



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
P.O. Box 1668
Juneau, Alaska 99802
Telephone (907) 586-7414
November 30, 1984

TO: North Pacific Fishery Management Council Members
and Staff

FROM: Patrick J. Travers *Pat*
Alaska Regional Counsel, NOAA

SUBJECT: Legal Implications of Full United States Use of Certain
Groundfish Species for Groundfish Apportionments to JVP
and TALFF in the Gulf of Alaska and the Bering Sea and
Aleutians

During the past few weeks, the Council's plan teams for the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (GOA FMP) and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSA FMP) have determined that certain groundfish species managed under those FMPs will, in certain areas, be fully harvested by United States fishermen during 1985. These will be referred to here as US harvested species. In addition, the teams found that the entire catch of certain of the US harvested species will be used by United States fish processors during 1985. These will be referred to as US processed species. The purpose of this memorandum is to analyze the effect that the adoption of these determinations by the Council and NMFS would have upon their discretion (1) to apportion any of the US harvested species to TALFF; (2) to apportion any of the US processed species to JVP; (3) to permit the harvest by foreign vessels of any groundfish species that would result in the incidental catch of any US harvested species; and (4) to permit the receipt at sea by foreign vessels of any groundfish species the harvest of which would result in the incidental catch of any US processed species. The specific facts upon which this analysis is based are outlined in Council Staff Issues Statements 84-1 through 84-5, and in the most recent reports of the two teams.

In the following discussion, each of the proposals that have been considered by the Council staff and the teams for dealing with this situation will be considered in turn. The legal requirements that affect each proposal will be analyzed, with special attention to the effect of contrasting provisions of the two FMPs.

This memorandum represents the result of consultation with the NOAA General Counsel, Deputy General Counsel, and Assistant General Counsel for Fisheries on this specific situation.



Proposal 1: Establish TALFF for US Harvested Species and JVP for US Processed Species at Zero; and Prohibit Any Foreign Fishing That Would Involve An Incidental Catch of US Harvested Species, and Any Receipt by Foreign Vessels of Fish the Harvest of Which Would Involve the Incidental Catch of US Processed Species.

The most conservative management approach that has been considered in light of the facts outlined above is one under which the total allowable level of foreign fishing (TALFF) for any US harvested species would be established at zero; the joint venture processing (JVP) amount for any US processed species would similarly be set at zero; any foreign fishing involving an incidental catch of any US harvested species would be prohibited; and any receipt at sea by foreign vessels of fish the harvest of which would involve the incidental catch of US processed species would also be prohibited.

It is with respect to this proposal that the differences in the relevant provisions of the two FMPs have their greatest effect. Therefore, these differences will be described here, even though they are also relevant to the other proposals.

The GOA FMP specifies a separate optimum yield (OY) for each of the target and "other" groundfish species. GOA FMP §6.3 and Tables 58 and 64; 50 CFR §672.20, Table 1. For some of these species, separate OYs are specified for each of the FMP's regulatory areas and districts. Id. Because these OYs are specified in the GOA FMP itself, they cannot be changed without an amendment of the FMP. The apportionment of each OY between domestic annual harvest (DAH) and TALFF, and the apportionment of each DAH between domestic annual processing (DAP) and JVP is, however, subject to annual revision by NMFS and the Council through rule-related notice not requiring an FMP amendment. GOA FMP Chapter 5; 50 CFR §§611.92(c)(1), 672.20(a).

The BSA FMP specifies a single OY of 1.4 to 2.0 million mt for all target and "other" groundfish species combined. BSA FMP §11.2; 50 CFR §§611.93(a)(3), 675.20(a)(1). Within this multispecies OY, NMFS and the Council annually establish by rule-related notice a total allowable catch (TAC) for each of the target species and for "other" species, as well as a multispecies reserve equal to 15 per cent of the combined TACs. BSA FMP §11.3; 50 CFR §675.20(a)(2), (a)(3), and (a)(6). The same rule-related notice procedure is used for the annual apportionment of each TAC among DAH, DAP, JVP, and TALFF. BSA FMP §11.4; 50 CFR §675.20(a)(4), (a)(5), and (a)(6). None of these actions requires amendment of the FMP.

The GOA FMP team and Council staff consider it likely that sablefish in the Eastern, Central, and Western areas and Pacific ocean perch in the Central and Western areas will be both US-harvested and US-processed species during 1985. Section 201(d)(2) of the Magnuson Act provides that

[t]he total allowable level of foreign fishing, if any, with respect to any United States fishery for each harvesting season...shall be...the level representing that portion of the optimum yield of such fishery that will not be harvested by vessels of the United States as determined in accordance with the provisions of this Act....

Section 204(b)(6)(B)(ii) of the Magnuson Act provides as follows:

The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels...may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

The GOA FMP specifies OY on a single-species, area-by-area basis. Under these provisions of the Magnuson Act, therefore, a determination by NMFS and the Council that the species just mentioned are US-harvested and US-processed would require that JVP and TALFF be set at zero for those species, in the absence of an amendment to the GOA FMP.

*Unless amended, the GOA FMP would also prohibit any foreign fishing that would involve an incidental catch of these species. 50 CFR §611.92(c)(1)(i) provides that

species for which the TALFF is zero...will be treated as prohibited species in accordance with §611.13.

50 CFR §611.13 requires each foreign fishing vessel to minimize its catch of prohibited species, to sort its catch as soon as possible after retrieval of the catch, and to return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of the condition of the prohibited species. On its face, therefore, §611.92(c)(1)(i) would seem to allow foreign fishing that would involve an incidental catch of species for which TALFF is zero, as long as those species were treated in accordance with §611.13. I have concluded, however, that such an application of this regulation to the facts under consideration here would be unlawful in the absence of an amendment to the FMP. The

mortality that would be caused by the incidental catch of these species would be in addition to that authorized under the OY specifications of the GOA FMP, and would thus be in conflict with the FMP. Such treatment of the species for which TALFF is zero would also violate National Standard 1 of Magnuson Act §301(a) because it would result in the OY for those species being exceeded, and because it could result in overfishing, especially in the case of Pacific ocean perch. Finally, allowing an incidental catch of species for which TALFF is zero might be found arbitrary and capricious by a court in light of the fact that apportionment and attainment of even a minuscule TALFF for those species would require the cessation of any foreign fishing in which they would be incidentally caught. 50 CFR §611.92(c)(2).

The Magnuson Act and the GOA FMP would not prohibit the receipt by foreign vessels of any fish the harvest of which involves an incidental catch of species for which JVP is zero, provided that the zero-JVP species were disposed of in a manner that would bring them within DAP, and provided that the OY for the zero-JVP species had not been reached. The zero-JVP species could, for example, be discarded, as long as their harvest was reported. The question has been raised whether the zero-JVP species could be held aboard the foreign joint venture vessel until it became possible to ship it to a United States fish processor as DAP. The legal issue raised by this question is whether such temporary holding of the zero-JVP species would constitute a "receipt" of that species by the foreign joint venture vessel within Magnuson Act §204(b)(6)(B)(ii), quoted above. While it would definitely constitute a support operation, and thus require a permit under Magnuson Act §204(a), I have concluded that it would not be a "receipt" for purposes of §204(b)(6)(B)(ii) and the other "processor preference" provisions of the Magnuson Act. I understand, however, that the practical difficulties of such an arrangement may be very great from both the business and the regulatory standpoint. In any event, all foreign and United States trawling would have to cease in any area in which the Pacific ocean perch OY had been taken, and all foreign and United States fishing would be required to stop in an area in which the sablefish OY had been taken. 50 CFR §§611.92(c)(2)(ii) and 675.20(b)(1).

Thus, for fisheries governed by the GOA FMP, the adoption of most of this conservative proposal would be dictated by the current FMP provisions, and amendment of the FMP would be required to depart from it. The only respect in which this would not be so concerns the receipt by foreign joint venture vessels of fish the harvest of which would involve the incidental catch of zero-JVP species. In the absence of an FMP amendment,

to Amendment B

NMFS and the Council would be required to allow such ~~received~~ *by* vessels, as long as the zero-JVP species were properly permitted, disposed of in a manner that brought them within DAP and as long as the OY for the zero-JVP species had not been reached. While an amendment of the GOA FMP or its implementing regulations to obtain a result more restrictive of joint ventures is possible, I understand that such an amendment is unlikely, and need not be considered here.

While the situation just outlined would prevail if the GOA FMP were not amended, this situation might itself call for a change in the OY specifications of the GOA FMP. If these specifications were not changed for species that were not US harvested species, the GOA FMP would continue to prescribe relatively large OYs for those species that could not, in fact, be taken lawfully during 1985. In order to avoid this anomalous situation, I advise that these OY specifications be changed to equal DAH up to specified maximum amounts, if NMFS and the Council decide to adopt this conservative proposal.

In contrast with the GOA FMP, the BSA FMP specifies OY on a multispecies, management unit-wide basis. The TAC for each target species and "other" species, which is sometimes set on an area-by-area basis, is not an OY specification, and is adjusted annually by rule-related notice based on biological and socioeconomic considerations. BSA FMP §11.3; 50 CFR §675.20(a)(2). Because OY is not specified on a species-by-species basis, the fact that a species is US harvested or US processed does not require that TALFF or JVP for that species be set at zero under Magnuson Act §§201(d)(2) and 204(b)(6)(B)(ii). Under the BSA FMP, in fact, TALFF, DAP, and JVP are also specified on a multispecies basis because of the multispecies nature of the OY, notwithstanding the past practice of dividing the individual TACs into seemingly separate TALFFs and DAHs. This makes it possible under the BSA FMP to assign to the multispecies TALFF or JVP portions of the TACs of species that would otherwise be US harvested or US processed, in certain circumstances. This could be done, for example, when necessary to provide for catches of those species that are necessarily incidental to the harvest of other species that are not US harvested or US processed. In fact, the need to do this would be a permissible socioeconomic consideration in the establishment of TAC in the first place.

The BSA FMP team and Council staff have concluded that, during 1985, Pacific ocean perch in the Bering Sea and Atka mackerel will probably be US harvested species; and Pacific ocean perch in the Bering Sea will also be a US processed species. For the reasons just set forth, the BSA FMP would not require that TALFF for each of these species be set at zero, or that JVP for Pacific ocean perch in the Bering Sea also be set at zero. If, however,

NMFS and the Council decided that they wished to obtain this result, they could without amending the BSA FMP establish TALFF for both species in question and JVP for Pacific ocean perch in the Bering Sea at zero. If this were done, no foreign fishing that would involve an incidental catch of these species could be carried out, and all Bering Sea Pacific ocean perch harvested by United States fishermen would have to be disposed of in a way that brought it within DAP.

Proposal 2: Establish TALFF for US Harvested Species and JVP for US Processed Species at Zero; and Allow Foreign Fishing and Receipt of Other Species to Continue, With the US Harvested and US Processed Species Treated As Prohibited Species, With or Without a Prohibited Species Catch Limit.

A somewhat less conservative management approach, and one that would have a less disruptive effect on foreign and joint venture fisheries, would treat US harvested and US processed species as prohibited species in foreign and joint venture fisheries, respectively, in accordance with 50 CFR §611.13. Under this approach, TALFF for US harvested species and JVP for US processed species would be set at zero, as under the previous proposal. Foreign fishing for and receipt of other species would not be interfered with, however, as long as the incidental catch or receipt of US harvested and US processed species, respectively, was minimized; and as long as those species were promptly returned to the sea with a minimum of injury regardless of their condition. Under one variation of this proposal, a prohibited species catch ceiling or limit (PSC) would be prescribed. When the incidental catch or receipt of a US harvested or US processed species reached this limit, the foreign harvest or receipt of other groundfish species would be stopped for the rest of the year.

This proposal, either with or without a PSC, could be implemented by NMFS and the Council by an amendment to the GOA FMP. The primary limitation on their discretion would be the requirement under Magnuson Act National Standard 1 that the sum of OY and prohibited species mortality for any species not result in overfishing. I understand that the biologists on the groundfish FMP teams view equilibrium yield (EY), the fishing mortality level at which the abundance of a stock will remain constant, as the usual limit beyond which overfishing will occur. This suggests that any amendment of the GOA FMP to implement this proposal should ensure that the combined OY and prohibited species mortality for the zero-TALFF and zero-JVP species during any year will not exceed EY.

Implementation of this proposal with a PSC would require an amendment of the BSA FMP. The proposal without a PSC could probably be implemented without an FMP amendment if the TACs for the US harvested and US processed species were set low enough to avoid the risk that the sum of TAC and prohibited species mortality for any species would not exceed OY. Some changes to the implementing regulations for the BSA FMP would be needed to implement the proposal in any case. In light of this, and of the possible difficulty in guaranteeing that EY would not be exceeded without some form of PSC, I would recommend that an FMP amendment be used to implement this proposal even for the BSA FMP.

Proposal 3: Establish TALFF for US Harvested Species and JVP for US Processed Species at Incidental Catch Levels, Allowing Retention of Those Species Up To Those Levels.

The most liberal approach to the problems under consideration would be to allow retention of incidental catches of US harvested species by foreign fishing vessels and of US processed species by foreign processing vessels engaged in joint ventures. In order to do this, NMFS and the Council would have to include the amounts of these incidental catches in TALFF for US harvested species and in JVP for US processed species.

For the reasons discussed above in connection with Proposal 1, this would not necessarily require an amendment of the BSA FMP. OY, TAC, DAP, JVP, TALFF, and reserve are specified in the BSA FMP on a multispecies basis; TAC for each target species and "other" species is established annually by rule-related notice based on both biological and socioeconomic factors; and DAP, JVP, TALFF, and reserve are similarly established annually by rule-related notice. These features of the BSA FMP allow NMFS and the Council to apportion incidental catch amounts of US harvested species to TALFF and of US processed species to JVP without amending the FMP. This is notwithstanding the fact that the fish so apportioned would otherwise be harvested or processed by United States fishermen or fish processors.

Implementation of this proposal under the GOA FMP would require an FMP amendment, also for reasons discussed in connection with Proposal 1. The GOA FMP specifies OY, DAP, JVP, TALFF, and reserve on a species-by-species basis. Thus, TALFF for a US harvested species must be zero, and JVP for a US processed species must also be zero. Because this species-by-species OY specification is set forth in the GOA FMP itself, changing to a multispecies OY specification like that of the BSA FMP would require an FMP amendment.

Certain provisions of the GOA FMP and the BSA FMP and their implementing rules establish presumptions that the DAP and JVP for a new year will at least equal the amounts harvested by United States fishermen and used by United States fish processors and joint ventures, respectively, during the previous year. GOA FMP §12.2; BSA FMP §5.2.2; 50 CFR §§611.92(c)(1)(i), 672.20(a)(2), and 675.20(a)(4). At least with respect to JVP, this presumption seems inconsistent with the Magnuson Act as applied to the facts under consideration here. It was developed at a time when it was assumed that both DAP and JVP for all species would be expanding for the foreseeable future. In any event, this presumption as applied to DAP would limit the discretion of NMFS and the Council to include incidental catch amounts of US harvested species in TALFF and of US processed species in JVP, even under an OY specification like that of the BSA FMP. To the extent this led to results that were contrary to the desires of NMFS and the Council, it would be necessary to modify the presumption by amendment of the FMPs and their implementing rules.

Implementation of this proposal would also be subject to the requirement of Magnuson Act National Standard 1 that it not result in overfishing, as defined and explained in 50 CFR §602.11(d).

A major justification for the multispecies OY specification of the BSA FMP was the belief of the Council that the groundfish of all species in the area covered by the FMP constitute a single "complex", no one of which should be considered in isolation from the others. There appears to be considerable authority behind the conclusion that the groundfish of the Gulf of Alaska do not constitute such a complex. This would not appear to pose an impediment to adoption of a multispecies OY specification in the GOA FMP. Under Magnuson Act §3(7) and 50 CFR §602.13, the "fishery" or "management unit" for which an OY is specified may be defined on the basis of a wide range of geographical, scientific, technical, recreational, and economic factors. Thus, even though the groundfish of the Gulf of Alaska may not constitute a biologically unified "complex", a single multispecies OY specification may be adopted in the GOA FMP for such reasons as the economic waste that results from the discard of incidentally caught species. In fact, there is apparently serious disagreement among biologists whether the groundfish of the Bering Sea and Aleutians really constitute a single biological complex. This disagreement was known to both the Council and NMFS when the multispecies OY specification of the BSA FMP was implemented through the adoption and approval of Amendment 1 to that FMP. The new OY specification was found to be permissible even if the biological complex argument were rejected, based upon the desirable management results that could be achieved under the amendment.

In conclusion, a wide range of alternative courses of action is available to NMFS and the Council in dealing with US harvested and US processed species under the GOA FMP and the BSA FMP. The relative feasibility of these alternatives under the Magnuson Act and other applicable law is affected primarily by procedural requirements, rather than by the substantive authority of NMFS and the Council to adopt any of the proposals that are currently under consideration.

cc: Jim Brennan
Jay Johnson
Ben Rosenthal
Thorn Smith

FILE NO. 502-10.8(8)
502-10.8(9)
502-10.9(7)

Summary of NOAA Office of General Counsel Memorandum
on Legal Effect of Full U.S. Use of Certain Groundfish Species

Desired Action

Plan Amendment Needed? (Yes/No)

Gulf of Alaska FMP

Bering Sea/Aleutians FMP

1. TALFF for U.S. harvested species = 0. JVP for U.S. processed species = 0. All foreign fishing with incidental catch of 0-TALFF species is prohibited.

1. No-desired action required in absence of FMP amendment.

1. No-desired action can be accomplished through annual TAC, DAH, TALFF specification by rule-related notice.

2. TALFF for U.S. harvested species = 0. JVP for U.S. processed species = 0. Foreign fishing with incidental catch of 0-TALFF species, and foreign receipt of 0-JVP species may continue, with 0-TALFF and 0-JVP species treated as prohibited species, with or without PSC limit.

2. Yes-no need to restructure OY specification.

2. Yes-if PSC limit is imposed; maybe if no PSC limit is imposed.

3. TALFF for U.S. harvested species, and JVP for U.S. processed species=minimum incidental catch-retention of those species allowed up to specified TALFF or JVP.

3. Yes-OY specification must be restructured on a multispecies basis.

3. No-desired action can be accomplished through annual TAC, DAH, TALFF specification by rule-related notice. In some cases, desired action may require change in DAH definition.

Dec. 7, 1984

Council
Workgroup

As passed by Council Bronson

Bering Sea / Aleutian Islands Groundfish
APPORTIONMENTS (MT)

Species	ABC	TAC	DAP	JVP	TALFF
Pollock (BS)	1,100,000	1,200,000	211,680	635,776	172,544
" (AI)	100,000	100,000	10,540	17,174	57,286
P. Ocean P. (BS)	1,360	1,000	200	500*	150 (300*)
" (AI)	11,400	3,800	2450 3000	780230 (1000)	0 (350*)
Rockfish (BS)	1,120	1120	600	2	350
" (AI)	7830	5500	800	98	3777
Sablefish (BS)	4400 - 2600	2625	2235	0 (240*)	0 (300*)
" (AI)	1755 - 3360	1875	1485	109 (240*)	0 (150*)
Prod	347,400	180,000 269,000	100,000	75,000 57,650	12,000 (45,000)
Y. f. sole	310,000	229,900	1,770	86,800	106,845
Turbots	50,000	37,100	0	5000	26,535
D. flatfish	150,200	111,400	1,200	53850 60,850	37,640
Atka Mackerel	37,700	37,700	0	32,045 (37,650)	0 (50*)
SQUID	10,000	10,000	0	0	8500
Other SPECIES	51,200	37,980	0	600	31,683
RESERVES	NA	(300,000)		70,000	

TOTALS: 2,000,000

1 Sablefish 2,184,365
1 Sablefish 2,184,170

*Bering Sea OY, etc as
adopted by motion by name
seconded John Peterson. Pass
no objections 12/8/84*

M E M O R A N D U M

TO: Council, SSC and AP Members
FROM: Jim H. Branson
Executive Director
DATE: November 29, 1984
SUBJECT: Bering Sea/Aleutian Islands Groundfish

ACTION REQUIRED

Set total allowable catches (TAC) for the 1985 fishery.

BACKGROUND

Notes:

1. Table 1 presents the TACs proposed by the Council at the September meeting. The Plan Team met on November 12 and suggested a change to the sablefish TAC [see BS/AI Plan Team Report, agenda item D-3(b)(1), next section of your notebook].

The Team recalculated the sablefish EY using the average of the 1984 EY, which is based on foreign CPUEs, and 1985 EY, which is based on a biomass calculated from the results of the 1983 survey and a 5% exploitation rate. The Team's recommended EYs are 2,560 mt in the Aleutian Islands and 3,520 mt in the Bering Sea. If the Council wishes to continue its policy of rebuilding sablefish stocks, TACs should be set lower than EYs. TACs set at 90% of EY would be 2,304 mt in the Aleutians and 3,168 mt in the Bering Sea. TACs set at 75% of EY would be 1,920 mt in the Aleutians and 2,640 mt in the Bering Sea.

2. The proposed TACs for Pacific ocean perch are 680 mt in the Bering Sea (set at 50% of EY) and 3,800 mt in the Aleutians (33% of EY). The Plan Team suggested that rebuilding the resource could be approached differently in the two areas. Due to intense interest in POP in 1985 by the domestic (DAP) industry, the Council may wish to use a slower rebuilding rate in the Aleutians where the resource is in better condition and set TAC higher than 3,800 mt.
3. As a strategy to address the "0" TALFF and "0" JVP issue, the council may wish to designate separate TACs for the Aleutian Islands for all groundfish species (see Issue Statement 84-3, next section of your notebook). The Council can establish separate TACs for any of the four major management areas in the FMP without an amendment, emergency regulation, or other cumbersome process. A separate TAC for Atka mackerel seems

appropriate because 96% of the exploitable biomass is in this area as well as virtually the entire joint venture fishery.

Four species (shown in Table 1) have separate TACs for the Aleutian Islands. Table 2 shows how separate TACs could be set for the remaining seven species, based on proposed TACs and current estimates of equilibrium yield.

4. All comments received to date are in your notebooks after Table 2.

TABLE 1
 1985 Proposed Bering Sea/Aleutian Islands
 Groundfish TACs on October 22, 1984

<u>Species</u>	<u>Proposed TAC</u>	<u>December 1984 Final TAC</u>
Pollock/BS	1,100,000	
Pollock/AI	100,000	
* Pacific ocean perch/BS	680	
* Pacific ocean perch/AI	3,800	
Rockfish/BS	1,120	
Rockfish/AI	5,500	
* Sablefish/BS	2,600	
* Sablefish/AI	3,360	
Pacific cod	210,000	
Yellowfin sole	288,700	
Turbots	50,000	
Flatfish	139,840	
Atka mackerel	37,700	
Squid	10,000	
Other Species	46,700	
TOTAL	2,000,000	

* Plan Team suggests Council should reconsider these TACs.

TABLE 2
 Bering Sea/Aleutian Islands
 TACs for Seven Species

<u>Species</u>	<u>BSAI EY</u>	<u>AI EY</u>	<u>Ratio</u>	<u>Proposed BSAI TAC</u>	<u>Possible AI TAC</u>	<u>Possible BS TAC</u>
Pacific cod (summer)	347,400	47,000	0.1353	210,000	28,413	181,587
Pacific cod (annual)	347,400	87,000	0.2504	210,000	52,584	157,416
Yellowfin sole	310,000	10,000	0.0323	288,700	9,325	279,375
Turbots	57,500	15,100	0.2626	50,000	13,130	36,870
Flatfish	150,000	6,000	0.04	139,840	5,594	134,246
Atka mackerel	37,700	36,200	0.9602	37,700	36,200	1,500
Squid	10,000	3,000	0.3	10,000	3,000	7,000
Other species	46,700	10,500	0.2248	46,700	36,200	10,500

Source: Plan Team Report, November 12, 1984.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4100

November 23, 1984

Mr. Jim H. Branson
North Pacific Fishery
Management Council
P.O. Box 103136
Anchorage, AK 99510


Dear Mr. Branson:

Thank you for your letter of October 22, 1984, requesting comment on the management of the Bering Sea/Aleutian Islands groundfish resource. Since most of the public and agency recommendations will not be available until our December meeting, I will reserve most of my comments until then. I would, however, like to share with you a concern I have for the methodology used to estimate the equilibrium yield for the sablefish resources.

The Bering Sea resource assessment document indicates that sablefish stocks have improved in the Aleutian Islands and declined in the Bering Sea. While the improvements in the Aleutian Islands stocks are encouraging, I am concerned that this estimate is based upon a single survey and may be incorrect. With this in mind, I would prefer to err on the side of conservation, and I recommend that the council accept the suggestion of the Bering Sea groundfish plan team to average the new and previous equilibrium yield estimates. Sablefish are long-lived with a low natural mortality. Foregoing harvest this year, while we gather new scientific information, still allows surplus harvest to be taken in future years.

The importance of this species to the domestic industry further supports a more cautious approach. The council has worked hard to rebuild the sablefish resource--a course I recommend the council continue.

Sincerely,


Don W. Collinsworth
Commissioner

11/21 23:30 = **** = R02

RECEIVED NOV 21 1984

FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES
GOVERNMENT OF JAPAN

2-1, 1- chome, Kasumigaseki, Chiyoda-ku, Tokyo, Japan

CABLE : "SUISANCHO" TOKYO
PHONE : 502-8111
EXT :

November 21, 1984

Mr. Jim H. Branson
Executive Director
North Pacific Fisheries Management Council
P.O. Box 103136
Anchorage, AK 99510
U.S.A.

Dear Mr. Branson:

I would hereby submit the enclosed comments of the Fisheries Agency of the Government of Japan (GOJ) on the TACs, DAPs, JVPs and TALFFs in the Bering Sea and Aleutian Islands Area and the OYs, DAPs, JVPs and TALFFs in the Gulf of Alaska for 1985.

The GOJ strongly requests that the North Pacific Fisheries Management Council take full account of its comments as well as those submitted by Japanese fishing industry.

Yours sincerely,

Keiichi Nakajima

Keiichi Nakajima
Director
Oceanic Fisheries Department
Fisheries Agency

COMMENTS BY THE GOVERNMENT OF
JAPAN ON THE TACs, DAPs, JVPs,
AND TALFFs IN THE BERING SEA AND
ALEUTIAN ISLANDS AREA AND THE
OYs, DAPs, JVPs, AND TALFFs IN
THE GULF OF ALASKA FOR 1985

The Government of Japan is pleased to submit herewith its Comments with respect to the TACs, DAPs, JVPs, and TALFFs in the Bering Sea and Aleutian Islands area and the OYs, DAPs, JVPs, and TALFFs in the Gulf of Alaska for 1985. We request that the U.S. give these Comments its full consideration in light of the research data that Japan has accumulated over the years on these areas as well as its extensive experience in developing and utilizing these fishing grounds.

There is perhaps no need to point out that both these areas are traditional fishing grounds for Japan where our vessels have conducted fishing operations for many years, and their importance remains undiminished to this day.

In the interest of assuring the most effective resource utilization in the subject areas, the Government of Japan hopes that TACs and OYs will be established that are optimum for both the U.S. and Japan, based on the findings of the joint research projects carried out each year by our two countries as well as the deliberations by scien-

tists from both countries at the U.S.-Japan
Scientific Meetings and INPFC Meetings.

1. The Bering Sea and Aleutian Islands Area:

1) General Problems:

- (1) Any sharp decline in TALFF has a major impact on the formulation of Fishing Plans by and the operational patterns of Japan's fisheries in the subject area.

In setting TALFF levels, we ask that the U.S. duly value the cooperation Japan has extended the U.S. to date in the form of over-the-side purchases and other activities. Also, in expanding the DAH, we request that the U.S. avoid any adverse impact on TALFF that might impede the operations of our fisheries by raising TACs to BY levels.

- (2) With respect to "zero TALFFS" for Pacific Ocean Perch (POP) in the Bering Sea and Atka mackerel in the Bering Sea/Aleutian Islands area as well as minute TALFFs for sablefish in the Bering Sea area, we strongly request that these species be handled as prohibited species, establishing minimum unavoidable incidental catch limits for Japan's main fisheries so as not to handicap their target operations for Alaska pollock, Pacific cod, and flatfish, which comprise the bulk of their fishing activities in the U.S. FCZ.

target fishing

- (3) In connection with the estimates of DAP and JVP, any expansion of these activities beyond the original estimates could easily be absorbed by the 15% reserve that has been established. Accordingly, we ask that DAP and JVP be set at realistic values, reflecting the catch performances of last year.

2) Problems by Individual Species:

- (1) The TAC for Alaska pollock in the Bering Sea area should be set at 1.2 million tons.

In the Resource Assessment Document (RAD), the EY has been estimated at 1.2 million tons, but a TAC 50,000 tons below EY has been recommended in this document on the basis of allegedly weak recruitment for the 1979-1981 classes. In addition, the RC has recommended a TAC of 1.1 million tons, 50,000 tons still lower than the RAD figure..

However, based on the results of the recent (1983) study on Alaska pollock in the Bering Sea area,

conducted by Japanese scientists, the recruitment conditions are acknowledged to be at average levels, while the EY is reported at 1,844,000 tons. Based on these findings (INPFC Document No. 2805), we see no need to set this year's TAC lower than last year.

Accordingly, even taking into consideration the U.S. concerns regarding the setting of this year's TAC, we feel that a TAC of at least 1.2 million tons, comparable to last year's, would be appropriate.

- (2) The TAC for turbot in the Bering Sea/Aleutian Islands Area should be set at 69,000 tons.

With respect to the turbot resource, it is maintained by the U.S. that, while the arrowtooth flounder resource is in good shape, since the 1979-1981 classes of Greenland turbot are weak, this resource is, on the whole, declining. On this basis, this year's EY has been set at 57,500 tons, a full 10,000 tons below last year's level (cf. INPFC Document No. 2830), while the RC has set the proposed TAC at 50,000 tons, 7,500 tons below EY and 9,610 tons below last year's TAC.

Nevertheless, CPUE, which forms the basis for the U.S. assessment of conditions in the Greenland turbot resource, understates, in our view, the size of this

resource. Based on an erroneous assumption that the trawler vessels are able to catch all the enmeshed fish, the catch efficiency is set at 1 (or 100%). Another factor artificially depressing the CPUE level is the fact that commercial fishing vessels have been restricting their fishing grounds and fishing seasons in order to avoid the incidental catch of prohibited species and species with minute allocations. Thus, as Japan pointed out during the debate at the INPFC Annual Meeting, we feel that it would be appropriate to set the EY for Greenland turbot at 47,200 tons.

Accordingly, based on an EY of 47,200 for Greenland turbot plus one of 21,800 tons for arrowtooth flounder, it would be appropriate to set the TAC for turbot at 69,000 tons.

- (3) The TAC for POP in the Aleutian area should be set at 5,700 tons.

Based on an EY of 11,400 tons, as called for by the U.S. in this year's RAD and at the INPFC Annual Meeting, in order to give the Alaska POP resource a chance to rebuild, we request that a 5,700 ton TAC be used for this species, based on a 50% catch ratio, rather than the 33% ratio adopted by the RC.

- (4) The TAC for rockfish in the Aleutian Islands area should be set at 7,800 tons.

The BY for this species, based on U.S. assertions in the RAD and at the Annual Meeting of INPFC, has been set at 7,800 tons. Since the resource conditions for these species, in contrast to those for POP, are quite good, we feel it would be appropriate to set the TAC at the BY level.

- (5) An increase in the TAC for the above species should logically be implemented by raising the individual TACs of all species concerned. However, in order to prevent the total TAC from exceeding the stipulated 2 million tons for all species combined, individual TACs should, we feel, be proportionately lowered for such species as yellowfin sole, flatfish, and "other species", for which large TACs have been established outstripping both catch capabilities and past catch performance.

-8-

1985 Levels of TAC, DAP, JVP, and TALFF
 In the Bering Sea and Aleutian Islands Area
for 1985, as Proposed by the Government of Japan

<u>Species</u>	<u>TAC</u>	<u>DAP</u>	<u>JVP</u>	<u>Reserve</u>	<u>TALFF</u>
Pollock					
Bering Sea (BS)	1,200,000	6,826	274,500		738,674
Aleutian Islands (AI)	100,000	300	10,000		74,700
Pacific Ocean Perch					
BS	680	578	0		0
AI	5,700	100	2,310		2,435
Rockfish					
BS	1,120	600	20		332
AI	7,800	5	535		6,090
Sablefish					
BS	2,446	1,979	100		0
AI	3,360	100	417		2,339
Pacific cod	210,000	62,942	40,000		75,560
Yellowfin sole	213,889	3,076	57,000		121,730
Turbots	69,000	0	2,000		56,650
Flatfish	103,664	907	22,000		65,207
Atka mackerel	37,700	0	32,045		0
Squid	10,000	0	30		8,470
Other Species	34,641	1,000	2,800		25,645
TOTAL	2,000,000	78,411	443,757		1,177,832

2. Gulf of Alaska:

1) General Problems:

With regard to POP and sablefish in the Gulf of Alaska, we ask that TALFFs be established to allow for the inevitable by-catches of these species in order to avoid handicapping the FCZ operations of Japanese fishing vessels, the bulk of which target Alaska pollock and Pacific cod.

For our part, if minute TALFFs are allocated that fall below the levels of unavoidable minimum by-catches by our principal fisheries, the latter would have no alternative but to suspend operations in the middle of the season, thereby leaving the bulk of the TALFF unutilized.

Accordingly, we strongly request that, rather than allocating minute TALFFs for these species, the respective TALFFs be set at zero.

With respect to such prohibited species, Japanese fishing vessels reaffirm their intention of continuing, as in past years, their utmost efforts to hold incidental catches to an irreducible minimum.

- 2) With regard to the DAP and JVP estimates, even if the expansion of these activities were to exceed the original estimates, inasmuch as a 20% reserve has been established, any such overruns could easily be absorbed. Accordingly, we ask that these values be set at realistic levels reflecting the catch performance of last year.

LAW OFFICES
GARVEY, SCHUBERT, ADAMS & BARER
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

SEATTLE

BROCK ADAMS	STEPHEN B. JOHNSON
CHRISTINA M. AGER	CHERYL C. KEETON
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WATERFRONT PLACE BUILDING

TENTH FLOOR

1011 WESTERN AVENUE

SEATTLE, WASHINGTON 98104

(206) 464-3939

TELECOPIER

(206) 464-3939 (DAY)

(206) 464-2947 (NIGHT)

TELEX: 32-1037 (LEX SEA)

CABLE: LEX·SEATTLE

WASHINGTON, D.C.

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BILL ALBERGER
ALAN A. BUTCHMAN
JOSEPH H. DETTMAR
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November 21, 1984

PLEASE REPLY TO SEATTLE OFFICE

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510

Re: 1985 Bering Sea/Aleutian Islands Groundfish TACs

Dear Mr. Branson:

On behalf of the Japan Deep Sea Trawlers Association and the Hokuten Trawlers Association, we submit the following comments concerning the total allowable catches (TACs) for the Bering Sea/Aleutian Islands groundfish fishery for 1985. Our comments are based upon the information available to us as of the date of this letter and we reserve the right to make additional comments at the Council meeting in December.

TACs for individual species should be set in a manner that is both biologically justifiable and properly considers other relevant factors, including past and present demands for individual species, the special needs of each fishery, market conditions and similar factors. The latest scientific data establishes that the total of EYs for all species within the Bering Sea/Aleutians Islands groundfish complex is approximately 2.19 million metric tons. The current maximum TAC under Amendment 1 is 2.0 million metric tons. This amount is once again inadequate to allow full exploitation of the available groundfish resource. This will require the Council to reduce the TACs of some species in order to stay within the 2.0 million limit. We strongly support the method used by the PMT and the SSC, which sets TACs for commercially desirable species without consideration of the overall limit, and then reduces the TAC of yellowfin sole and other flatfish in order to attain a force fit within the 2.0 million metric ton limit. We suggest that in addition to these species that the "other species" TAC also be reduced proportionately in order to

WASHINGTON, D.C.

1000 POTOMAC STREET N.W.
WASHINGTON, D.C. 20007
(202) 965-7880

PORTLAND

1800 ONE MAIN PLACE
101 S.W. MAIN
PORTLAND, OREGON 97204
(503) 228-3939

SAN FRANCISCO

SUITE 2801
ONE EMBARCADERO CENTER
SAN FRANCISCO, CALIFORNIA 94111
(415) 788-5135

remain within the 2.0 million metric ton limit.

Based on the above considerations, we recommend that the Council set the individual TACs for the Bering Sea/Aleutians groundfish complex as follows:

<u>Species</u>	<u>TAC (MT)</u>
Pollock (BS)	1,200,000
Pollock (AI)	100,000
Pacific Ocean Perch (BS)	680
Pacific Ocean Perch (AI)	5,700
Other Rockfish (BS)	1,120
Other Rockfish (AI)	7,800
Sablefish (BS)	2,992
Sablefish (AI)	2,176
Pacific Cod	210,000
Yellowfin Sole	211,700
Turbots	69,000
Other Flatfish	105,850
Atka Mackerel	37,700
Squid	10,000
Other Species	35,282
TOTAL	2,000,0000

This proposal is based upon the following species-by-species analysis:

1. Pollock

The 1984 EY for pollock in the Bering Sea was 1,200,000 metric tons. We believe that existing scientific data supports a TAC of at least that amount for 1985. Japanese scientists have concluded that the abundance of pollock is stable or increasing. In contrast to U.S. findings, their 1983 surveys conducted in the Bering Sea show that recruitment of the 1979, 1980 and 1981 year classes was average or greater than average. They conclude that the biomass for 1983 was 10.0 million metric tons, or 106% of the 8 year average. Based on these studies, the Japanese scientists estimate an EY for 1985 of at least 1.844 million metric tons. Report of the Bering Sea Panel of INPFC (31st Annual Meeting- 1984) at 8. The conclusion of the Japanese scientists would support an increase in the pollock TAC over the 1984 level. If the TAC is not increased, it should remain at the 1984 figure of 1.2 million metric tons.

The present condition of the resource justifies a 1.2 million ton TAC for several reasons. First, the 1984 CPUE estimates were significantly higher than normal. This high value is due to the dominance of large, older fish from the 1978 year class. Condition of Groundfish of the Eastern Bering Sea and Aleutians Island Region in 1984 at 15, 27

[hereinafter cited as 1984 Groundfish Report]. These large older fish should be harvested before they are lost to natural mortality. Second, the number of large older pollock should be harvested to reduce cannibalism and predation on other more valuable species. For example, pollock are known to prey on juvenile pacific ocean perch, which prevents significant rebuilding of that species. Resource Assessment Document for Bering Sea-Aleutians Groundfish (July 1984) at 119 [hereinafter cited as 1984 RAD]. The abundance of these older fish may also be the cause of recent poor recruitment of young pollock through cannibalism. 1984 Groundfish Report at 36. Increased exploitation in 1985 will help to alleviate these problems. Third, the 1982 year class shows strong recruitment and should begin to enter the fishery in 1985. 1984 Groundfish Report at 27,31. Fourth, an increase of TAC by 100,000 tons over the proposed level will not harm the resource, and it will have the positive effect of easing the dislocation costs to the foreign fishing industry caused by the dramatic increase in the the joint venture catch of pollock and the return of the Soviet Union and Poland as joint venture participants.

2. Turbot

The TAC for turbot should be set equal to the EY of 69,000 metric tons as estimated by Japanese scientists. Report of the Bering Sea Panel of INPFC(1984) at 9. The Japanese calculation should be used because the EY calculated by U.S. scientists significantly underestimates the abundance of Greenland turbot. The U.S. EY for Greenland turbot is calculated as 56% of MSY. This calculation is based entirely on a perceived decline in the CPUE of the land-based trawl fishery to 56% of the 1979 CPUE. Report of the Bering Sea Panel of the INPFC(1984) at 9. However, CPUE is no longer a reliable indicator of the abundance of turbot because low quotas and time and area closures have caused the land-based trawl fleet to alter its fishing practices, leading to lower CPUE values. Since CPUE is an unreliable indicator of abundance, and no other basis for the U.S. calculation is given, there is a sound basis for accepting the Japanese analysis that the combined EY for turbot is 69,000 metric tons for 1985 and will rise to 76,800 in 1986. Wakabayashi, Condition of Flounder Stocks in the Bering Sea and Aleutian Islands Region (INPFC, 1984) at 11. Since there is strong demand for this species, TAC should be set equal to the Japanese estimate of EY.

3. Sablefish

At the November 12 meeting of the Bering Sea/Aleutians plan team it was proposed that the ratio of the EYs for sablefish between the Bering Sea and the Aleutians be modified. The

newly proposed EYs would be 3,520 for the Bering Sea and 2,560 for the Aleutians. We strongly support this modification of EY because it more accurately represents our understanding of the relative distribution of the sablefish population between the two regions. We recommend that TAC be set no lower than 85% of EY for both regions, which is the same ratio between TAC and EY as used for the Bering Sea and Aleutians regions in 1984. The recent improvements in sablefish stocks show that this ratio between TAC and EY adequately protects the resource and allows for significant rebuilding of the population.

4. Pacific Ocean Perch

The TAC for Pacific Ocean perch should be set at 50% of EY as proposed by U.S. scientists at the 1984 INPFC conference. Report of the Bering Sea Panel of INPFC (1984) at 11; 1984 Groundfish Report at 151. This TAC will provide adequate protection for the stock in order to promote rebuilding while still allowing some TALFF in the Aleutian Islands region to provide for a bycatch for the directed fishery for the other target species. There is no biological or other justification for reducing TAC in the Aleutians to 33% of EY as proposed in the 1984 RAD. The justification given for the reduction to one third of EY is that it will provide for faster rebuilding in the Aleutians region. However, faster rebuilding is unlikely, because the RAD and other U.S. source information indicates that the current Pacific Ocean perch population is already near the maximum level attainable under current conditions. The EY estimated by the U.S. equals 12,760 metric tons for both regions combined. This amount exceeds the ecosystem long term sustainable catch for the species which has been estimated to be 12,000 metric tons. 1984 RAD at 119-120. The amount also closely approximates MSY as predicted using Stock Reduction Analysis and other methods. 1984 RAD at 81. Thus, the present, stable level of abundance of Pacific Ocean perch may be the normal population level for the species, and the high populations of the 60s probably were not sustainable over the long term. 1984 RAD at 81,119-120. Since the Pacific Ocean perch population has stabilized at or near its current maximally sustainable population, it is unreasonable for TAC to provide for a rebuilding factor that exceeds 50% of EY.

If the 3,800 mt TAC for Aleutian Islands Pacific Ocean perch proposed by the Council is adopted, the resulting TALFF of 820 mt will not be sufficient to provide for an adequate bycatch. As a solution to this minimal TALFF problem, we recommend that the Regional Council direct the Regional Director to allocate a sufficient amount to TALFF from the Bering Sea/Aleutians pooled reserve to provide for an adequate bycatch for Pacific Ocean perch in both the Bering Sea and Aleutians regions.

5. Other Rockfish

The TAC of other rockfish should be set equal to EY for both the Bering Sea and Aleutian Islands regions as proposed by U.S. scientists. Report of the Bering Sea Panel of INPFC(1984) at 11. The population of other rockfish is stable and has probably reached a maximum under current conditions. Recent catch rates have been at low levels of exploitation and have been of little consequence to the stocks. Since the population is healthy and under no threat of overexploitation, the TAC should be set equal to EY.

6. Yellowfin Sole, Other Flatfish, and Other Species

The estimated EYs of yellowfin sole and other flatfish far exceeds the demand for those species. In setting the TACs for these species we strongly support the approach of the SSC and the PMT, which sets 1985 TACs for yellowfin sole and other flatfish by reducing the EYs for these species proportionately in order to arrive at a total TAC for the groundfish complex that equals 2.0 million metric tons. The estimated EY for the "other species" category also far exceeds anticipated demand for those species. We suggest that the EY for other species also be reduced proportionately to arrive at the 2.0 million metric ton limit. Using this method, we recommend that the TAC for yellowfin sole be set at 211,700 metric tons, the TAC for other flatfish at 105,850 metric tons, and the TAC for other species at 35,282 metric tons.

7. Pacific Cod, Atka Mackerel, and Squid.

The proposed TACs for these species are reasonable.

The TACs proposed above are reasonable and will allow an optimal harvest of groundfish while adequately protecting the resource. We will be pleased to discuss our figures with you or your staff at any time before or during the December Council meeting. Thank you for your consideration.

Very truly yours,

GARVEY, SCHUBERT, ADAMS & BARER

By


Donald P. Swisher

LAW OFFICES
GARVEY, SCHUBERT, ADAMS & BARER
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WATERFRONT PLACE BUILDING
TENTH FLOOR
1011 WESTERN AVENUE
SEATTLE, WASHINGTON 98104
(206) 464-3939

TELECOPIER
(206) 464-3939 (DAY)
(206) 464-2947 (NIGHT)

TELEX: 32-1037 (LEX SEA)
CABLE: LEX-SEATTLE

November 21, 1984

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BILL ALBERGER
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PLEASE REPLY TO SEATTLE OFFICE

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510

Re: 1985 Gulf of Alaska groundfish OYs

Dear Mr. Branson:

On behalf of the Japan Deep Sea Trawlers Association we submit the following comment concerning the optimum yields (OYs) for the Gulf of Alaska groundfish fishery for 1985. Our comment is based upon the information available to us as of the date of this letter and we reserve the right to make additional comments at the Council meeting in December.

We believe that it is necessary to comment only on the Gulf of Alaska pollock OY at this time. The plan team has most recently recommended that the harvest level for 1985 for the combined Western and Central regions be set so that the 1985 harvest does not exceed the 1984 harvest. However, setting OY at the 1984 catch level is not appropriate for 1985. An OY at that level would result in a much lower catch, due to the large reserves and the cumbersome process for the release of those reserves to TALFF and for the allocation of TALFF throughout the year. Moreover, an OY at the 1984 catch level would result in a severe reduction in TALFF due to the significant increase in the estimated JVP catch amount for 1985. Such a severe reduction is not justified biologically and will magnify the problems that already exist in the fishery.

We recommend that the pollock OY for 1985 be set in a manner that will allow an adequate TALFF while remaining within the proposed EY limit of 305,000 metric tons. This can be accomplished by calculating OY to provide for 100,000 metric tons potentially available to TALFF according to the

WASHINGTON, D.C.
1000 POTOMAC STREET N.W.
WASHINGTON, D.C. 20007
(202) 965-7860

PORTLAND
1800 ONE MAIN PLACE
101 S.W. MAIN
PORTLAND, OREGON 97204
(503) 226-3939

SAN FRANCISCO
SUITE 2801
ONE EMBARCADERO CENTER
SAN FRANCISCO, CALIFORNIA 94111
(415) 788-0138

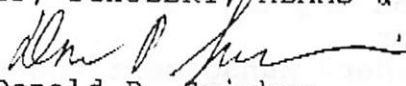
following formula: DAH(including JVP)+TALFF(and reserves) totalling 100,000 mt=OY. The most recent estimates set AH at 192,023 mt (190,000 JVP + 2,023 DAP). According to the above formula, this would result in an OY of 292,023 mt, which is within the maximum proposed EY of 305,000 mt. This OY figure will adequately protect the resource while reducing somewhat the dislocation in the foreign directed pollock fishery.

We will be pleased to discuss this comment with you or your staff at any time before or during the December Council meeting. Thank you for your consideration.

Very truly yours,

GARVEY, SCHUBERT, ADAMS & BARER

By


Donald P. Swisher

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ANCHOR MARINE

Box 456 • HOMER, ALASKA 99603

11/7/85

North Pacific Fishery Management Council
P.O. Box 103136
Anchorage AK 99510
Attn: 1985 Bering Sea/Aleutian Islands Ground Fish

Dear Sirs:

I concur with the TAC for 1985
as proposed by the council, for all
Groundfish species.

I also concur with the DAP and JVP
for 1985 as proposed in Table I
in the Oct 22 letter to reviewers.

I have no comments on the management
system.

Sincerely

Charles C. Parsons

ALASKA PACIFIC SEAFOOD INDUSTRY COALITION

Mr. James O. Campbell
Chairman
North Pacific Fishery Management Council
P. O. Box 103136
Anchorage, AK. 99510

November 29, 1984

Dear Mr. Campbell:

On November 4, 1983 the ALASKA PACIFIC SEAFOOD INDUSTRY COALITION in representing its United States Fishing Industry stated to the Japan Fishing Industry the goals of its harvesters and processors for the calendar years of 1984 and 1985.

The goals are based on actual "capacity" which is a consideration in the MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT and the FISHERY MANAGEMENT PLANS.

Therefore the ALASKA PACIFIC SEAFOOD INDUSTRY COALITION REQUESTS the NORTH PACIFIC MANAGEMENT COUNCIL to include the stated U. S. Harvester and Processor goals of 1985 in the Councils assessment of DOMESTIC ANNUAL HARVEST.

That is for the Gulf of Alaska and Bering Sea/Aleutian Islands areas:

- 1). The amount of ALASKA POLLOCK harvested by U. S. Fishermen in U. S./Japan Joint Ventures will be 700,000 Metric Tons during 1985.
- 2). The amount of other North Pacific and Bering Sea Bottomfish harvested by U. S. Fishermen in U. S./Japan Joint Ventures will be 70,000 Metric Tons during 1985.
- 3). The amount of Alaska Pollock harvested by U. S. Fishermen, processed by U. S. Processors, and purchased by Japan will be 200,000 Metric Tons during 1985. If, for any reason, this amount is not harvested, processed and purchased it shall not be released or allocated for any other purpose during 1985.

Respectfully Submitted,



Ron Jensen, U. S. Spokesman
Alaska Pacific Seafood Industry Coalition

CC: Jim Branson - Executive Director

UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98195

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November 2, 1984

Jim Branson
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510

Dear Jim:

I'm glad to see that now all I need to do is to read yellow paper and this pile of white paper from the Council can be set aside. At any rate I'm looking at issue statement 84-2 and 84-3, I assume that somewhere, sometime I have received an 84-1.

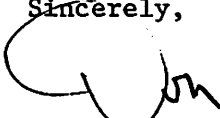
May I suggest a solution to the zero TALFF and zero JVP. My interpretation of the Magnuson Act is that if you reduce incidental species TALFFs or JVPs to zero you will have a choice of shutting down a directed fishery or designating the fully utilized species as prohibited species. You might be able to handle some of the short run problems such as in the Aleutians by redesignating the area.

I'm now convinced that handling the problem as a prohibited species simply sweeps things under the rug and assumes that catches out of sight are out of mind. We're not going to worry about how many fish are killed just how many fish people can retain. I suggest that policy now must be replaced. For the long term the Council needs to amend their plans and consider a slightly different concept of OY for the target species. For example if we consider setting an OY for flounder in the Gulf of Alaska, a catch of so many metric tons of flounder requires that the Council makes the decision that the catch cannot be made without incidental catches of halibut, salmon, crab, ocean perch or whatever at specified levels. In the determination of the flounder OY we should consider specific tonnages of the other incidental species as a part of the definition of a flounder OY. These would be set up as quotas. If any quota is reached in an incidental catch or target species the fishery will be closed. The tonnages of the incidental species associated with an OY for flounder would be subtracted from the total allowable catch of the species that would be allocated as a DAP for a directed fishery.

I suggest that the Council address next season with some kind of short term fix, such as prohibited species or area redefinition but they begin to consider immediately a long range solution which I assume will require plan modification and amendment.

At any rate I don't believe we can continue with what we're doing. One of my colleagues in the Law School said that he would dearly love to defend a U.S. fisherman who had not obeyed the domestic closure issued by Bob McVey on black cod last season when a TALFF and JVP were still outstanding.

Sincerely,



Donald E. Bevan
Director

DEB:kb

cc: Bill Aron
John Peterson
Richard Marasco

TABLE 2.

December 4, 1984

GULF OF ALASKA - 1985

<u>Species</u>	<u>Harvest Guidelines</u>	1985 Estimates		<u>Japan JVP</u>	<u>Allowable Fisheries</u>
		<u>DAP</u>	<u>JVP</u>		
Pollock	305,000 + 16,600	9,400 6,000	153,250	140,000	24,000 left 24,000 ?
Pacific cod	60,000	11,850 9,411	17,400	----	left 31,000
Atka mackerel	4,678	0	2,600	----	2,078
Flatfish		2,800 2,186	600	----	
Pacific ocean perch	11,475?	11,459 5,916	2,900	----	- 2,900 mt
Sablefish	8200 - 8500 mt	21,000 7,698	200	----	- 13,000
Rockfish	7600 mt	46,000 2,947	4633 200	----	3,000 - less

BERING SEA/ALEUTIAN ISLANDS - 1985

<u>Species</u>	<u>TAC</u>	1985 Estimates		<u>Japan JVP</u>	<u>Allowable Fisheries</u>
		<u>DAP</u>	<u>JVP</u>		
Pollock	1,200,000	22,220 ¹³⁰	92,950	190,000	$\begin{array}{r} 895,000 \\ 570,000 \\ \hline 325,000 \end{array}$ Seaford Quilt Prosser.
Pacific cod	180,000	206,400 ^{150,000}	52,150	7,500	
Atka mackerel	37,700	0	41,350 ¹⁵⁰	----	- 3650
Yellowfin sole	288,700	1,770	86,800	----	200,130
Flatfish	190,000	1,200	55,850	5,000	128,000
Pacific ocean perch	12,760	5,450	1,800	----	5,500
Sablefish	6,000 mt	10,926	----	----	- 5-6,000
Rockfish	6,620	1,400	100	----	5700

ALASKA-WIDE - 1985

<u>Species</u>	<u>Available Harvest</u>	1985 Estimates		<u>Remainder or Deficit Available Fisheries</u>
		<u>DAP</u>	<u>JVP</u>	
Pollock	-	28,220	576,200	?
Pacific cod		215,811	77,050	?
Atka mackerel		0	43,950	2,000 mt
Yellowfin sole		1,700	86,800	
Flatfish		3,386	61,450	30,000
Pacific ocean perch		11,366	4,700	-
Sablefish		18,624	200	-
Rockfish		4,347	300	

North Pacific Fisheries Management Council
Scientific and Statistical Committee
P.O. Box 103136
Anchorage, Alaska 99510

December 3, 1984

Dear Committee Members;

I have been hook and line fishing for sablefish as a crew-member and as a vessel owner since 1977, living and working in Southeast Alaska. Myself and other hook and line fishermen have committed our time and money to establish a domestic harvest and for-going entry into much more valuable fisheries such as crab and shrimp. Now that the overcapitalized fleets from those fisheries have stripped their resources they are jumping into the sablefish fishery. If this is allowed we will have a repeat performance of the short seasons, low prices and poor quality much as we experienced in the Halibut fishery the last two seasons.

Also the entry of pot boats and draggers into the sablefish fishery would create gear conflicts of a magnitude never before encountered.

The nature of the grounds is such that all gear placement and fishing effort takes place along the edge of the shelf which is extremely narrow in the depth that sablefish occur.

Placement of pots in an area and loss of pots can pre-empt the immediate area for years. Entanglement of hook and line gear with much heavier line used for pots and the weight and mass of pots will guarantee the loss of many days of fishing time and also the expensive fishing gear which can take a crew up to two months to manufacture.

As far as dragging goes there will be no bottomfish left if the draggers are allowed to roam virtually at will from one end of Gulf to the other. The experience in California, Oregon and Washington where whole species of cod and rockfish are all but wiped out as a viable commercial species was created from dragging, not longlining. If this problem is not addressed now it will be later and at the expense of all hook and line fishers and the processors they have supported.

The vessels that will be entering the fishery with pots and drag gear are by nature much larger and employ fewer people and will in all probability deliver their product to Bellingham or other distant ports.

Also, there is speculation that domestic floating processors once geared for crab are looking at the cod and rockfish. These fish can be harvested and processed by the existing fleets using hook and line and our own existing shorebased processors.

North Pacific Management Council

December 3, 1984

There is a need for growth in the Alaskan bottomfish business, but the growth need not come from outside. We have proven in the sablefish fishery our ability to produce, now it is time to guarantee that continued production.

You can help save that existing portion of the bottomfish business by supporting and immediate passage and acceptance of Amendment # 12.

It is imperative that some action take place at or before the December Council meetings in Juneau. If you require further information or testimony please feel free to contact me at my home. Telephone (907) 747-6518 or write P.O. Box 2391, Sitka, AK. 99835.

Sincerely,

Patrick D. Wood
F/V Moonlight