

## MEMORANDUM

**To: Phil Zavadil, City Manager**

**Cc: Jacob Mercurief, Mayor**

**From: Mateo Paz-Soldan**

**Date: February 22, 2023**

**Re: Results of February 2023 NPFMC Meeting**

---

The following is a summary of the fishery issues of interest to Saint Paul that took place at the February 2023 meeting of North Pacific Fishery Management Council (NPFMC or Council). Saint Paul representatives physically present at the meetings included Heather McCarty for CBSFA and myself for the City of Saint Paul (the Team).

The link to the February 2023 NPFMC newsletter is attached below:

<https://www.npfmc.org/february-2023-newsletter/>

### **1. Meetings with Alaska Department of Fish & Game and NMFS:**

Ahead of the Council meeting, the Team met with ADF&G representatives and other Alaska stakeholders to discuss the State's and Saint Paul's respective positions on various NPFMC agenda items. Among the items discussed of interest to Saint Paul were:

- Final Action on the Snow Crab Rebuilding Plan;
- Removal of Crab Processor Use Caps in Southern Region;
- Action regarding Area 4 Halibut Vessel Use Caps;
- Possible use of the Essential Fish Habitat (EFH) 5 Year Review as a tool to protect habitat areas;
- Updating Programmatic EIS;
- Appointment of Tribal representative to new designated AP Seat; and
- Impacts of the changes to Section 312 fishery disaster determinations on Crab Spend Plans currently being developed.

### **2. Snow Crab Rebuilding Plan:**

Concerning the Snow Crab Rebuilding Plan, State representatives and stakeholders were in agreement regarding support for the Council's preferred Alternative 2, Option 2. This Alternative/Option provides for a directed fishery and associated benefits to crab dependent communities, if the health of the resource allows it and if it complies with the State's own Harvest Strategy.

The City provided oral comments in support of Alt 2, Option 2, before the AP and the Council, **(see attached, Snow Crab and Halibut Vessel Caps Testimony)** and supported CBSFA's written comments on the matter **(see CBSFA Comments attached)**. The Team also acknowledged efforts by Council staff to include information on relevant legal and statutory

# MPStrategies LLC

411 Windsor Lane  
Winchester, VA, 22602

guidance as to snow crab dependent Alaska Native populations and communities, as well as data regarding the levels of CDQ ownership/participation in this fishery.

In addition to incorporating the above objectives, the Council's Motion ended up including a 6 year rebuilding time frame, **see Council Motion on Snow Crab Rebuilding at:**

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=cdd350f-b151-4436-ac3b-a092ddaedf24.pdf&fileName=MOTION%20C1%20.pdf>

This 6 year target date was deemed consistent with the National Standard guidelines for overfished fisheries.

### **3. Action on Crab Processor Use Caps:**

The Council adopted a Purpose and Needs Statement (P&N Statement) and adopted alternatives to be reviewed that would waive processor use caps in the Western Aleutian Island Golden King Crab, Bristol Bay Red King Crab (BBRKC), and Bering Sea Snow Crab (BSS) fisheries. In the case of the later two fisheries, this would apply only to the Southern Region (the Northern Region already benefits from this ability) for custom processing purposes.

The need for this, as established in the P&N Statement, has been driven by the closure of the BBRKC and BSS fisheries in 2022-23 and the expectation that TACs for both of these fisheries will remain low or closed for the foreseeable future. In the event that small TAC fisheries are allowed, the ability to custom process the limited resource would prevent the resource from being stranded and would also benefit dependent fishermen, processors, and communities.

The Council's Motion on this matter is at:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=a2a77aa3-d4ab-4362-8c29-33ad8db40e1e.pdf&fileName=D1%20Council%20Motion.pdf>

One possible consequence of this action is that pressures will build to relax North-South regionalization requirements and consolidate limited processing capacity at one processing facility for the entire BSAI. This consolidation could take place at either the North (on Saint Paul) or in the South, depending on various considerations.

Since the Framework Agreement for Relief for Regional Landing Requirements contemplated natural or manmade events preventing delivery into a harbor as justifications for relaxing/exempting regional landing requirements, it could be argued that a new mechanism is needed. In the alternative, the parties involved could attempt to use this mechanism or amend it, to adapt it for intended usage in low crab TAC years. Regardless, this is an issue Saint Paul will need to monitor and remain engaged with going forward.

### **4. Area 4 Vessel Use Caps:**

The Council also took action on an item that is important to local halibut fishermen. Both CBSFA and the City provided testimony on this key matter to Saint Paul (see **Snow Crab and Halibut Vessel Caps Testimony**). In 2020, 2021, and 2022 the Council undertook Emergency Action to

# MPStrategies LLC

411 Windsor Lane  
Winchester, VA, 22602

waive halibut IFQ vessel use caps in the Bering Sea/Area 4 in order to respond to the COVID-19 Pandemic and prevent its further spread among crews and vulnerable communities.

In the interim, the loss of vessel capacity, changes in the demographics among fishermen, and the loss of processing capacity in communities like Saint Paul, have created a harvesting capacity problem requiring an extension of what were viewed in 2020 as temporary emergency measures.

At this meeting, the Council responded to these concerns by taking action to extend these interim measures for 5 years, through 2027, see **Council Motion on Area 4 Vessel Use Caps** at:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=e1a69a45-1e5f-46b7-a260-d5d0e98e1ed3.pdf&fileName=MOTION%20C3.pdf>

However, there has been opposition to a long-term extension of a blanket use cap waiver from halibut IFQ fishermen in other parts of Alaska, who are concerned about consolidation of harvesting capacity and the corresponding loss of associated economic activity in dependent communities. These concerns coincide with CBSFA's own goals and Saint Paul's longterm interest to protect and encourage the growth of the local halibut vessel fishing fleet.

As a result, the Council will be developing a longer-term action to provide the Area 4 halibut IFQ fishermen with the tools and flexibility necessary to respond to fluctuations in the fisheries and harvesting capacity, while protecting the fishery from overconsolidation and retaining the small boat fleets that are vital to the health of dependent communities. This action could include a series of thresholds and triggers at which vessel caps could be waived or their use limited depending on factors such as the size of the Bering Sea halibut FCEY, available harvesting and processing capacity, or a return of pandemic conditions.

The Council has not yet determined when it will start action on the longerterm fix, but Saint Paul and other halibut stakeholders have urged the process to begin this year, 2023, in order to give the Council, the public, and NMFS time to consider the action and develop and finalize a corresponding rulemaking package before the end of 2027.

## 5. **Essential Fish Habitat:**

The Council reviews EFH pursuant to statutory requirements every 5 years. At this meeting the Council adopted a Motion initiating an analysis to update EFH based on new information acquired over the last 5 years, see **Council EFH Motion** at:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=a4752cd4-157a-4df7-8427-fb01760bd900.pdf&fileName=C4%20Council%20Motion.pdf>

Various stakeholders including AFC and Saint Paul representatives explored the opportunity for making the EFH Review more substantive and possibly starting a process to identify and establish Habitat Areas of Particular Concern (HAPCs) for species of interest such as crab and halibut. The idea, furthermore, was to include LKTK and community input on sensitive habitats and onramps this into the Council EFH process in a meaningful way.

The AP Motion reflects this discussion and line of thinking, see **AP Motion on EFH** at:

# MPStrategies LLC

411 Windsor Lane  
Winchester, VA, 22602

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=b0faae6f-6627-4956-8a61-f3e06f6df5aa.pdf&fileName=C4%20AP%20Report.pdf>

At the Council level, the Team along with AFC representatives, met with the NMFS Regional Administrator and ADF&G representatives to explore potential use of the EFH tool as a mechanism for proposing habitat protections for crab and other species. It was clarified during the discussions that one of the main obstacles under EFH was the methodology/metrics used in measuring “adverse impacts” of more than 10% on a specific habitat area. This is due to the fact that under existing methodology these areas are “averaged out” together with areas that are less sensitive and impacted. As a result, effective use of EFH is constrained.

However, it was noted by NMFS representatives, and subsequently during discussion at the Council, that under existing rules nothing stops stakeholders from proposing HAPCs and putting them through the Council process for consideration. Stakeholders pointed out that previous efforts such as the Bering Sea canyons or the BBRKC Savings Area expansion had failed, even though there were a lot of merits with these proposals. Going forward stakeholders questioned whether using EFH was worth the effort as long as its methodology for determining “adverse impacts” remains unchanged and pointed out that if existing Council tools were ineffective at protecting habitats, stakeholders would be further encouraged to seek them outside the Council MSA process through tools such as the Sanctuary Act.

## **6. Programmatic Environmental Impact Statement (PEIS):**

At this meeting, the Council initiated a process for considering updates to its programmatic EIS policy objectives to include ecosystem and management changes that have occurred since the last review which took place about 18 years ago, see **Council PEIS Motion** at:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=109ccadf-6cba-4f37-a22d-22a5abccfd5b.pdf&fileName=D2%20Council%20Motion.pdf>

It has been indicated that this review is being conducted in part in response to a threat of litigation by environmental organizations.

However, the PEIS is not action forming, in other words although it can be updated, it won't derive in specific actions. Rather, the new PEIS will serve as a “guidance document” for the potential creation of climate resilient fisheries and as an opportunity for Alaska Native and Tribal input and consultations.

The Ecosystem Committee was tasked with developing a PEIS P&N Statement and alternatives for Council consideration. There will be opportunities for public input in this process, including verbally at the next Ecosystem Committee meeting on April 4<sup>th</sup>. The Council intends to take this agenda item up at the June 2023 meeting.

## **7. Tribal Representation on Advisory Panel:**

At this meeting the Council voted to appoint Shawaan Jackson-Gamble to the newly designated Alaska Native Tribal Seat. Mr. Jackson's candidacy to this 3 year term position was supported by a number of tribal and Native interests, including CBSFA, the Saint Paul Tribe, and the City of Saint Paul, see **City letter of support attached**.

# MPStrategies LLC

411 Windsor Lane  
Winchester, VA, 22602

The creation of this seat responds in part to pressure from the public, Council stakeholders, communities and tribal entities for greater inclusion and representation of tribal representatives in the Council's fisheries-management process. The Alaska Fishing Communities coalition, in which Saint Paul has played an outsized role, actively engaged with the Congress, the Administration, and the Council since its establishment in early 2020 to urge for statutory and policy changes that would provide for greater space in the Council process for Alaska Native and tribal inclusion. While much remains to be done, this is an important first step.

## 8. **Implementation of Changes to MSA Section 312:**

Team representatives met with ADF&G and NMFS representatives to discuss the status of the implementation of recent statutory changes to the MSA Section 312 fishery disaster determination process approved by Congress in December 2022.

ADF&G indicated that since a number of fishery disaster determinations including ones for Snow Crab in 2021 and 2022, had been made on 12/16/22, PRIOR to enactment of the changes in the Consolidated Appropriations Bill 12/29/22, it was possible that these changes would not apply to the development of spend plans for these disasters. However, ADF&G indicated that it would make an effort to have the more favorable provisions apply.

NMFS for its part did not have information to report on this matter other than noting that guidance on how the Section 312 changes would be implemented would be out "soon."

All for now.