

**Alaska Department of Fish and Game
Staff Comments on Agenda Change Requests
Alaska Board of Fisheries Worksession
October 13-14, 2009
Anchorage, Alaska**



Alaska Department of Fish and Game
October 2009

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ACR #1

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Commercial king and tanner crab regulations under tanner fishery page 146 section (i) in the Bering Sea District, a vessel operator may harvest *C. bairdi* tanner crab as follows: (3) in a directed *C. bairdi* tanner crab fishery occurring between 163° w long and 166° w long would like to change (3) to this: In a directed *C. bairdi* tanner crab fishery occurring between 159° w long and 166° w long changing the eastern line back to what it was before rationalization.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: Preventing over fishing of one area by fishing a bigger area and gear conflicts and gear loss with Bering Sea trawlers (we have overlapping seasons).

or 2) Correct an error in regulation: Not applicable.

or 3) correct an unforeseen effect of a regulation: By changing pre-crab rationalization boundaries. I don't believe that the policy changers realized the huge gear conflict problems relating to trawlers vs. fixed gear.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: I am not asking for an increase in quota unless it is found to be biologically available. I am only asking to re-open traditional and historical harvesting areas to just make it easier to prevent gear conflicts with the trawl fleet. Bering Sea *C. bairdi* at one point in there history were very abundant east of 163° w long. (Port Moellar Area).

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Not applicable.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 35.506 Area J Registration (commercial king and tanner crab fishery regulations) section (i)(3).

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Would like to be able to have this area open in time for the 2009-2010 tanner crab season. Currently the crab fleet has only been able to harvest approximately 1/3 of the quota that has been set by state and federal biologists. We need to minimize gear conflict and harvest our traditional grounds for better marketable crab.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Bering Sea crabber, 34 years.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. I don't think so.

Submitted By: Rick Turvey, Independent Crabbers Coop.

ADF&G STAFF COMMENT ON ACR 1

PRESENT SITUATION: The federal *Fisheries Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP) establishes a state/federal cooperative management regime that delegates management of the Bering Sea Tanner crab fishery to the State of Alaska with federal oversight.

Under the FMP the State of Alaska is delegated the authority to close waters to crab fishing. Closed waters are a category two management measure in the FMP. The state may change closed waters as long as the change is in compliance with the FMP.

There are two regulatory Tanner crab harvest areas for the Bering Sea District Tanner crab fishery. The harvest areas are east and west of 166° W longitude. This ACR addresses only the portion of the Tanner crab fishery that occurs in those waters of the Bering Sea District east of 166° W longitude.

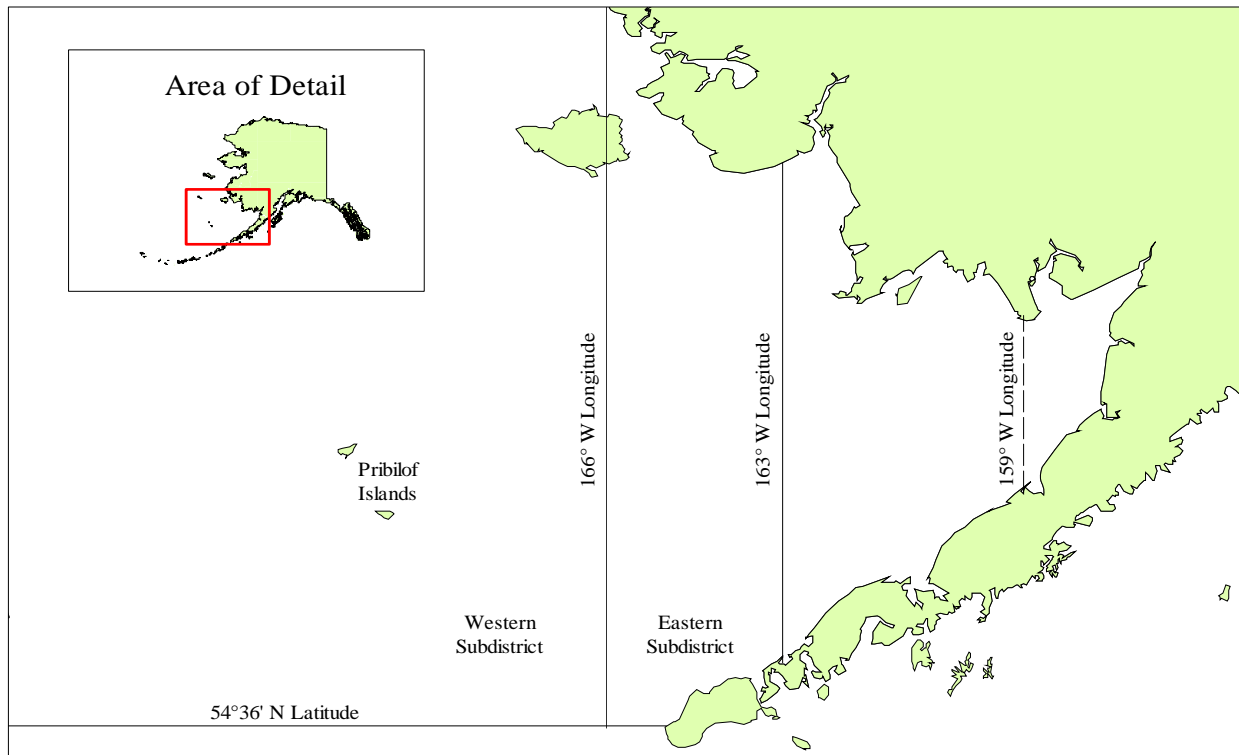


Figure 1. Map of Bering Sea Tanner crab subdistricts with proposed 159° W longitude boundary depicted by dashed line.

When a vessel operator registers for Tanner crab fishing east of 166° W longitude, the fisherman is allowed to place pots between 163° and 166° W. longitude. The directed Tanner crab fishery's eastern boundary of 163° W longitude has been in place since 1993 and all waters east of 163° W longitude are closed to directed fishing for Tanner crabs. This boundary was based on crab-observer bycatch data that indicated the majority of female red king crab bycatch in the Bering Sea Tanner crab and Bristol Bay red king crab fishery came from waters east of 163° W longitude.

In addition to the directed Tanner crab fishery, vessel operators in the directed red king crab fishery may incidentally retain up to five percent Tanner crab, by weight of the red king crab harvest onboard the vessel, in the Bristol Bay red king crab management area. The Bristol Bay red king crab fishery includes waters east of 163° W longitude.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to expand the fishing area for the directed Bering Sea Tanner crab fishery that occurs east of 166° W longitude. The eastern boundary would move from 163° W long to 159° W long.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: Based on preliminary 2009 trawl survey information from National Marine Fisheries Service (NMFS), approximately 431,000 Tanner crab of legal size were estimated east of 163° W longitude. That represents about six percent of the total Bering Sea population of Tanner crab as estimated by the NMFS trawl survey.

The Bering Sea Tanner crab total allowable catch (TAC) has not been achieved the last several years due to a combination of factors including limited participation, market considerations, and fishery timing. The factors responsible for not achieving the TAC are not well understood; however, recent commercial fishery catch rates are comparable to, or above those seen in the early to mid-1990s.

The Bering Sea District Tanner crab fishing season opens by regulation on October 15, and remains open until March 31 of the following year (5 AAC 35.510 *Fishing Seasons For Registration Area J* (f)(1)). Fishermen may fish at any time during this period. The Tanner crab fishery was rationalized by the National Marine Fisheries Service (NMFS) beginning with the 2005/06 season. NMFS issues individual fishing quota (IFQ) to qualified quota share holders. ADF&G announces the TAC, which is allocated 90 percent to IFQ and 10 percent to community development quota (CDQ) holders.

Fishing effort by vessels using trawl gear to target walleye pollock, Pacific cod, and rock sole is heavily concentrated in waters between 163° W longitude and 166° W longitude between January 20 and March 1. At times up to approximately 100 groundfish trawl vessels may use this area.

NMFS has closed waters of Bristol Bay east of 162° W longitude to trawling to protect crab stocks (Nearshore Bristol Bay Trawl Closure Area). Bycatch of red king crab in the Tanner crab and groundfish trawl fisheries accrue toward the red king crab overfishing level.

PROPOSED BY: Rick Turvey.

ACR #2

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Allowing a summer commercial Dungeness crab season in Districts 1 and 2 (the Ketchikan area) will irreparably damage this valuable resource.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: Not applicable.

or 2) Correct an error in regulation: Not applicable.

or 3) correct an unforeseen effect of a regulation: This regulation will reduce the population of Dungeness crab to a point it can not recover from.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: It is about the resource. The Dungeness will be wiped out and then no one will be able to fish them.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Not allocative.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 32.110 Fishing Seasons For Registration Area A. Proposal 149 at the Petersburg BOF January 2009 meeting matched the season description of Districts 1 and 2 with all other waters of registration Area A (this allows a summer commercial crab season).

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The fishery will irreparably damage the crab population in Districts 1 and 2.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). I am a long time Alaska resident and use the resource for subsistence. I want to protect the resource for everyone.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. This agenda change request has not been considered before.

Submitted By: Lloyd Gossman

ADF&G STAFF COMMENT ON ACR 2

PRESENT SITUATION: For the 2009 season the Districts 1 and 2 commercial summer Dungeness crab fishery was opened by regulation from noon June 15 through 11:59 p.m. August 15. The fall season will open at noon October 1 and close at 11:59 p.m. on November 30. Fishing seasons in these districts in future years will be open as specified in 5 AAC 32.110 Fishing Seasons for Registration Area A in accordance with the *Southeastern Alaska Area Dungeness Crab Fisheries Management Plan* which provides for truncated season length if the total regional harvest projection falls below specific levels. The season length has not been altered because of reduced harvest projections since the management plan was adopted in 2000.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to repeal the season modification adopted by the Board of Fisheries (board) in January 2009 and close the summer fishery (June 15 – August 15) in Districts 1 and 2.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** Unknown. The department has historically opposed summer commercial Dungeness crab fisheries due to concerns related to handling mortality of soft shell crab.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: In January 2009 the Alaska Board of Fisheries (board) adopted changes to 5 AAC 32.110 *Fishing seasons for Registration Area A* that changed the season description for Districts 1 and 2. This action aligned the seasons for Districts 1 and 2 to match the season description for nearly all of the remainder of Southeast which provides for summer (June 15 through August 15) and fall (October 1 through November 30) seasons. This action effectively eliminated the winter season (December 1 through February 28) previously described for Districts 1 and 2. The board built a sunset date into regulation [5 AAC 32.110(1)] for the season description change for Districts 1 and 2. This sunset date is February 29, 2012. In the absence of further regulatory change, the District 1 and 2 commercial season length will revert back to a fall and winter season as provided prior to 2009.

ADF&G manages the Southeast Alaska Dungeness fishery according to 5 AAC 32.146. The Southeast Alaska Dungeness Crab Management Plan states that in the absence of stock assessment data the department shall manage the Dungeness crab fishery using a precautionary approach. This approach obliges the department to assess the health of the stocks by making an estimate of the full season's harvest no later than 14 days after the start of the summer fishery. It further obliges the department to take management action to reduce the harvest of legal Dungeness crab and reduce the handling of non-legal and light or soft crab by reducing season length if the estimate falls below 1.5 million pound or 2.25 million pound thresholds. In 2009,

the full season harvest estimate was 3.13 million pounds which, because it exceeded the 2.25 million pounds threshold, provided for full summer and fall seasons.

PROPOSED BY: Lloyd Gossman.

ACR #3

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. There is no direction in 5 AAC 21.360 or 5 AAC 77.540 on how to implement dip net closures in the Kenai River when conservation of the resource is necessary. In 2008 the commercial fishery closed on July 24 and never reopened yet the personal use fishery remained open for the entire season. The escapement goal was not achieved in 2008. This was again repeated in 2009 and in 2010 it appears the forecast will be for an even weaker return to the Kenai. The BOF has not given instructions to the department on how to coordinate these closures to share the burden of conservation to each of the departments divisions are often acting independently and are basically reallocating fish to the personal use and sport fisheries by inaction. This does not happen anywhere else in the state.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: Yes, the dip net fishery takes at least one third of the fish entering the river which makes their harvest equal to either the drift or set gillnet exploitation rate of Kenai Sockeye. The harvest is unmonitored with ever increasing participation which will lead to overharvest. The escapement goal was not achieved in 2008 and was only met in 2009 because the department acted early to close the commercial fishery, even in the Kasilof Section.

or 2) Correct an error in regulation: Yes, the Board of Fisheries erred by not addressing these instructions so the department is left making highly allocative decisions by emergency order. Had the commercial season not closed on July 23 or 24 all users would have had to close the following period, instead of the commercial fishery is shouldering the entire burden, all users should face the same fate and be closed or restricted when necessary. Similar instructions are in other plans such as 5 AAC 21.359 and 5 AAC 21.366 that address the sharing of conservation burden.

or 3) correct an unforeseen effect of a regulation: Yes, who could foresee that the department would interpret that 5 AAC 21.360(b) “the Kenai River late run sockeye salmon commercial, sport and personal use fisheries shall be managed to” would mean that only the commercial fishery is closed because they catch more fish. This is a conservation issue that must be addressed immediately, the escapement goal was not achieved in 2008 and will not be met absent changes in 2010. This resulted in an absurd reallocation and potential conservation nightmare.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: It is not allocative at all because it directs the department in how to close or restrict the fisheries in order to achieve the escapement goal. Current instructions state that 5 AC 21.360(b) “the Kenai River late run sockeye salmon commercial, sport and personal use fisheries shall be managed to” (1) meet an optimum escapement goal of...
(2) achieve inriver goals...

This ACR is only clarifying what is already in regulation and not being followed by the department. The only allocative part is that other users get 24-hours more of notice before closure.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. While this is not allocative 5 AAC 77.001 (b) states that personal use should not jeopardize sustained yield and not negatively impact an existing resource use. I think the department's failure to include all users in the closures the last two years fails in both cases. The dip net fishery harvest in 2008 and 2009 equals what is harvested in the Kenai Section set gillnet fishery. The entire burden of conservation falls almost entirely on the Kenai section set gillnet fishery. The economics of this fishery are completely upside down with repeated over escapements and now the inaction in the department. No other area of the state is mismanaged in this fashion, sport, personal use and subsistence fisheries are restricted in other management areas even when the commercial fishery harvest is 90 percent of the harvest, why is it treated differently here?

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.360(b)(4) If the commercial fishery in the Kenai Section is closed by emergency order for conservation of sockeye salmon for escapement, the sport and personal use fishery in the Kenai River will close 24 hours after the announcement of the closure of commercial fishing. Once closed all fisheries will reopen when the escapement goal is assured.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Because the next season is projected to be even worse than the last two seasons so this problem will reoccur in 2010.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Sport, personal use and commercial processor.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. Never considered.

Submitted By: Mark Powell

ADF&G STAFF COMMENT ON ACR 3

PRESENT SITUATION: The language under 5 AAC 21.360 *Kenai River Late-Run Sockeye Salmon Management Plan* states that the Kenai River late-run sockeye salmon commercial, sport, and personal use fisheries shall be managed to (1) meet an optimal escapement goal (OEG) of 500,000 – 1,000,000 sockeye salmon; (2) achieve inriver goals; and (3) distribute the escapement of sockeye salmon evenly within the OEG range, in proportion to the size of the run. Part (c) states that at run strengths of less than 2,000,000 sockeye salmon, the department shall manage for an inriver goal range of 650,000 - 850,000 sockeye salmon past the sonar counter at river mile 19. The plan further states under (g) and (h) that, subject to the requirement of

achieving the lower end of the OEG, the department shall provide for a personal use dip net fishery and a sport fishery on the Kenai River. These two subsections essentially limit restrictions on these fisheries to those needed to ensure the lower end of the OEG is met.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to direct closures to the sport and personal use fisheries in the Kenai River when the commercial fishery in the Kenai Section is closed by emergency order in order to achieve the escapement goal. Once closed, all the fisheries would reopen once the escapement goal is assured.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: On July 24, 2009, the department used inseason assessment data to project that the 2009 Kenai River sockeye salmon run was less than 2 million fish. Based on this projection, the inriver goal according to the management plan is 650,000 to 850,000 fish. At that time, approximately 420,000 sockeye salmon had passed the sonar, about 1 million Kenai River fish had been harvested by all users, and ADF&G's estimate was that 450,000 more Kenai sockeye may arrive. However, there was uncertainty in this estimate based upon the model used inseason. Given the passage of 420,000 sockeye salmon and an estimated 15,000 to 20,000 fish harvested in the personal use fishery from July 27 through July 31 below the sonar, at least 250,000 of the possible 450,000 sockeye salmon would be necessary to meet the low end of the inriver goal. Commercial fishing was not closed for the season and commercial fishing did occur for one period in the Kasilof Section within ½ mile of shore, while the Central District drift and Kenai Section commercial fisheries were closed for two regular periods until August 1. From August 1 through August 10, the Upper Subdistrict set gillnet and Central District drift fisheries harvested approximately 73,500 sockeye salmon. The preliminary sonar passage estimate for the 2009 season was approximately 745,400 sockeye salmon.

This request was considered during the 2008 February Upper Cook Inlet Board of Fisheries meeting under proposals #130 and #211.

PROPOSED BY: Mark Powell.

ACR #4

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The Northern Southeast Inside (NSEI, or Chatham) sablefish stock is in danger of being overharvested because it is in a period of steep decline (29% decrease in commercial quota from 2008 to 2009) but the new target charter fishery does not decrease bag and annual limits with decreasing stock conditions and relies on self-reported catch data to inform management.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: The 2009 biomass estimate for NSEI sablefish declined significantly over the previous estimate. This summer the Department was concerned enough about this decline in the biomass, the lack of recruitment and the stock condition to significantly lower the harvest rate to $F_{45\%}$, making this the most conservative harvest rate for any groundfish species managed in Alaska by either the State or the Federal governments. The Department also removed test fishing catch before setting the quota for the first time in 2009. The commercial quota decreased 29% in 2009, which resulted in a 78% decrease since 1998, and the lowest catch in 2 decades. The Department used 3% as the estimated removals for sport fish, subsistence fish, and deadloss in non-halibut fisheries, the same number that has been used for the past several years. Testimony at the February 2009 BOF meeting indicated increasing interest in charter harvest of sablefish, facilitated by the use of electric reels. It is likely that establishing a sablefish bag limit of 4 daily and 8 annual will allow growth in the charter harvest during this time of steep stock decline and conservation concern. When the bag limit for sport-caught sablefish was set at the 2009 Southeast finfish meeting, it was not anticipated that the NSEI biomass would experience such a dramatic decline, and the possibility of adjustable bag limits was not discussed. Allowing the bag limit to be adjusted with decreasing stock size (abundance-based management) will protect the resource and provide for sustainable fisheries, consistent with the mission statement of the Department.

or 2) Correct an error in regulation: Not applicable.

or 3) correct an unforeseen effect of a regulation: Not applicable.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The BOF acted on bag limits based on the 2008 fishery information (both commercial and sport). Since that meeting the stock has continued to decrease dramatically. Synchronizing bag limit and commercial quota changes promotes conservation, establishes abundance-based harvest limits, and does not reallocate the resource.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Not applicable.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 47.020. General provisions for seasons and bag, possession, annual, and size limits for the salt waters of the Southeast Alaska Area. Unless otherwise specified through an emergency order issued under AS 16.05.060 , and subject to the special provisions under 5 AAC 47.021 and the provisions of 5 AAC 47.024 - 5 AAC 47.095, the following are the general provisions for the seasons and bag, possession, annual, and size limits that apply to sport fishing for finfish and shellfish in the salt waters of the Southeast Alaska Area: (17) sablefish: may be taken from January 1 - December 31; (A) resident: bag limit of four fish; possession limit of four fish; no annual limit; no size limit; a harvest record is required as specified in 5 AAC 75.006; (B) nonresident: bag limit of four fish; possession limit of four fish; annual limit of eight fish; no size limit; a harvest record is required as specified in 5 AAC 75.006.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The Department's estimate of the NSEI sablefish biomass has declined sharply since this year's BOF meeting (the exact amount has not been made public but the commercial quota, as a proxy, has dropped 29%, and will be the lowest catch in 20 years). When the bag limit for sport-caught sablefish was set, it was not anticipated that the NSEI quota would experience such a dramatic decline, and the possibility of adjustable bag limits was not discussed. In this scenario every pound counts and waiting three years for the next Southeast cycle before taking a conservation action could have serious detrimental consequences to the resource and therefore the State. This is the most valuable groundfish fishery managed by the State of Alaska. Self-reported charter catch data will not increase the accuracy of information available to the Department with which to effectively manage the fishery.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Commercial fishery organizations representing the majority of NSEI sablefish permit holders. Our memberships also participate in recreational and subsistence fishing activities in Alaska.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. This is a new proposal; the Board did not discuss abundance-based management for sport-caught sablefish during the '08-'09 cycle.

Submitted By: Kathy Hansen, SEAFSA; Julianne Curry, PVOA; Linda Behnken, ALFA

ADF&G STAFF COMMENT ON ACR 4

PRESENT SITUATION: Under the provisions of 5 AAC 47.020, the current Southeast Alaska Area sport fishery sablefish bag and possession limit is four fish with a nonresident annual limit of eight fish.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to synchronize sport sablefish limits with the commercial Northern Southeast Inside (NSEI) sablefish quota.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: During the February 2009 Southeast Finfish meeting in Sitka, the Board of Fisheries (board) addressed sablefish bag, possession, and annual limits, whereby establishing a sablefish bag limit of four fish, a possession limit of eight fish, and an annual limit of 12 fish.

During deliberations department staff stated that harvest estimates within the sport fishery were currently unknown. Staff also stated that survey and biomass data for the Chatham Strait sablefish stock suggest that the stock is in a period of significant decline and the department has taken very conservative management actions in the commercial fishery.

On the last day of the meeting the board reconsidered its decision on sablefish regulations and passed a regulation lowering the limits to a bag limit of two fish, a possession limit of four fish, and an annual limit of eight fish. In April 2009 the board acted on a board-generated proposal by increasing the resident and nonresident bag limit from 2 to 4 fish and rescinded the resident annual limit.

The biomass estimate used to set the quota for the 2009 commercial fishery indicated that the population of sablefish in Chatham Strait continues to show a downward trend. Also, there is no evidence of recruitment into the Chatham Strait sablefish population and the commercial fishery continues to harvest a compressed age distribution of fish. For these reasons the 2009 Annual Harvest Objective was reduced 29% from the Annual Harvest Objective used in 2008.

PROPOSED BY: Kathy Hansen, SEAFSA; Julianne Curry, PVOA; Linda Behnken, ALFA.

ACR #5

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The summer commercial crab fishery in District 2, opened this year for the first time since 1985, significantly impacted the customary and traditional gathering levels of Dungeness crab for subsistence so as to threaten sustainable of the opportunity for subsistence crab fishing for our village and community.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: Not applicable.

or 2) Correct an error in regulation: Not applicable.

or 3) correct an unforeseen effect of a regulation: The Board did not consider and address the adverse impact on subsistence when it adopted the regulation in 2009 opening District 1 to commercial summer crab fishing.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: Our request is directed at the impact on subsistence and the adverse biological impact of harvesting large quantities of soft male crabs in the summer by the commercial fleet.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Not applicable.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 32.110(1)

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. District 2 has been closed to commercial crab fishing since 1985. When it was opened this year by the Board, the commercial fleet placed over 100 pots per vessel in our traditional summer subsistence areas and caught all the crab within the first two weeks, leaving little or nothing for us to gather.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). The primary interest of the Organized Village of Kasaan is for the subsistence users in District 2.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF

SO, DURING WHICH BOARD OF FISHERIES MEETING. Not to our knowledge, but we are not sure.

Submitted By: Richard Peterson, President of the Organized Village of Kasaan

ADF&G STAFF COMMENT ON ACR 5

PRESENT SITUATION: For the 2009 season the District 2 commercial summer Dungeness crab fishery was opened by regulation from noon June 15 through 11:59 p.m. August 15. The fall season will open at noon October 1 and close at 11:59 p.m. on November 30. Fishing seasons in this district in future years will be open as specified in 5 AAC 32.110 Fishing Seasons for Registration Area A in accordance with the Southeastern Alaska Area Dungeness Crab Fisheries Management Plan which provides for truncated season length if the total regional harvest projection falls below specific levels. The season length has not been altered because of reduced harvest projections since the management plan was adopted in 2000.

There is a positive Customary and Traditional Use finding for Dungeness crab in that portion of District 2 including the waters of Kasaan Bay and Skowl Arm. The subsistence Dungeness crab fishery is open year round with daily bag and possession limits of 20 male crab.

The personal use Dungeness crab fishery in the waters of District 2 is open year round with daily bag and possession limits of 20 male crab.

The sport Dungeness crab fishery in the waters of District 2 is open year round with daily bag and possession limits of 3 male Dungeness and Tanner male crab in combination.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to repeal the season modification adopted by the Board of Fisheries (board) in January 2009 and close the summer (June 15 – August 15) commercial fishery in District 2.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** Unknown. The department has historically opposed summer commercial Dungeness crab fisheries due to concerns related to handling mortality of soft shell crab.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The board should evaluate whether impacts on a reasonable opportunity for subsistence uses of Dungeness crab and the allocation criteria were adequately considered.

ADDITIONAL INFORMATION: In January 2009 the board adopted changes to 5 AAC 32.110 Fishing seasons for Registration Area A that changed the season description for Districts 1 and 2. This action aligned the seasons for Districts 1 and 2 to match the season description for

nearly all of the remainder of Southeast which provides for summer (June 15 through August 15) and fall (October 1 through November 30) seasons. This action effectively eliminated the winter season (December 1 through February 28) previously described for Districts 1 and 2. The board built a sunset date into regulation [5 AAC 32.110(1)] for the season description change for Districts 1 and 2. This sunset date is February 29, 2012. In the absence of further regulatory change the District 1 and 2 commercial season length will revert back to a fall and winter season as provided prior to 2009.

ADF&G manages the Southeast Alaska Dungeness fishery according to 5 AAC 32.146. The *Southeast Alaska Dungeness Crab Management Plan* states that in the absence of stock assessment data that the department shall manage the Dungeness crab fishery using a precautionary approach. This approach obliges the department to assess the health of the stocks by making an estimate of the full season's harvest no later than 14 days after the start of the summer fishery. It further obliges the department to take management action to reduce the harvest of legal Dungeness crab and reduce the handling of non-legal and light or soft crab by reducing season length if the estimate falls below 1.5 million pound or 2.25 million pound thresholds. In 2009, the full season harvest estimate was 3.13 million pounds which, because it exceeded the 2.25 million pounds threshold, provided for full summer and fall seasons.

PROPOSED BY: Richard Peterson, President of the Organized Village of Kasaan.

ACR # 6

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Per 5 AAC 34.110 Fishing Seasons for Registration Area A (Southeast Alaska) (b) “Male golden king crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, until the season is closed by emergency order.” Normally, this start date for the fishery is not a problem. But, for 2010 it will create major economic loss for participants in the golden king crab fishery – both fishermen and processors – because of unique market conditions. This problem can be successfully addressed by moving the start date forward, amending 5 AAC 34.110 (b) on a one-time basis for 2010 only to read “the date with the smallest Juneau tidal range between January 20 and January 27”. Here’s why this is so important.

The XXI Olympic Winter Games will take place in Vancouver, British Columbia February 12-28, 2010. Vancouver is the major market for Southeast Alaska golden king crab. Typically, 90+% of these crabs are sold live into the Vancouver market. If the timing of the fishery is not changed very little of the crab catch will reach Vancouver during the Olympics. Most will arrive after the games are over. This will create a very adverse marketing situation. Our Vancouver buyers expect a major drop off in restaurant spending following the expected very high sales during the Olympics.

How badly this will impact ex-vessel values is not entirely clear. But, as marketers of roughly 50% of the Southeast golden king crab catch, here is our best estimate at present:

- a.) under normal conditions we would expect the market to support \$4.50 to \$4.75 per pound ex-vessel;
- b.) if the regs aren’t changed for 2010 and we have to sell in a down, post-Olympic market we expect the market conditions would not support a price greater than \$2.50 - \$3.00 per pound.

Assuming a typical catch of about 500,000 pounds that would represent a loss to fishermen of \$750,000 to \$1,125,000 compared to a normal season. However, that doesn’t compute the opportunity cost of missing the huge marketing potential of the Olympics. Nearly half a million visitors expected at the Vancouver and Whistler Olympic venues. Despite the general economic downtown British Columbia visitor information sources report that event tickets are nearly gone, and most available hotel rooms are already booked. They expect some 350,000 spectators, roughly 50,000 people directly associated with the games – athletes and family members, organization staff, etc., and 10,000 media personnel. Most of these visitors will be dining out regularly during the Olympiad, so restaurant sales are predicted to boom. If we can time our crab fishery right, we think these ultra-favorable conditions could support an ex-vessel price of up to \$5.35 per pound. Thus, the true cost of doing nothing and leaving the start date “as is” could be a price swing of up to \$2.85 per pound for fishermen – a total difference of \$1,425,000 assuming a 500,000 total landing.

We should note that we, as processors, are somewhat protected, as we endeavor to maintain a certain margin with our pricing. Thus, it is our fishermen who will suffer most if the Board does

not act on this Agenda Change Request. They also stand to gain the most if the request is granted. This is the reason that we have heard so strongly from fishermen who sell to us that Alaska Glacier should push for this change.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA: If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: Not applicable. This is not a conservation problem.

or 2) Correct an error in regulation: Not applicable. The regulation is not incorrect per se, and was properly adopted.

or 3) Correct an unforeseen effect of a regulation: Applicable. The Agenda Change Request is to correct an effect that could not have been foreseen at time the season opening regulation was adopted in 1980's. At that time it was not known that a.) the Vancouver, B.C. market would grow to become the overwhelmingly most important market for Southeast Alaska golden king crab, or b.) that the Winter Olympics would be held in Vancouver at a time that would create market problems under the regulations as adopted.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINATELY ALLOCATIVE: The request does not alter the composition of the fleet or the in-season conduct of the fishery in any way. Only the start date will be changed, and only for 2010. No one fishery participant will be advantaged over another. All should benefit, and to the same relative degree as normal from averting a major marketing slump and taking advantage of a unique marketing opportunity.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE: Request is not allocative.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD: We are requesting a one-time change, for the 2010 season only to:

5 AAC 34.110 Fishing Seasons for Registration Area A.

(b) Male golden king crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, until the season is closed by emergency order.

However, by regulation, the Southeast Tanner crab season also has the same start date as golden king crab. It has been a matter of long-standing management policy to start the two seasons simultaneously in order to prevent over concentration of fishing effort that could occur if the two crab fisheries were prosecuted separately. Accordingly, in keeping with the management

concerns of the Department, we are requesting the identical changes be made for the 2010 to the fishing season regulation governing the Tanner crab fishery, which is:

5 AAC 35.110. Fishing season for Registration Area A.

Male Tanner crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, through May 1. We note that most Southeast Tanner crab sales are to Japan, with the remainder going to the domestic market. Since this crab is cooked and frozen rather than fresh, timing is not critical as it is with the fresh golden king crab. We have talked with a number of Tanner crab fishermen, and none has expressed concern that advancing the fishery start date would adversely impact their markets.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE: The Board dealt with Southeast and Yakutat crab (Including Dungeness, King and Tanner), shrimp, and miscellaneous shellfish at its January 21-27, 2009 meeting in Petersburg. The proposal deadline for that meeting was April 10, 2008. We were just wrapping up sales from the 2008 golden king crab season at that point and were not yet looking forward to 2009, let alone 2010. Indeed, we did not really recognize this timing problem until we began 2010 season planning talks with our Vancouver crab buyers after the close of the 2009 season. There is no doubt that, ideally, we should have foreseen this issue and brought it up for consideration at the January, 2009 meeting. But, like others in the business we often do not have the luxury of such foresight. Clearly, because this is a one-time, 2010 issue, it cannot wait to be heard in the regular cycle, which will not bring up Southeast regulatory issues for consideration again until 2012.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.): Alaska Glacier Seafoods is a duly licensed, Alaska owned seafood processing company based in Juneau. We are the largest single marketer of Southeast Alaska golden king crab, typically buying and marketing between 50% and 60% of the catch. While we are representing ourselves with this ACR, we have consulted closely with our crab fishermen and with other in-region organizations representing fishermen. We have received very strong encouragement and support for this proposal, with no negatives being raised.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. This request has not been considered previously as either a Proposal or as an Agenda Change Request.

Submitted By: Mike Erickson, President, Alaska Glacier Seafoods

ADF&G STAFF COMMENT ON ACR 6

PRESENT SITUATION: The Southeast Alaska golden king and Tanner crab commercial fisheries open concurrently at noon on the date with the smallest Juneau tidal range between

February 10 and February 17. Since this regulation was adopted in 2005 the department has worked with the Southeast King and Tanner Task Force in interpreting tide tables to set the start date.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to move the start date of the golden king crab fishery forward, amending 5 AAC 34.110(b) on a one time basis for 2010 only to read, “the date with the smallest Juneau tidal range between January 20 and January 27”. Based on input from the department on its concern in keeping concurrent start dates for both fisheries, this ACR also seeks to amend the regulatory language on the Tanner crab fishery start date [5 AAC 35.110] in a similar manner.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes. It was not known that the XXI Olympic Winter Games would be held in Vancouver, British Columbia when the current regulation was adopted. Since there is nothing in the harvest database that identifies how golden king crab are marketed, the department is unable to fully evaluate whether, or how, the market conditions have changed since the current regulations on the golden king crab start date were adopted in 2005.

ADDITIONAL INFORMATION: The golden king and Tanner crab commercial fisheries have opened concurrently since the 1985/86 season. Since that time golden king and Tanner crab commercial fisheries opening dates have varied from as early as January 15 to as late as February 15. At the statewide shellfish Board of Fisheries (board) meeting in 2005 the board adopted an industry proposal to change the start date of both fisheries to the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order and specified in 5 AAC 34.110(b) for king crab and 5 AAC 35.110 for Tanner crab.

The markets for the Tanner crab and golden king crab are much different. Currently, Tanner crab is largely a raw blast frozen export market, while the Southeast golden king crab market is largely a live market where crab are shipped via airfreight out of the region.

PROPOSED BY: Mike Erickson, President of Alaska Glacier Seafoods.

ACR # 7

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The Bering Sea snow crab fishery was declared overfished by the National Marine Fisheries Service in 1999. In response to the overfishing declaration, ADF&G developed a rebuilding plan in 2000, 5 AAC 35.517 Bering Sea *C. opilio* Tanner Crab Harvest Strategy. The rebuilding plan contains a minimum total allowable catch (TAC) of 15 million pounds for the commercial fishery (not including the community development quota fishery). The minimum harvest level was utilized to minimize the risk of the fishery exceeding harvest targets when the fishery was managed inseason as a competitive fishery under a guideline harvest level. Since the 2005/06 fishing season the snow crab fishery has been included in the federal Crab Rationalization Program, and managed under a total allowable catch (TAC). Inseason management is no longer conducted by ADF&G under a guideline harvest level.

ADF&G may need to adjust the TAC for the 2009/10 season below levels determined by 5 AAC 35.517 Bering Sea *C. opilio* Tanner Crab Harvest Strategy and below the minimum TAC to achieve the rebuilt level, B_{msy} , under the federal rebuilding schedule for snow crab.

If ADF&G determines a harvestable surplus of snow crab is available under 5 AAC 35.517 that is less than the minimum TAC or if ADF&G reduces the calculated TAC for the 2009/10 season to a level below the minimum TAC to achieve stock rebuilding under federal guidelines, then the fishery would remain closed. ADF&G is requesting that the minimum TAC be removed from the snow crab management plan because it no longer serves the purpose it was originally developed for and, as an unforeseen effect of the regulation, could close the fishery when a harvestable surplus could be taken without the risk of exceeding the harvest target.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA: If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** Not applicable.

or 3) **Correct an unforeseen effect of a regulation:** Yes.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINATELY ALLOCATIVE: The Bering Sea snow crab fishery is managed for a total allowable catch. Although there are no allocations in state regulation, the National Marine Fisheries Service issues individual fishing quota shares (IFQ) to qualified participants. Removing the snow crab minimum TAC will not affect the federal allocation to IFQ holders.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE: Not applicable.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD: 5 AAC 35.517 (a)(2)

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE: The snow crab TAC for the 2009/10 season will be determined by October 1, 2009. If the snow crab TAC is less than the minimum TAC in regulation, the snow crab season would not open, although a harvestable surplus is available. The next regularly scheduled Board of Fisheries meeting for Bering Sea crab will occur in 2010/11. If this issue was taken up during the 2010/11 Board meeting cycle, it would not take effect until the 2011/12 snow crab season.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.): This ACR was submitted by the Alaska Department of Fish and Game.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. The Board has not considered an ACR on this issue before.

Submitted By: Alaska Department of Fish and Game

ADF&G STAFF COMMENT ON ACR 7

PRESENT SITUATION: The federal *Fisheries Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP) establishes a state/federal cooperative management regime that delegates management of the Bering Sea Tanner crab fishery to the State of Alaska with federal oversight.

Under the FMP the State of Alaska is delegated the authority to establish harvest levels for crab stocks. Harvest levels are a category two management measure in the FMP. The state may change how harvest levels are set as long as the harvest level is in compliance with the FMP.

The Bering Sea snow crab fishery was declared overfished by the National Marine Fisheries Service in 1999. Federal law requires that overfished stocks be rebuilt within 10 years of being declared overfished.

In response to the overfishing declaration and as part of the snow crab rebuilding plan, Alaska Department of Fish & Game (ADF&G) developed a harvest strategy that was adopted by the Board of Fisheries in 2000 (5 AAC 35.517 *Bering Sea C. opilio Tanner Crab Harvest Strategy*). The harvest strategy contains a minimum total allowable catch (TAC) of 15 million pounds for the commercial fishery (not including the community development quota fishery). The minimum harvest level was utilized to reduce the risk of the fishery exceeding harvest targets when the competitive fishery was managed inseason. Since the 2005/06 fishing season the snow crab fishery has been included in the federal Crab Rationalization Program and managed under a

TAC with quota shares issued to individual fishermen. Under this system there is no risk of exceeding the TAC.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request may be necessary to adjust the TAC for the 2009/10 snow crab season below levels determined by 5 AAC 35.517 Bering *Sea C. opilio* Tanner Crab Harvest Strategy and below the minimum TAC to achieve the rebuilt level, B_{msy} , under the federal rebuilding timeline for snow crab.

If ADF&G determines a harvestable surplus of snow crab is available under 5 AAC 35.517 that is less than the minimum TAC or if ADF&G reduces the calculated TAC for the 2009/10 season to a level below the minimum TAC to achieve stock rebuilding under federal guidelines, then the fishery would remain closed.

ADF&G is requesting that the minimum TAC be removed from the snow crab harvest strategy because it no longer serves the purpose it was originally developed for and, as an unforeseen effect of the regulation, could close the fishery when a harvestable surplus could be taken without the risk of exceeding the harvest target.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No
- 2) **Does the agenda change request correct an error in regulation?** No
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes

ADDITIONAL INFORMATION: Aside from the Community Development Quota (CDQ) fishery, there are no other snow crab fishery allocations in state regulation; however, the National Marine Fisheries Service issues individual fishing quota shares (IFQ) to qualified participants. Removing the snow crab minimum TAC will not affect the federal allocation to IFQ holders or the CDQ allocation.

The snow crab TAC for the 2009/10 season will be determined by October 1, 2009. If the snow crab TAC is less than the minimum TAC in regulation, the snow crab season would not open, despite a harvestable surplus being available.

PROPOSED BY: ADF&G.

ACR # 8

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The issue is the increasing harvest of bottom fish in the Juneau-Douglas area by a portion of charter boats, as a result of cruise ships bottom fish directed sales. I believe these fish are being harvested in greater numbers in 2009 than in past years, especially after the one halibut bag limit was enforced in the Spring of 2009. The problem is rock fish are slow growing, easy to catch and the potential for over harvesting in areas surrounding Juneau-Douglas is great.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA: If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: This ACR meets criteria #1 in that if left unabated the bottom fish population in the Juneau-Douglas area could be severely affected. This ACR meets criteria #3 in that there is the potential to correct an unforeseen effect of a regulation (over fishing of one fishery as a result of limiting another).

or 2) Correct an error in regulation: Not applicable.

or 3) Correct an unforeseen effect of a regulation: Not applicable.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINATELY ALLOCATIVE: This ACR is not suggesting to reallocate the bottom fishery. Its intent is to reduce the possible over fishing of rock fish in a concentrated area by restricting that area from charter boat rock fishing and halibut fishing.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE: Not applicable.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD: Add a new section to 5 AAC 47.021 which would close the rockfish waters near Point Retreat, Shelter Island, Vanderbilt Reef, Poundstone Rock, Sentinel Island and Point Symonds to bottom fishing, by chartered anglers as follows:

All waters bounded on the west and north by a line from False Point Retreat to the northern tip of Ralston Island to Vanderbilt Reef Light, including waters within one-half mile of Vanderbilt Reef Light, to the southern entrance of Bridget Cove, and bounded on the south by a line from Point Louisa to Outer Point to the southernmost point of Horse Island to a point on Admiralty Island shore at the latitude of the southernmost point of Horse Island, are closed to guided sport fishing for rockfish and bottom fish.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE: To wait for the regular cycle means that this concern would not be

heard until 2012. It could not of been heard in Sitka, in March of 2009, as the cruise ship season had not started yet. No one knew than that some cruise ships would be advertising and selling bottom fish fishing trips in Juneau. Waiting until 2012 would allow two more years for this fishery to intensify, and the removal of rockfish could be quite severe.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.): I am a 32 year resident of Juneau (28 in Douglas), and I am a sport fisher. I am a member of the Juneau-Douglas Fish & Game Advisory Committee and the City and Borough of Juneau Fisheries Development Committee. I am a strong advocate of protecting local stocks of rockfish and halibut from overexploitation.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. I do not believe this issue has been raised in the Juneau area; the closing of specific waters to bottom fishing. I am aware of a similar, successful closure in Sitka called "Sitka Sound Local Area Management Plan".

Submitted By: Mike Peterson

ADF&G STAFF COMMENT ON ACR 8

PRESENT SITUATION: The sport fish regulations for groundfish are as follows:

Lingcod: The season for lingcod is May 16 through November 30. The resident bag limit is 1 daily, 2 in possession, no size limit or annual limit. The nonresident bag limit is 1 daily, one in possession, with a 30 inch minimum - 35 inch maximum size limit, or 55 inches or greater in length and an nonresident annual limit of 2 fish, one that is 30 to 35 inches in length, and one that is 55 inches or greater in length, a harvest record is required.

Non-pelagic rockfish: All nonpelagic rockfish must be retained until the bag limit is reached. The resident bag limit is 3 fish, only 1 may be a yelloweye; 6 fish in possession, of which no more than 2 may be yelloweye. The nonresident bag limit is two fish, only 1 may be a yelloweye; 4 fish in possession, of which no more than 2 may be yelloweye with an annual limit of 2 yelloweye; a harvest record is required.

Pelagic rockfish: The bag limit is 5 fish with a possession limit of 10 fish.

Sablefish: The daily bag and possession limit is 4 fish, with a nonresident annual limit of 8 fish; a harvest record is required.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to close all waters to guided sport fishing for rockfish and groundfish within the area bounded by a line on the west and north from False Point Retreat to the northern tip of Ralston Island to Vanderbilt Reef Light, including waters within one-half mile of Vanderbilt

Reef Light, to the southern entrance of Bridget Cove, and by a line on the south from Point Louisa to Outer Point, to the southernmost point of Horse Island to a point on Admiralty Island shore at the latitude of the southernmost point of Horse Island.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: Each year the department establishes a guideline harvest level (GHL) for lingcod in each of the 7 districts of Southeast Alaska. The Northern Southeast Inside (NSEI) Subdistrict encompasses the Juneau area. The lingcod allocations established by the board allocate 50% of the NSEI GHL to the sport fishery and the remaining 50% to the commercial fishery. The department, under the direction of 5 AAC 47.060 “Lingcod delegation of authority and provisions for management,” sets bag limits, possession limits, annual limits, length limits, and seasons for resident and nonresident anglers annually by emergency order to ensure that the sport fishery does not exceed its NSEI allocation.

Although the non-pelagic rockfish sport fishery in NSEI is not managed for an allocation as the sport fishery is for the Southeast Outside District, the department manages the NSEI non-pelagic rockfish sport fishery conservatively by implementing the same conservative management measures that are used to keep the Southeast Outside District non-pelagic sport fishery within its allocation.

The regionwide pelagic rockfish and sablefish sport fishery regulations apply to the Juneau area sport fishery.

PROPOSED BY: Mike Peterson.

ACR # 9

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The current minimum size limit of 5.5 inches (140 mm) carapace width (CW) was established for Tanner crab (*Chionoecetes bairdi*) in the Bering Sea in 1976. It has never been changed. Zheng (2008) showed that mean size of maturity of male Tanner crabs declined from 120 mm CW in 1990 to 100 mm CW in 2006 in the Bristol Bay area. For females, a longer time series of maturity data show that female maturity size declined steadily since 1975 in both Bristol Bay and Pribilof areas. Because of terminal molt, this decline in maturity size has unintended consequences: (1) the few large-growing males experience higher fishing mortality rates and many are removed before they have an opportunity to reproduce, (2) handling mortality of sublegal males increased with the increasing proportion of sublegal to legal-sized crabs, (3) at-sea discards comprise a greater proportion of the total catch, thus increasing catch sorting time and costs, and (4) legal male catch-per-unit-effort (CPUE) declined. The combination of reduced legal male CPUE and increased proportion of sublegals have combined to compromise fishery profitability. Decreased profitability leads the fleet to abandon fishing prematurely, resulting in foregone catch as the fishery no longer attains guideline harvest limits (catch quotas) designed to achieve optimum sustainable yield. NMFS/RAM reports show foregone harvests of the TAC in 2006-07, 2007-08 and 2008-09 due to low CPUE and lack of profitability were respectively: 771,000 pounds; 3.1 million pounds; and 2.2 million pounds.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA: If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) Fishery conservation purpose or reason: Reduction in size limit, commensurate with the decline in size of maturity, would reduce catches of sublegal males, thus reducing handling and discard mortality.

or 2) Correct an error in regulation: The regulation was not in error when originally established, but now, owing to a decline in maturity size, a significant proportion of mature males never molt to legal size. Thus, the original motivation of the size limit to allow males one to two opportunities to mate and then become available to the fishery is no longer maintained.

or 3) Correct an unforeseen effect of a regulation: At the time the size limit was established at 1-2 molts above maturity size, it was unforeseen that mean maturity size would decline by 20 mm CW or more. A reduction in minimum size limit (and commensurate adjustment in harvest rate) is necessary to continue to achieve original optimum yield objectives for this fishery.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINATELY ALLOCATIVE: This agenda change request to reduce the minimum size limit for Tanner crabs in the Bering Sea is not allocative, because it affects all fishery participants equally. All participating fishermen and processors will share in the increased yield and economic efficiencies resulting from a reduced size limit, if enacted.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE: Not applicable.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD: 5 AAC 35.520 Size limits for Registration Area J. 5 AAC 35.508. Bering Sea District *C. bairdi* Tanner crab harvest strategy.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE: The unforeseen loss of sustained yield and increase in handling and discard mortality of sublegal male Tanner crabs would continue for two more seasons until this matter is address by the Board of Fisheries on their regular meeting cycle in 2010/2011.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.): The Alaska Crab Coalition is a fisheries trade association representing the owners and operators of Bering Sea and Aleutian Islands crab fishing vessels since 1986.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. This Agenda Change Request has not been previously considered by the Board of Fisheries to our knowledge.

Submitted By: Arni Thomson, Alaska Crab Coalition

ADF&G STAFF COMMENT ON ACR 9

PRESENT SITUATION: The federal *Fisheries Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP) establishes a state/federal cooperative management regime that delegates management of the Bering Sea Tanner crab fishery to the State of Alaska with federal oversight.

Under the FMP the State of Alaska is delegated the authority to establish minimum size limits for harvesting crab. Minimum size limits for crab are a category two management measure in the FMP. The state may change a minimum size limit as long as the size limit is in compliance with the FMP.

The minimum legal size for male Tanner crab in the Bering Sea District is currently 5.5 inches in carapace width, (5 AAC 35.520 (b)(1) Size Limits For Registration Area J).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This ACR requests a change in male Tanner crab minimum size limit in the Bering Sea District, to a size that would be determined based on an ongoing analysis by the University of Alaska.

There is information published by ADF&G that suggests the average size of maturity for male Tanner crab in the Bering Sea has declined since the 5.5 inch size limit was developed in the late

1970s; Zheng, J. 2008. *Temporal changes in size at maturity and their implications for fisheries management for eastern Bering Sea Tanner crab*. *J. Northw. Alt. Fish. Sci.*, 41: 137–149.

Based on the information published by J. Zheng on Tanner crab size at maturity, the Alaska Crab Coalition has contracted with the University of Alaska to analyze the size of maturity. The University is analyzing the biological and economic implications of adjusting the minimum size limit. This agenda change request, if approved, would place this issue before the Board of Fisheries (board) during the upcoming regulatory cycle. Since the analysis by the University of Alaska is not complete, it is unknown what the alternative size limit would be.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1) **Is there a pressing fishery conservation purpose or reason?** No.
- 2) **Does the agenda change request correct an error in regulation?** No.
- 3) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly.

ADDITIONAL INFORMATION: If the board approves this ACR, three regulations would likely need review: 5 AAC 35.520 *Size Limits For Registration Area J* (b)(1), 5 AAC 35.508 *Bering Sea District C. bairdi Tanner Crab Harvest Strategy*, and presumably, the crab industry would want to modify the escape requirements for Tanner crab pots, 5 AAC 35.525 *Lawful Gear For Registration Area J* (b)(1).

In concert with the board review, the North Pacific Fishery Management Council's Crab Plan Team would need timely notification of the potential new size limit and potential change in the state's harvest strategy regulation. Until the Crab Plan Team receives the results of the University of Alaska's analysis, it is unknown how it may affect the calculation of the overfishing level.

Once the Crab Plan Team's Stock Assessment and Fishery Evaluation Report (SAFE) assessment authors are notified of the recommended size limit and harvest strategy change, they could advise the board on impacts of the new size limit on the Tanner crab overfishing level (OFL) for the season that the new size limit and harvest strategy come into effect.

Based on the OFL for the 2009/10 season, most of the OFL is attributed to discard mortality. If the size limit is reduced it may reduce the amount of annual bycatch mortality. ADF&G anticipates that the University's analysis will include some spatial considerations with respect to discard mortality.

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