

Agenda G-1
May, 1980

MEMORANDUM

DATE: May 20, 1980
TO: Council Members, SSC & AP
FROM: Jim H. Branson, Executive Director *JHB*
SUBJECT: Gulf of Alaska Groundfish FMP, Proposed 1981 Amendments

ACTION REQUIRED

To accept, reject, or modify the proposed eleven part amendment package.

BACKGROUND

The proposed 1981 Gulf of Alaska Groundfish Amendments were available for public review May 2nd. Subsequent to that, the Management Plan Drafting Team met with the Council's Incidental Species Policy Group, a subgroup of the Advisory Panel and a subgroup of the Scientific and Statistical Committee in Seattle on May 12th and 13th. A public hearing was held May 22nd in Kodiak. The amendment package is expected to be forwarded to Washington in early June for implementation by November 1, 1980. In the event, however, it is not possible to implement the package by November 1, interim-measures will be requested (possibly a Secretarial amendment) to extend the provisions of the plan until these amendments have been approved and implemented.

Attached are three appendixes.

APPENDIX A - A list of the proposed amendments.

APPENDIX B - Pertinent Council and National Marine Fisheries Service comments including:

1. Advisory panel subgroup report.
2. SSC subgroup report.
3. Management plan drafting team report.
4. A draft, legal memorandum from NOAA General Counsel.
5. National Marine Fisheries Service 1980/81 processor survey.
6. Incidental Species Group Report.

APPENDIX C - Are written public comments received as follows:

1. April 23, 1980, statement of Henry Haugen.
2. May 9, letter from Haugen Commission.
3. May 12, letter from Steve Johnson.
4. April 30th, letter from Paul MacGregor.
5. May 15th, letter from Alaska Longline Fishermen Association.

Dr. Jim Balsiger of the Management Plan Drafting Team will be on hand to present the amendment package to the Council and answer questions. If possible, comments received during the public hearing on Thursday will be prepared for Council consideration following the hearing.

SUMMARY

1981 GOA AMENDMENTS

1. Establish TAC (total allowable catch) limits for the incidental catch of prohibited species and establish "mitigation fees."
2. Change the plan year and eliminate any expiration dates.
3. Distribute the OY Gulfwide for five species.
4. Establish four species categories for the Gulf of Alaska.
5. Divide the Eastern Regulatory Area to facilitate apportionment of sablefish.
6.
 - a. Specify the authority of the regional director, NMFS, to adjust time/area restrictions for foreign trawling to prevent gear conflicts and grounds preemptions and/or
 - b. Specify a foreign trawl closure in the Kodiak district during the crab seasons for the same reason.
7. Set a schedule for the release of reserves.
8. Prohibit foreign trawling in the Yakutat and Southeast District (i.e., Eastern Regulatory Area).
9. Prohibit foreign longlining east of 150° West longitude.
10. Require biodegradable escape panels on sablefish pots fished in the GOA.
11. Add a joint venture policy statement to the FMP.

North Pacific Fishery Management Council

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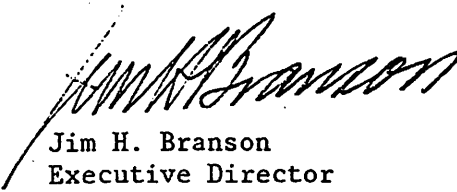
May 2, 1980

TO THE PUBLIC

The North Pacific Fishery Management Council will conduct a public hearing on Thursday, May 22nd, 1980 in the Elks Lodge in Kodiak, Alaska. We are soliciting comments on proposed amendments for the 1981 Gulf of Alaska Groundfish Fishery Management Plan. The attached material supercedes a "proposed-amendment-package" dated April 14th, 1980 and should fully explain the 1981 proposed amendments to the Gulf of Alaska Groundfish Plan. Action by the Council to accept, reject or modify these proposals will take place May 23rd, 1980 at the Council meeting in Kodiak.

Written comments on the proposed amendments should be made as early as possible but will be accepted until the adjournment of the public hearing on May 22nd, 1980, in Kodiak.

Additional information on any portion of this package may be obtained from this office, 333 W. 4th Street, Suite 32, Anchorage, Alaska, 99501 (907) 274-4563. Comments may be made in person at the public hearing or in writing at any time before May 22nd, 1980.


Jim H. Branson
Executive Director
North Pacific Fishery Management Council

MIH

May 2, 1980

GULF OF ALASKA
GROUND FISH FISHERY MANAGEMENT PLAN

PUBLIC HEARING

MAY 22, 1980
Kodiak, Alaska

AMENDMENT #8

(Description and explanation)

Additional information on any portion of this proposed amendment package may be obtained from the North Pacific Fishery Management Council: P.O. Box 3136 DT, Anchorage, Alaska 99510.

Comments may be made in person or in writing to the Council at the following address: Suite 32, Post Office Mall, 333 W. 4th Avenue.

The Comment period closes May 22 at 5 p.m.

GULF OF ALASKA GROUND FISH PUBLIC HEARING

THIS MATERIAL HAS BEEN PREPARED TO DESCRIBE AND EXPLAIN PROPOSED AMENDMENTS TO BE MADE TO THE GULF OF ALASKA GROUND FISH FISHERY MANAGEMENT PLAN FOR 1981. These proposals comprise the 8th amendment to this FMP.

1. *Establish total allowable catch (TAC) amounts for the incidental catch of prohibited species: (halibut, king and Tanner crab, salmon).*

Currently there is no limit on the incidental catch of prohibited species, but all must be returned to the sea when caught. The proposal would impose an absolute limit on the catch, after which the nation which meets or exceeds its TAC will have to quit fishing for all species. In addition, a "mitigation fee" is proposed which would compensate the U.S. for halibut, crab and salmon lost through the incidental catch mortality of the foreign fishery. (For more information see pages 5,6 and 7.)

2. *Change the plan year and eliminate any expiration date.*

The present plan or "FMP" year is November 1-October 31. The proposal is to change the plan year to either January 1-December 31 (calendar) to agree with the present plan year in the Bering Sea OR to utilize an open-ended or multi-year approach in which the optimum yield values and other aspects of the plan continue without the artificial barrier of an expiration date and are adjusted only when necessary, depending upon the condition of the resource. (For more information see page 7.)

3. *Distribute the optimum yield (OY) Gulfwide for squid, "other species", rattails (see #4), Atka mackerel and other rockfish.*

The species listed above are those which have a limited domestic commercial value or interest. Research efforts tend to concentrate

on more valuable species; as a consequence, little information is available on the actual distribution of the five species listed. The present FMP assigns a percentage of their optimum yield values to each of the three regulatory areas in the Gulf of Alaska. The ability to catch these species while fishing for target species, and not be concerned about regulatory area limits, will alleviate some operational problems for the foreign fleets. (For more information see pages 8 and 9.)

4. *Establish four species categories for the Gulf of Alaska Groundfish Fishery as follows: prohibited species, target species, other species and non-specified species.*

This amendment adds a fourth category 'non-specified' species to the three now in the FMP. The Bering Sea/Aleutian Island Groundfish Plan already provides for this fourth category which includes such things as eelpouts, rattails, blennys, etc. They have no commercial value, are not depleted and the OY can be safely set at whatever is caught. They would be removed from the category 'other species' which does have an established OY and includes smelt, sculpins, skates, capelin, etc. Rattails, as proposed under #3 could be eliminated from that proposal and added to the non-specified species group. (For more information see page 9.)

5. *Divide the Eastern Regulatory Area of the Gulf of Alaska into four parts to allocate sablefish OY.*

This amendment will establish four new areas to facilitate allocation of the sablefish optimum yield to prevent overharvest in any one area. (For more information see page 10.)

6. (a) *Specify the authority of the Regional Director, NMFS, to issue field orders adjusting time and/or area restrictions to resolve gear conflicts and ground preemption.*
- (b) *Specify a foreign trawl closure during the crab season in the Kodiak District. (see page 11, 12 and 13)*

(a) The proposal would extend the existing authority of the Regional Director, NMFS, Juneau, to issue field orders which can now be exercised only for conservation reasons. The expanded authority would allow him to issue field orders restricting time or area operations for foreign fleets to prevent gear conflicts and ground preemption with domestic fixed gear operations. Proposed criteria for such closures is listed in the rationale section, pages 11 and 12. (For more information see pages 11 and 12.)

(b) Would close the Kodiak area to foreign trawling during the crab season.

7. *Set a schedule for the release of reserves.*

The present schedule for the release of reserves in the Gulf of Alaska is January-March-May-July; up to 25% of the reserve amount can be released on each date. The proposal is to allow a greater percentage of release at times which allow better assessments of the domestic effort and facilitates long-range planning by foreign fleets. (For more information see page 13.)

8. *Prohibit foreign trawling in the Eastern Regulatory area: i.e. the Southeast and Yakutat Districts.*

The present stock condition of POP and "other rockfish" is under study by the plan development team. There is some concern that the present level of foreign trawling in that area where stocks are depleted will not allow them to recover. Prohibiting foreign trawling is a possible solution. (For more information see pages 13 and 14.)

9. *Prohibit foreign longlining east of 150° W. longitude.*

Foreign longlining is presently prohibited east of 140° W. longitude. The sponsors of the amendment feel the domestic sablefish fishery will expand west into the central Gulf area to 150° W. longitude. The proposal will allow the U.S. longline fishery to expand without competition with foreign longlining. (For more information see page 14.)

10. *Require biodegradable escape panels on sablefish pots.*

Proposed as a conservation measure, it is presently a requirement for all crab pots. (For more information see page 14.)

11. *Joint venture processing policy statement to be added to the fishery management plan.*

The Council has recommended, as a condition of joint venture permits, that foreign processing not be allowed within 12 nautical miles of Akutan-Akun Islands. That recommendation is pending as a permit restriction.

In order to establish the concept of restricting foreign processors engaged in joint venture operations when necessary and to protect fixed base U.S. processors and to give the Council the latitude to provide that protection in accordance with P.L. 94-354, the amendment gives the Regional Director, with the concurrence of the Council, the authority to close areas to foreign processing. (For additional information, see pages 14 and 15).

AMENDMENTS AND RATIONALE

PART 1. ESTABLISH TOTAL ALLOWABLE CATCH (TAC) AMOUNTS FOR THE INCIDENTAL CATCH OF PROHIBITED SPECIES.

Rationale

Prohibited species are those species which are or can be fully utilized by domestic fishermen. When they are caught by foreign fishermen at any time, or by American fishermen outside of established seasons, they must be returned to the sea in a manner to maximize their survival. The following species and species groups may not be retained by domestic or foreign fishermen unless specifically permitted by another FMP: all salmon, all crabs, and Pacific halibut.

The following absolute limits on the incidental catch of prohibited species will be allowed in the groundfish fishery: Pacific halibut, 1,500 mt; king crab species, 130 mt (90,000 crabs); Tanner crab species, 14 mt (24,000 crabs); salmonid species, 70 mt (25,000 fish). The incidental TAC is an absolute limit. These limits are based on the estimates of incidental catch over the past two years of record. Therefore, their implementation should not impose significant new constraints on the fishery. These limits will be allocated between domestic and foreign fishermen on the basis of total groundfish domestic allowable harvest (DAH) and total allowable level of foreign fishing (TALFF) with the domestic share being based on twice the incidence rate as the foreign share -- i.e., that if the total groundfish DAH is 5% of the total groundfish OY, the domestic fishery would receive 10% of the maximum allowable incidental catch of each prohibited species or species group. This disproportion will be maintained only so long as the total groundfish DAH is less than 20% of the total groundfish OY, and reflects the fact that inasmuch as the foreign groundfish fishery had an opportunity to develop without this type of restriction, the domestic fishery should have a comparable period of development before it is equally restricted in its incidental catch of prohibited species.

The specific allocations to each country of the prohibited species incidental catch allowances will be considered to be an absolute quota, subject to the provision of Section 15.3.2.3 A. (ii) which closes this entire management unit to all fishermen of a nation for the remainder of the fishing year when that nation's allocation of any species or species

group including prohibited species is exceeded. (With regard to Pacific halibut taken by hook and line gear, only one half of the estimated incidental catch will be counted against national allocations of this species, reflecting the assumption that half of such fish survive.)

Mitigation for loss to the domestic fishery

The prohibited species listed, are fully utilized by domestic fishermen -- Pacific halibut, all crab and salmon. Therefore, the mortality of those species associated with their incidental capture in the foreign groundfish fishery results in a direct loss to the domestic fisheries targeting on them. Accordingly, that loss will be mitigated by requiring compensation to be paid by foreign fishermen for the mortality caused by their operations (similar compensation will not be required of U.S. groundfish fishermen). The compensation paid by foreign fishermen will equal the average ex-vessel price paid U.S. fishermen for each of the species groups during each year times the incidental catch mortality caused by each foreign nation's groundfish fishery during that same year. This mortality is considered to be 100% for all species except Pacific halibut taken by hook where the mortality is believed to be 50%.

This provision allows foreign fishermen the choice of reducing their incidental catches or compensating the U.S. for the loss to its fishermen of the opportunity to increase their catch of halibut, king and Tanner crabs and salmon.

PART 2. CHANGE THE PLAN YEAR AND ELIMINATE ANY EXPIRATION DATE

Rationale

The development of groundfish plans for both the Gulf of Alaska and the Bering Sea/Aleutian area has been accomplished by essentially the same plan drafting team. In working with the groundfish complex in both areas, the team has concluded that a multi-year multi-species approach will facilitate management of the groundfish complex. This concept is to be applied to the Bering Sea Aleutian area in 1981. It is felt that the

application of such an approach will be compounded by unnecessary complications if the concept is applied to both the Gulf and the Bering Sea area at this time. However, certain elements of the multi-year multi-species approach can be applied at this time to the Gulf of Alaska. Under the multi-year multi-species approach there is no expiration date for the FMP. It is felt there is no good reason for the artificial barrier of an expiration date. Structuring OY considerations in a "open-ended" manner, subject only to significant changes in the status of stocks which would necessitate a revision of OY will begin the process of melding the management of the groundfish complex throughout the North Pacific and immeasurably ease management considerations. The amendment process, release of reserve and other management strategies can then be addressed on an ocean-wide basis.

PART 3. DISTRIBUTE GULFWIDE THE OPTIMUM YIELD FOR SEVERAL SPECIES

Rationale

The proposal is to distribute the optimum yield (OY) for squid, rattails (see Part 4) Atka mackerel, other rockfish and "other species" throughout the Gulf of Alaska rather than providing OY's for each of the three regulatory areas in the Gulf. Little information is available on the actual distribution of squid and "other species" and any divisional distribution is consequently done arbitrarily. Gulfwide OY's for these species will alleviate some operational problems encountered by the foreign fleets. One genus, Sebastobolus, is presently assigned a Gulfwide OY. All of these species are taken incidentally in fisheries for more abundant target species by the foreign fleets.

PART 4. ESTABLISH FOUR SPECIES CATEGORIES AS FOLLOWS: PROHIBITED SPECIES TARGET SPECIES, OTHER SPECIES AND NON-SPECIFIED SPECIES

Rationale

The following table (taken from the Bering Sea/Aleutian Island FMP) is being proposed for the Gulf of Alaska Groundfish Plan. The proposed

addition of a fourth category "non-specified species" is expected to facilitate a more comprehensive management approach to the groundfish groups in the Gulf of Alaska. It is also intended to eliminate some operational problems for fishermen by reducing reporting requirements for the unutilized species in category 4 which are now all lumped in 'other species.'

SPECIES CATEGORIES WHICH APPLY
TO THE GULF OF ALASKA GROUND FISH FISHERY

Prohibited Species <u>1/</u>	Target Species <u>2/</u>	"Other" Species	Non-Specified Species <u>4/</u>
<u>FINFISHES</u>			
Salmonids Pacific Halibut	Pollock Cod Flounders Herring Atka mackerel Sablefish Rockfishes	Sculpins Sharks Skates Eulachon Smelts Capelin	Eelpouts (family Zoarcidae) Poachers (family Agonidae) and alligator fish Snailfish, Lumpfishes, Lump suckers (family Cyclopteridae) Sandfishes (<u>Trichodon sp.</u>) Rattails (family Macrouridae) Ronquils, Searchers (family Bathymasteridae) Lancetfish (family Alepisanvidae) Pricklebacks, Cockscombs, Warbonnets, Shanny (family Stichaeidae) Prowfish (<u>Zaprora silenus</u>) Hagfish (<u>Eptatretus sp.</u>) Lampreys (<u>Lampetra sp.</u>) Blennys, Gunnels, (Various small bottom dwelling fishes of the family Stichaeidae and Pholidae)
<u>INVERTEBRATES</u>			
King crab Tanner crab Coral Shrimp Clams Horsehair crab Lyre crab	Squids	Octopus	Anemones Starfishes Egg cases Sea mouse Sea slug Sea potato Sand dollar Hermit crab Mussels Sea urchins Sponge-unident.
			Jellyfishes Tunicates Sea cucumber Sea pen Isopods Barnacles Polychaetes Crinoids Crab - unidentified Misc. - unidentified

1/ Must be returned to the sea, no fee.

2/ OY for each item; fee as in fee schedule.

4/ List not exclusive; includes any species not listed under Prohibited, Target or "Other" categories; no fee charged.

PART 5. SUBDIVIDE THE EASTERN REGULATORY AREA OF THE GULF OF ALASKA
FOR THE PURPOSE OF ALLOCATION OF SABLEFISH OY

Rationale

Subdividing the Eastern Regulatory area results in four new areas: (1) Yakutat area west of 140° W, (2) Yakutat area east of 140° W, (3) Southeast outside waters (FCZ waters), and (4) Southeast inside waters (State waters);

	Western	Central	Eastern				Total
			Yakutat		Southeast		
			W of 140°W	E of 140°W	Outside	Inside	
%	15.9	29.1	16.0	10.8	23.0	5.2	100
OY (mt)	2,100	3,800	2,000	1,400	3,000	700	13,000

The domestic fishery tends to concentrate on familiar or close to port grounds as contrasted to the more systematic dispersed effort of the foreign longliners. This tendency could cause serious local depletion in a sablefish resource harvested by a domestic fishery, even though the OY for the entire eastern area might not be exceeded. This view is consistent with the generally accepted hypothesis of a single sablefish stock which has slow rates of interchange between areas. If the outside/inside division of the Southeast area was not made, it is possible that the entire 3,700 metric ton OY for the Eastern Regulatory area would be taken in outside waters before the State waters were open to sablefish fishing. This would result in an overharvest in the outside waters and an underharvest in the inside waters.

PART 6. (A) SPECIFY THE AUTHORITY OF THE REGIONAL DIRECTOR, ALASKA REGION NATIONAL MARINE FISHERIES SERVICE TO ISSUE FIELD ORDERS FOR TIME AND/OR AREA RESTRICTIONS ON FOREIGN VESSELS TO PREVENT GEAR CONFLICTS.

(B) SPECIFY FOREIGN TRAWL CLOSURES DURING CRAB SEASONS IN THE KODIAK DISTRICT.

Rationale

The Regional Director or his designee should have the authority to issue field orders for time and/or area restrictions on foreign vessels to solve gear conflict problems between domestic fixed gear fishing operations and foreign trawlers. The field orders may open or close fishing areas or parts thereof to solve such situations. There has been a demonstrated inability to react to gear conflict problems in a timely manner (.e.g, the foreign trawl fishery and domestic crab pot fishery near Kodiak Island in 1979). The authority above would help solve this problem.

The proposed criteria are:

- (1) More than two gear loss reports have been submitted in person or by radio to NMFS or Coast Guard detailing -- (a) amount of gear lost, (b) date set and date gear was found missing, (c) observations of foreign vessels operating in area, identified, if possible by call letters, and (d) other pertinent information on a gear conflict situation. Reports of gear loss must be confirmed by affidavit at the earliest opportunity.
- (2) Foreign vessels are verified by NMFS or Coast Guard to have been operating in the area of conflict.
- (3) Coast Guard or NMFS patrol unit has visited the area and confirmed the general gear conflict situation as indicated by reports.

(4) Foreign vessels in area have been contacted by patrol unit or by radio message advising of the gear conflict, defining the problem area, and requesting that the foreign vessels depart the area voluntarily.

(5) Foreign vessels decline to depart area and domestic fixed gear fishing is continuing and the need for a specific closure is clear.

B. The following are proposed options for foreign trawl closures in the Kodiak king crab district:

- (1) a. Closure from 150° West longitude to 157° West longitude.
 - b. Closure from September 8 to November 30 OR until the 7" king crab season closes by emergency order.
 - c. Present six Kodiak gear areas in effect for the remainder of the king crab season.
- or (2) a. Retain six gear areas and close to foreign trawling for a period of 90 days beginning two days before the opening of the Tanner crab season in the Kodiak area.
- or (3) a. Closure from 150° W. longitude to 157° W. longitude.
- b. Closure from two days before the opening of the 7" king crab season until November 30 OR until the 7" season closures by emergency order.
 - c. Closure in six gear areas per plan as described in Sec. 8.3.2.1 (c) (2) (c)...(closed from 8/10 through 6/1).
- (4) a. Leave as presently stated in plan because of crab spawning aggregations in April and May and high crab concentrations in all areas. With the present seasons, potential conflict with foreign trawling is minimal following the 90-day period.

Rationale

To avoid foreign trawl conflict with U.S. fixed gear in crab areas.

PART 7. SPECIFY RELEASE OF RESERVE SCHEDULE

Rationale

The following reserve release schedule is proposed:

(a) Apportionment of reserve - As soon as possible after the following months of the fishing year and after consultation with the North Pacific Fishery Management Council the Regional Director shall apportion to TALFF all or part of the following amounts of the reserve: 40% in month 4, 40% in month 6, 20% in month 8.

(b) Apportionment of initial DAH - As soon as practicable after the first day of the eighth month of the fishing year the Regional Director shall apportion to TALFF that part of the DAH he determines will not be harvested by the U.S. fishermen during the remainder of the fishing year.

(c) Apportionment to DAH of the reserve - As soon as practicable after the first day of the following months of the fishing year and on such other dates as he determines necessary, the Regional Director may reassess the DAH and apportion to DAH any amounts of the reserve he determines are needed to supplement DAH: month 4, month 6, month 8.

PART 8. PROHIBIT FOREIGN TRAWLING IN EASTERN REGULATORY AREA: I.E., THE SOUTHEAST AND YAKUTAT DISTRICTS.

Rationale

Present regulations permit foreign trawling Gulf-wide except for designated time/area sites including three areas in the Eastern Regulatory Area

(Cross Sound Gully, Salisbury-Edgecumbe and Fairweather Gully). The proposal would extend the closure to the entire Eastern Area if it is determined through plan development team study that the current condition of Pacific ocean perch and "other rockfish" stocks is such that continued foreign trawl efforts would deplete the stocks to unacceptably low numbers.

PART 9. PROHIBIT FOREIGN LONGLINING EAST OF 150° W. LONGITUDE.

Rationale

The proposal is a measure designed to facilitate expansion of the domestic fishery into the central Gulf area and reduce the American fishermen's concern of foreign preemption of the fishing grounds and the incidence of gear conflicts. United States sablefish landings doubled in 1979 over 1978; it appears fishing effort will again increase in 1980 due to expanding interest and major expenditures for sablefish gear by larger vessels planning to fish Alaska waters.

PART 10. REQUIRE BIODEGRADABLE ESCAPE PANELS ON SABLEFISH POTS FISHED IN THE GULF OF ALASKA

Rationale

The requirement for biodegradable escape panels on sablefish pots parallels a regulation enforced in State waters and is a conservation measure designed to keep lost pots from continuing to fish and having an adverse impact on the resource.

PART 11. PROPOSED JOINT VENTURE POLICY STATEMENT TO BE INCLUDED IN THE GULF OF ALASKA FISHERY MANAGEMENT PLAN.

"The Council finds that one method of implementing provisions of the Processor Preference Amendment (P.L. 95-354) requires that ocean areas

in the vicinity of U.S. processing facilities be designated as closed areas to foreign processing operations in support of joint ventures.

The Fishery Management Plan therefore provides that the Regional Director, NMFS, Alaska Region, may, upon the recommendation of the Council, designate such areas within which foreign fishing vessels may not process U.S. harvested fish."

Rationale

The Council recommended a 12 mile closure around Akutan and Akun Islands for the protection of U.S. fixed base processing as a permit condition. The inclusion of a provision for such closures in the fishery management plan will facilitate the identification and implementation of such areas. It should be noted that, with the exception of a limited area in the Western Aleutians, no foreign fishing or processing is allowed within 12 miles of shore except processing in support of U.S. fishing vessels. A closure in specific areas would not prohibit American fishermen from fishing there but would make the operation more difficult since catches would have to be taken 12 miles offshore to the processor.

2010 10/11

ADVISORY PANEL REPORT TO THE COUNCIL
ON THE PROPOSED
1981 GULF OF ALASKA GROUND FISH AMENDMENTS

On Tuesday, May 13, a subcommittee of the Advisory Panel met in Seattle with the Gulf of Alaska Groundfish Management Plan Drafting Team to discuss the proposed 1981 amendments. Representing the Advisory Panel were: Bob Alverson, Chairman, Al Burch and Jeff Stephans. Present for the Management Plan Drafting Team were chairman Jim Balsinger, Steve Hoag, Phil Rigby, Berry Bracken.

The meeting had its origin in a telephone survey conducted earlier in May in which the Advisory Panel were advised that a separate Advisory Panel meeting in Kodiak was probably not necessary. The Advisory Panel were told that the only action item would be the Gulf of Alaska Proposed 1981 amendments. As an alternative to a full Advisory Panel meeting, a subcommittee meeting was proposed in Seattle in which members of the APs Groundfish subcommittee (Alverson, Burch, Stephans) and any other AP that wish to come were invited.

All of Tuesday morning and most of the afternoon were spent jointly with an SSC subgroup and the Management Plan Drafting Team. All eleven parts of the Amendment package were reviewed and discussed. Later, Tuesday afternoon, the AP subgroup met separately and formulated the following recommendations on the Amendment package on behalf of the Advisory Panel.

PROPOSED 1981 AMENDMENT

PART I

Establish total allowable catch amounts for the incidental catches of prohibited species and impose a mitigation fee.

1. The Advisory Panel endorses both concepts. However, in support of the unanswered questions raised by the SSC and the Management Plan Drafting Team the AP recommends this proposed be reserved and that the Management Plan Drafting Team evaluate other alternative methods to accomplish this control. Hopefully this could be released for public comment simultaneous with the proposed Bering Sea Amendments in June and July. The Panel believed that the proposal should be reviewed with a similar Bering Sea proposal and that simultaneous actions should result in compatible and similar regulations.

Part II

Change the plan year and eliminate any expiration date

The Advisory Panel favors this proposed change.

Part III

Distribute the optimum yield gulfwide for squid, other species, rattails, Atka Mackerel, and other rockfish.

The Advisory Panel concurred with a recommendation of the SSC that a gulfwide OY for squid, other species and other rockfish be approved. Furthermore, that rattails be placed in a non-specified species category with no quota and the gulfwide OY for other rock fish be for one year only for research and experimental purposes.

PART IV

Establish four species categories for the Gulf of Alaska Groundfish Fishery.

The Advisory Panel concurred with the proposal and also with the placement of rattails in the fourth category: i.e., non-specified species. The panel agreed this fourth category should be for species with no present commercial value, does not appear to have depleted and the OY could be safely set at whatever levels that are required to maintain the directed species fisheries.

PART V

Divide the eastern regulatory area of the Gulf of Alaska into four parts to allocate sablefish OY.

The Advisory Panel concurred with the recommendation of the Scientific and Statistical Committee and the Management Plan Drafting Team to establish the following regulatory areas for the allocation of the sablefish OY.

*Western Area
Central Area
Yakutat Area
Southeast Outside
Southeast Inside*

The panel further felt that if it became necessary in the future to reallocate unused reserve or DAH to TALFF in that portion of the Yakutat district west of 140° West longitude that the following OY guidelines be used: that no more than 58% of the OY allocated to the Yakutat area be allocated west of 140° West longitude.

PART VI

Specify (a) the authority of the regional director to issue field orders for time and or area restrictions on foreign vessels to prevent gear conflicts and or grounds preemption problems and (b) specify foreign trawl closures during crab seasons in the Kodiak district.

The Advisory Panel agreed the authority of the regional director should be expanded to include these proposed actions. The panel, however, believed a sixth criteria to aid the regional director should be as follows:

(6) Or other factors as necessary to promote the full utilization of a domestic fishery quota and or other factors necessary to insure the full participation of the U.S Fishery in the harvest of the resource.

The Advisory Panel agrees with the concept of a trawl closure around Kodiak to protect the U.S. crab fishing industry. The Panel, however, approved a compromise proposal suggested by Jack Lechner as follows:

From September 15 to February 15 (or during the Kodiak king crab season) the landward area encompassed by connecting straight lines from the most external points of the six Kodiak areas to be closed to foreign trawling.

PART VII

Set a schedule for the release of reserves.

The AP agrees with the proposal.

PART VIII

Prohibit foreign trawling in the eastern regulatory area.

The Advisory Panel agreed with the concept of promoting the fastest possible rebuilding of POP stocks off Southeast Alaska. To that end, the Advisory Panel recommends that POP (the target of this proposal) be prohibited as a directed fishery and only be allowed as an incidental catch. The attached document represents information presented the Advisory Panel and rational for the statement.

PART IX

Prohibit foreign longlining east of 150° West longitude.

The Advisory Panel subgroup generally favored the proposal to prohibit longlining east of 150° East longitude. It was difficult, however, for the subgroup to totally support the proposal. On one hand, the Advisory Panel subgroup believed that everything that could be done should be done to enhance the expansion of the domestic blackcod longline fishery including the creation of another area of foreign competition. On the other hand, however, the subgroup did not believe the U.S. industry would expand west into that area in 1981 because of the dramatic reduction in the price paid for black cod and other industry indicators. In summary, the subgroup, while generally agreeing with the concept, could not recommend one way or the other on the proposal: although it might be appropriate to consider for the 1982 fishery.

PART X

Require biodegradable escape panels on sablefish pots fished in the Gulf of Alaska.

The Advisory Panel endorsed this proposal.

PART XI

Proposed joint venture policy statement.

The Advisory Panel -- as evidenced by it's past support for the proposed time and area closure around Akutan and Akan Islands and as a result of the subgroup meeting -- endorses the concept of this proposal. The panel however believed that the criteria to be used by the regional director to specify a time and area closure should be specified. For that reason, the subgroup recommends this part of the amendment package be reserved and subjected to another public hearing and public comment, with proposed criteria for such action. It is proposed this part be included with the Bering Sea Aleutian Island proposed 1981 amendments for simultaneous consideration with a similiar proposal in that package.

(WORK SHEET)

Points of Interest

Proposed Amendment: No Foreign Trawling - Eastern Regulatory Area

Gulf POP stocks are considered to be at less than 20% of virgin biomass.

Foreign trawl fleets are responsible for drastic decline in POP abundance.

CPUE continues to decline within foreign fleets.

Present abundance is greatly below level needed to economically support a domestic fishery. Four U.S. vessels during last four years have attempted to target on POP in the Southeastern-Yakutat area with no success. (Competent skippers and crews on adequately rigged vessels).

F/V <u>Ocean Leader</u>	1976	120 fm, 350 lbs in 36 drags (C. Ommaney-Icy Ba
F/V <u>California Horizon</u>	1979	Not enough for delivery (C. Scott - C. St. Eli
F/V <u>Lone Star</u>	1979	No POP (C. Spencer-Icy Bay)
F/V <u>Irish Rover</u>	1979	111 fm, 3 wks, lost 4 nets, (C. Ommaney-C.Clea largest trip 12,000 lbs, lost \$62,000 for seas

NMFS 1978 and 79 rockfish surveys also found no commercial quantities. Some pre-recruits (<25 cm) found in Southeastern, none in Yakutat.

Foreign fleets can afford continued exploitation because vessels are paid for low overhead. Even this effort is seasonal and sporadic.

Within Central and Western Gulf other species (pollock, cod) have replaced POP, not so in Eastern Gulf.

If restricted from Eastern Gulf, foreign fleets would lose approximately 50,000 lb of catch. This is not significant compared with surpluses now available in the Bering Sea.

They are slow growing and of low fecundity ∴ very susceptible to overharvest.

Southern Southeastern Alaska was once the area of greatest abundance for POP in the North Pacific.

Phil Rigby
ADF&G




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Northwest and Alaska Fisheries Center
Resource Ecology and Fisheries Management
2725 Montlake Blvd. East
Seattle, WA 98112

May 14, 1980

F/NWFC:AM

TO: Steve Pennoyer, Director of Research
Commercial Fisheries
Alaska Dept. of Fish and Game

FROM: Richard Marasco 

SUBJECT: Summary of comment of SSC members (Bud Burgner, Bert Larkins, Jack Lechner, and Richard Marasco) attending May 13, 1980, joint PDT/SSC/AP meeting on Gulf of Alaska Groundfish amendment package.

Amendment #1:

The SSC subgroup supports the prohibited species TAC and "mitigation fee" concepts contained in this amendment. However, additional thought must be given to operational aspects of these two proposals. There was concern over our ability to adequately monitor the quantity of prohibited species harvested by foreign fishing fleets. One possible solution to this problem is the expansion in the level of observer coverage.

Amendment #2:

The SSC subgroup supported this amendment.

Amendment #3:

The SSC subgroup supported this amendment.

Amendment #4:

The SSC subgroup supported this amendment.

Amendment #5:

The SSC subgroup supported this amendment providing that the OY for the Yakutat (3400 mt) area is not split into two parts. The subgroup felt that if the OY is subdivided and if DWH falls short of the levels required to take the OY for the subarea East of 140°W, a TALPF would have to be made available in the subarea. This was considered to be undesirable.



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Amendment #6:

Part A:

The subgroup supported this part of the amendment.

Part B:

The subgroup felt that all the proposed options for foreign trawl closures in the Kodiak King crab district were unacceptable. A presentation was made by Jack Lechner which indicated that a less restrictive area closure could be designed which would have a minimal impact on foreign fishing activities and provide crabbers with protection from gear destruction and ground preemption. It is suggested that the PDT work with ADPAC to iron out the details of the Lechner proposal.

Amendment #7:

The SSC subgroup supported this amendment.

Amendment #8:

The subgroup was against this proposal. If the PDT is concerned with the current condition of Pacific ocean perch and "other rockfish" stocks, steps should be taken to modify ~~the proposal~~. Further, adequate documentation must be developed to support any such action.

Amendment #9:

The subgroup was against this proposal. Available data indicate that the 1979 catch in the subject area fell short of DAB. Further, NMFS survey estimates indicate that production intentions of processors for 1981 are below 1980 levels. This information coupled with the subgroups feeling that the way to phase out foreign longliners from this area is via the DAB route led to rejection of the proposal.

Amendment #10:

The subgroup supported this amendment.

Amendment #11:

The subgroup did not support this proposal. No data has been made available which indicates that the allowance of joint ventures has adversely affected U.S. processing firms.

GC - Eldon V. C. Greenberg
GCF - Jay S. Johnson
NPFMC - Jim H. Branson

GCAK Patrick J. Travers

Legal Analysis of Proposed Amendments to the Gulf of Alaska Groundfish
FMP - DRAFT

INTRODUCTION

At the March 1980 meeting of the North Pacific Fishery Management Council (Council), several proposed amendments to the Fishery Management Plan for Groundfish in the Gulf of Alaska (FMP) were presented to the Council for consideration. Most of these amendments had been developed by the Gulf of Alaska Groundfish Plan Development Team (PDT), although some originated with individual Council members and staff. The Council authorized the holding of public hearings on these proposed amendments. At its April 1980 meeting, the Council was presented with and authorized public hearings on certain additional amendments.

There is now a total of eleven proposed amendments to the FMP. A public hearing on these amendments has been scheduled for May 22, 1980, in Kodiak, Alaska. The Council expects to take final action on the proposed amendments at its meeting of May 23, 1980, in Kodiak. If the Council adopts any of the proposed amendments, they will be forwarded to NMFS for review and approval by the Assistant Administrator pursuant to FCMA section 304(a)-(b). FCMA section 304(b) provides, in part:

"The Secretary shall review any fishery management plan, and any amendment to any such plan, prepared by the Council and submitted to him to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law."

The following discussion will first describe the eleven proposed amendments and summarize the rationale for each. The compliance of the proposed amendments with the National Standards, with other provisions of the FCMA, and with other applicable law will then be discussed in turn. Finally, the enforceability of the proposed amendments, should they be approved and implemented, will be discussed.

DESCRIPTION OF AND RATIONALE FOR THE PROPOSED AMENDMENTS

The proposed amendments to the FMP that are under consideration, and the reasons asserted in support of their adoption are as follows (a more detailed description and rationale prepared by the Council staff for the upcoming public hearings appears as Attachment A):

(1) Establish total allowable catch (TAC) amounts for the prohibited species Pacific halibut, king crab, Tanner crab, and salmon; and impose a "mitigation fee" upon foreign vessels for the amounts of these species that they kill incidental to their Gulf groundfish operations. These species would still have to be returned to the sea and could not be retained. The TAC's,

based upon estimates of the actual incidental catch in the Gulf over the last two years, would be 1500 metric tons for Pacific halibut; 130 metric tons or 90,000 crabs for king crab; 14 metric tons or 24,000 crabs for Tanner crab; and 70 metric tons or 25,000 fish for salmonids. Each TAC would be allocated between the domestic and foreign fisheries. Initially, the domestic percentage of each TAC would be twice the percentage that the total Gulf groundfish DAH is of the total Gulf groundfish OY, in order to compensate for the fact that foreign fisheries were not subject to a similar restriction at their developmental stages. When total Gulf groundfish DAH exceeds 20 percent of the total Gulf groundfish OY, the domestic percentage of each TAC will equal the percentage that DAH is of OY. The foreign share of each TAC would be allocated among the various foreign fishing nations. Upon attainment of the domestic or foreign share of any TAC, the entire domestic or foreign groundfishery in the Gulf would be closed for the rest of the year. Upon attainment by any individual foreign nation of its allocation of any TAC, all groundfishing by that nation in the Gulf would cease for the rest of the year.

The "mitigation fee" to be paid by foreign vessels to the United States for the amounts of these species killed by those vessels would equal the average ex-vessel price paid to United States fishermen during the current year for the same amounts of those species. Mortality would be assumed to be 50 percent for Pacific halibut and 100 percent for the other species. As a result, only half of the Pacific halibut taken incidentally to the Gulf groundfisheries would be counted toward attainment of the TAC or

for mitigation fee purposes. Rationale: The PDT suggests that this proposed amendment would increase the incentive for participants, particularly foreign participants, in the Gulf groundfisheries to minimize their incidental catch of prohibited species. It is also argued that the mitigation fee will compensate the United States for the loss to its fishermen of the opportunity to take these species.

(2) Change the fishing year from November 1 - October 31 to January December 31; and/or eliminate from the FMP provisions implying or referring to a Plan expiration date. Rationale: Changing the Gulf fishing year to conform to the Bering Sea/Aleutians fishing year will facilitate efforts to coordinate and, eventually, consolidate the management regimes of the two areas. Adherence to other than a calendar year in the Gulf also apparently causes some practical difficulties in the TALFF allocation process, which is based on the calendar year. Elimination from the FMP of all provisions that even suggest that it necessarily expires at the end of the current fishing year would eliminate an artificial deadline that has, in the past, led to hasty management decisions and bears no relationship to the availability of significant new data or to significant changes in the condition of the resource. Under this proposal, the FMP would be carried over from one fishing year to the next unless specifically amended. (In Attachment A, it is indicated at one point that changing the Gulf fishing year and elimination of any FMP expiration date are alternative proposals. In fact, they appear to be independent of each other.)

(3) Express the optimum yields for squid, Atka mackerel, "other rockfish," "other species," and (unless proposed amendment (4) is adopted) rattails on a Gulfwide basis, rather than allocating them among the three regulatory areas. Rationale: Because these species are of little or no domestic commercial value, little research has been conducted on their actual distribution throughout the Gulf, and their current allocation among the three regulatory areas is largely arbitrary. In some cases over the past two years, a low OY, TALFF, or foreign allocation for one of these species in an area has been approached at a time when large portions of the corresponding OY, TALFF, or foreign allocation for that species in other areas, and for commercially valuable species in the same area, has not yet been utilized. Because all groundfishing in an area would have to close upon the attainment of that OY, TALFF, or allocation, the division of these nonvaluable species among the regulatory areas has posed an unnecessary threat to full utilization of the Gulf groundfish resource and to those dependent upon it. If proposed amendment (4) is adopted, rattails will be included in the "nonspecified species" category, and will no longer have a separate OY.

(4) Establish four species categories as follows: (a) "prohibited species," the taking of which must, if not authorized under other regulations be avoided and which, if taken, must be returned to the ocean; (b) "target species," the commercially valuable groundfish that are the main subjects of the Gulf groundfishery, for each species or species group of which an OY

is specified; (c) "other species," the species of limited, but not negligible, commercial importance that are taken in the course of the Gulf groundfishery and the harvest of which requires some regulation, for which a single multispecies OY is specified; and (d) "nonspecified species," consisting of all other fish taken incidentally to the Gulf groundfishery, none of which is of any commercial value or in any apparent danger of depletion, the OY for which is any amount that might be taken in the course of otherwise lawful groundfishing operations. While Attachment A, at 9, describes these four categories in the same terms as the Bering Sea/Aleutians FMP, a better basis for the proposed amendment would be the proposed Bering Sea/Aleutians implementing regulations, which provide a more complete and concise description of each category, and where the "prohibited" category is, perhaps more appropriately, referred to as "unallocated species." Thus, the probable composition of the four categories provided for in the proposed amendment would be as follows: (a) unallocated species: shrimps, scallops, snails, Pacific herring, Pacific halibut, salmonids, king crab, Tanner crab, Dungeness crab, corals, surf clam, horsehair crab, and lyre crab; (b) target species: pollock, Pacific cod, flounders, Pacific ocean perch, other rockfish, sablefish, Atka mackerel, squid, and thornyhead; (c) other species: sculpins, sharks, skates, eulachon, smelts, capelin, and octopus; (d) nonspecified species: all other finfishes (including rattails) and marine invertebrates. Rationale

Establishment of a residual category of nonspecified species, such as rattails, which have no foreseeable commercial value, are in no apparent danger of depletion, and have not been the subject of significant research,

is intended to prevent the threat of closure of the Gulf groundfishery that arises when these species are included in the "other species" category and one of them starts appearing in unusual abundance (as in the original rattail problem). Stopgap measures such as the establishment of a separate OY for such a species impose high administrative costs and, because of the lack of scientific data on these species, have almost no empirical basis.

(5) Divide the 13,000 metric ton sablefish OY for the Eastern regulatory area among four new sub-areas, as follows: (a) Yakutat west of 140° W - 2,000 metric tons; (b) Yakutat east of 140° W - 1,400 metric tons; (c) Southeast FCZ - 3,000 metric tons; (d) Southeast territorial waters - 700 metric tons. Rationale: The domestic sablefish harvesting effort in the Eastern area tends to concentrate on grounds that are close to port or familiar to the fishermen, in contrast with the more widely dispersed foreign sablefish effort. In order to avoid the local depletion that this concentration of domestic effort can cause, it is proposed to force the domestic effort to disperse by assigning separate sablefish OY's to various portions of the Eastern area.

(6) Prescribe authority under which the NMFS Alaska Regional Director could issue field orders imposing time/area restrictions upon foreign trawlers to prevent grounds preemption of or gear conflicts with domestic fixed gear users; and prescribe a foreign trawl closure during crab seasons in the Kodiak area. The Regional Director could issue a field order closing an

area to foreign trawling following confirmation of the existence of a gear conflict situation and refusal of the foreign vessels involved to depart voluntarily upon request. As set forth in Attachment A at 11-12, the proposed amendment does not seem to address grounds preemption, although this is stated to be one of its purposes in Attachment A at 4. The FMP currently provides for six "Kodiak gear areas" in which foreign trawling is allowed only between June 1 and August 9, in order to prevent conflicts with domestic fixed crab gear. The options for modification of this closure described in Attachment A at 12 vary widely, but the basic question appears to be whether to continue to rely upon closure of the six gear areas or to impose a year-round closure of the entire between 150° W and 157° W. Rationale: It is argued that incidents like the 1979 confrontation between domestic crab fishermen and Polish trawlers demonstrated an inability to respond in a timely way to gear conflicts and grounds preemption situations, and the new field order authority was designed to remedy this perceived deficiency. Specific time/area closures in the Kodiak area have the purpose of preventing gear conflict problems from arising.

(7) Authorize the apportionment by the NMFS Alaska Regional Director to TALFF of up to 40 percent of the reserve after the close of month 4 of the fishing year; up to 40 percent after month 6; and up to 20 percent after month 8. Authorize the apportionment to TALFF during month 8 of that part of the DAH that the Regional Director determines will not be harvested by domestic fishermen during the remainder of the fishing year. Authorize the Regional Director to apportion to DAH during month 4, month 6, and month 8 any amount of the reserve that he finds to be necessary to supplement

ALASKA
FISHING

DAH. Rationale: The FMP currently authorizes release of up to 25 percent of the reserve in January, March, May, and July. Because the domestic fishery is generally not in full operation until after the January and March releases, there is currently strong pressure to withhold those releases until the level of the domestic fishery can be ascertained. This has in the past seriously disrupted planning by operators in the foreign fisheries and, in 1979 resulted in underutilization of the sablefish resource when the withheld reserve was finally released to TALFF when it was too late for it all to be caught by the end of the year. Assuming that the fishing year is changed to the calendar year, the proposed amendment would provide for a 40 percent maximum reserve release in May and a 40 percent maximum release in July. These releases are, it is believed, late enough to allow accurate assessment of the domestic fishery, and large enough to facilitate planning by the foreign operators. A 20 percent release in September is believed to be early enough to allow harvest of the entire amount allocated to TALFF by the end of the year.

(8) Prohibit foreign trawling in the Eastern regulatory area.

Rationale: This proposed amendment is intended to protect Pacific ocean perch and other rockfish stocks, the abundance of which is relatively low and may be increased by a cessation of foreign trawling.

(9) Prohibit foreign longlining east of 150° W longitude. Rationale:

This proposed amendment, which would expand the current ban on foreign longlining east of 140° W, is intended to reduce the possibility of gear conflict and grounds preemption if, as appears likely, the domestic sablefish fishery expands.

(10) Require biodegradable escape panels on sablefish pots. Rationale:

This proposed measure would be expected to reduce harm to the resource caused by the loss of pots which would otherwise continue to trap fish.

(11) Add the following statement concerning joint venture processing to the FMP:

"The Council finds that one method of implementing provisions of the Processor Preference Amendment (Pub. L. 95-354) requires that ocean areas in the vicinity of U.S. processing facilities be designated as closed areas to foreign processing operations in support of joint ventures.

"The Fishery Management Plan therefore provides that the Regional Director, NMFS, Alaska Region, may, upon the recommendation of the Council, designate such areas within which foreign fishing vessels may not process U.S. harvested fish." Rationale: This proposed amendment would facilitate the establishment of areas of the FCZ near shore-based domestic processors within which foreign processing vessels could not operate. This would make it m

difficult for American fishermen fishing in those areas to participate in joint ventures, and thus tend to force them to sell to the protected domestic processors. It is argued that imposition of such direct limits on the markets available to United States fishermen is within the scope of Public Law 95-354. The argument appears to be that Public Law 95-354 does not merely require NMFS to determine passively what portion of the DAH will be utilized by shorebased domestic processors, but also authorizes NMFS to act affirmatively to pressure United States fishermen to sell to such processors, thereby ultimately lowering the JVP.

COMPLIANCE OF THE AMENDMENTS WITH THE NATIONAL STANDARDS

Before approving the proposed amendments pursuant to FCMA section 304(a) - (b), the Assistant Administrator would have to find that they are consistent with the seven "National Standards for Fishery Conservation and Management" set forth in FCMA section 301(a) ("National Standards"). This discussion will assess the extent to which the proposed amendments just described would comply with the National Standards.

National Standard 1: Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

Proposed amendment (1) raises serious questions under this National Standard. It is stated in Attachment A that the TAC figures for the various prohibited species were based on estimates of the actual catches of those

species incidental to the Gulf groundfisheries during the past two fishing years. During these two years, the Gulf groundfishery, particularly the trawl fishery which causes by far the greater portion of prohibited species mortality, was overwhelmingly foreign. It is proposed, however, that as United States fishermen take a greater and greater share of Gulf groundfish resources, their share of the TAC will grow at double the rate of their harvest of groundfish, until the domestic share of the total fishery is 20 percent. The foreign share of the TAC would, correspondingly, decrease at double the rate that the foreign share of the total groundfishery was decreasing. Because the foreign groundfishery would, under the proposed amendment, have to be shut down completely when the foreign share of the TAC is reached, this depression of the permissible rate of incidental harvest of prohibited species below what are admitted to be historic levels raises the specter of the optimum yields for Gulf groundfish species not being attained due to premature closure of the foreign fishery. It should also be noted that, because of lack of information about the ability of United States fishermen to avoid the prohibited species for which TAC's would be set in the course of groundfishery operations, there may also be a danger of premature closure of the domestic Gulf groundfishery at the specified TAC levels even with the extra share of each TAC that would be allocated to United States fishermen. This simply compounds the likelihood of a failure to achieve OY if this measure is adopted. Thus, proposed amendment (1) in its current form runs a high risk of violating National Standard 1.

Proposed amendments (6), (8), and (9) also raise questions under National Standard 1 because, by restricting the areas in which foreign vessels are allowed to fish, they would decrease the likelihood that the currently specified TALFF's and OY's for the affected areas will be achieved. This problem would, perhaps, most likely be dealt with through revisions of these TALFF's and OY's, and is thus more appropriately addressed in connection with National Standard 2. If, however, there were no basis for reducing the OY's, and the reduction in foreign harvest caused by the new restrictions were not offset by increases in domestic harvest, OY would not be achieved and National Standard 1 would be violated.

The other proposed amendments do not appear to raise significant issues under this National Standard.

National Standard 2: Conservation and Management Measures shall be based upon the best scientific information available.

Proposed amendment (2) raises an issue under this National Standard. To the extent that the OY, DAH, TALFF, and reserve figures currently appearing in the FMP were originally developed with only the 1980 fishing year in mind, it will be necessary for the Council either to find that these figures are also valid for the immediately foreseeable future or to revise them in light of any significant new scientific information before eliminating from the FMP all references to an expiration date, thereby making the FMP a multiyear Plan. Particular attention should be paid to the DAH

figures, which appear most likely to have been developed with only the current fishing year in mind.

In connection with proposed amendment (4), it should be considered whether the establishment of the new "nonspecified species" category requires an adjustment to the current OY of 16,200 metric tons for "other species."

Full compliance with this National Standard may require an explanation of the basis for the division of the sablefish OY for the Eastern area among the four new subareas that would be established by proposed amendment (5).

Proposed amendments (6), (8), and (9), each of which would establish additional time/area restrictions on foreign fishing, also seem to require reevaluation of certain TALFF's and OY's currently specified in the FMP. Any significant additional restrictions on foreign fishing off Kodiak would affect the amount of groundfish likely to be caught by foreigners in the Central area, and thus probably require reduction of Central area TALFF's. Amendments (8) and (9) would wipe out foreign groundfishing in the Eastern area, and would plainly involve the deletion of all TALFF's currently specified for that area. Whether these TALFF reductions would also require modification of the OY's specified for these areas would depend upon whether the decline in foreign fishing would be accompanied by a corresponding increase in

domestic fishing activity and, if not, whether OY's reduced by the amounts taken from the corresponding TALFF's could now be considered to provide "the greatest overall benefit to the Nation." As was noted above, if the decrease in foreign fishing caused by these measures is not offset by an equal increase in domestic fishing, and if the total OY's cannot legitimately be adjusted downward by the amount of the decrease in foreign harvest, these proposed amendments would present a high risk of violating National Standard 1 because they would prevent OY from being achieved. One alternative that might be examined as a means of avoiding this would be to increase OY's and TALFF's in the Western area by amounts corresponding to the decreases in the other two areas. This might, of course, not be acceptable from a biological standpoint.

The other proposed amendments would not appear to affect the compliance of the FMP with this National Standard.

National Standard 3: To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and inter-related stocks of fish shall be managed as a unit or in close coordination.

The compliance of the FMP with this National Standard would probably not be affected by any of the proposed amendments.

National Standard 4: Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

None of the proposed amendments seems to raise an issue under this National Standard directly. Any field order that might be issued under proposed amendment (11) would, however, be subject to it. Because such field orders establishing areas closed to joint venture processing would almost inevitably deprive certain United States fishermen of a preferred market, thereby lessening their competitive advantage relative to other United States fishermen who did not have access to that market, difficult questions would undoubtedly be raised under this National Standard whenever a field order authorized by proposed amendment (11) came under consideration by the Council and the Regional Director.

National Standard 5: Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

Proposed amendments (1), (6), (8), and (9) raise problems under this National Standard for the same reasons that they risk noncompliance with National Standard 1: the failure to achieve OY that these proposed amendments might cause would also be an inefficient utilization of the Gulf groundfish resource.

Proposed amendments (2), (3), (4), (5), (7), and (10) would probably promote the efficiency of utilization of Gulf groundfish resources.

Any field order closing an area to joint venture processing that might be issued under proposed amendment (11) would have to comply with this National Standard. As illustrated by the controversy over the recently proposed Akutan/Akun closure, this could place a heavy burden upon proponents of such a field order, because this National standard has been interpreted by NMFS to require that such a measure have a conservation purpose in addition to its more obvious purpose of allocating fishing opportunities from United States fishermen delivering to foreign processing vessels to United States fishermen delivering to domestic shorebased processors.

National Standard 6: Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

Proposed amendments (3), (4), (6), and (7) would appear to enhance the FMP's compliance with this National Standard, while the other proposed amendments probably would not raise significant issues under it.

National Standard 7: Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Proposed amendment (1) in its current form would probably violate the National Standard. The Foreign Fishing Regulations currently contain an absolute, unqualified requirement that foreign fishing vessels minimize their incidental catch of prohibited species. The apparent purpose of the proposed amendment would be to assist in the enforcement of this additional requirement by imposing specific sanctions upon the incidental harvest of prohibited species by foreign vessels. Unfortunately, the implementation of the proposed amendment would probably make enforcement of the existing requirement more difficult. Because of the current lack of enforcement and observer coverage of the foreign fisheries off Alaska, NMFS depends heavily upon voluntary reporting by foreign operators of their incidental harvest of prohibited species. It is well known that much of this reporting is untrue, and that foreign nations consistently underreport the actual levels of their

incidental catches of prohibited species. By implementing the proposed amendment, which would shut down foreign fisheries completely when certain levels of incidental catch were reached, and impose financial charges for all prohibited species catches that were reported or detected, NMFS would, however, be simply increasing the incentive of foreign operators to conceal such catches. In the absence of additional enforcement resources and observer coverage, therefore, the proposed amendment would not merely duplicate the current requirement that catches of prohibited species be minimized, but would actually frustrate implementation of that requirement. The imposition of additional costs provided for in the amendment upon foreign operators (among whom the ones submitting ^{honest} harvest reports would bear the brunt) would not be justified, and the United States itself would probably incur additional costs in administering the new sanctions in the face^e of concerted noncompliance on the part of the foreigners. It should be noted that the proposed amendment assumes a high level of control by foreign fishermen over their catches of prohibited species, something about which there appears to be a great deal of controversy. Also worthy of mention is the fact that any "mitigation fees" received from foreigners for their incidental catches would, if the Office of Management and Budget is true to form, end up in the General Fund of the United States Treasury, from which it would be subject to appropriation for any number of purposes other than fishery management. It would thus compensate the United States for the loss of the incidental species only in the most abstract sense.

United States fishermen would also be subject to the TAC limitations of proposed amendment (1), and the proposed amendment would suffer the same infirmities under this National Standard with respect to them.

Proposed amendments (8) and (9) may raise questions under this National Standard, particularly in view of the problems that they raise under National Standards 1 and 2, unless it can be shown that there are no viable alternatives that would have a less disruptive effect on the fishery.

Proposed amendments (2) and (7) should decrease the costs associated with regulation of the Gulf groundfishery under the FMP, while the other proposed amendments would not appear to affect those costs significantly.

COMPLIANCE OF THE PROPOSED AMENDMENTS WITH OTHER PROVISIONS OF THE FCMA

Proposed amendment (6), with its primary purpose of preventing gear conflicts and grounds preemption, raises the issue of the extent to which measures under the FCMA may be based on "health and welfare," rather than on conservation in the strictest sense. I understand that, in the past, regulations directed at prevention of gear conflicts and grounds preemption have been approved on the ground that they serve to prevent disputes and possible violence among resource users. The same purpose would be served by

this proposed amendment, as a potentially violent situation did, in fact, develop in 1979 when Polish trawlers preempted the grounds of United States crab fishermen in the Kodiak area.

In dealing with proposed amendment (11), it is necessary to consider whether Public Law 95-354 authorizes NMFS to discourage participation by United States fishermen in joint ventures actively, rather than playing the more passive role of merely determining to whom United States fishermen will sell left to their own devices, and establishing DAP and JVP based on these passive observations. The Council appears to believe that the more active role is authorized, and NMFS appears to have acknowledged the appropriateness of such a role subject to major qualifications that were discussed above in connection with National Standards 4 and 5.

A strong argument could be made that the "mitigation fee" provided for by proposed amendment (1) is actually a civil penalty, and that its imposition in the guise of a "fee" would be an unlawful circumvention of the civil penalty procedures required by FCMA section 308. This measure would not appear necessarily to run afoul of the foreign fee provision of FCMA section 204(b)(10). Because of the many other legal problems with amendment (1) that were discussed above, these issues under FCMA section 204 and 308 do not seem to require much attention at this time.

The other proposed amendments would not appear to affect the FMP's compliance with provisions of the FCMA other than the National Standards.

^{END}
COMPLIANCE OF THE AMENDMENTS WITH OTHER APPLICABLE LAW

The proposed amendments are subject to the requirements of a number of other Federal laws and regulations. The National Environmental Policy Act and its implementing CEQ, DOC, and NOAA regulations, would seem to require an environmental assessment. Because of the nature of the proposed amendments this assessment would probably demonstrate that their implementation would not significantly affect the quality of the human environment, and would thus provide the basis for a negative declaration.

If proposed amendments (1), (8), and (9) are retained, Executive Order 12044 and its implementing regulations would in all likelihood require that they be treated as "significant" regulations, and that they be the subject of a regulatory analysis. Otherwise, it may be possible to issue a finding that implementation of the proposed amendments would require only "nonsignificant" regulations upon which a regulatory analysis need not be prepared.

Implementation of some of the proposed amendments, such as proposed amendments (5), (8), (9), (10), and (11), might be a Federal action directly

affecting the Alaska coastal zone, within the meaning of section 307(c)(1) of the Coastal Zone Management Act of 1972, and its implementing regulations. Either the Council or NMFS should, therefore, provide the State of Alaska with a formal determination of the consistency of approval and implementation of the amendments with the approved Alaska Coastal Management Program. The Alaska Office of Coastal Management has expressed its willingness to perform its Federal consistency review of FMP amendments during the public comment period following their publication in the Federal Register.

Approval and implementation of the proposed amendments would not ^e be an action that "may affect" endangered or threatened species or their habitat within the meaning of the regulations implementing section 7 of the Endangered Species Act of 1973. Thus, consultation procedures under section 7 will not be necessary for these proposed amendments.

ENFORCEABILITY OF THE PROPOSED AMENDMENTS

As was discussed above, proposed amendment (1) would, given current enforcement resources in the Gulf of Alaska, ^{be} almost totally unenforceable. The other proposed amendments would not appear to raise serious problems of enforcement.

cc: Jim Brooks, F/AKR

(NPFMC)

FILE	ACT	INFO	ROUTE TO	INITIAL
			Exec. Dir.	
		1	A. Exec. Dir.	MM
			Admin. Off.	
			Exec. Sec.	
			Writer/1	
			Writer/2	
			Sec. Recep.	
			Sec. Typist	

May 9, 1980

F/NWC2 - Jim Balsiger/Loh Lee Low

F/AKR11 - Ron Berg

March-May, 1980, survey of U.S. Processor Intent to Purchase and/or Process Groundfish in 1980 and 1981

On March 26, 1980, the Alaska Region initiated a survey of companies with fish processing facilities in Alaska to determine the quantity of groundfish that U.S. processors intend to purchase from U.S. fishermen (DAP) in the Gulf of Alaska and Bering Sea/Aleutian Islands in 1980 and 1981. Questionnaires were sent to twenty-seven companies; twenty companies responded. Eight companies declared their intent to purchase U.S.-caught fish in the Gulf of Alaska in 1980 and seven companies declared such an intent for 1981. One company declared an intent in the Bering Sea/Aleutian Islands in 1980 and two companies declared an interest for that area in 1981.

The results of our survey are summarized in the attached table. Current 1980 DAP's are shown for comparison.

We are conducting a similar survey for joint ventures and expect to have the results in 2 or 3 weeks.

Amounts shown for 1981 are probably underestimated. The Alaska Region expects to conduct another survey prior to 1991 to ascertain expectations.

Enclosures

cc:
F/AKR12

April 30, 1980

Amounts of Groundfish (metric tons) U.S. Processors Expect to Purchase from U.S. Fishermen
 In the Gulf of Alaska and Bering Se/Aleutian Islands in 1980 and 1981
 Amounts Designated as Domestic Annual Processing (DAP) for 1980 Are Included for Comparison

GULF OF ALASKA
1980

Regulatory Area	Pollock	Pacific cod	Atka mackerel	Flounders	P.O.P.	Rockfish	Sablefish	Squid	Other Groundfish
EASTERN									
Intent	0	5	0	45	11	118	2,450	0	0
DAP	695	280	0	900	80	455	4,700	0	100
CENTRAL									
Intent	2,278	1,588	45	227	227	90	45	0	45
DAP	5,380	3,480	0	300	295	200	1,000	0	100
WESTERN									
Intent	36	229	0	0	0	0	0	0	91
DAP	25	240	0	100	25	45	100	0	100
TOTAL									
Intent	2,314	1,822	45	272	238	208	2,495	0	136
DAP	6,100	4,000	0	1,300	400	700	5,800	0	300

1981

EASTERN									
Intent	0	1	0	0	0	104	1,838		45
CENTRAL									
Intent	6,819	2,722	136	680	454	136	45	0	45
WESTERN									
Intent	454	460	0	0	0	0	45	0	136
TOTAL									
Intent	7,273	3,183	136	680	454	240	1,928	0	226

BERING SEA/ALEUTIAN ISLANDS

	Pollock	Pacific cod	Atka mackerel	Yellowfin sole	Turbot	Flounders	P.O.P.	Rockfish	Sablefish	Squid	Other
1980											
Intent	272	2,722	68	68	0	0	113	0	113	0	0
DAP	10,500	7,200	0	1,200	1,000	1,200	1,100	1,100	1,000	0	1,800
1981											
Intent	5,445	12,704	0	227	0	907	0	227	68	0	0

A REPORT OF THE INCIDENTAL SPECIES WORKING GROUP
AND THEIR REVIEW OF PARTS 1 AND 4 OF
THE PROPOSED 1981 AMENDMENT TO THE GULF OF ALASKA GROUND FISH PLAN

On Monday, May 12, 1980, in Seattle, the Council's Incidental Species Working Group met with the Gulf of Alaska Groundfish Management Plan Drafting Team to discuss the relationship of the proposed amendments to the Council's management of mixed species fisheries report. Present were: Jim Brooks (Chairman), Al Burch, Burt Larkins, Don Bevan, Bob Alverson, Jim Balsiger, Steve Hoag, Jeff Stephans, Ron Skoog, Berry Brackin, Phil Rigby, 3 Lawyers, and 13 Japanese. The meeting lasted all day and can be summarized as follows:

"We believe Parts 1 and 4 of the proposed 1981 amendment package are consistent with policy established and approved in the Mixed Species Fisheries report adopted by the Council last year".

The working group also concluded that without adequate observer coverage, the proposals were not practicable. Present observer coverage, the group concluded, was not sufficient to expect that the goals and objectives of Part 1 (the total allowable catch quota for prohibited species) could be met.

An area of concern to the working group was which method to use in deriving a prohibited species quota: ie. a fixed amount or a percentage of the catch. The group also discussed whether the prohibited species quota concept should be applied to the domestic fishery, acknowledging that the foreign fishery impacts the domestic fishery, but the domestic fishery does not impact the foreign fishery. Most present felt the quota should not apply equally to the domestic fishery and should either be set more liberal or eliminated for the domestic fishery. A few present believed the quota's should apply equally to the domestic fishery. Perhaps the concept could apply to the domestic fishery when it reaches a level of potential resource impact, the group concluded.

Some consensus was reached that fixed quotas for prohibited species must be related to the abundance of prohibited species and not target species. As regard mitigated funding proposals, the group generally concluded the concept was laudable but there were other alternatives which should be explored: ie. rewards as well as discentives, such as future annual allocation schemes benefiting those countries with low catches of prohibited species.

FILE	ACT	INFO	ROUTE TO	INITIAL
			Exec. Dir.	
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			Sec. Assoc.	
			Sec. Legal	

STATEMENT

BEFORE THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

APRIL 23, 1980

PUBLIC HEARING ON PROPOSED 1981 AMENDMENTS
GULF OF ALASKA AND BERING SEA/ALEUTIAN ISLANDS
GROUND FISH PLANS

MAY 1 1980

My name is Henry Haugen, an attorney from Seattle, Washington, representing a number of domestic trawl interests. These include the Fishermen's Marketing Association of Washington, an organization representing the owners and skippers of the Washington based off-shore trawl fleet; Steuart Fisheries, the owner of three modern trawl vessels which desire to engage in the groundfish fishery; and Erling Jacobsen, owner and master of the F/V PELAGOS, a new 130-foot trawler, now operating with the Korean joint venture.

These comments on the proposed amendments to the Groundfish Plans are being submitted because the recommendations have serious implications for the viability of the U.S. trawl fleet.

The proposed 1981 amendments have only recently been published and there has been insufficient time to send them out or to review them in detail. I would hope that time for mature reflection and study of these proposals would be granted not only to the private sector, but also to the Council and its Plan Development Team, Advisory Panel and Scientific and Statistical Committee. Scheduling final action by the Council at the meeting in May does not allow time for adequate review and thus it is recommended that you delay Council action for several months.

The proposals are far reaching and provocative. Comments are as follows:

I. RESOURCE GROUPING

The team proposes to realign regulatory areas in the Gulf to better control the sablefish fishery and to use a multi-species management approach in the Bering Sea. In theory, both of these concepts appear sound and if the fishery biologists support them, they should be tried. I caution that there has been insufficient time to review this in detail and I would think that the comments of S&S Committee and the Northwest and Alaska Fisheries Center would be most important. You should also be aware that domestic trawlers have a general feeling that in some instances the estimates of the groundfish resources have been too high. Thus perch and sablefish in Southeast Alaska and cod in

the Bering Sea have not been as plentiful as we were led to believe. A more conservative approach in the estimate of the resource appears desirable. In this respect, Option 2 appears desirable because it provides for lower final TACs (which, by permitting development of larger size fish, should benefit the groundfish fishery).

II. FIELD ORDERS OF THE REGIONAL DIRECTOR, NMFS

At present, the Regional Director has authority to issue some field orders under the FMPs. The theory is again acceptable, but the implementation has proven difficult and precise regulations should be prepared and reviewed before action is taken. Thus the proposed Bering Sea regulations which appeared in the Federal Register would allow the Regional Director to delegate his authority to anyone -- which was never intended by the Council. Under the 1981 Amendments, the Regional Director will be able by field order to determine TACs, release reserves, allocate reserves, and open and shut areas for essentially any and all reasons. (See pg. 15-12). In short, the Council will not be managing the fishery; the Regional Director of NMFS, or his designee, will be doing so. I suggest that this entire concept of delegation should be tightened up. Management decisions should be made by the Council after an opportunity for review by its committees and input from the public. The Council decision should be implemented by the Regional Director (not his designee), but the Regional Director should not be given the authority to make the decision as to quotas, areas, and times for fishing. Further, the method of announcing a field order is totally inadequate -- a 48-hour broadcast notice is apparently the best that is contemplated. No major fishery in these remote areas can take place if the rules are in fact changed as is possible under the 1981 plan.

III. MITIGATION FEE CONCEPT

It is suggested that this concept be given more study as it raises some serious questions. Can the Council, through a FMP levy such a fee? The FCMA allows "reasonable" fees to be determined by the Secretary of Commerce and which take into account the cost of management, 16 U.S.C. §1824. There appears to be very little statutory basis for asserting the proposed mitigation fee.

The level of the fee is also questionable. As proposed, it is designed to compensate the U.S. for losses to its fishermen by utilizing ex-vessel prices. Why not also compensate processors for their lost production and brokers for their lost sales?

A better approach to achieve mitigation appears to be offered by §301 of the American Fisheries Promotion Act recently introduced by Congressman John Breau. That section would phase out foreign harvest over a 5-year period and would seem better equipped to meet your goals. Accordingly I would recommend that the mitigation fee concept be put on the back burner for the time being.

IV. CLOSED AREAS

I am pleased that the 1981 Amendment package removes the closed area concept for the U.S. trawlers. The 1980 Bering Sea plan closed a considerable portion of the Bering Sea to domestic trawling and the permits for joint ventures were to contain a clause effectively prohibiting trawling by that segment of the domestic fleet within 12 miles of Akutan and Akun. I have previously submitted comments on both those items and will not repeat them again.

V. INCIDENTAL CATCH OF HALIBUT

The major problem with the 1981 proposed amendments is their adoption of the International Pacific Halibut Commission staff recommendations to put an absolute lid of 1500 metric tons of halibut as an incidental catch. This requires some extensive discussion.

A. The Recommendations, Their Objectives and Their Bases

The recommendations propose to limit the halibut by-catch of groundfish fisheries subject to U.S. jurisdiction to 1,500 metric tons in the Bering Sea and to 1,500 metric tons in the Gulf of Alaska. None of the by-catch of halibut could be retained. Each 1,500 MT limit would be divided between U.S. and foreign fisheries according to a nation's percentage allocation of optimum yield for the groundfish fishery. When a nation's by-catch allocation is reached, all of its fishing for groundfish would be required to cease. Estimates of by-catch would be provided by means of an observer program at the "30 to 50 percent" level. These by-catch limits would be applied in addition to present area-time and gear restrictions until the effectiveness of by-catch limits is demonstrated.

The purported objectives of the recommendations are to "provide better protection of halibut, while at the same time [to] allow for a productive groundfish fishery." The recommendations were suggested in response to two entirely different concerns. With respect to the Bering Sea, the IPHC staff identified a "real" problem: the total incidental by-catch of halibut nearly doubled between 1977 and 1978.

This increase resulted from a high by-catch by Japanese small stern trawlers (for which the incidental halibut catch rate is ten times the average) focusing on flounder, Pacific Cod and "unidentified species." With respect to the Gulf of Alaska, however, the IPHC staff identified only a speculative problem: although the halibut by-catch reached its lowest level in 1978, it was thought that that low level might not hold if fishing conditions changed (e.g., by increased targeting upon Pacific Cod during the summer months).

It should be noted that there is no similar recommendation for the waters off Canada -- only off the U.S. Elementary fairness requires that Canada undertake a similar program if the U.S. is to do so. All action by the Council should stop until such a program is put forth.

B. Comments on the Recommendations:

Allotcation of the 1,500 MT By-Catch and the Effect of the Resulting Quotas

Since in recent years the estimated by-catch has been approximately 5,000 metric tons in the Gulf of Alaska and 2,000 metric tons in the Bering Sea, it is clear that the intent of these 1,500 MT limits is to protect Bering Sea and Gulf of Alaska halibut resources by curtailing trawling. The rationale is quite simply, prohibit trawling wherever halibut live and save the resource for the halibut setline fleet. I would suggest that this rationale is faulty for the following reasons:

(1) There is no significant halibut resource or fishery in the eastern Bering Sea to protect. Halibut make up only one-tenth of one percent (0.1) of the total resource in the area and supports only the most minor of fisheries. Over the last decade, less than 10 vessels per year even attempted to conduct a part-time fishery. The catch makes up less than 5% of the total catch of the halibut fleet. This minor fishery does not warrant the extraordinary measures here contemplated.

(2) The eastern Bering Sea does not serve as the nursery grounds for the entire west coast halibut resource. Far and away the major movements of halibut find their way through the passes into the Gulf of Alaska, but it is a cruel hoax to hold out hope that maintaining a sanctuary in the Bering Sea will cause a dramatic increase in the halibut resource elsewhere. The percentage of young halibut in the Bering Sea is, in fact, less than in any other area. See Table 4, 1978 IPHC Annual Report.

(3) The International Pacific Halibut Commission has managed the stocks of halibut so as to produce the maximum sustainable yield. During the 1950's, the IPHC allowed the catch to increase substantially to test the upper limits of MSY. This resulted in catches of some 60 to 74 million pounds up through 1962 which was a severe case of overfishing. The catches plummeted drastically in the mid-1960's falling below 25 million pounds in 1974 where the catch remains today. Compounding the problem was the concurrent emergence of a foreign trawl fishery off Alaska which caught vast quantities of halibut even though not retained. For instance, in the Gulf of Alaska this foreign incidental catch "has exceeded the domestic catch by the setline fishery in some years." Finally, environmental conditions have contributed to the decline and rebuilding will take many years.

Thus, in summary, the low status of halibut stocks are due to overfishing allowed by the IPHC, environmental conditions, and a grossly excessive foreign fishing effort prior to the exercise of effective control by the U.S. All other causes, including that by U.S. trawlers, are extremely minor in comparison.

It remains uncertain whether or not the resource can ever be brought back, but to place the sole burden of restoring the stock on trawlers, especially U.S. trawlers, is inherently unfair.

(4) The IPHC is still allowing overfishing and until it puts its own house in order, should not be bailed out by the Council. The IPHC relied on CPUE data when it allowed overfishing in the late '50's and '60's. It is again relying on CPUE data and ignoring its own cohort analysis which is regarded as more accurate and is used to manage other fisheries.

According to Stephen H. Hoag in the paper he presented at the 1980 annual IPHC meeting:

"However, in 1979, cohort analysis indicated poorer stock conditions than did CPUE data, although both showed that stocks are not in good condition".

The 1979 data is as follows:

	1979 IPHC QUOTA	1979 CATCH	1979 COHORT EY	1980 IPHC QUOTA
<u>Area 2</u>	9.0	9.4	9.3	9.0

	1979 IPHC QUOTA	1979 CATCH	1979 COHORT EY	1980 IPHC QUOTA
<u>Area 3</u>	11.0	12.2	5.5	10.0

(In millions of pounds. Source: 1980 IPHC Annual meeting documents.)

This is an ominous sign for preserving the stock. Again if the IPHC is unwilling to manage the existing commercial fishery in a conservative manner so as to rebuild stocks, why should the North Pacific Council adopt these extraordinary measures now proposed?

The recommendations do not reflect the facts that (a) 1,000 metric tons of halibut are taken by crab pots (with 100% mortality incident to crab fishing in the Bering Sea and (b) the halibut longliner, when the halibut season is closed, can and does shift to longlining for sablefish on these same grounds, and the incidental catch rate of halibut by these setliners (which has been identified as being up to 14% by weight) far exceeds the incidental catch rate of halibut by trawlers. This can hardly be called an evenhanded treatment of all fishermen.

This bias in favor of the halibut fishermen and against the U.S. trawler is no where more clearly illustrated than by the practical effects of the recommendations (even as modified by the proposed 1981 amendments) which will permit U.S. trawlers to take only a minute portion of their allocation of groundfish OY: 8% in the Bering Sea and 36% in the Gulf of Alaska.

(See Tables 1 and 2).

a. Bering Sea

In the Bering Sea, the U.S portion of groundfish OY is 3.6%; thus the U.S. groundfish fleet would be permitted by the recommendations to take 7.2% of the 1,500 metric ton halibut by-catch, or 108 metric tons. Since the halibut by-catch rate for U.S. trawlers, as small trawlers, will likely approximate the rate for Japanese land-based trawlers of 2.4 pounds of halibut per 100 pounds of groundfish landed, the U.S. trawlers would be permitted to take only 4,500 metric tons of the 56,100 metric tons of groundfish allotted them.

b. Gulf of Alaska

In the Gulf of Alaska, the U.S. portion of

groundfish OY is 5.3%; thus the U.S. groundfish fleet would be permitted to take 10.6% of the 1,500 metric ton halibut by-catch limit, or 158 metric tons. Again, since the halibut by-catch rate for U.S. trawlers, as small trawlers, will likely approximate the rate for Japanese land-based draggers of 2.4 pounds of halibut per 100 pounds of groundfish landed, the U.S. trawlers would be permitted to take only 6,584 metric tons of the 18,100 metric tons of groundfish allotted them.

Thus the overall effect will be to deny U.S. trawlers from developing the groundfish resources off Alaska. The proposed 1981 amendments, which permit a doubling of incidental catch so long as DAH remains below 20% of OY, allow for a greater catch than do IPHC recommendations, but the difference is neither very substantial nor very comforting.

It is instructive to observe that the legislative history of the FCMA contemplated the problem of this incidental catch of overfished species by those engaged in other fisheries. The proposed solution was to adjust OY in the other fisheries to reduce the incidental catch. Legislative History at 1099. That solution, as applied in the present case, would reduce TALFF but not DAH for groundfish resources, and thus would not have the effect of penalizing those U.S. fishermen who did not contribute to the problem

(5) There is a gross discrimination in computing incidental catch. Domestic trawlers are charged with a 100% mortality rate whereas setliners are charged with 50% so that only half their incidental catch is counted as applying to their portion of the 1500 metric ton limit. Yet the domestic trawl mortality rate is also 50%. See the following IPHC publications -- Technical Report #15 at pp. 20-21; Technical Report #16 at p. 42; Scientific Report #57 at p. 16.

V. CONCLUSION

For the reasons above stated, it is recommended that the 1981 proposed amendments be withdrawn and further studied and reviewed before action is taken by the Council.

DATED this 21st day of April, 1980.

HAUGEN & THOREEN


Henry Haugen

U.S. Trawling Limitations as Proposed
by IPHC Staff

TABLE I: Resources

	<u>Bering Sea</u>		<u>Gulf of Alaska</u>	
	<u>Halibut</u>	<u>Other Groundfish</u>	<u>Halibut</u>	<u>Other Groundfish</u>
Maximum Sustainable Yield (MSY)	2,268 MT (0.10 to 0.13% of all groundfish resources)	1,702,200 to 2,325,700 MT	22,686 MT (3.2 to 4.9% of all groundfish resources)	444,000 to 677,000 MT
Optimum Yield	227 MT	1,559,226 MT	5,672 MT	343,900 MT
(US) Domestic Annual Harvest (DAH)		56,100 MT (3.6% of OY)		18,100 MT (5.3% of OY)
Total Allowable Level of Foreign Fishing (TALFF) and Reserves (Res.)		1,503,126 MT (96.4% of OY)		325,800 MT (94.7% of OY)

SOURCES: FMP for Halibut off the Coast of Alaska, (Jan. 1979); FMP for Bering Sea and Aleutian Islands Groundfish Fishery (Nov. 1979); FMP for Groundfish in the Gulf of Alaska (Sept. 1979).

TABL 1:

Allocation of 1,500 MT Halibut By-Catch to
U.S. and Foreign Trawlers

Formula: $2 \times \frac{DAH}{OY} \times 1,500$		<u>Bering Sea</u>	<u>Gulf of Alaska</u>
		108 MT	158 MT
$\frac{TALFF + Res.}{OY} \times 1,500$		1,446 MT	1,421 MT
Halibut Incidental Catch Rate:	a) 1977 average (by weight)*	0.24%	0.24%
	b) Small trawler (<1,500 GRT) rate**	2.4%	2.4%
U.S. Groundfish catch permitted, utilizing small trawler rate	<u>by-catch allocation</u> incidental catch rate	$\frac{108 MT}{2.4\%}$	$\frac{158 MT}{2.4\%}$
	U.S. groundfish catch permitted by halibut by-catch limit	4,500 MT (8% of DAH 0.28% of OY)	6,584 MT (36% of DAH 1.92% of OY)
Foreign Groundfish catch permitted, utilizing average rate	<u>by-catch allocation</u> incidental catch rate	$\frac{1,446 MT}{0.24\%}$	$\frac{1,421 MT}{0.24\%}$
	Foreign Groundfish Catch permitted by halibut by-catch limit	602,500 MT (40.1% of TALFF+Res.; 38.6% of OY)	592,083 MT (exceeds TALFF + Res; exceeds OY)

* From Alaska Halibut Fishery Management Plan at 89 (Jan. 1979):

$$\begin{aligned}
 & \left. \begin{array}{l} 1977 \text{ Average Halibut } \\ \text{Incidental Catch} \\ \text{Rate (for all} \\ \text{foreign trawl} \\ \text{fisheries)} \end{array} \right\} = \frac{0.267 \text{ fish}}{\text{fish}} \times \frac{19.8 \text{ lbs.}}{\text{fish}} \times \frac{\text{MT}}{2204 \text{ lbs.}} \\
 & \qquad \qquad \qquad = 0.0024 \\
 & \qquad \qquad \qquad = 0.24\%
 \end{aligned}$$

**IPHC Staff Recommendations for Minimizing By-catches of Halibut in the Bering Sea at 2(Nov. 1979).

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INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA
 AND THE UNITED STATES OF AMERICA

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9 May 1980

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			1980/7/1	
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Mr. Jim Branson
 Executive Director
 North Pacific Fishery Management Council
 P.O. Box 3136 DT
 Anchorage, AK 99510

Dear Jim:

Per request, I have reviewed the written statement from Henry Haugen of April 23, 1980. As an IPHC representative on the plan development teams, my comments are restricted to Section V. (Incidental catch of halibut).

I found his comments to be almost totally fallacious. He has failed to document many of his statements and has misrepresented or ignored accepted scientific fact.

For example, he states that the estimated by-catch of halibut in the Gulf of Alaska in recent years has been 5,000 m.t., and the 1,500 m.t. limit would curtail trawling. The fact is that the most recent NMFS observer data (1978) shows an estimated by-catch in the groundfish fishery of 1,289 m.t., well below the proposed limit. Certainly, additional catches do occur in the crab fishery and in the British Columbia trawl fishery, but these would not be applied toward the 1,500 m.t. limit in the groundfish fisheries in U.S. waters.

The most ridiculous part of his statement concerns the accusations that "IPHC is still allowing overfishing and until it puts its own house in order, should not be bailed out by the Council." As you know, quotas for the set-line fishery are the lowest in history and are set below our best estimate of equilibrium yield.

His other comments regarding the lack of importance of the Bering Sea are also in error.

Mr. Jim Branson
May 9, 1980
Page 2

It is my opinion that the proposed by-catch limit on halibut in the Gulf of Alaska will not adversely effect the domestic fishery and will have a minimal effect, if any, on the foreign fishery. The proposed limit for the Bering Sea may cause some problems for the Japanese land-based trawlers (which for some reason have incidental catches of both salmon and halibut), but should not affect other operations, foreign or domestic.

Sincerely yours,



Stephen H. Hoag
Senior Biologist

Law Offices

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May 12, 1980

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- DRAFT -

Please reply to Seattle office

Mr. Clement Tillion
Chairman
North Pacific Fishery Management Council
P.O. Box 3136DT
Anchorage, AK 99510

Re: Gulf of Alaska Groundfish Plan Amendment Proposals

Dear Mr. Tillion:

We are attorneys for the Japan Deep Sea Trawlers Association and the Hokuten Trawlers Association. The purpose of this letter is to express the serious concerns of these two groups about several of the proposed amendments to the Gulf of Alaska Groundfish Fishery Management Plan.

The specific amendment proposals which will be commented upon in this letter are those related (1) to the treatment of "prohibited species" and (2) to possible trawl closures around Kodiak Island and in the Southeast and Yakutat districts of the Gulf of Alaska. Other issues of serious concern to the Japanese trawl industry are being commented upon separately by the Japan Fishery Association.

In brief, the Japanese trawl groups believe that, if adopted as proposed, these amendments would unnecessarily restrict their ability to harvest significant portions of the Japanese groundfish allocations. The Japanese trawl associations believe that the purposes of the proposed amendments can be accomplished by alternative management measures which will have less harmful impact on the groundfish fishery.

1. Proposed Treatment of Prohibited Species.

A. Summary of Amendment Proposal.

An amendment has been proposed which would radically change the treatment of prohibited species under both the Bering Sea/Aleutian and the Gulf of Alaska Groundfish Plans. Currently, foreign fishermen must minimize their catch of prohibited species (salmon, halibut, King crabs and bairdi Tanner crabs) and return them immediately to the sea in a manner calculated to enhance their chances of survival. In addition to these measures, extensive time/area closures and gear restrictions for the protection of the prohibited species have been adopted.

The amendment proposals would, in addition to all of the foregoing measures, (1) establish an absolute limit (TAC) on the incidental catch of each prohibited species in any management area, (2) penalize any nation which reached its TAC allocation for any prohibited species by closing that nation's entire groundfish fishery for that management area and (3) require payment of a penalty equal to the ex-vessel value of prohibited species killed by the foreign groundfish fishery.

We do not dispute the desirability of establishing management measures which will permit the Regional Council to effectively regulate the impact of the groundfish fishery on prohibited species. However, the potential operational effects of the current amendment proposal could be unnecessarily damaging to the groundfish fishery.

B. Incidental Catch Data Is Dangerously Inadequate.

The TACs proposed are based on only two years of observer samples extrapolated across the entire groundfish fishery. The potential for error in the extrapolation of such small samples over such a large population is obviously great. This potential for error must be even greater where data from only two years is employed. To fix catch quotas which may result in premature closure of the groundfish fishery on the basis of such data seems extremely dangerous. It is the position of the Japanese trawl industry that the move to a TAC system for prohibited species should be postponed at least until 1980 catch report data (which will include prohibited species for the first time) is available for consideration. In all events, the weakness of the data base would seem to underscore the need for caution and flexibility.

C. The Absolute TAC Approach Is Based Upon Questionable Assumptions.

The basic assumption of the proposed amendments is that the incidental catch of prohibited species can be controlled by the groundfish fishery without significant interference with the harvest of available groundfish. However, based upon the two years of available data collected by the observer program, it appears that the magnitude of incidental catch of prohibited species has varied widely while groundfish efforts and operations have remained essentially constant. Thus, for example, the incidental catch of salmon in the Gulf of Alaska was 5,272 in 1977 and 45,603 in 1978. The incidental catch of halibut in the Gulf of Alaska was 1,288 mt in 1978 and 5,272 mt in 1977. The incidental catch of halibut in the Bering Sea was apparently 1,500 mt in 1977 and 2,500 mt in 1978. Little data with respect to the variability of incidental catch is presented in the PDT proposals but the data which is presented strongly suggests that incidental catch of several of the prohibited species is widely variable and may be largely uncontrollable. To the extent that the incidental catch of prohibited species is uncontrollable at or above the proposed TAC levels, it is plain that the proposed amendments would periodically result in premature closure of the groundfish fishery -- i.e., drastic operational disruptions and failure to harvest available groundfish surpluses.

The second basic assumption of the proposed amendments concerning the treatment of prohibited species is that the severe disruption of the groundfish fishery which would result from premature closure would be outweighed -- for all prohibited species and in all circumstances -- by the saving of any quantity of a prohibited species in excess of TAC. However, in many foreseeable circumstances, this assumption may not be valid. Thus, where the incidental catch of a particular prohibited species has been shown to be widely variable, the benefit of invoking an area wide trawl closure when the incidental catch for a particular year equals the average incidental catch for preceding years is extremely questionable. For example, the incidental catch of salmon in the Gulf of Alaska in 1977 and 1978 varied between 5,272 and 45,603 fish. If TAC had been set at the average of these figures (25,000 fish), the Gulf of Alaska groundfish fishery would very likely have been shut down in 1978 long before the end of the fishing year, leaving very large quantities of surplus groundfish unharvested and causing immense operational disruption. If prior (variable) levels

of incidental catch have not been biologically significant, the biological benefits of reducing the upper limit of the range to the average is unclear. If the harm resulting from a premature closing of the Gulf of Alaska groundfish fishery were balanced against the economic and biological benefits of the additional protection afforded to salmon in the Gulf under these circumstances, a Gulf-wide groundfish closure might be undesirable. Thus, the balance between the policy favoring protection of prohibited species and the policy favoring harvest of surplus groundfish should be resolved in relation to the particular facts and circumstances involved at the time that some restrictive measure is being contemplated and not on the basis of a simplistic assumption that protection of any number of a prohibited species above the TAC level will always outweigh the interests of the groundfish fishery.

D. Absolute TAC Limits Are Inappropriate.

The setting of absolute TAC limits for the incidental catch of prohibited species would be a serious mistake. Such an approach fails to provide flexibility needed to adjust management measures in response to natural variability in incidental catch related to fluctuations in population size of the prohibited species, fluctuations in groundfish population and changes in environmental conditions. The rigidity of the absolute limit approach contrasts very sharply with the amendment proposals for a multi-year OY. The purpose of the multi-year OY is to account for the variable productivity of the groundfish complex and the need for year-to-year flexibility in management measures designed to achieve the multi-year OY. Likewise, the incidental catch of prohibited species should not be subject to absolute limits but, rather, should be regulated flexibly based upon the status of the stocks of prohibited species, the conservation benefits to be achieved, the economic significance of the prohibited species to be saved, and the impact on the groundfish fishery of any particular management measure. This flexible approach should result in management measures which strike a balance between the goal of protecting the prohibited species and the goal of making groundfish surpluses available for harvest, based upon the conditions and circumstances prevailing at the time.

E. Area-wide Closure Inappropriate.

Any restrictions implemented to protect a prohibited species caught incidental to the groundfish fishery should be designed and limited to accomplish the specific purpose of the restriction. Total closure of the Bering Sea/Aleutian

area or the Gulf of Alaska will often be too extreme for the benefits to be derived and will almost always be broader than necessary to accomplish the desired result. Again, it would seem that flexibility is desirable. Management measures which are adapted to the protection of a particular prohibited species while permitting the harvest of groundfish surpluses seem clearly desirable.

F. Time/Area Closures Should Be Eliminated.

The original proposal for establishing TAC limits and imposing economic disincentives upon the incidental catch of prohibited species was proposed as an alternative to historical time/area closures of doubtful value. However, the present amendment proposals merely add new limitations and restrictions to the existing hodgepodge of time/area closures. If the concept of catch limits for prohibited species has any usefulness, then time/area closures designed to protect prohibited species are redundant and unnecessary and should be eliminated. Conversely, if time/area closures are necessary because of the inadequacy of prohibited species catch report data, then the TAC proposal is probably unworkable and should be deferred until better data sources are available.

G. Subjecting Domestic Fishermen To TAC Limitations Is Inappropriate.

The subjection of domestic groundfish fishermen to the TAC limitations proposed would seem to be counterproductive to the purpose of encouraging an American groundfish fishery. In any event, if domestic fishermen are to be subject to the TAC limitation, then the amount of TAC allocated to them for each prohibited species should be adjusted in relation to their actual expected needs, and not on the basis of the arbitrary formula described in the proposed amendments. The procedures for allocating to domestic fishermen should include (at a minimum) consideration of gear types used and areas fished. If TAC is to be allocated to domestic fishermen, optimistic predictions and inflated projections of domestic needs would add great uncertainty to the amount of TAC actually available to the foreign fleets, possibly necessitating a "TAC reserve" system with attendant management and other headaches. Further, since it is proposed to set TAC at a level which would in many years not suffice to meet the needs of the foreign groundfish fishery, it is extremely unrealistic to allocate TAC to domestic fishermen at double the rate at which TAC is allocated to foreign fishermen. Under the proposal, the domestic share of the TAC for each prohibited species would increase twice as fast

as the increase in the domestic groundfish catch. The likely result is disruption and premature closure of the foreign groundfish fishery as the domestic fishery develops. If it is desirable for the domestic fishery to have a period to develop without restrictions, then the domestic groundfish fishery should be exempted entirely from the TAC limitation. The proposed formula (where foreign share of TAC declines at twice the rate of the increase in domestic groundfish harvest) guarantees that the inflexibility characteristic of the TAC proposal will be compounded as the domestic fishery develops.

H. Alternative Proposal For Flexible Limitations On Incidental Catch Of Prohibited Species.

The Regional Council should not attempt to set absolute limits on the incidental catch of prohibited species, either as an absolute number (fish or metric tons) or as an absolute percentage of an estimated population. The setting of such absolute numbers fails to take into account the natural and uncontrollable variability of incidental catch which appears to occur in the groundfish fishery. The magnitude of that variability makes a quota based upon average incidental catch data highly unrealistic and unreasonable. Because of the cumbersome plan amendment process, in-season adjustment of an absolute quota would probably be impossible.

Rather than an absolute annual incidental catch limit, the incidental catch of prohibited species should be managed on a multi-year basis. Annual incidental catch should be permitted to vary within a guideline range. Flexible in-season management measures could be implemented at the upper end of the range as necessary to limit incidental catch within the range. Such management measures should be adapted and limited to the protection of the particular prohibited species involved. This approach would permit desirable protection of prohibited species while minimizing operational disruption of the groundfish fishery and maximizing the harvest of groundfish resources.

I. Proposed "Mitigation Fee" Is Inappropriate.

The proposed amendments include a proposal for a "mitigation fee" equal to the ex-vessel value of prohibited species killed in the foreign groundfish fishery. This proposal is rationalized as a measure to compensate U.S. fishermen for the loss of the opportunity to harvest these fish. However, this fee would not be paid to U.S. fishermen and therefore cannot in fact be said to compensate them for any losses sustained. Consequently, any real justification for the proposal must be sought elsewhere.

This fee would be a redundant penalty for the catching of prohibited species. Under a flexible, multi-year TAC approach, groundfish fishermen would already avoid prohibited species to reduce sorting requirements and to avoid restrictions at TAC levels.

In addition, such fees could substantially affect the economic viability of Japanese and other groundfish fisheries, potentially resulting in a substantial loss of fish resources to the world market.

The calculation of the proposed mitigation fee based upon the ex-vessel price paid U.S. fishermen at dockside multiplied by the kill for each prohibited species is particularly inappropriate. First, many of the prohibited species taken incidentally by the groundfish fishery are immature and would suffer natural mortality before recruitment into the domestic fishery. Second, only a fraction of the prohibited species actually recruited into the domestic fishery would be caught; the significance for escapement of fish not harvested would depend upon the status of the particular stock. Third, the relationship between prohibited species incidentally caught in the groundfish fishery and the amount of fish available to the domestic fishery is indirect and unclear. Other natural variable mortality factors and political and regulatory considerations may also determine whether prohibited species taken incidentally in the groundfish fishery (or their progeny) would ever be available for harvest by domestic fishermen. Consequently, the calculation of a "mitigation fee" as if prohibited species taken in the high seas groundfish fishery were mature fish taken out of the hands of domestic buyers may significantly overstate the value of these fish to the domestic fishing industry. No data has been supplied by the PDT concerning these issues.

The proposed calculation of the "mitigation fee" upon the assumption that all prohibited species taken in the trawl fishery die is inappropriate with respect to the Japanese trawl fishery. Efforts over the last several years to reduce the amount of time that trawl caught target species are out of water prior to processing (for the purpose of improving product quality) have resulted in more rapid sorting and discarding of prohibited species. The Japanese trawl industry believes that this has resulted in a reduction in the mortality rate of incidentally caught prohibited

species. The attached exhibit summarizes observer data which demonstrates that average observed mortality rates from 1977 to the present for halibut and crab have been substantially less than 100% (i.e., in the case of halibut: 14.2% for small trawlers, 33.3% for large and medium trawlers, 77.6% for motherships).

2. The Proposed Closure of the Southeast and Yakutat Districts of the Gulf of Alaska to Foreign Trawling Is Unjustified.

Although the possibility of a foreign trawl closure in the eastern Gulf of Alaska has been raised as a subject for public comment, such a closure was not recommended by the Plan Development Team. In its report to the March Regional Council meeting, the Gulf of Alaska groundfish PDT reported that it was conducting a study of the condition of POP and other rockfish in the southeast and Yakutat (eastern Gulf) areas but that no conclusion had as yet been reached. It therefore appears that no biological or conservation basis has as yet been demonstrated for such a closure.

It should also be made very clear that the ALFA proposal to exclude foreign longlining from this area specifically and intentionally did not include foreign trawling. Thus, the domestic fishermen most concerned with operations in this area have not asserted gear conflict or ground pre-emption issues that might cause consideration of such a closure. It would therefore seem that there is no biological or political justification for this measure.

The eastern part of the Gulf of Alaska is a very significant area for the Japanese trawl fishery. The Japanese allocation of groundfish species in the southeast and Yakutat districts has an ex-vessel value of approximately \$8 million. This is just a little less than one-third of the value of Japan's entire 1980 allocation in the Gulf of Alaska. Thus, there are substantial groundfish surpluses in these districts which should be made available for harvest, absent some compelling countervailing justification.

3. The Proposed Foreign Trawl Closure Around Kodiak Island Is Unjustified.

The proposal for a foreign trawl closure between 150° west longitude and 157° west longitude would impose far more drastic restrictions upon foreign trawl operations than are necessary to prevent gear conflict with domestic crab fishermen. The proposal stems from a gear conflict/grounds preemption problem that occurred during the 1979 King crab season. We have been informed that the problem arose because of a change of operations by domestic crab fishermen

and movement by them into deeper waters where they had not previously operated. The problem was apparently compounded by the presence of Polish vessels in the area which were not familiar with domestic King crab operations and which were apparently not sensitive enough initially to the concerns of the domestic fishermen. When the Coast Guard contacted the Poles, they indicated that they were unaware of any problem but they agreed to shift fishing areas and in fact did so promptly. In short, this problem was an isolated instance which was promptly and effectively dealt with by contact with the offending vessels, rather than a pattern of conflict involving foreign trawlers generally. No formal reports of gear loss have been submitted to the National Marine Fisheries Service and no claims for compensation have been filed.

The proposal of the plan development team to expand the authority of the Regional Director to issue field orders restricting foreign fleets to prevent gear conflict and ground preemption represents a more reasonable approach to the problem. Japanese trawl fishermen are already highly sensitized to avoiding interference with domestic fishing activities. Concern about possible restrictive action by the Regional Director should make all foreign fleets more sensitive to the concerns of domestic crab fishermen. If problems do arise, the Regional Director would have the information and authority to devise restrictions or closures tailored to the actual problem involved. This solution would permit full protection for domestic crab fishermen while limiting restrictions on foreign operations to those which are really necessary to deal with the problem.

The Japanese trawler groups would like to work with domestic crab fishermen to devise informal procedures for avoiding gear conflict problems. Although it appears that Japanese vessels were not involved in the 1979 incident, the Japanese trawler groups are anxious to do everything possible to prevent any such problems from arising with respect to their vessels in the future.

4. Summary And Conclusion.

The proposed groundfish plan amendments are radical and far-reaching. They describe an entirely new approach to the treatment of prohibited species. However, some of the assumptions underlying the proposal -- e.g., that the groundfish fishery can control its incidental catch within proposed TAC limits -- seem clearly wrong on the basis of past incidental catch data. Given the variability in annual incidental catch, it seems appropriate to take a more

flexible approach to TAC, to define TAC as a guideline range and to give the Regional Director (with the advice of the Council) in-season authority to maintain incidental catch within that range on a multi-year basis. Such a flexible approach would permit the Regional Director and the Council to balance the needs of the groundfish fishery against the desirability of minimizing the incidental catch of prohibited species and to implement appropriate management measures accordingly.

The mitigation fee proposed would change the entire economic basis upon which foreign groundfish operations are conducted in the Gulf of Alaska and Bering Sea. Like the absolute TAC, the mitigation fee also erroneously assumes that incidental catch is controllable. In all events, such a penalty was not contemplated by the drafters of the FCMA.

No adequate basis has been proposed for a trawl closure in the southeast and Yakutat districts of the Gulf of Alaska.

Prevention of potential gear conflict in the Kodiak area can best be accomplished by delegation to the Regional Director of appropriate in-season management authority.

Very truly yours,

HOUGER, GARVEY, SCHUBERT, ADAMS & BARER

Stephen B. Johnson

SBJ/mls

Enclosure

Mr. Jim Branson
April 30, 1980
Page Two

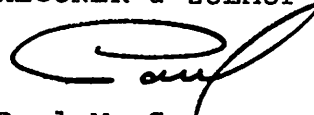
2. An amendment to extend the plan for an additional 14-month period--i.e., November 1, 1980 to December 31, 1981, with OYs, TALFFs, and other allocations proportionately increased. This would bring the plan year into step with that contemplated by the amendment package. The other amendments could then be implemented after they have been thoroughly subjected to Council and Secretarial review.
3. An amendment to extend the plan through the end of 1980, with OYs, TALFFs and other allocations allocated on a pro-rata basis during the extra two months. This would provide two additional months for processing the amendment package while, at the same time, bringing the plan year into step with that contemplated by the plan development team.

There is nothing magic about any of these three approaches and there may be any number of other solutions to the problem which would work just as well. What is important is that steps be taken now to ensure that we do not find ourselves without an effective management plan on November 1, 1980. I am sure that you agree and hope that you will take whatever steps necessary to avoid such an undesirable consequence.

If you have any questions concerning the suggestions contained in this letter, or if I can be of any further assistance, please let me know. Otherwise, I would appreciate it if you could keep me advised of any significant developments regarding the problem discussed herein.

Sincerely yours,

MUNDT, MacGREGOR, HAPPEL,
FALCONER & ZULAUF



Paul MacGregor

WPM:drd

cc: Mr. Clem Bribitzer
Mr. Pat Travers
Dr. Jim Balsiger

ALFA

ALASKA LONGLINE FISHERMEN'S ASSOCIATION

Box 1117
Pelican ~~XXXX~~, Alaska ~~99835~~ 99832

735-4831

FILE	ACT	LINE	ROUTE TO	INITIAL
			Exec. Dir.	
			A. Exec. Dir.	MMH
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			Exec. Sec.	
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			Writer	
			Sec. Assn.	
			Sup. Techn.	

Jake Phillips
Executive Director
Pelican, Alaska

Scott E. Starna
General Counsel

May 15, 1980

North Pacific Fishery Management Council
P. O. Box 3136DT
Anchorage, Alaska 99510

Dear Council Members:

This letter is being written in support of the amendments that are proposed for the 1981 Gulf of Alaska Groundfish Fishery Management Plan. The Alaska Longline Fishermen's Association urges the adoption of the entire package. I am disappointed that the public hearing date and place was changed. Kodiak is an impossibility for fishermen fishing in Southeastern at the present time since the halibut season will be open and the additional expense to reach Kodiak.

The Longline Assoc. introduced and strongly requests the passage of amendment no. 9 PROHIBIT FOREIGN LONGLINING EAST OF 150° W. LONGITUDE. Enclosed is a copy of a letter from Steve Hughes of the Northwest & Alaska Fisheries Center, which helps to explain the situation in the sablefish (blackcod) fishery.

During the past seven weeks, a tremendous number of boats have passed thru Pelican which have some type of blackcod system aboard their boat. There have been more boats blackcod fishing most of the winter this past season than ever before. The early spring fishery (April) was down due to the extremely bad weather during that time and the low price. Many fishermen felt that if they waited to begin fishing the price would go up. This has not been the case, and everyone has been fishing now in one fishery or another. In fact, the price on blackcod has dropped a nickel the past few weeks.

Some gear conflicts have been reported to me and a substantial number of foreign hooks brought to me as evidence of gear conflicts.

MAY 19 1980

NPFMC Members
May 15, 1980
Page 2

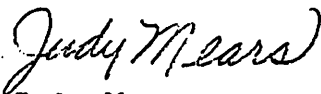
Certainly there are enough domestic boats now geared up and ready to take the domestic quota for sablefish. There are three possible reasons why we will not this year (1980):

1. Conflict with foreign vessels
2. Low price for fish and extremely high overhead costs
3. Weather

Any one of these reasons can keep us from fishing to our fullest capacity and reaching the DAH. The first problem can be eliminated with the passage of the amendment for 1981. For 1980 it can be a problem. The second problem can be improved with test marketing and advertisement. The longline association has been and is working on the marketing problem.

To help the West Coast fishermen prove themselves and their capabilities, the Alaska Longline Fishermen's Association urges the adoption of amendment #9, PROHIBITING FOREIGN LONGLINING EAST OF 150° W. LONGITUDE.

Sincerely,



Judy Mears
Executive Director, ALFA



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Northwest & Alaska Fisheries Center
Resource Assessment & Conservation Engineering
7600 Sand Point Way NE
Seattle, Washington 98115

February 6, 1980

F/NWC1:SH

Ms. Judy Myers
Box 726
Pelican, AK

Dear Judy:

Per my discussions with Jake Phillips in Anchorage on February 4, 5, 1980, I am sending your office the enclosed blackcod information including a letter I wrote to Jim Branson on November 19, 1979 which summarizes the growth and expansion of our domestic blackcod fishery in 1979. As it turns out, the Washington, Oregon, California fishery landed between 17,000 and 18,000 mt of blackcod in calendar year 1979, opposed to the 16,000 mt which I projected in the November letter to Jim. This with the 3,100 mt from S.E. Alaska, the coast wide domestic blackcod fishery landed about 20,000-21,000 mt last year. Even though the blackcod prices are presently down from their high point last May, there continues to be interest and major expenditures for blackcod gear by larger vessels planning to fish Alaska waters in 1980. Thus, while U.S. blackcod landings doubled in 1979 over 1978, it appears fishing effort will again increase in 1980.

In view of this 1979 growth, very likely increases in 1980 fishing effort and the saturated nature of the Washington, Oregon, California fishery, it appears to me that Alaska can expect more increases in the blackcod landings during 1980 than occurred in 1979. Accordingly, it seems reasonable that the present 140°W longitude line be moved farther west to facilitate expansion of the domestic fishery into the central Gulf area and thereby reduce our fishermen's concern of foreign pre-emption of these fishing grounds. In short, it seems the domestic fishery has expanded to the point where a westward shift in the 140°W longitude line is justified.

Best of luck in your new job and feel free to contact me if I can be of help.

Sincerely,

Steve Hughes
Leader, Latent Resource Assessment

Enclosures

