Public Testimony Sign-Up Sheet

Agenda Item C-2 (f) CRAB St George

	NAME (PLEASE PRINT)	AFFILIATION
1	Pat Pletnikoff	St. George Fisherman
2	Max Malavansky	City of St. George
3	GREG BLAKEY	SNOPAC
4	Larry Cotter	APICDA
5	Simeon Swetzof Jr.	City of ST. PAUL
6	Jim Stone	Fisherman
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person " to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

AGENDA C-2(f)
FEBRUARY 2008

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Executive Director

DATE: March 28, 2008

SUBJECT: Crab management

ESTIMATED TIME
16 HOURS
(all C-2 items)

ACTION REQUIRED

(f) Final action on the 'cooling off' period and renewal of rights of first refusal for St. George.

Selection of a preferred alternative

BACKGROUND

Under the crab rationalization program, processors were allocated processor quota shares (PQS) based on their respective processing histories. To protect community interests, most processing shares were required to be used in the community in which the processing history occurred during the first two years of the program (the 'cooling off period'). In addition, holders of most processor shares were required to enter agreements granting community designated entities a right of first refusal on certain transfers of those shares. The agreements also specify that the right of first refusal will lapse, if the holder of the PQS processes those shares outside of the community for a period of 3 consecutive years. Due in part to intervening circumstances, and notwithstanding these protections, no shares designated for processing in the City of St. George were processed in that community during the first two years of the rationalization program. This action considers extending the 'cooling off period' for the City of St. George and revising the conditions under which the right of first refusal will lapse with respect to those shares.

Since initiating this action, Aleutian Pribilof Island Community Development Association has challenged the decision of NOAA Fisheries to waive the cooling off requirement during the second season of the program (2006-2007). As noted in the analysis, Aleutian Pribilof Island Community Development Association (the holder of the right of first refusal on behalf of St. George) has reached a settlement with one of the two PQS holders subject to the St. George-based right of first refusal, settling any issue concerning the 'cooling off' period and right of first refusal with respect to that PQS holder. The dispute remains outstanding with the second PQS holder. The hearing administrator in the case has issued a decision concerning potential remedies. That decision states that the administrator has authority to prevent the lapse of the right of first refusal (by restarting the timeline for lapsing of the right of first refusal; however, the decision also states that the administrator has no authority to require processing in St. George.

At its February 2008 meeting, the Council reviewed the analysis of alternatives defining a new cooling off period and extending the rights of first refusal for processor shares originating in St. George. After reviewing the analysis the Council directed released the analysis for public review and final action at this meeting. The executive summary of the analysis is attached.

Executive Summary

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program (the "rationalization program"). The program is unique in several ways, including the allocation of processing shares corresponding to a portion of the harvest share pool. Processor shares were allocated to processors based on their respective processing histories. To protect community interests, most processing shares were required to be used in the community in which the processing history occurred during the first two years of the program (the 'cooling off period'). In addition, holders of most processor shares were required to enter agreements granting community designated entities a right of first refusal on certain transfers of those shares. The agreements also specify that under certain conditions, the right of first refusal will lapse. Due in part to intervening circumstances, and notwithstanding these protections, no shares designated for processing in the City of St. George were processed in that community during the first two years of the rationalization program. This action considers extending the 'cooling off period' for the City of St. George and revising the conditions under which the right of first refusal will lapse with respect to those shares.

Purpose and Need Statement

The intent of community protection measures in the crab rationalization program may not have been met in St. George due to unavoidable circumstances including a federal declared disaster. While processing history was generated from St. George, no crab has been processed in St. George under the crab rationalization program. As a result, the two year "cooling off" period will expire June 30, 2007 and the three year right of first refusal (ROFR) will expire June 30, 2008, if IPQ designated for St. George is not used in the community in the 2007/2008 season.

In order to fulfill the original intent of the community protection measures, the Council will initiate an analysis for an FMP amendment to the community protection provisions. The amendment will restart and/or extend the time period for community protection measures (ROFR and "cooling off" period) for St. George. NFMS has indicated that such an amendment will likely not be in place for the 2007/2008 season. However, the intent of the community protection measures may be met by extending the measures into the future.

Alternatives

Alternative 1: Status quo

Alternatives 2 A processor that holds St. George IPQ is subject to a two year cooling off period and a new right of first refusal three year agreement with a starting date of October 1, 2009 – unless that processor and the community entity provide proof to NMFS that they have otherwise entered into a written contract that addresses both the cooling off period and the right of first refusal.

Alternative 3: A processor that holds St. George IPQ is subject to a one year cooling off period and a new right of first refusal three year agreement with a starting date of October 1, 2009 – unless that processor and the community entity provide proof to NMFS that they have otherwise entered into a written contract that addresses both the cooling off period and the right of first refusal.

Effects of the alternatives

Alternative 1: Status quo

Under the status quo, the cooling off provision expired at the end of the 2006-2007 season, allowing IPQ holders to move their shares out of the community of origin. Although the 'cooling off' protection lapsed, the protection of the rights of first refusal remains in effect during the term of that contract. Yet, the protection lapses, if the PQS holder uses its IPQ outside the community of origin for a period of 3 consecutive years. Given that no processing has occurred in St. George during the first two years of the program, if PQS holders choose to move their IPQ processing out of that community for the third year of the program, all rights of first refusal to Aleutian Pribilof Island Community Development Association would lapse under the terms provided

for in regulation. On the lapsing of those interests, no regulatory or contractual connection between any PQS and the community of St. George would exist.

Although the rights of first refusal would lapse under the terms required by the crab program, Aleutian Pribilof Island Community Development Association has reached agreement with one PQS holder, who holds approximately 4 percent of the Bering Sea *C. opilio* PQS, concerning the use and transfer of their PQS. Since the terms of that agreement subject to a confidentiality agreement between the parties, it is not known whether processing will be required to occur in St. George or some other benefits will be conveyed to the community in lieu of movement of processing activity to the community. Likewise, the agreement may also include some rights of first refusal on transfers of PQS and IPQ. Aleutian Pribilof Island Community Development Association has not reached agreement with the second PQS holder, who holds slightly less than 6 percent of the Bering Sea *C. opilio* PQS, concerning its shares. Shares held by that PQS holder are subject to the right of first refusal required by the rationalization program, which would lapse, if those PQS are used outside of St. George for three consecutive years. Given that no processing occurred in St. George in the first two years of the program, it is possible that the right could lapse this year, if the shares are processed outside of the community this year.

Under the status quo, PQS holders subject to a St. George association are likely to have the ability to realize any processing efficiencies that might be available by processing their shares in the North region outside of St. George. Efficiencies may be realized by saving any added costs of movement of a floating processor and crews to St. George and any associated permitting with operating in St. George. The effects of the action on harvesters are likely to be limited. Concentration of processing that could occur under the status quo could result in slight operating costs savings to harvesters who might otherwise have needed to make partial deliveries to multiple locations in the North (e.g., St. George and St. Paul). These additional costs are likely to vary depending on share matching and coordination of harvest and are likely to be less prevalent in years of high TACs, when more crab are required to be delivered into St. George (limiting the number of partial deliveries).

Under the status quo, the cooling off period would not be extending, limiting the burden on managers to monitor compliance with that provision. Removal of this burden with respect to St. George associated shares has a very minor effect on management costs. Similarly, the choice not to extend the time period for the removal of rights of first refusal through use of the shares outside the community could reduce management costs very slightly.

Alternatives 2 and 3: Extension of community protection provisions.

Under the second and third alternative, the cooling off period would be renewed and the time period for rights of first refusal to lapse would be renewed. The two alternatives vary only in the length of the new cooling off period. Alternative 2 would create a new cooling off period of two years, while alternative 3 would create a one year period. In all cases, if a PQS holder reaches an agreement with the holder of the rights of first refusal concerning the cooling off period and the rights of first refusal, that agreement would substitute for the new cooling off period and the right of first refusal extension.

The new cooling off period would ensure that processing occurs in the St. George for the period of the extension. Processing in St. George under the cooling off provision would be slightly less than 10 percent of all IPQ in the Bering Sea *C. opilio* fishery, or approximately 4.4 million pounds under the current TAC. Tax revenues would be gained by the community under both the local fish tax and shared state fish tax, as are gained for any processing within community boundaries. Other economic impacts on St. George are likely, but will be limited since the processing is very likely to occur on a floating processor. Floating processors are largely self-supporting, relying primarily on provisions carried to the processing location on the vessel, particularly for short term processing ventures like that which would be undertaken in St. George.

The effects of these alternatives could be increased, if St. George were able to attract additional processing, which might occur given that the cooling off provision would not apply in St. Paul. To the extent that costs might be saved by using a floating processor in St. George only, a potential efficiency could exist for relocating processing to St. George from St. Paul during the new cooling off period. To the extent that processing moves out of St. Paul (either through the direct requirement of the new cooling off period or through the attraction of additional processing beyond the cooling off requirement), St. Paul would suffer a loss of benefits. These losses to St. Paul would likely include taxes revenues and community economic impacts, arising from the processing in St. Paul. If the provision results in the transfer of processing from the shore plant in St. Paul to a floating processor off St. George, it is possible that the result could be a minor loss of economic impacts to communities in the North region. In considering the importance of any potential loss of local impacts, the effects of those impacts should be balanced against the distributional considerations. Given that St. Paul currently attracts a substantially greater share of crab processing in the North region, it is possible that the minor loss of local impacts in the North are outweighed by the need ensure that the smaller economy of St. George benefits from the transfer of economic impacts of the processing activity of the extended cooling off period.

Once the new cooling off period expires, it is uncertain whether St. George would continue to attract processing. The potential to attract processing would largely depend on whether processors perceive an opportunity to improve operations in St. George. These processor benefits could arise, if St. George is perceived to provide improved services, which is uncertain. Alternatively, if the holder of the right of first refusal is able to leverage its improved position, derived from the new cooling off period to gain concessions from the affected PQS holders, it is possible that arrangements could be made for extending processing in the community after that cooling off period lapses. The added leverage of the right holder and its potential to succeed in any such efforts is uncertain and depends on several factors, including the relative financial position of the PQS holders and the right holder. The settlement of terms between the right holder and one of the PQS holders suggests that the potential for the right holder to use this leverage is not wholly hypothetical.

Net benefits to the Nation

A minor decline in net benefits to the Nation is likely to arise from this action. The action is likely to decrease production efficiency for some processors, reducing efficiency that might arise from locating processing outside of St. George.

AGENDA C-2(f)
Supplemental
APRIL 2008

Quality Seafood Since 1983

5053 East Marginal Way South ~ Seattle, Washington 98134-2407
Phone 206.764.9230 ~ Fax 206.764.5540
www.snopac.net

March 18, 2008

Dear Council Member,

Snopac is the smallest independent company to hold crab IPQ. It is also unique in that it has no Pollock quota and we must pay the bills with lower margin fisheries like salmon and herring. We are also unique among the crab processors receiving Northern Shares (and having St. George history) as we are different that Peter Pan Seafoods, we do not have a sister operation on St. Paul.

In 2006 I received a telephone call from Larry Cotter of APICDA. His organization holds the right of first refusal to purchase our crab IPQ. In the phone call, Larry forcefully stated that he was purchasing Snopacs' Northern Region crab IPQ for "...the market price, as valued five years from now...with no money down..." I told him that I was not interested in selling the IPQ. Larry went on to state that he could force Snopac to process on St. George, "...which we all know you cannot do...". "And you will still have to pay the fishermen". While Larry's negotiating tactics are suspect, his information is not. If Snopac share matches its IPQ in September, it is liable for the payment of the crab in the spring of the following year even if it does not receive the crab. In addition, it is also liable to the State of Alaska for payment of fish taxes on the crab. Processing crab on St. George was (and is) impossible because of the state of the harbor. When I asked what his plan was for the Snopac IPQ, Larry first stated that it was "...none of my business...", but he later confessed he would move the IPQ to St. Paul and have their business partner, a St. Paul processor, take the crab.

Snopac has made a substantial investment in St. George over the years, particularly in relationship to its size and financial capability. In a financial analysis of the period of 1992 through 2002, Snopacs' economic impact at St. George amounts to over $9.3 million (see detailed history, attached). The truth of the matter is APCDA is attempting to put the burden of St. George's problems on Snopac rather than take responsibility for some naïve and impractical decisions that cost St. George millions of dollars and any hope for the future. For example, if APICDA had spent allocated money on dredging the entrance and the north end of the harbor, instead of expanding the original harbor to the south, which had absolutely zero benefits and was a complete waste of millions of dollars, there would currently be no problem with processing in St. George.

FEMA has allocated close to $2.8 million for dredging of St. George this spring. This will once again be a discouraging waste of taxpayers' money as the scope of the work is merely to dredge roughly fifteen thousand yards of sand and silt in the entrance channel using a clamshell dredge. There are a number of (solid rock) high spots in the entrance that have existed from the beginning, and clamshell dredging will be unable to address or fix this problem and allow vessels safe entry. There are no plans or money to drill and blast the channel entrance or the inner harbor. An estimate that I have heard to make the harbor usable is in excess of ten million dollars.

Larry Cotter would have you believe that Snopac is taking advantage of the Island of St. George and APICDA. The reality is that it is quite the opposite. Snopac has spent far more money than APICDA on infrastructure on St. George and Mr. Cotter is attempting to "grab" Snopacs' hard earned IPQ for a fraction of what it has invested on the Island.

Sincerely,

Greg Blakey / President
Snopac Products, Inc.

CRAB PROCESSING
at Zapadni Bay Harbor
St. George Island, AK

- *1987/1988* ~ City of St. George acquires funds from various sources to build the harbor, not only for local fishermen but also to attract the Bering Sea crab industry to the island. According to the DCED Community Grants Database, $8.7 million was awarded for harbor construction and improvements.

- *1991* ~ Unisea sends the P/V Galaxy to Zapadni Bay Harbor but only stays a few weeks due to weather and infrastructure issues.

- *1992/1993* ~ All Alaskan Seafoods brings the *Northern Alaskan* processing barge and Snopac brings the *M/V Snopac* floating processor to Zapadni Bay Harbor to process crab inside the harbor. Both companies leased docks from the City. Snopac processes 65,000 live weight pounds of crab per day, primarily from small, shallow-draft crab boats who desire the ability to offload quickly and frequently close to the fishing grounds, saving them the run to and from Dutch Harbor. The City of St. George and the St. George Tanaq Corporation apply pressure for the construction of a shore processing facility. All Alaskan leaves after two seasons of dealing with harbor and infrastructure issues.

- *1994* ~ Snopac leases land at the north end of Zapadni Bay Harbor from the St. George Tanaq Corporation with the intention of building a shore plant at the urging of APICDA as a joint venture. Snopac spends over $60,000 on the engineering but APICDA decides not to participate, instead putting funds and effort into dredging and expanding the south end of the harbor. The City acquires funds to dredge the north end of the harbor and decides to manage the job itself. The dredging work is not done properly. Because the City ran the job, there is no recourse. According to the DCED Community Grants Database, $3.3 million was awarded for the dredging project. In the meantime, Snopac spends over $2.7 million between 1992 and 2002, constructing a 136-bed, two-story housing facility, a galley/mess hall, a sewage plant, and a generating station as Phase I of a future shore plant. Peter Pan takes over the dock formerly used by All Alaskan and brings in the *M/V Blue Wave* to process crab.

- *1995/2000* ~ Crab processing continues, with Snopac reaching a daily throughput of over 300,000 live weight pounds of opilio per day by increasing the number of workers staying in the new man-camp and by constructing a brand new state of the art processing line. Snopac again discusses joint venture shore plant projects with APICDA and with the St. George Tanaq Corporation. Despite APICDA's earlier affirmation for the island to have a shore plant, Snopac is unable to finalize a joint venture with them for the project. This despite the investment in housing and infrastructure onshore and "promises" from APICDA. Tanaq makes a policy decision to not make any further investments on St. George Island

- 2001/2003 ~ Crab quotas are down further from 2000 quota and it is economically unfeasible to process in Zapadni Bay with the small quotas.

- **2004 ~ Pre crab rationalization, Snopac strongly pushes APICDA and Peter Pan to joint venture a shore plant consolidating all potential IPQ and CDQ crab to ensure a large enough quantity of crab (potentially 15% of the total quota) to be economically viable. APICDA declines to joint venture a shore plant even though Snopac was to provide in excess of $1,000,000 in equipment and a $2,500,000 housing facility. Peter Pan indicates that they just wish to "depart" St. George and consolidate on St. Paul. Greg Blakey of Snopac tells Larry Cotter of APICDA and Max Malavansky of the City of St. George that the only hope for St. George to continue as a viable processing location is to build a shore plant as well as improve ingress and egress to the Zapadni Bay Harbor. This would mean, at a minimum, to dredge the entrance channel to the originally specified depth and removing the high spots which were left over during the original dredging of the entrance channel. In addition, it would be necessary to dredge the harbor itself, including the north end, to allow the remaining operating crab fleet of deeper draft, to come and go into and out of the harbor without grounding on the bottom. The traditional "small boat" crab fleet that had historically used the harbor would be gone from the fishery as it was obvious that harvesting consolidation would occur.**

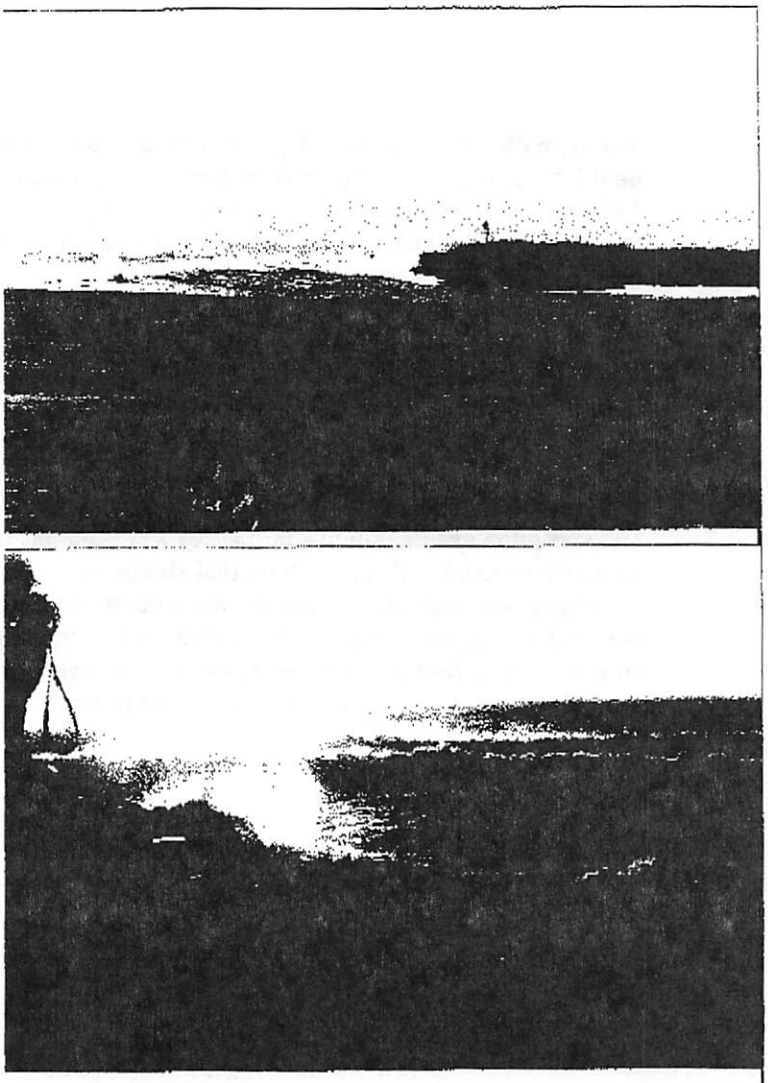
- **2004/Fall ~ A large storm damages the breakwater filling the harbor entrance and the harbor with thousands of yards of rock and silt. It is clear the harbor is unusable as a crab processing location and that the St. George entities, (Tanaq Corp., City of St. George and APICDA) have no interest in working toward making the Zapadni Bay Harbor improvements. With this information, Snopac makes a business decision and Snopac retires the P/V SNOPAC (its' small "St. George sized" processing vessel) and purchases the P/V COASTAL STAR from Icicle Seafoods and re-names it the SNOPAC INNOVATOR. The INNOVATOR is too large to get into St. George (even prior to the storm damage) but had processed successfully in the lee anchorages of St. Paul for many years in the late '80's and '90's. In addition, the SNOPAC INNOVATOR has the size to make it a more effective salmon processor in an increasingly lower margin and overcapitalized fishery.**

- **2005/Early 2006 ~ Crab Rationalization passes. Many of the smaller crab boats that historically delivered to Snopac receive excellent history and corresponding IFQ's due to the most part on Snopac processing capacity. Some of the small boats have catch history rivaling that of large vessels that delivered to Dutch Harbor processors. The majority of the smaller vessels that had traditionally delivered to Snopac subsequently sell in the "buyback" or retire the vessels from crab fishing. Snopac is the only crab processor that has Northern Shares only and does not have a "sister" company in St. Paul or Dutch Harbor. Prior to the opilio season, APICDA, the City of St. George and NMFS all agree to allow Peter Pan and Snopac to process in St. Paul due to the harbor being *unfit and unsafe* during the 2006 season. This is done as per the Crab Rationalization Rules commonly known as "unavoidable circumstances". Taxes from the opilio fishery are transferred, less a handling fee, from St. Paul to St. George after the season.**

- **2006 ~ APICDA and the City of St. George initially agree to allow Snopac to process in St. Paul for the 2007 opilio season. Mr. Cotter then learns that the "cooling off" period requires permission from NMFS and APICDA in years one and two, but in year three, the IPQ holder may move processing locations within the northern**

district without permission. Upon learning that he could not "control" the Snopac held IPQ in year three, he reverses himself and declares the harbor fit for use. Mr. Cotter's statements apparently do not hold with NMFS as the agency allows Snopac to process in St. Paul because the same "unavoidable circumstances" are still a factor as they had been the previous year.

- **2007/Early 2008 ~ APICDA appeals the NMFS ruling and states that the "harbor is just fine". In December at trial, APICDA changes tactics and states that crab processing should occur outside the harbor, at anchor "somewhere" at St. George Island. This theory is unsound, as there is no "lee" shore on St. George. It is basically a round island where the swells originating from storms from the west wrap around the island. At trial, members of the crab processing community with one exception are unanimous in their expert opinions that attempting to anchor a processing vessel with a crab boat tied alongside in the Bering Sea swell at St. George is extremely dangerous to both vessels and human life. The industry member who is recruited by APICDA to testify on their side commits perjury at trial by stating that they processed crab at St. George in 1995 when in fact they did not. The verdict from NMFS has not come in yet.**



St. George Office:

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March 21, 2008

Eric Olsen, Chairman
Chris Oliver, Executive Director
North Pacific Fisheries Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Re: Comments on Agenda Item C-2(f);

Dear Chairman Olsen:

I'm writing to you today about written comments made by Snopac Product's Greg Blakey. This issue is about St. George, a three pic crab rationalization system, and a commitment made by the North Pacific Fishery Management Council to provide minimal protections to crab dependent communities when the system was implemented. These community protections were implemented out of recognition of the financial commitment made by crab dependent communities (the same recognition used to justify processor quota shares) to nurture and support the commercial crab industry, and out of recognition that crab dependent communities are in fact economically dependent on crab.

The Council unanimously agreed that each crab dependent community should be guaranteed two years of processing and a right of first refusal for three years. As we all know, an Act of God intervened in St. George and made the inner harbor unusable for the first three years of crab rationalization. Did that eliminate the Council's commitment to St. George? Did that Act of God somehow mean that what the Council thought was necessary and fair for a crab dependent community when it unanimously adopted this program is no longer necessary and fair?

Snopac references $ 9.3 million that it has invested in St. George. Snopac refers to this springs dredging of the entrance channel as a "discouraging waste of money". He should live in the community for a year and tell us that. Congress in 1983 passed the Fur Seal Act Amendments that clearly state that the community of St. George and St. Paul shall develop an economy not based on fur sealing. To that end, over $20 million has been invested by the State of Alaska, $ 7.0 million by the City of St. George, $ 3.3 million by APICDA Corporation, $ 5.0 million by the Federal Government and $ 2.0 million by the St. George Tanaq Corporation in the harbor. The Fur Seal Act has met with limited success in St. George but what is particularly disgusting to the City of St. George is to read a disparaging statement from a company that has earned millions of dollars from using facilities that were constructed by the community.

Snopac references "high spots" in the entrance channel and implies that their presence makes the harbor unusable. In 2004 a U.S. Army Corp of Engineers study concluded that the high spots in the entrance channel are not a problem, surge is the problem and it could be rectified by extending the breakwater and, as the Corp concluded, "should be accomplished as soon as possible."

Once the channel is dredged this spring, the harbor will be in exactly the same condition it was in for the many years that Snopac operated in St. George, buying and processing crab and earning their processor quota shares. It will not be the greatest harbor, but it will be the same harbor that was sufficient for Snopac for many years.

Snopac is not telling the whole truth. In 2004, Snopac was part of a grant application to Economic Development Administration with APICDA for the construction of a $ 4.0 million crab processing plant in St. George. The application called for a $ 2.0 million grant from EDA, matched with $2.0 million from APICDA. Snopac was going to contribute its crab line and bunkhouse as part of a joint venture with APICDA to own and operate the business. After crab rationalization was passed, Snopac reneged on its commitment to the venture.

In addition, Snopac fails to mention they "retired" their processor *Snopac* after crab rationalization was adopted, not before. They not only stopped using the vessel, they agreed contractually that it would never be used in Alaska again, regardless of ownership. Now they maintain that they cannot process in St. George because they do not have a processing vessel that can fit in the harbor. It was their decision to mothball the Snopac, not the decision of St. George. We do not believe the Council intended to exclude companies from their obligation under the two year cooling off period if they simply closed their facility or got rid of an asset they could use to meet their obligations. Beside, Snopac testified in the APICDA challenge to NMFS (on the decision to allow Snopac to process in St. Paul in 2007) that they were prepared to process in St. George using a leased processor.

To summarize, the Congressional mandates of 1983 along with the substantial investments made by the community of St. George benefited the processors that processed crab in St. George. Snopac earned every pound of its crab processed in St. George and never processed any of those crab shares at St. George. If Snopac is truly concerned about St. George it truly has a funny way of showing it. Snopac has referred to the end of the crab rationalization cooling off period as its get-out-of-jail- free card. Further, crab processing has been the economic engine of the community. Currently the St. George economy is in a tough place, past revenues from crab processing accounted for approximately 100% of the City of St. George's general fund revenue. The City has been forced to raise rates on electricity to $ 0.45 cents a kilowatt hour for residential customers and $ 0.72 cents a kilowatt hour for commercial and governmental customers. Home heating fuel is currently $ 5.50 a gallon.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,
City of St. George

Max Malavansky
City Administrator

ST. GEORGE TANAQ CORPORATION

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March 26, 2008

To the North Pacific Fisheries Management Council:

I am a new CEO at St. George Tanaq Corporation ("Tanaq") and have little firsthand knowledge of the history of Snopac Products on St. George Island, but several of our board members have been intimately involved with Snopac Products over the years and have asked that I write this letter in support of the North Pacific Fisheries Management Council ("NPFMC") taking action to reestablish community protections for St. George Island regarding the northern Bering Sea crab fishery.

Being the primary landholder at the island's harbor, Tanaq has leased property to Snopac Products over the years in order to assist them in exploiting the crab fishery so important to the island's economy. That relationship, however, came to an end after the crab fishery collapsed in 2000. Since then, Snopac's leases with Tanaq have gone unpaid and Snopac has neglected a large facility at the island's harbor, leaving an environmental liability for Tanaq's shareholders. It is my understanding that industrial equipment and barrels of contaminants have been left behind on the grounds of Snopac's building, and the structure itself is starting to deteriorate rapidly. Estimates approaching a quarter of a million dollars have been proposed for the removal of the structure and a cleanup of the grounds.

Therefore, it is my hope that community protections from the NPFMC can somehow assist St. George Tanaq Corporation in its efforts to address the decaying legacy left behind by Snopac Products' utilization of St. George Island's crab fishery.

Thank you for your attention.

Sincerely,

James Dunn
CEO
St. George Tanaq Corporation

St. George Fisherman's Association
P.O. Box 991
St. George Island, Alaska 99591

Tel: (907) 859-2324

March 21, 2008

North Pacific Fisheries Management Council
Office: (907) 271-2817

Dear Counci Members:

My name is Patrick Pletnikoff, President of the St. George Fisherman's Association, St. George Island, Alaska 99591. Our organization is a nonprofit corporation incorporated in the State of Alaska. Our membership consists of all adult residents of our community. Our primary objective is to commercially develop the fishery resources available to us in the Central Bering Sea. We also work for the development of seafood processing facilities on shore of our island and to assist local fishermen in securing vessels and gear suitable for working our island waters and beyond.

With the passage of the Fur Seal Act of 1964 and the Amendments thereto in 1983, our local Aleut residents of St. George have worked hard and diligently to fulfill the mandate of the U.S. Congress to transition our economy from that of fur sealing to that of fisheries. We continue to work with our State Government, Federal Government, Congressional Delegation and local political entities to make this mandate to transition our economy a reality. Certainly, we have come to the NPFMC on many occasions seeking assistance and advice to accomplish this transition in an orderly manner.

Since 1983 and despite our efforts with our government, the success towards meeting the Congressional mandate to transition our local economy has been met with limited success. The results have been most difficult and frustrating to our island residents.

Most of us on St. George are familiar with Snopac, it's processing of crab within our harbor, the building of facilities to house crab/fish processing crews, and in general, the manner in which the crab rationalization program was supposed to work. Our village corporation and city government worked hard with Snopac to make this venture a success, as we certainly realize the importance to our community and our economic future. Our Fisherman's Association is well aware of the work and effort our CDQ Group, APICDA, has worked and planned and made financial commitment to further the development with Snopac.

Given the above, we at St. George are terribly disappointed in the letter of March 18, 2008 directed to you by Mr. Blakey of Snopac. The letter in many instances contained error in fact and more importantly, accuses or shifts blame to the people and/or St. George Island itself. Simply, Mr. Blakey's letter has every indication of dealing with us at St. George in bad faith. It does not appear he is interested in complying with the spirit and intent of the crab rationalization program. A program established to provide some minimal protection to our crab dependant community. Snopac earned its processor quota shares on our island. **It is just that simple.** Now, Mr. Blakey, for what ever reason, wants our people and our community to just "go away" and not deal with us in good faith. In order to accomplish this, he changes his arguments and begins to shift blame on APICDA and Mr. Larry Cotter. Mr. Blakey and Mr. Cotter are simply not the issue here. **Good faith dealings with our community is the issue.**

Our Fisherman's Association does not dispute many of the claims Mr. Blakey makes regarding Snopac's investment on our island. We have not reviewed their financial statements. He boasts of investing more money on the island than APICDA. We on the island know differently as we work with APICDA closely and are working to develop positively. APICDA has not abandoned us and instead is working with us to finally realize the mandate of our Congress in 1983. At St. George, we are mindful of how difficult it is to transition our economy from fur seal harvesting to fish harvesting and processing. Certainly, this has taken some time. APICDA however, has not abandoned us and does not shift blame to anyone. Shifting responsibility and not wanting to comply with the spirit of the crab rationalization program is what Mr. Blakey is attempting.

Our Fisherman's Association is most surprized by the letter directed to you by Mr. Blakey. He and his company should not use our island or our people as a political "football" in his arguments. It would, in our humble opinion, do our island and our people justice if Mr. Blakey would just deal with us in good faith.

We ask the Council to reject Mr. Blakey's claims as they are misdirected and in many instances incorrect. We humbly request the Council extend the cooling off period for a two year period and protect our island community rights to the ROFR. If this is not accomplished, our island community, we believe, will be cheated once again.

Respectfully,

Patrick Pletnikoff
President
St. George Fisherman's Association

APICDA
Haginaa Kidui · Helping to Grow

Aleutian Pribilof Island Community Development Association

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March 21, 2008

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99501

Re: Agenda C-2(f)

Dear Chairman Olson:

I am writing on behalf of the Aleutian Pribilof Island Community Development Association (APICDA). APICDA is the CDQ group representing St. George; hence, we hold the expiring ROFR for the crab PQS owned by Snopac Products. With regard to Agenda Item C-2(f), we support re-initiation of the cooling off period for two years and re-initiation of the ROFR, with the condition that those provisions may be replaced by an alternate agreement that is mutually agreed to between APICDA and one or both of the processors that earned PQS in St. George.

The crab rationalization program unanimously adopted by the Council is a "three pie" system. The three pies are harvesters, processors and communities. This was, and remains, a controversial rationalization approach. Processors argued successfully that the millions of dollars they invested in their facilities should not be placed at risk with a harvesters-only program. The communities argued the same. One cannot have legitimacy without the other. The Council recognized this by allocating 'A' and 'B' shares and IPQ, and by creating community protection measures, to further the interest in "community protections."

The two community protection measures are: a "cooling off" period, which essentially prohibited processors holding IPQ from moving those shares out of the community of origin for the first two years of the program (excepting unavoidable circumstances and limited intra-company transfers); and a Right of First Refusal (ROFR) to the designated community. The ROFR would expire only when none of the IPQ had been processed in the community for three consecutive years. APICDA is the "community entity" for St. George.

The Council's rationale in creating these particular community protection measures is largely based on the rationale for processor quota shares: the communities had made large investments in the local infrastructure to attract and assist the development and

continued maintenance of a crab harvesting and processing industry; the communities were "crab dependent," deriving substantial tax revenue, economic activity and employment benefits from the industry. In addition, there was a realistic likelihood that communities could lose some or all of these benefits – including their capital investment in infrastructure – if there were no community protection provisions, as some processors might seek greener pastures (or as Snopac Products has stated, "get out of jail free cards") without regard to their initial host community.

In October of 2004 a terrible storm severely damaged the Zapadni Bay Harbor in St. George. President Bush subsequently declared St. George a federal disaster area. The damage consisted of breaches in the outer breakwater and significant siltation in the entrance channel. As a federal disaster zone, FEMA was charged with effecting repair. Through no fault of St. George, the breakwater was not repaired until 2006; the entrance channel will be dredged and restored this spring.

In late 2005 and early 2006, APICDA and the City of St. George agreed to a twofold request from Peter Pan Seafoods and Snopac Products: one, to support their request that NMFS find an "unavoidable circumstance" in St. George due to the damaged harbor; and two, to allow them to process their St. George IPQ at St. Paul. At that time, APICDA and Snopac Products planned a joint venture crab processing plant (discussed later in this letter) and we expected repairs to the outer breakwater and entrance channel would be completed in the summer of 2006. APICDA and the City of St. George were willing to be good business partners in our prospective business venture with Snopac, and so agreed to support the request.

In January of 2007, Peter Pan and Snopac Products again approached APICDA and the City, requesting we support their request for a second declaration of "unavoidable circumstance" so that they could again process their St. George IPQ on St. Paul. Initially, we were inclined to support their request, though it did not sit well. In fact, we made it clear that this would be the very last year of our support for such a request. Then we learned – as did Snopac Products – three important facts about the community protection provisions (admittedly information we could have known from the very beginning, and had we known in the beginning we would have opposed the community protection provisions as inadequate). Those facts are:

- It is not the decision of the community or the community entity whether a processor can leave the community (the decision is made by NMFS).

- After the two year cooling off period the processors are free to leave on their own accord, regardless of anyone else's desires. (We had understood that IPQ could be shifted out of a community after the two year cooling off period only if the community entity agreed or if the quota was being shifted to a "sister company.")

- The ROFR expires irrevocably after three years of no processing in the community of origin.

With a more complete understanding of the rules it became immediately clear that 1.) it was NMFS that would determine whether Peter Pan and Snopac Products could move their IPQ to St. Paul, 2.) if NMFS granted that request the two year "cooling off" period would expire and both companies would be free to leave St. George in the future whenever they pleased, and 3.) both companies would leave and the ROFR would expire. For obvious reasons, neither APICDA nor the City of St. George could sit back and allow this to occur.

We then opposed the 2007 request. We argued that the companies could secure a vessel and anchor up and process in the near shore waters of St. George Island.. The RAM Division of NMFS granted the Peter Pan and Snopac Products request, but did so without even considering for a moment whether processing at anchor off St. George was possible (testimony from Tracy Buck, RAM Division). We appealed that decision, and the results of that appeal are pending.[1] However, the Administrative Law Judge has decided that it is not within her power to order Snopac Products to process in St. George in the future as the two year cooling off period has expired.

The situation now is clear: in the absence of Council action, Snopac Products will move the IPQ it earned in St. George to another community and the ROFR held for St. George will evaporate. This is exactly the scenario that was feared when crab rationalization was developed and the exact scenario used to justify the original community protection provisions. Without your positive action, this untenable scenario will play out and St. George will be entirely locked out of the crab industry.

Our proposal simply allows the Council to recognize and validate that the community protection measures it established in the beginning of the program had merit, that an Act of God intervened in St. George and kept those measures from protecting the community history, and that the community protections should be reinstated as soon as possible now that the harbor will be restored to the same usable condition it was in when the St. George IPQ was earned. Our proposal also contains an exit opportunity for Snopac Products – these provisions will not apply in the event that Snopac Products and APICDA reach a mutually agreeable contract that addresses obligations for both the cooling off period and the ROFR (which we already have with Peter Pan).

Our remaining comments address those made by Mr. Blakey in his letter to the Council dated March 18, 2008. His comments are a concoction of truths, half-truths, and outright fabrications.

There have been three shoreplant joint venture discussions between APICDA and Snopac over the years and one joint venture. The initial joint venture discussion was a proposal from Snopac in 1994: Snopac proposed that APICDA would provide 100% of the money, and Snopac would contribute the crab processing equipment and the bunkhouse;

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[1] APICDA dropped its appeal as it applied to the NMFS decision for Peter Pan. APICDA and Peter Pan have reached a private contractual agreement regarding Peter Pan's responsibilities to St. George for both processing within the community and the ROFR. We do not have such an agreement with Snopac Products.

Snopac would own 80% of the company. That proposal went nowhere for obvious reasons.

The second discussion was in 1998. It was then that Snopac incurred the $60,000 engineering costs. The APICDA board decided, instead, to invest $1.8 million to extend and expand the harbor south and in the same year APICDA allocated $1.8 million to extend and enlarge the south end of the harbor, construct dock facilities and prep uplands for a proposed processing plant.

The joint venture occurred in 2000. This was a hand shake agreement between Snopac and APICDA to encourage Snopac to process in St. George for the season notwithstanding the substantial decrease in the opilio quota and the likelihood of losses. Both sides were to share expenses and split the profit or loss equally. In the end, APICDA paid Snopac approximately $259,000. After considerable discussion between the parties regarding the legitimacy of some of the expenses, APICDA paid the bill which included tens of thousands of dollars in "depreciation expense" levied as a cash loss by Snopac.

The third shoreplant discussion began in 2004. An agreement was reached between APICDA and Snopac to construct and operate a joint venture processing plant on St. George. Accordingly, APICDA applied for a $2 million grant from the EDA (to be matched with $2 million from APICDA) to construct the facility. Snopac agreed to participate and was a partner in the project. The EDA grant application description is a joint venture between APICDA and Snopac. The application also includes documents provided by Snopac, at EDA's request, to validate their formal participation in the company and plant. The plant pro formas were developed jointly by Snopac and APICDA, with Snopac taking the lead. The EDA approved the grant in 2005.

In 2006, a few months following APICDA's support to allow Snopac to process their IPQ in St. Paul, Snopac advised APICDA that it would not participate in the shoreplant after all. Snopac's rendition of the events in their chronology following 2004 are a complete fabrication.

In the January, 2007 conversation referred to by Mr. Blakey, it was Snopac that solicited a proposal from APICDA to purchase its IPQ. APICDA offered to pay an initial price "perhaps $500,000 or $1 million, for example" plus an additional amount in subsequent years based upon the size of the future quotas and the value of the products produced.

In November 2007, APICDA was advised through an intermediary that Snopac would sell its IPQ for $1.5 to $2.0 million. APICDA offered $1.75 million; Snopac declined, stating the offer was too low. Later Snopac said it was only joking with the intermediary. In December 2007, Snopac stated the price would actually be $4 million.

Negotiations continued through January and February, 2008, and included an informal and very general discussion with the Administrative Hearing Officer to help advance the negotiations. In a good faith effort to bring the matter to conclusion, APICDA improved

its offer to a $2 million immediate base payment, **plus** Snopac could market the crab and receive 15% of net, **plus** a formula would be jointly developed that would identify additional amounts to be potentially paid to Snopac based upon the net proceeds from the sale of the product. Depending upon future market conditions, the total payout could equal or exceed the earlier $4 million proposal from Snopac. Snopac countered with an offer to sell 50% of its IPQ to APICDA for $2.5 million (an increase from its two earlier offers in November and December 2007). Snopac explained the increase as "inflation." The negotiations ceased.

In the final analysis, this is about the people of St. George, their past and their future. If the Council takes no action, the future for St. George – at least with regard to crab – is clear: there is none. This despite the fact that the harbor that is now supposedly so insufficient and dangerous (even once it is restored this spring to pre-storm status) was sufficient in the 1990s to support the delivery, purchase and production of eight percent of the Bering Sea opilio crab production. If you juxtapose a dead end crab future of St. George with crab vessel owners leaving their vessels tied to the dock and leasing their quotas to someone else for 70% of ex-vessel, or a processor merrily abandoning the community in which he earned his history, it will be difficult not to conclude that a terrible injustice has occurred.

The Council enacted measures as part of this program to protect crab dependent communities against the very injustice that is now happening. An Act of God intervened and nullified those protections for a relatively brief period of time. St. George was a crab dependent community. It can be again. Please reinstate the two year cooling off provision and the ROFR.

Sincerely,

Larry Cotter, CEO

Cc: APICDA Board of Directors
City of St. George
St. George Tanaq Corporation
St. George Traditional Council
St. George Fishermen's Association