

Conflict of Interest Standards & Regional Fishery Management Councils

An evaluation of the North Pacific Council's voting record on conservation issues



Prepared by
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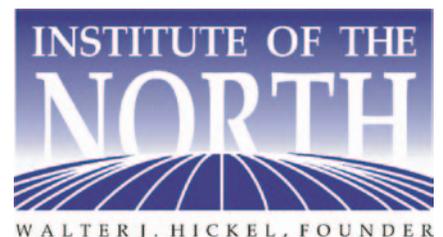


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Introduction

The Magnuson Fishery Conservation and Management Act of 1976, (renamed the Magnuson-Stevens Fishery Conservation and Management Act in October 1996 and referred to in this analysis as the Magnuson-Stevens Act or MSFCMA) created an exclusive economic zone which is between three and 200 nautical miles offshore of the United States. It also mandated that eight regional fishery councils would make management recommendations to the Department of Commerce's Office of the Secretary for the living marine resources within that area. The act was passed to address heavy foreign fishing, promote the development of a domestic fleet, and link the fishing community more directly to the management process.

While not mandated to issue seats according to interest or user group, the councils' membership nationwide is a mixture of commercial and recreational fishermen, marine scientists, representatives of the environmental community, and state and federal fisheries managers. These individuals combine their collective knowledge to prepare Fishery Management Plans (FMPs) for stocks of finfish, shellfish and crustaceans. In developing these FMPs, the councils use the most recent scientific assessments of the ecosystems involved, with special consideration of the requirements of marine mammals, sea turtles and other protected resources. The FMPs are prepared through a planning process that includes the public comments provided by harvesters, processors, communities, and others concerned with resource management.

Reauthorized in 2006, Congress strengthened the 1996 provisions and extended the Act until 2013. Among several key amendments or changes, the act requires the councils to establish scientific and statistical committees (SSC) that will help develop and evaluate scientific information for the

development of fishery management plans. The SSCs must provide the councils with ongoing scientific advice for establishing acceptable biological catch levels, preventing overfishing, establishing maximum sustainable yield and achieving rebuilding targets.

After January 1, 2008, the Secretary of Commerce must report any financial conflicts of interest of the councils and SSC members to Congress. The Secretary and each council may establish a peer review process for the scientific information used to advise the Council about conservation and management of the fishery.

Unlike some of the councils, the North Pacific Fisheries Management Council has utilized an SSC since its conception.

"Our formula for sustainable fisheries involves strong science and research programs, an effective reporting and in-season management program, a comprehensive observer program, limitations on fishing capacity, precautionary and conservative catch limits, strict limits on bycatch and discards, habitat protection measures, incorporation of ecosystem considerations, and an open public process that involves stakeholders at all levels," NPFMC Chair Stephanie Madsen said in testimony before the Senate Subcommittee on Oceans, Fisheries, and Coast Guard in the fall 2004.

This report, "Conflict of Interest Standards and Regional Fishery Management Councils: An evaluation of the North Pacific Council's voting record on conservation issues" is in two sections. Section One will examine the voting records for the North Pacific Fishery Management Council concerning crucial conservation issues between 1994-2006. Section Two will take a brief look at the legal framework concerning conflict of interest as it applies to the council process and other similar federal committees.

SECTION ONE:

The Voting Record on Conservation

The North Pacific Fishery Management Council

The North Pacific Fishery Management Council (NPFMC) is comprised of 15 members: 11 voting and four non-voting. Seven of the voting members are appointed by the Secretary of Commerce upon the recommendation of the governors of Alaska, Oregon, and Washington State. The council is supported by a 21-member Advisory Panel comprised of members of the various fisheries represented in the North Pacific, as well as representatives from the environmental community. The council is also supported by a 14-member Scientific and Statistical Committee, comprised of leading scientists in biology, economics, statistics, and social science. The committee advises the NPFMC on scientific and other technical matters, along with a 16-member staff of fishery biologists, economists, fisheries analysts and professional support personnel.

The council's committee structure also includes a wide range of stakeholders who assist in the collection and evaluation of information relevant to the development of any FMP or plan amendment for a fishery. They include:

Community Quota Share Purchase Implementation Team, Council/Board of Fisheries Joint Protocol Committee, Council Executive Committee, Crab Interim Action Committee, Ecosystem Committee, Enforcement Committee, Essential Fish Habitat Committee, Finance Committee, Fur Seal Committee, Gulf of Alaska Community Committee, Individual Fishing Quota Implementation Committee, IRIU Technical Committee, Magnuson-Stevens Act Reauthorization Committee, Non-Target/Other Species Committee, Observer Advisory Committee, Pacific Northwest Crab Industry Advisory Committee, Steller Sea Lion Mitigation Committee, U.S.-Russia International Committee and the Vessel Monitoring System Committee.

Some of these are permanent standing committees, others are ad hoc committees formed by the NPFMC for a specific purpose and then disbanded when that task is completed.

First Row, L to R: James Brooks, Harold Lokken, Henry Eaton, Clem Tillion, Lorry Nakatsu, Jan Riffe. Back Row, L to R: Harry Rietze, ADM JB Hayes, Henry Wendler, Donald McKernan, Charles Mecham.

Methodology

At the request of the Institute of the North, the NPFMC staff assisted in reviewing the council's record on various groundfish actions between 1994 and 2006, since approximately 80% of the council's management is focused on groundfish issues. The review looked at the last 12 years of final Total Allowable Catch (TAC) specifications, as well as the groundfish amendments since 1993. Those that were primarily conservation-driven were selected. Thirteen FMP amendments, two regulatory amendments, seabird avoidance measures, and Steller Sea Lion mitigation measures emerged.

The staff then researched the final action on each of the chosen amendments or TAC specifications, using the council minutes for that meeting as the source. For each action, the staff recorded the final vote from final action and noted any amendments on which a vote was taken. The review attempted to determine or infer, based on the minutes, the reason for objection. For those who objected to the action (or those in favor of a failed amendment), the staff checked their financial disclosure statements, to determine whether the objector had any business interests that had relevance to the vote.

For each council action, the minutes of the SSC report for the meeting were evaluated to determine whether the council followed the SSC's recommendations, if recommendations were made.

NPFMC Council Members 1976 – Photo courtesy of the NPFMC



Conclusions

The 15 council actions evaluated all imposed constraints on the groundfish fisheries for purposes of conservation. The voting record was reviewed to determine which council members objected to these actions, in the final decision. The objectors were then checked against their financial disclosure forms. Council members are required to disclose their personal financial interests annually.

- In the last seven years of the study period, two appointed council members each objected to one of the seven conservation actions that were passed during that time. In one instance, there was no documented connection between the member's financial interest and the vote; in the other, there was a connection.
- In the five actions examined between 1994 and 1998, one appointed council member voted against three of the actions, which could all be connected with the member's financial interests. Another appointed council member, with no documented financial connection to the action, also objected on one occasion. In the fifth action, four council members objected to BSAI Amendment 37 (the nearshore Bristol Bay closure), having failed to modify the action to a more conservative closure. Of the four appointed proponents of the council's action, two had no financial interest in the action, and two may have had an indirect interest.

During the study period, the final TAC specifications for the BSAI and GOA groundfish fisheries, (OFLs, ABCs, and TACs) are set for 18 species or species complexes in the BSAI, and 23 species or species complexes in the GOA.

- Between 1994 and 2006, the council has never changed the SSC's recommended Over Fishing Limits (OFL). (In 2004, the council amended the Atka Mackerel ABC and OFL based on a staff presentation that the projected numbers endorsed by the SSC were incorrect.)
- In the same period, the council has modified an SSC-recommended ABC three times in the BSAI, and four times in the GOA. On four of these occasions, the management area-wide ABC remained as the SSC recommended, but the council subdivided or did not subdivide the ABC by subarea. On the other two occasions, in 1994 and 1995, the council substituted the more conservative Plan Team ABC recommendation for the SSC's recommended ABC for Pacific Ocean Perch in the GOA. Between 1994 and 2006, the council has never exceeded the SSC's ABC recommendations.
- In 2004, 2005 and 2006, every decision on TAC specifications in the BSAI and GOA was unanimous in support for the recommended groundfish specifications.

Such a record indicates the NPFMC has been able to allocate fish among a diverse user group while never exceeding the recommendations of their scientific committee.

Some criticism has been leveled nationwide that because regional fisheries management councils are homogenous and largely representing fishing interests only, state and NMFS representatives are overpowered when setting FMP goals. Such an accusation does not seem to be warranted when looking at the North Pacific Fishery Management Council (NPFMC). On the NPFMC, there are seven appointed interest seats and four government seats (for NMFS, and representatives of the States of Alaska, Washington and Oregon). In the 12-year study period of final groundfish TAC specifications and 12 conservation actions, in no instance did the final vote include more than two government objectors.

Other findings in the analysis:

NMFS is actively engaged in the decision-making process through its participation on the council. When the agency identifies a situation where the council's decision may conflict with NMFS' legal responsibilities, the issues are highlighted as early in the process as possible.

Recent management decisions on critical fishery issues, such as the groundfish management policy and essential fish habitat, have drawn comments from all 50 states and some foreign countries. More than 50% of the substantive comments on the groundfish management policy were submitted from addresses outside of Alaska and the Pacific Northwest. The NPFMC received a comprehensive summary and analysis of all comments submitted on these issues prior to their final decision.



Council Family Celebrates the 30th Anniversary of the NPFMC in December 2006. © 2008 Joshua Borough

SECTION TWO: Conflict of Interest Standards

Perceived conflicts of interest by regional council members is not a new issue, notes the February 2005 Congressional Research Service (CRS) report to Congress. Criticism has focused on the close relationship the regional councils have with the fishing industry, contending they are unwilling to take the necessary steps to prevent overfishing or to rebuild stocks in a timely manner.

At the heart of this debate is the conflict of interest standard embodied in the Magnuson-Stevens Act. Some critics contend these standards need to be more reflective of the Federal Advisory Committee Act (FACA), while Congress' reauthorization preferred the act's own benchmark to determine what constitutes conflict of interest by a regional council member. The following information is based on an analysis of the Conflict of Interest Standards Applicable to Members of Federal Advisory Committee Act Committees, Federal Officers and Employees, and Members of Fishery Management Councils Formed Pursuant to the Magnuson-Stevens Act, as performed by Seattle-based firm Mundt MacGregor LLP, Attorneys at Law. This analysis was performed prior to recent changes to the MSA, but is still generally applicable. Significant changes to Council conflict of interest standards are noted in the text.

Magnuson-Stevens Act: Analysis of Conflict of Interest Standards

FACA, first adopted by Congress in 1972, was intended as a transparent framework in order for federal advisory committees to be regulated. Prior to the adoption of FACA, the number of federal advisory committees was unknown. What was known, however, was that the complex nature of federal lawmaking was creating more and more reliance on input from non-governmental and quasi-governmental advisory bodies.

Recognizing the value of this input, Congress chose to preserve and define the role of advisory committees through implementation of the act. In conjunction with other federal statutes and regulations regarding the ethical obligations of federal officers and employees, the act establishes the ethical parameters of service on a federal advisory committee.

Reauthorized and extensively amended by the 1996 Sustainable Fisheries Act, the Magnuson-Stevens Act similarly established parameters by which public input is integrated into the regulatory process. Section 302 of the act established eight regional fishery management councils that "reflect the expertise and interests of the several constituent States in the ocean area over which such Council is granted authority." Fishery management councils were charged with developing FMPs that provide the basis of the Secretary of Commerce's management of federal fisheries.

With respect to the parameters of service on a fishery management council, however, the Magnuson-Stevens Act made it clear that these councils were not advisory committees under FACA, and therefore, are exempt from its provisions related to conflict of interest statutes. Instead, the Magnuson-Stevens Act established its own set of standards and procedures for declaring conflicts of interest and recusal that, in large part, mirror those to which members of a federal advisory committee are subject.



F/V Topaz - Photo courtesy of the Alaska Groundfish Data Bank

Conflict of Interest Standards Applicable to Committees Operating Under the Federal Advisory Committee Act

FACA contains little guidance as to what constitutes a conflict of interest and what types of conflicts of interest an advisory committee member should avoid. Indeed, it merely notes that legislation establishing an advisory committee should "contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by ... any special interest, but will instead be the result of the advisory committee's independent judgment."

The federal conflict of interest statute, and in particular, Section 208 of the statute, establishes the conflict of interest standards by which advisory committee members must abide. The application of Section 208 to advisory committee members is not obvious, however, since the statute clearly targets conflicts of interest by officers or employees of the federal government, but is silent with respect to non-government employees serving on advisory committees. The nexus that subjects many advisory committee members to the Section 208 restrictions, however, is that the conflict of interest standards also apply to "special government employees" and many advisory committee members qualify as such.

The designation "special government employee" applies to many advisory committee members, subjecting them to the conflict of interest provisions of Section 208. A special government employee is an officer or employee of the executive or legislative branch or an independent agency who is "retained, designated, appointed, or employed to perform, with or without compensation ... temporary duties either on a full-time or intermittent basis" for a period of 130 days or less in any year.

Whether or not an individual who serves on an advisory committee is "retained, designated, appointed, or employed," and, therefore, qualifies as a special government employee depends on whether that individual serves in a representational or non-representational role. Those individuals appointed to sit on an advisory board or commission "without representing any particular point of view" will be classified as special government employees, regardless of whether they are paid for their service. That is to say, those advisory committee members serving by virtue of their personal knowledge or



Alyeska Seafood Plant in Unalaska – Photo courtesy of Bob King

experience, but in a non-representational capacity, are subject to Section 208.

In contrast, those advisory committee members explicitly or implicitly selected to represent a particular private interest are not classified as special government employees and are, therefore, exempt from the Section 208 conflict of interest prohibitions. In many cases, the distinction between a representational and non-representational role is difficult to discern, however, and turns on why and how the individual was invited to sit on the committee.

Under the Section 208 conflict of interest provisions, federal advisory committee members who qualify as special government employees are prohibited from acting "personally and substantially" in any particular matter affecting their personal financial interest. For the purpose of Section 208, a "particular matter" is that which involves "deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons." Participation in a particular matter is "personal" when it is direct. There must be a "close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest."

Participation is "substantial" only if the involvement is of significance in the effort the person devotes to the matter, as well as to the importance of that effort. The affected financial interest held by the advisory committee member may be direct, may be indirectly derived through the person's spouse, minor child or general partner; or may stem from the person's service as an officer, director, trustee, general partner or employee of an organization; negotiations with a third-party; or any arrangement concerning that person's prospective employment.

Finally, in order to qualify as a prohibited conflict of interest under Section 208, a particular matter must have a direct and predictable effect on the affected person's financial interest; in other words, there must be a "real, as opposed to a speculative, possibility that the matter will affect the financial interest." The magnitude of the gain or loss need not be known, however, as the actual financial value of the gain or loss is immaterial.

Regulations implemented under Section 208 also prohibit the appearance of impropriety with respect to certain federal employee relationships. If a federal officer or employee has a specified relationship with a party to a specific matter and a reasonable person with knowledge of the relevant facts would question the impartiality of that officer or employee, "the employee should not participate in the matter unless he has informed the agency ... and received authorization" to do so under the procedures described in 5 C.F.R. § 2635.502(d).

Photo courtesy of Fran Recht



Despite its plain language, Section 208 may not apply to a particular advisory committee or a specific advisory committee member because of a number of exemptions that exist under the statute and the implementing regulations.

First and foremost among these is a statutory exemption. When enacting legislation establishing an advisory committee, Congress may exempt that committee from the requirements of FACA or Section 208. In addition, certain remote and inconsequential interests can be exempted from Section 208 by adoption of regulations that explicitly identify those exceptions.

A special government employee serving on a federal advisory committee may also be exempted from the conflict of interest prohibitions of Section 208. Under this statutory exemption, an agency may determine, on a case-by-case basis, that Section 208 should not apply to a committee member, notwithstanding the fact that the individual has one or more financial interests that would be affected by the activities of the advisory committee.

Conflict of Interest Standards Applied to Fishery Management Councils Operating Under the Authority of the Magnuson-Stevens Act

That portion of the Magnuson-Stevens Act that establishes fishery management councils contains an explicit prohibition on conflicts of interest that is applicable to the members of those councils. In contrast to FACA, the Magnuson-Stevens Act conflict of interest prohibitions are explicit, and it is possible to discern the conflict of interest factors from the statute itself. Furthermore, the Department of Commerce has further clarified these standards through its regulations implementing the Magnuson-Stevens Act, resulting in crisp guidance on what conflict of interest standards apply to fishery management council members and National Marine Fisheries Service staff.

Section 302 of the Magnuson-Stevens Act clearly delineates the conflict of interest standards applicable to fishery management council members. It requires that "an affected individual [who is] required to disclose a financial interest ... shall not vote on a council decision which would have a significant and predictable effect on such financial interest."

Council decisions are considered to have a significant and predictable effect on a member's financial interest "if there is a close causal link between the council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery."

And, under Section 302(j)(2) of the Magnuson-Stevens Act, each voting member of a fishery management council, other than those who serve in their official capacity as a fishery management official for a state or the National Marine Fisheries Service, must disclose any financial interest held directly or indirectly in "any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery over which the council concerned has jurisdiction."

As is the case under FACA, an interest held by the spouse, minor child, or partner of a council member, or any organization, in which the council member is an officer, director, trustee, partner, or employee, is imputed to the member and must be disclosed.

Regulations adopted by the Department of Commerce further define the scope of the Magnuson-Stevens Act prohibitions on conflict of interest. These clarify that an "expected and substantially disproportionate benefit" is a quantifiable positive or negative impact on a matter that is likely to affect a fishery or sector of the fishery in which the affected individual has a significant interest.

Moreover, the Magnuson-Stevens Act regulations set definite thresholds that will trigger the finding of an expected and substantially disproportionate benefit. These are whenever the affected individual:

- holds a greater than 10% interest in the total harvest of the fishery or a sector of the fishery in question;
- holds a greater than 10% interest in the marketing or processing of the total harvest of the fishery or sector of the fishery in question; or
- holds full or partial ownership of more than 10% of the vessels using the same gear type within the fishery or sector of the fishery in question.



Photo courtesy of Bob King

The percentage of interest is evaluated on the basis of the most recent fishing year for which information is available, except in the case of an individual fishing quota fishery, in which case the percentage of individual fishing quota held is the determining factor. Accordingly, voting members of fishery management councils and the public are given clear standards by which it can be decided whether an individual is prohibited from participating in action because he or she has a conflict of interest.

Note: In 2006 Congress strengthened the provisions of Section 302 (j) (2) to include any organization in which and individual is serving as an officer, director, trustee, partner, or employee that engages in lobbying or advocacy for any fishery which the Council has jurisdiction over to the list of activities that the disclosure and recusal rules apply. This new language further strengthens the disclosure and recusal rules by requiring individuals who involved in lobbying or advocacy on fisheries to disclose those interests if they serve on a Council. As of this writing regulations have not been developed to implement these provision formally, although they are being applied as a matter of practice.

Application of the Magnuson-Stevens Act conflict of interest standard is relatively straightforward. Each time a fishery management council takes action, simple analysis yields a clear answer as to whether an individual member is prohibited from taking action with respect to that matter, the significance of that member's interest in the affected fishery is evaluated and, if that interest exceeds the 10% threshold set in the regulations, the member must recuse himself or herself as a result of the conflict of interest identified.

And, because the Magnuson-Stevens Act explicitly exempts fishery council members from compliance with both FACA and Section 208 of the federal conflict of interest statute, the conflict of interest analysis applicable to those members ends with this litmus test.

The benefit of this approach is a transparent and straightforward process for identifying and declaring a conflict of interest, and recusal from decisions that affect that interest.

Conflict of Interest Conclusion

Members of federal advisory committees and fishery management councils formed under FACA and the Magnuson-Stevens Act, respectively, are subject to well-developed conflict of interest standards that prohibit such members from acting on matters that might impact their personal financial interests. Under either regulatory scheme, a member's specific, direct and substantial action with respect to an issue will trigger a conflict of interest analysis.

Moreover, the member's action must be material to his or her interest - it need not have an actual impact, but the potential for impact must be real. And, under both conflict of interest standards, certain interests have been determined to not constitute a conflict of interest because they are minimal.

It is in the scope of these exemptions that the conflict of interest standards of FACA and Section 208 and the Magnuson-Stevens Act diverge - the exceptions established under Section 208 are narrower than those under the Magnuson-Stevens Act.

Whether or not this is desirable depends in large part on the policies driving council membership - to the extent that fishermen are desired participants, it may be necessary to maintain these somewhat higher conflict of interest thresholds. Given Congress's mandate that the qualifications for membership on a fishery management council include occupational or other experience in the fisheries, the answer to this question appears to be resoundingly affirmative. The standard that is applied is tailored to address the wide variety and characteristics of fisheries around the nation, and a person must recuse themselves if they have any interest that is greater than 90% of the other participants in that fishery or sector. Having the meaningful participation of industry experts in the management process mandates the more permissive conflict of interest thresholds implemented under the authority of the Magnuson-Stevens Act.

Given the voting record of the North Pacific Fishery Management Council on conservation issues, the consistent application of science to management questions and the 25-plus year history of managing stocks such that there are no overfished groundfish stocks in the North Pacific, it appears that the application of these standards is working to ensure that conservation takes precedent over short-term economic interests.

In 2006, Congress also added a requirement that the Secretary submit a report to the Senate Committee on Commerce, Science, and Transportation, and House of Representatives Committee on Resources to document action taken by the Secretary to implement the disclosure and recusal provisions of the MSA. The first report is due out January 1, 2008 but has not been issued as of this writing.

The Institute of the North, located in Anchorage, Alaska, is a private non-profit educational research organization dedicated to the study of the use of commonly owned land, sea and air resources, as well as the promotion of sustainability in Alaska and throughout the Arctic.

Ben Ellis is the managing director of the Institute of the North. Mr. Ellis was a member of the North Pacific Fishery Management Council's Advisory Panel from 1998-2004, representing the recreational fishing interests. In January 2003, he was appointed by the Secretary of Commerce to fill the vacancy on the council with the resignation of Bob Penney. Because of the timing of his appointment, he did not participate in any of the voting decisions analyzed in this report.

Council Chairs (1979-Present)



Elmer Rasmuson 1976-1977



Harold Lokken 1977-1978



Clem Tillion 1978-1983



James O. Campbell 1983-1988



John Peterson 1988-1989



Don Collinsworth 1989-1990



Rick Lauber 1991-2000



David Benton 2000-2003



Stephanie Madsen 2003-2007



Eric Olson 2007-Present

NPFMC: SELECTIVE RECORD ON CONFLICT OF INTEREST, SSC RECOMMENDATIONS

Groundfish Final TAC Specifications

Year	Voting Council members		Disclb-sures?	Vote (where appropriate, opposition listed)		SSC's ABC & OFL?		Other SSC recs to Council?	
	government	appointed		BSAI	GOA	BSAI	GOA	BSAI	GOA
2006	Sue Salvesson Earl Krygier Bill Tweit Roy Hyder	Stephanie Madsen Ed Rasmuson John Bundy David Benson Doug Hoedel Eric Olson	not checked	10-0	10-0	Yes	Yes	Evaluate add'l use of spawning exploitation rates as a constraint for setting ABCs – adopted by Council	None
2005	Sue Salvesson Earl Krygier Bill Tweit Roy Hyder	Stephanie Madsen Arne Fuglvog Ed Rasmuson John Bundy David Benson Doug Hoedel Eric Olson	not checked	11-0	11-0	Yes	Yes	None	None
2004	Jim Balsiger/Sue Salvesson Doug Mecum/Earl Krygier Dennis Austin Roy Hyder	Stephanie Madsen Hazel Nelson Arne Fuglvog Ed Rasmuson John Bundy David Benson Doug Hoedel	not checked	11-0	11-0	No; amended Atka mackerel ABC and OFL based on presentation that the projected numbers endorsed by the SSC were not correct	Yes	Break out species categories for shortraker and roughye – Council adopted	Break out species categories for certain species – Council adopted
2003	Jim Balsiger Kevin Duffy/ Earl Krygier Dennis Austin Roy Hyder	Stephanie Madsen Stosh Anderson Hazel Nelson Arne Fuglvog Ed Rasmuson John Bundy David Benson	Benson	10-1 Benson (objection to EBS, AI pollock / cod / ospp TAC apportionment)	11-0	Yes	Yes	None	Require data collection for directed skate fishery – not required, but Council encouraged
2002	Jim Balsiger/ Sue Salvesson Kevin Duffy/ Earl Krygier Dennis Austin Roy Hyder	David Benton Stosh Anderson Stephanie Madsen Hazel Nelson David Fluharty John Bundy	--	11-0	11-0	Yes	Yes	Spp complex mgmt of rockfish, white paper – addressed under BSAI rockfish agenda item	Spp complex mgmt of rockfish, white paper – not explicitly addressed
2001	Jim Balsiger Kevin Duffy Dennis Austin Roy Hyder	David Benton Robin Samuelsen Robert Penney Stosh Anderson Stephanie Madsen David Fluharty John Bundy	none	10-1 Balsiger (objection to TAC implementation by emergency rule)	10-1 Balsiger (objection to TAC implementation by emergency rule)	Yes	No; amended SSC's GOA to wide Pcod ABC to distribute by reg area based on survey data	Non-target spp cttee to address ospp - yes	None
2000	Jim Balsiger/ Sue Salvesson Kevin Duffy Dennis Austin Bob Mace	David Benton Linda Behrken Robin Samuelsen Kevin O'Leary Robert Penney David Fluharty John Bundy	--	11-0	11-0	Yes	Yes	None	FMP amd for ABCs for ospp category - yes

NPFMC: SELECTIVE RECORD ON CONFLICT OF INTEREST, SSC RECOMMENDATIONS

Year	Voting Council members		Discl-sures?	Vote (where appropriate, opposition listed)		SSC's ABC & OFL?		Other SSC recs to Council?	
	governing	appointed		BSAI	GOA	BSAI	GOA	BSAI	GOA
1999	Steve Pennoyer David Benton Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluharty John Bundy	--	11-0	11-0	No; for sablefish, adopted PT proposal to favor fishery data and adjusted area ABCs (BSAI-wide still same)	No; for sablefish, adopted PT proposal to favor fishery data and adjusted area ABCs (GOA-wide still same)	None	None
1998	Steve Pennoyer David Benton Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluharty Walter Pereyra	--	11-0	11-0	Yes	Yes	None	None
1997	Steve Pennoyer David Benton Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluharty Walter Pereyra	--	11-0	11-0	No; Council did not take SSC rec to subdivide Al pollock ABC by subarea, to mitigate potential impacts to marine mammals	Yes	None	None
1996	Steve Pennoyer David Benton Morris Barker Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Clem Tillion Kevin O'Leary David Fluharty Walter Pereyra	--	10-0 (Tillion absent)	11-0	Yes	Yes	None	Rec that PWS pollock GH.L be applied against the GOA pollock ABC - unknown
1995	Steve Pennoyer David Benton Morris Barker Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Clem Tillion Kevin O'Leary David Fluharty Walter Pereyra	--	11-0	11-0	Yes	No; Council substituted the lower PT rec for POP ABC	Rec to form working group for ecological considerations - yes	Rec for amd to delegate mgmt of PSR/ dusky rockfish to the State - tabled
1994	Steve Pennoyer David Benton Alan Millikan Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Ron Hegge Clem Tillion David Fluharty Walter Pereyra	--	11-0	6-5 Fluharty, Mace, Millikan, Pereyra, Lauber (objection to changing SSC's ABC)	Yes	No; Council substituted the lower PT rec for POP ABC	None	Rec to review overfishing definitions - yes

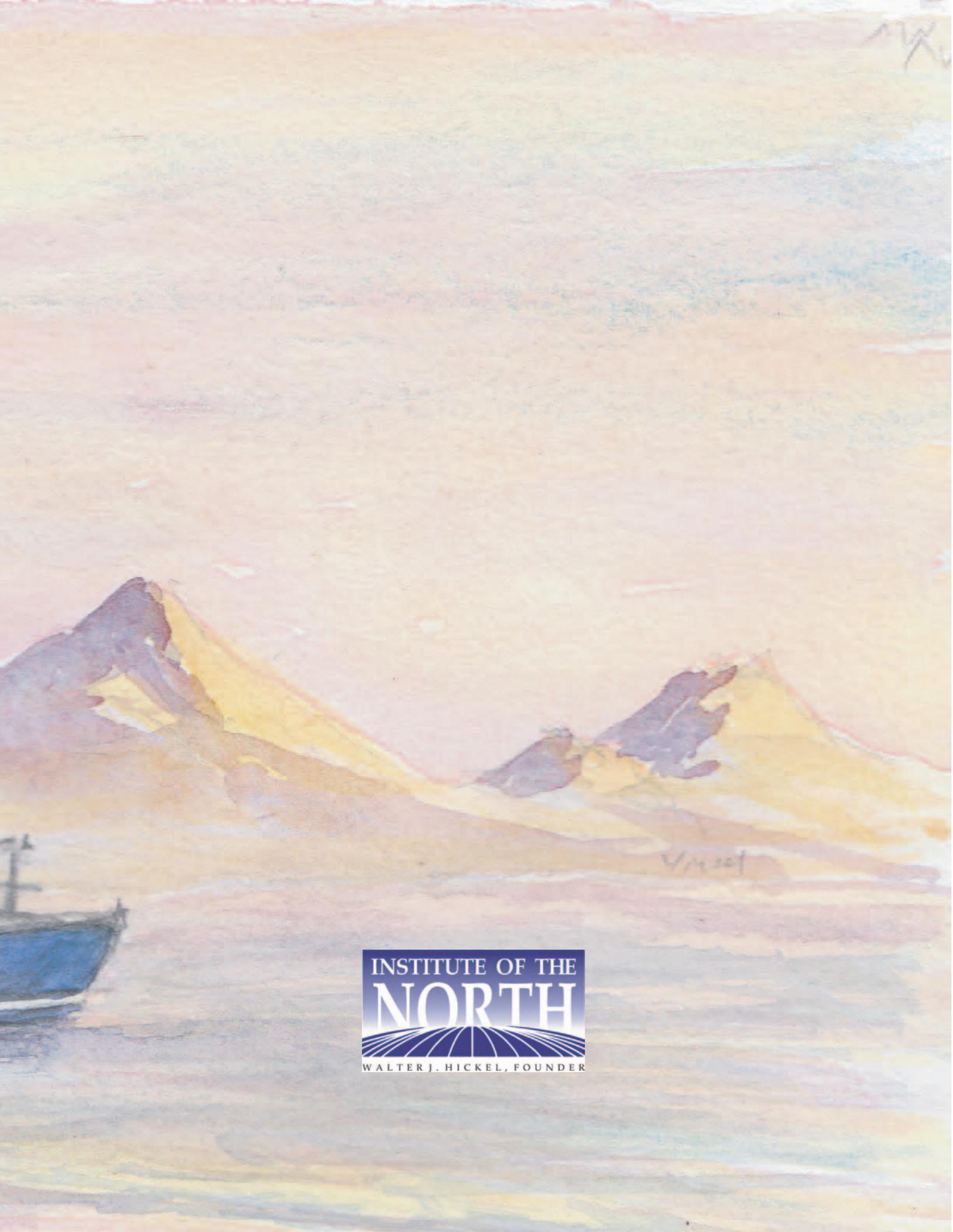
NPFMC: SELECTIVE RECORD ON CONFLICT OF INTEREST, SSC RECOMMENDATIONS

Other Council Actions

Subject	Amd Number	Final rule	C's final action	Voting Council members		Disclosures from objectors?	Vote	Non-friendly amds?	Follow SSC recs?
				government	appointed				
Pribilof Habitat Conservation Area	BSAI 21a	1995	4/94	Steve Pennoyer Carl Rosier Judith Freeman Jack Tagart Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Ron Hegge Oscar Dyson Walter Pereyra Robert Alverson	Pereyra	8-2 Mace, Pereyra (objection: voted for failed amendment)	(1) failed, to limit closure to bottom trawl only	Yes – all provides maximum chance for rebuilding stock
Chinook salmon PSC	BSAI 21b	1995	11/95	Steve Pennoyer David Benton Earl Krygier Morris Barker Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Ron Hegge / Clem Tillion David Fluaharty Walter Pereyra	Fluharty Pereyra	7-4 Barker, Fluaharty, Mace, Pereyra (objection unknown: AP also rec'd no closures as per SSC)	None	no – suggested that allow voluntary program to produce results no – rec'd Council to look at bycatch comprehensively
Chum salmon PSC	BSAI 35	1995	1/95	Steve Pennoyer David Benton Morris Barker Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Ron Hegge Clem Tillion David Fluaharty Walter Pereyra	Pereyra	8-3 Barker, Mace, Pereyra (objection unknown)	None	Yes – didn't adopt total closure No – didn't consider closure dates based on expected peak bycatch
Forage fish	BSAI 36/ GOA 39	1998	4/97	Steve Pennoyer David Benton Earl Krygier Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Clem Tillion Kevin O'Leary David Fluaharty Walter Pereyra	None	10-1 Mace (objection unknown)	(1) failed, to prohibit commercial exchange or processing of FF except for meal production; latter part passed later	None
Red king crab PSC/ nearshore Bristol Bay	BSAI 37	1996	10/95	Steve Pennoyer David Benton Earl Krygier Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Clem Tillion Kevin O'Leary David Fluaharty Walter Pereyra	Lauber, Tillion, Fluharty, Pereyra (proponents, as action is less conservative than failed amd)	7-4 Behnken, Krygier, O'Leary, Samuelsen (objection: voted for failed amd)	(1) failed; to always close the whole area, rather than allow part to open when a GH for BB RKC	no – rec'd Council to look at bycatch comprehensively
Essential fish habitat	BSAI 55/ GOA 55	1999	6/98	Steve Pennoyer David Benton Dennis Austin Doug DeHart	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluaharty Walter Pereyra	--	11-0	None	None
Sitka Pinnacles	GOA 59	2000	6/98	Steve Pennoyer David Benton Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluaharty Walter Pereyra	Kyle	10-1 Kyle (objection unknown)	None	None

NPFMC: SELECTIVE RECORD ON CONFLICT OF INTEREST, SSC RECOMMENDATIONS

Subject	Amd Number	Final rule	C's final action	Voting Council members		Disclosures from objectors?	Vote	Non-friendly amds?	Follow SSC recs? Yes – all provides
				government	appointed				
Pribilof Habitat Conservation Pollock non-pelagic trawl ban	BSAI 21a	1995	4/94	Steve Pennoyer	Richard Lauber	Pereyra	8-2	(1) failed, to limit closure	Yes – all provides
	BSAI 57	1999	6/98	Steve Pennoyer David Benton Dennis Austin Bob Mace	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluharty Walter Pereyra	Pereyra	10-1 Pereyra (objection: voted for failed amendment)	(1) passed, not to split out pollock for separate PSC bycatch accounting (2) failed, to adopt SQ	None
Chinook salmon PSC	BSAI 58	2000	2/99	Steve Pennoyer David Benton Dennis Austin Doug DeHart	Richard Lauber Linda Behnken Robin Samuelsen Kevin O'Leary Joe Kyle David Fluharty Walter Pereyra	--	11-0	None	None
Cook Inlet non-pelagic trawl ban	GOA 60	2002	9/00	Jim Balsiger Kevin Duffy Dennis Austin Bob Mace	David Benton Linda Behnken Robin Samuelsen Kevin O'Leary Robert Penney David Fluharty John Bundy	--	11-0	None	None
SSL measures	reg amd	2003	10/01	Jim Balsiger Kevin Duffy Dennis Austin Roy Hyder	David Benton Robin Samuelsen Robert Penney Stosh Anderson Stephanie Madsen David Fluharty John Bundy	None	10-1 Balsiger (objection to emergency rule)	None	None
Seabird avoidance measures	reg amd	2004	12/01	Jim Balsiger Kevin Duffy Dennis Austin Roy Hyder	David Benton Robin Samuelsen Robert Penney Stosh Anderson Stephanie Madsen David Fluharty John Bundy	--	11-0	None	Yes – approved Council's alternative
Essential Fish Habitat	BSAI/ GOA 65/65	2006	2/05	Jim Balsiger Earl Krygier Dennis Austin Roy Hyder	Stephanie Madsen Hazel Nelson Arne Fuglvog Ed Rasmuson John Bundy David Benson	not checked	11-0	(1) failed, to remove Cape Moffet area from list of coral garden sites (2) passed unanimously, other changes	extensive comments on analysis addressed by staff
Habitat Areas of Particular Concern	BSAI/ GOA ?/?	2006	2005	Jim Balsiger Earl Krygier Dennis Austin Roy Hyder	Stephanie Madsen Hazel Nelson Arne Fuglvog Ed Rasmuson John Bundy David Benson Doug Hoedel	not checked	11-0	(1) failed, to designate area of Bowers Ridge as HAPC to prohibit bottom trawl gear (2) failed, to require a research plan for fishing in GOA coral restricted areas	None



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