

# Steller Sea Lion Mitigation Committee

## MINUTES

6-14/15-2012

9 AM – 5 PM

JUNEAU, AK

<b>ATTENDEES – COMMITTEE MEMBERS</b>	Larry Cotter-Chairman, Rudy Tsukada, Dave Fraser, Jon Warrenchuk, Gerry Merrigan, John Gauvin, Ernie Weiss, Todd Loomis, Steve MacLean-Council staff
<b>PUBLIC ATTENDEES</b>	Michael Levine, Jon Kurland, Kristen Mabry, Melanie Brown, Dana Seagars, Josh Keaton, Steve Lewis, Ben Muse, Tom Gemmell, Mary Furuness, Dave Benton, John Lepore, Sadie Wright, Heather Brandon, Doug Vincent-Lang, Glenn Reed, Jim Balsiger, Tom Gelatt, John Bengtson, Mary Grady, Brandi Gerke, Sarah Ellgen, Stephanie Madsen, Diane Scoboria

### Agenda topics

INTRO, REVIEW PURPOSE & SCOPE

COTTER

<b>DISCUSSION</b>	Chairman Cotter welcomed the Committee and public and asked each person present to introduce themselves. Eight committee members were present, missing were Alvin Osterback and Kenny Down. Chairman Cotter reiterated that the purpose of the SSLMC was to develop comments for the scoping process in the SSL EIS, and to develop one or more alternatives for the Council to consider advancing for analysis in the SSL EIS.		
<b>CONCLUSIONS</b>	N/A		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	
N/A			

ESA AND OTHER LEGAL CONSIDERATIONS

LEPORE

<b>DISCUSSION</b>	<p>Mr. John Lepore summarized a presentation previously given to the NPFMC regarding the purposes, requirements, and recent court decisions concerning the ESA, and provided legal context for the next steps of the EIS process. Mr. Lepore reiterated the Gifford Pinchot Task force v. U.S. Fish and Wildlife Service and the National Wildlife Federation v. NMFS decisions, and their interpretation that evaluation of the impacts of federal actions on both survival <i>and</i> recovery are required. This resulted in the "Hogarth Memo" that explains NMFS policies for applying the ESA. Mr. Lepore further identified NMFS' interpretation of "conservation" in the ESA. There was some discussion about the use of recovery plans and recovery criteria in ESA Section 7 consultations, and the resulting Biological Opinions. There was a statement from PR staff that the recovery criteria should be included in biological opinions, and that the two need to be linked.</p> <p>Mr. Lepore provided a summary of the January 19, 2012 US District Court determination. Following this summary, there were questions about the appeal of that decision that has been filed. As that is ongoing litigation, there was little discussion of the appeal.</p> <p>There were questions from the Committee about whether a new formal Section 7 consultation would be required at the end of the SSL EIS process, would a new RPA require a new Biological Opinion? The feeling from both Sustainable Fisheries and Protected Resources was that although it is possible that a new RPA would not require reconsultation if the effects of that RPA had already been considered and did not differ from the status quo, it is very likely that any new RPA resulting from the EIS would require reinitiation of formal consultation. The timeline developed for the EIS and rulemaking process (delivered to the Council in April, 2012) does include time for Section 7 consultation. A question was asked whether the "performance standards" used in the 2010 Biological Opinion were the standards that would be applied in the EIS, could NMFS estimate the effects of an alternative during the EIS process using different standards than those used in the 2010 Biological Opinion? Mr. Lepore reported that yes, an alternative, or alternatives, could be analyzed using different standards.</p>		
<b>CONCLUSIONS</b>	N/A		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	
N/A			

2010 BIOLOGICAL OPINION

SEAGARS

<b>DISCUSSION</b>	<p>Dana Seagars (AKR PR) gave a presentation summarizing the 2010 Biological Opinion. Mr. Seagars' presentation summarized the concepts of jeopardy and adverse modification (JAM), and explained that the agency must ensure that the action does not cause jeopardy to the continued existence or recovery of the population, or adversely modify designated critical habitat. The presentation provided a history of Section 7 consultations related to the Steller sea lion in Alaska, and the inclusion of recovery criteria from the 2008 Steller Sea Lion Recovery Plan in the 2010 BiOp. The new information that was cited to reinitiate consultation included stratus and trends of the wDPS, new SSL research, and fisheries data. The presentation then summarized the conclusions of the 2010 BiOp, that nutritional stress is likely affecting the survival and recovery of the wDPS and it is not possible to exclude the likelihood that commercial groundfish fisheries cause JAM, current fishery management measures in the eastern AI, BS, and GOA appear to be having their intended effect and should be continued, and that mitigation needs to be more precautionary in the western AI where SSL population declines are steepest. Performance standards used to establish and evaluate reasonable and prudent alternatives (RPAs) were presented. There were questions about the performance standards that were applied in the 2010 BiOp, and whether those same performance standards would be applied to the 2012 EIS. Mr. Seagars responded that the performance standards used in the 2010 BiOp would likely be used again. A comment was made that the existence of performance standards suggested that metrics by which those standards could be measured existed. For example, one of the metrics listed is to conserve the overall forage biomass for Steller sea lions, which suggests that a measure of biomass exists. The Committee would like to know whether that measure entails measuring biomass or uses fishery removals as a proxy for overall forage biomass. Mr. Seagars agreed that PR would provide a list of metrics to the Committee. However, it was noted during discussion that alternative metrics would also be appropriate, and the Committee was not restricted to the metrics used by NMFS in the 2010 BiOp and could suggest alternate metrics to evaluate alternatives in the EIS process, and use alternate metrics during the development of their own alternatives.</p> <p>Mr. Seagars concluded by summarizing the "bull's eye" concept for the RPA put into effect by the Interim Final Rule.</p>		
<b>CONCLUSIONS</b>	N/A		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	
PR will provide list of metrics to measure performance standards to the SSLMC	Seagars		

**INTERIM FINAL RULE**

M. BROWN

<b>DISCUSSION</b>	<p>Melanie Brown presented an overview of the Interim Final Rule that was put in place in 2011. This presentation included a summary of the closures in effect in areas 541, 542, and 543, and changes to the RPA since October 2010. Some discussion occurred about the likelihood of a new RPA requiring reconsultation. PR and SF staff concurred that any new RPA would likely require either formal or informal consultation, and a new Biological Opinion. Reconsultation is anticipated in the timeline for implementation by 2014.</p>		
<b>CONCLUSIONS</b>	N/A		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	
N/A			

**PUBLIC TESTIMONY**

<b>DISCUSSION</b>	<p>Mike Levine, Oceana, provided public testimony wherein he reiterated that any new RPA being considered should fit within the existing management framework considered in the original BiOp, and suggested that any consideration beyond that is beyond the scope of the committee. Mr. Levine also requested that opportunities for teleconferencing should be provided for SSLMC meetings.</p>		
<b>CONCLUSIONS</b>	The Committee requested that future SSLMC meetings be made available to the public via teleconference.		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	
Council staff will arrange for the remaining SSLMC meetings to be broadcast (listen only) via teleconference.	MacLean		

<b>DISCUSSION</b>	<p>Tom Gelatt, National Marine Mammal Lab. Alaska Ecosystems Program Leader, presented information about the Alaska Ecosystem Program’s recent work. Dr. Gelatt noted that NMML staff have been notified that they may be requested to provide information to the Committee at either the July 15-16 or 30-31 meetings, and they are prepared to do so. Gross topics for which NMML is prepared to provide data include: abundance trends of wDPS through 2011 (2012 data may be available by the December 2012 Council meeting); Survival rates through age 11 for EAI, CGOA, EGOA, and time series survivorship changes from the CGOA from 1975 – 2011; Age-sex composition of wDPS and comparisons with SEAK; Aleutian Island SSL food habits from 199 – 2011, including a manuscript that is intended to be available as a citation for the 2012 EIS; summary of information from recent satellite telemetry work.</p> <p>Work being conducted this year includes: aerial surveys planned for the entire Aleutian Islands, starting from the western Aleutians, moving eastward; Brand resight surveys from Kenai – Kodiak – Amak; Brand resight surveys aboard the FWS <i>R/V Tiglax</i>; capture and biosampling pups from the Aleutians, and refurbishing remote cameras placed on Attu and Agatu Islands to obtain timelapse presence / absence data on rookeries and haulouts.</p>		
<b>CONCLUSIONS</b>	The Committee will request presentations from NMML staff for the July meetings via written request to Dr. Doug DeMaster.		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	
Prepare request for presentations letter	MacLean		

2012 EIS BASELINE DATA & CATCH ACCOUNTING SYSTEM

J. KEATON, S. LEWIS

<b>DISCUSSION</b>	<p>Josh Keaton provided information about the data sources and products that NMFS will use to evaluate alternatives in the 2012 EIS. The Catch Accounting System (CAS) is the official record of non CDQ (2003 – current) and CDQ (2008 – current) catch in Alaska. Although all data are available, some data are confidential if individual entities (vessels or processors) are three or fewer. Confidential data must be summarized to dilute individually identifiable information. The baseline for the 2012 EIS includes data from 2004 – 2010, although information from 2011 and 2012 may also be used where appropriate. The years 2004 – 2010 were selected because they are the latest data that cover the current management practices, and only data since 2004 include fine scale data. A question was asked about pre-2003 observer data, and what changes in 2003-2004 preclude using 2003 data. Mr. Keaton responded that after 2004, blended data were no longer included in the dataset.</p> <p>Steve Lewis presented an introduction to the Catch In Area (CIA) dataset, which will also be used for analysis in the 2012 EIS. Mr. Lewis demonstrated the reprojecting functioning of the CIA dataset, which allows for an analysis of likely distribution of effort if certain areas are closed. As an example, Mr. Lewis demonstrated the reprojected longline effort around the Pribilof Islands for proposed closures that were analyzed for the Pribilof Islands blue king crab rebuilding EA.</p>		
<b>CONCLUSIONS</b>			
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	

2012 EIS PROGRESS & UPDATE ON ATKA MACKEREL STUDIES

M. BROWN

<b>DISCUSSION</b>	<p>Day two began with a presentation of progress to date on the 2012 Steller sea lion protection measures EIS, and an update on the Atka mackerel tagging study. The EIS is well underway, letters have been sent to tribal entities in Alaska announcing availability for Tribal Consultation, the State of Alaska, US Coast Guard, and US Fish and Wildlife Service have all accepted invitations to act as consulting agencies, the writing teams for each chapter have been developed and teams are beginning to write their sections. Writing teams have received EIS specific training, and training with software that will be used to manage citations (Mendeley) and share chapter drafts.</p> <p>The Atka mackerel tagging study was not able to obtain a research permit authorizing use of Atka mackerel in the no-retention zone established by the Interim Final Rule. NMFS plans to include the Atka mackerel tagging study as part of the research recommendations chapter in the 2012 EIS.</p>		
<b>CONCLUSIONS</b>			
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>	

Council staff will create a Mendeley workgroup for the SSLMC to share research papers and citations	MacLean	

RESEARCH PRESENTATION  
REQUESTS

COTTER

<b>DISCUSSION</b>	<p>The Committee discussed the range of presentations that they would like to receive during the development of scoping comments and alternatives for consideration in the EIS. The Committee decided to add another day to the September meeting for development of scoping comments, the meeting will now take place September 5-7, in Juneau. The Committee directed Council staff to work with the chairman to develop a list of presentations from NMML, AFSC, and other agencies for the July and September meetings. A request was made for a summary of fleet behavior and reaction to the 2010 IFR by gear type and component. NMFS AKR staff indicated they could make that presentation, likely in September, when the Committee meeting will be in Juneau. The Committee also requested an update and forecast of fleet behavior in the State waters fishery.</p> <p>Additionally, the Committee requested that relevant recent research papers should be obtained and distributed to the Committee.</p>	
<b>CONCLUSIONS</b>	<p>Council staff will work with the Chairman to draft a list of requested presentations and solicit presentations from NMFS AKR, NMML, the State of Alaska, and other agencies where appropriate</p> <p>Council staff will compile a list of recent research articles and data (not intended to be comprehensive) and distribute papers and data (if possible) to the Committee</p>	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Develop list of requested presentations and send requests	MacLean	
Compile recent research articles	MacLean	

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<b>OBSERVERS</b>	
<b>RESOURCE PERSONS</b>	
<b>SPECIAL NOTES</b>	