensitive habitats; and gear innovation. After which, the Council will review options for changes to the performance standard. According to the Council newsletter, the scope of the discussion paper – as it relates to the regulatory definition of pelagic trawl gear – would include both the BSAI and the Gulf of Alaska.

4. **Pelagic Trawl Gear Definitions:**

At this meeting the Council reviewed a Discussion Paper it had requested in June 2023 directing NMFS, NPFMC, and NOAA Office of Legal Enforcement (OLE) to identify potential revisions

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to the regulatory definition of pelagic trawl gear. The Council subsequently adopted a purpose and need statement and alternatives for analysis that seek to clarify this definition, see:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=2347513a-f389-459d-86f0-b5fb1d49ddd2.pdf&fileName=D1%20Council%20Motion%20.pdf>

Potential changes related to the inclusion of the “codend” in the pelagic trawl gear definition are intended to align current regulations with the Council’s intent in defining pelagic trawl gear in 1993, and could result in improved regulatory compliance and achievement of Council objectives.

This topic generated much interest and public testimony at the Council over concerns that pelagic or mid-water trawling is actually touching the seafloor, potentially disturbing habitats and causing mortality. If so, the thinking goes, it should be considered non-pelagic or bottom trawling and should be subject to the same restrictions that apply to bottom trawlers.

Clarification of this definition by crab, halibut, and other directed fishery stakeholders, was considered important since it would potentially eliminate an important source of habitat disturbance and mortality. In addition, given Council inaction on habitat protection and bycatch reduction measures in the crab fisheries, success on the pelagic gear definition front could result in concrete benefits to the crab resource and dependent stakeholders.

5. **Programmatic Environmental Impact Statement:**

At this meeting, the Council adopted a motion slowing down the Programmatic Environmental Impact Statement (PEIS), which will be used to guide the Council’s Fishery Management Plans (FMPs), to provide more time for meaningful consultation opportunities the public and for Native tribes on the purpose and needs statement, and alternatives that the EIS should consider. Given the strict NEPA calendar once triggered by a Notice of Intent (NOI), the Council opted to provide for more pre-scoping time.

The plan going forward is for staff to report back to the Council at the April 2024 meeting with a plan for specific opportunities for engagement. The Council also encouraged formal tribal consultation between Alaska Native tribes and NMFS. Since the summer season is not an ideal time for consultations with tribes, staff was instructed to hold at least one engagement session prior to the start of the summer. The Council signalled its plans to issue a NOI in the Fall of 2024.

All for now.