

## MEMORANDUM

**To: Phil Zavadil, City Manager**

**Cc: Jacob Mercurief, Mayor**

**From: Mateo Paz-Soldan, MPStrategies LLC**

**Date: October 12, 2024**

**Re: Results of October 2024 NPFMC Meeting**

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The following is a summary of the fishery issues of interest to Saint Paul that took place at the October 2024 meeting of the North Pacific Fishery Management Council (NPFMC or Council) in Anchorage. Saint Paul representatives physically present at the meetings included Ray Melovidov, Jeff Kaufman, Joe Kashevarof, and Heather McCarty, for CBSFA; Lauren Divine and Connie Melovidov for the St. Paul Tribe; and myself for the City of Saint Paul (the Team).

The main item of concern for Saint Paul had to do with the announcement of the crab TACs for 2024-25 and subsequent conversations around the NPFMC meeting about how to handle a small snow crab TAC and the lack of processing capacity in the North Region which includes Saint Paul. This inevitably led to discussions about invoking the Exemption for Regional Delivery Requirements (ER), which has never been used and is a tool that was designed for dealing with ice-conditions impeding deliveries into a harbor, and not for the above-mentioned economic and capacity reasons.

Ironically, at the June meeting the Council discussed the Crab Rationalization Program Review document that had addressed much of the public's input including from the City, regarding the need for a fully fleshed Social Impact Analysis. The document was well-received and did a good job of laying out the community protection mechanisms that have protected communities stake in the crab fisheries since the implementation of the program in 2005.

However, with the key crab fisheries closed, much of the discussion of the Program Review was retrospective and not forward looking. The current situation is bringing out the flaws in the program and the need for substantial changes to fit the new realities of unstable fisheries and low TACs.

### 1. **Crab TACs Announced:**

On Friday, October 4, the Alaska Department of Fish & Game (ADF&G) announced the crab TACs for the 2024-25 season, see **ADF&G Crab TAC Announcement:**

<https://www.adfg.alaska.gov/index.cfm?adfg=commercialbyareaaleutianislands.shellfish>

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Of importance to Saint Paul and CBSFA were the TACs for:

- Snow Crab: 4.72 million, which translates into 1.6 million lbs in the north region,
- Western Tanner/Bairdi: 4.5 million,
- Eastern Tanner/Bairdi: 1.77 million, and
- Bristol Bay Red King Crab (BBR): 2.3 million.

At earlier meetings with the State of Alaska, the City had advocated for a snow crab fishery, even if small, to generate some revenues and mobilize the industry's existing capacity. The problem with the TAC that was announced is that the Trident Seafoods plant requires at a minimum 10 to 15 million lbs to operate cost-effectively in the North. 1.6 million lbs is insufficient.

On the other hand, the only available floating processor, the Bountiful, can only process about 40,000 lbs per day. It would require about 50 days to do so assuming good weather and schedule conditions. Even then, this back up plan is not cost-effective.

## 2. Discussions to Invoke ER Exemption:

As a result, harvester, processor and community representatives scrambled to figure out alternative plans. Absent Emergency Action to relax binding arbitration provisions and/or regional requirements, the only available option is to consolidate processing in the South by invoking the ER Exemption. Even then, processors will operate at a loss in the South given labor and operating costs, and the low prices for crab.

The City and CBSFA testified on the matter before the NPFMC at Staff Tasking (see attached **Crab Testimony 10-2024**) and noted that the existing Framework Agreement, the first step in securing an exemption, was not designed for the situation at hand, and that it must address NMFS' regulatory requirements in Amendment 41 (ER) including (**bolded**):

<https://www.govinfo.gov/content/pkg/FR-2013-05-15/pdf/2013-11571.pdf#page=7>

(ii) *Part I: Preseason Application.*

(A) A complete preseason application must be signed by the required applicants specified in paragraph (p)(3), contain the information specified on the form, have all applicable fields accurately completed, and have all required documentation attached.

(B) Each applicant must certify, through an affidavit, that the applicant has entered into a framework agreement that—

(1) Specifies the CR crab fisheries that are the subject of the framework agreement;

**(2) Specifies the actions that the parties will take to reduce the need for, and amount of, an exemption;**

**(3) Specifies the circumstances that could be an obstacle to delivery or processing under which the parties would execute an exemption contract and receive an exemption;**

**(4) Specifies the actions that the parties would take to mitigate the effects of an exemption;**

**(5) Specifies the compensation, if any, that any party would provide to any other party;**

**(6) Specifies any arrangements for compensatory deliveries in that crab fishing year or the following crab fishing year and;**

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(7) Is signed by the holders of the IFQ and IPQ that are the subject of the framework agreement and by the community representative that is authorized to sign the framework agreement.

(C) Each applicant must sign and date the affidavit and affirm that, under penalty of perjury, the information and the claims provided on the application are true, correct, and complete.

**(D) NMFS must receive the preseason application on or before October 15 of the crab fishing year** for which the applicants are applying for an exemption.

Given the October 15 deadline there was very little time to make the necessary changes to the existing Framework Agreement (FA) in order to meet the first step for securing an Exemption. Saint Paul and other stakeholders met with NMFS about securing an extension to the deadline or amending the FA after the deadline, but since neither of these was provided for in regulation it was uncertain whether these would be “legal” and subject to challenge in the future.

During Staff Tasking on the last day of the NPFMC meeting, the Chair tasked crab stakeholders to use the existing ER Exemption, even if imperfect, and make every effort to meet the October 15 deadline, see attached **Draft 2024-25 Framework Agreement**. In addition, the Chair understood the need and committed to a longer-term process for reforming the Crab Rationalization Program to make it operational at low TAC levels which will be the “new normal” with the crab fisheries for the foreseeable future. The plan is for this process to start at the December 2024 Council meeting when a Discussion Paper on Binding Arbitration (which was tasked at the June meeting after the Crab Program Review) and possible ideas to fix it and make it cost-effective for processors is expected.<sup>1</sup> The idea would be to either expand the Discussion Paper on Binding Arbitration to address some of the broader structural problems or to task staff with starting a new paper.

Since October 7<sup>th</sup>, multiple conversations and email exchanges have been held in an effort to secure amendments to the FA prior to the deadline. There has been no disagreement on the need to amend the FA to comply with regulations. However, many participants had already signed the annual FA which had been circulated earlier and were not certain they would have time to review the changes and meet the deadline again. After consultation with industry stakeholders and NMFS representatives, it was agreed that the FA would be submitted “as is” and that stakeholders would work on an amendment or addendum after October 15<sup>th</sup> to adapt the existing FA to the situation at hand.

In addition, after the FA is submitted, parties interested in an exemption will actually need to draft and sign an Exemption Contract which spells out many regulatory requirements including

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<sup>1</sup> In response to public testimony at the June 2024 NPFMC meeting including processor and Saint Paul representatives, the Council requested a Discussion Paper on various components of the program’s binding arbitration regulations to determine if changes are necessary to reduce industry costs, increase transparency and predictability, and/or respond to lower crab TACs. The existing Binding Arbitration formula has been identified as the biggest potential impediment to the decision by processing companies to operate or not during low TAC years and the associated small economic margins. The Discussion Paper will be presented to the NPFMC for review at the December 2024 meeting. See NPFMC motion:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=0faabbf6-c5cd-4157-9157-1bb43056c388.pdf&fileName=D2%20Council%20Motion%20%20FINAL.pdf>

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the types of compensation that may be provided in exchange for ER relief. This will provide an opportunity for negotiating compensatory relief for the North Region. The Exemption Contract will need to be negotiated before the BSS season starts in January.

### 3. Climate Change Scenarios Workshop Report :

The Council received a draft report from the two day Climate Change Scenarios Workshop held in June in Kodiak, see **Climate Change Scenarios Workshop Report**:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=32641424-735e-4258-a560-6481ceffef90.pdf&fileName=D2a%20Climate%20Scenarios%20Workshop%20Report.pdf>

The report examined status quo, moderate, and extreme climate change scenarios and discussed what measures fishery stakeholders should take to develop resilience and adaptability in the face of these challenges going forward. The final report will be presented in December 2024 and focuses on three main areas: a) develop a climate-resilient management policy (through the Programmatic Evaluation process); b) continue work to incorporate local and traditional knowledge; and c) strengthen the uncertainty and risk in harvest specifications.

Some of the more interesting topics covered by the report from a community perspective had to do with building “flexibility” into new and existing management programs. This was in response to comments by stakeholders that rationalization programs, such as the Crab Rationalization Program, created in a different era may not be the optimal tools for responding to unstable fisheries in an era of climate change and other related goals such as providing opportunities for new entrants and developing off-ramps to exit fisheries.

An important consideration raised by participants with relevance to communities like Saint Paul with or within distinct ecosystem areas is the possibility of community or area-based fishery access such as Territorial Use Rights for Fishing(TURFS) used in other parts of the world that could provide flexibility to shift between species and enable users to access the resources near them.

The ideas and actions coming out of this workshop and report could be important in helping to guide fisheries management policies that are relevant to Saint Paul. Clearly, the declining stocks of fishery, crab, and marine mammal resources that Saint Paul is dependent on are connected to climate change. Working with the Council to implement policies that are “friendlier” and provide greater resiliency to Saint Paul’s participation in the Bering Sea’s fisheries, is of interest to Saint Paul in the near and distant future. Similarly, being able to invest in the types of infrastructure necessary to develop a more resilient and diversified economy will be a key focus of the community’s efforts in years to come. Efforts to restructure the Crab Rationalization Program, for example, could be a test case for implementing this new way of thinking about fisheries management in an era of climate change.

The Council adopted a motion focusing on how to revise groundfish and crab harvest control rules to make them more climate resilient and compiling social and economic information to improve best available science in decision-making, see **Climate Change Report Motion**:

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=91717ac2-781a-44d3-a8a9-c7f6a62f634f.pdf&fileName=MOTION%20D2.pdf>

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#### 4. **Pelagic Trawl Gear Definition:**

Another agenda item of relevance to Saint Paul and the crab stocks it has historically depended on is the definition of Pelagic Trawl Gear. According to NMFS enforcement, portions of pelagic gear (mid-water trawling) including the codends, touch the bottom. This would normally put it into another category: non-pelagic or bottom trawling. Since pelagic trawling is allowed in habitat protected zones and areas, unlike non-pelagic bottom trawlers, this is of concern to species such as crab whose stocks and habitats are likely being disturbed by this gear.

The Council adopted a motion that is focused on excluding the codend from the definition of pelagic gear, thereby allowing its continued use and impacts, and meet the definition. There was much opposition to this effort to “grandfather in” this type of gear, but the Council feared economic impacts on the sectors using it. See, **Pelagic Trawl Gear Motion:**

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=d09baee5-f56f-43d7-be82-2a860fb1500a.pdf&fileName=MOTION%20C6.pdf>

Recognizing the broader problem and in order to give the pelagic sector time to adapt, the NPFMC is committed to developing a separate action that incentivizes trawl gear innovation and improves performance standards so that pelagic gear and its components really do fit within the definition of pelagic as used in other regions and understood by the broader public, that such gear does not touch the seafloor.

All for now.