


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke   
Executive Director

DATE: June 18, 1990

SUBJECT: Requests for Emergency Actions

**ACTION REQUIRED**

1. Review status of Bering Sea herring and consider additional emergency action to provide a migration corridor and protection during winter months.
2. Consider emergency action to exempt pot gear and certain hook and line gear in the GOA from the halibut bycatch closure.

**BACKGROUND**

Bering Sea Herring

At its April meeting, the Council heard reports that Nelson Island/Nunivak Island herring stocks were severely depressed and likely below the biomass threshold necessary to permit a commercial fishery. Consequently, the Council requested emergency action to implement limited time/area trawl closures north of the Alaska peninsula to protect migrating herring stocks. Since that time, the Alaska Department of Fish and Game determined that Nelson Island herring stocks were above threshold and a commercial fishery could be held. As a result, emergency action to implement the requested time/area closures has been suspended by NMFS pending further review of the status of these herring stocks.

ADF&G will provide a status report on Bering Sea herring stocks. The Council may wish to consider requesting emergency action to provide a migration corridor for herring and protection during winter months until herring bycatch measures can be implemented through Amendment 16a.

Gulf of Alaska Pot Fisheries

The Gulf of Alaska was closed to hook and line fishing on May 29 because the apportionment of halibut PSC limits through June 30 had been taken. Groundfish pot gear is currently exempt from the Gulf of Alaska PSC restrictions and closures through the same emergency rule which expires on August 13. At that time, pot gear will become subject to the GOA fixed gear halibut bycatch cap, and will likely be closed. Observations indicate that pot gear fishes with low halibut bycatch rates. Three letters in support of emergency action to exempt pot gear from the fixed gear halibut PSC cap are attached as item D-3(d)(1). The emergency rule, as modified in accord with the Council's April recommendations, is at item D-3(d)(2).

The May 29 hook and line closure in the GOA also closed commercial jigging and rod and reel fisheries in addition to longline fisheries. It has been suggested that jigging and rod and reel fisheries are prosecuted with minimal halibut bycatch. The Council may wish to request emergency action to exempt pot gear and hook and line gear other than longlines in the GOA from the halibut bycatch closure for the rest of the year.

AGENDA D-3(d)(1)  
JUNE 1990

**KODIAK LONGLINE  
VESSEL OWNERS ASSOCIATION**



P.O. BOX 135 • 326 CENTER AVENUE  
KODIAK, ALASKA 99615  
(907) 486-3781

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HALIBUT, SABLEFISH AND PACIFIC COD

June 6, 1990

Mr. Don Collinsworth, Chairman  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
P. O. Box 103136  
Anchorage, Alaska 99510

RE: Emergency Request for Gulf of Alaska

Dear Chairman Collinsworth:

Enclosed is an emergency request from the KLVOA for the Pacific cod pot fishery in the Gulf of Alaska to be exempted from the longline halibut mortality cap for the period from August 13, 1990 through the rest of the year.

We are requesting that the Council address this emergency proposal at the June, 1990 meetings.

Sincerely,

*Linda Kozak*  
Linda Kozak  
Executive Director

CC: Steve Pennoyer, Regional Director  
National Marine Fisheries Service

**GROUND FISH FISHERY EMERGENCY REQUEST**

**North Pacific Fishery Management Council**

**NAME OF PROPOSER:** Kodiak Longline Vessel Owners Association **DATE:** 6/5/90

**ADDRESS:** P. O. Box 135  
Kodiak, Alaska 99615

**TELEPHONE:** (907) 486-3781

**FISHERY MANAGEMENT PLAN:** Gulf of Alaska

**EMERGENCY PROPOSAL:**

To exempt the Pacific cod pot fishery from the fixed gear halibut PSC for the period from August 13, 1990 until December 31, 1990. Additionally, to require that vessels participating in this fishery use appropriate halibut exclusion devices on their pots. Mandatory inspection of pots is recommended. All vessels would be required to carry observers at the current rates of coverage.

**OBJECTIVES:**

An economic emergency has emerged in the last couple of weeks in the Gulf of Alaska groundfish fisheries. The Pacific halibut mortality limits (caps) apportioned to trawl and hook-and-line gear through the second quarter have been reached. Quarterly apportionments of the 2,000 metric ton cap for trawl gear and the 750 metric ton cap for hook-and-line gear are established by emergency rule, which expires on August 13. Under the emergency rule, pot gear is excluded from closures. On August 13, however, the hook-and-line cap reverts to a fixed gear cap. The hook-and-line cap is expected to be reached by August 13, if it has not already been reached. After August 13 no pot fishing would be allowed. Substantial amounts of Pacific cod (38,000 metric tons as of May 19 NMFS report) in the Central Regulatory Area remain unharvested. Opportunities for pot vessels to continue fishing for the remainder of the year will be foregone. Furthermore, opportunities for hook-and-line vessels to use pot gear would also be foregone. As a result, severe economic repercussions will be imposed on the coastal communities, fishermen, and processors who depend on the groundfish fishery.

**NEED AND JUSTIFICATION FOR COUNCIL ACTION:**

There is every reason to allow this exemption. The limited observer data available from NMFS regarding the Pacific cod pot fishery shows that 75% of the trips resulted in no bycatch of halibut and the remaining had bycatch in such small amounts that they are considered insignificant.

With two-thirds of the quota remaining for Pacific cod in the Central Gulf, there is a need to harvest this resource. Since the Pacific cod fishery with pots, when outfitted with exclusion devices, is such a clean fishery, there is no justifiable reason not to allow this exemption.

Because of the recent longline closure in the Gulf, the boats which traditionally fished for sablefish and recently for Pacific cod in the late

### **JUSTIFICATION CONTINUED...**

fall, will have no opportunity for income from the fishery without this exemption. In the event that bottom trawling is closed as well in the fourth quarter, this option would be also open to trawlers who wish to participate.

### **FORESEEABLE IMPACTS OF PROPOSAL:**

We believe that the remaining Pacific cod quota if allowed to be taken by pots will result in economic benefits to the fishing industry and coastal communities. Those longline and trawl vessels which might not have otherwise been able to continue fishing, will have a viable alternative and a source of income for the remainder of the year.

The ability to keep the processing plants running is considered to be a major benefit to the local economies.

Additionally, some people believe that since conservation concerns should be foremost in our minds, that pot fishing for Pacific cod in the Gulf may be the best way to harvest this resource without jeopardizing our halibut stocks.

### **ALTERNATIVE SOLUTIONS:**

There aren't any alternatives to this proposal if we are to attempt to harvest the remaining Pacific cod quota in the Gulf of Alaska, without exceeding the halibut cap.

In coming years, we can work more closely with the observer data to foresee closures, apportion the cap more appropriately, attempt to utilize time and area closures and depth restrictions to slow down the bycatch of halibut, educate the fishermen, and provide incentives to the fleet. However, that is not possible this year, and our current emergency dictates that a solution be adopted now.

### **SUPPORTIVE DATA:**

There are over 38,000 metric tons of Pacific cod left unharvested in the Central Gulf as of the latest NMFS data.

The observed pot landings showed a zero bycatch in 75% of those trips, with a 1% bycatch rate (4% mortality) for the remaining 25%.

With proper exclusion devices required, there is no halibut bycatch.

**United Fishermen's Marketing Association, Inc.**

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453



May 30, 1990

Mr Clarence Pautzke, Executive Director  
North Pacific Fishery Management Council  
P. O. Box 103136  
Anchorage, Alaska 99510

SENT VIA FAX # 271-2817

Dear Clarence,

UFMA respectfully requests that the Council add the consideration of an Emergency Rule to their June, 1990, Agenda. We request that this Emergency Rule be designed to allow the continuance of the pot fishery for pacific cod (p. cod) in the Gulf of Alaska (GOA) after August 13, 1990.

As you know, there is currently an Emergency Rule in effect for the GOA that apportions both the 2,000 mt trawl halibut PSC limit and the 750 mt fixed gear halibut PSC limit on a periodic basis. This Emergency Rule also exempts the pot fishery for p. cod from the PSC limit for the duration of the Rule; this Rule expires on August 13, 1990. Therefore, after August 13, the pot fishery for p. cod in the GOA will be closed. The intent of our request to the Council for their support of the above-mentioned Emergency Rule is to allow for the continuance of the pot fishery for p. cod in the GOA after August 13.

The pot fishery for p. cod has a negligible by-catch of halibut. This fact is supported by observer data, and was recognized by the Secretary when he exempted pots from the Emergency Rule that implemented the periodic allocation of PSC limits for trawl and fixed gear in the GOA. Understandably, our members who are now harvesting p. cod with pots would like to continue fishing after August 13. Additionally, however, several of our hook-and-line members have expressed the desire to convert to the pot fishery for p. cod because of the current circumstances that are evident regarding the hook-and-line fishery in the GOA. The hook-and-line fishery in the GOA has recently been closed because the hook-and-line halibut PSC limit available for the current period has been taken. Additionally, preliminary estimates of the total halibut by-catch in the hook-and-line fishery indicate that the entire halibut PSC for the hook-and-line fishery (750 mt) may have already been taken; therefore probably precluding the hook-and-line fishery from re-opening in the GOA for the remainder of this year. Fishermen need alternatives generally, and the pot fishery now presents about the only alternative available to fixed gear fishermen for harvesting groundfish in the GOA. The pot fishery for p. cod has been demonstrated to be a clean fishery, and it will provide the opportunity to several fishermen to take advantage of the p. cod TAC that remains unharvested in the GOA.

Thankyou for your consideration of our request for the Council to consider, at their June meeting, the question of an Emergency Rule that would allow the continuance of the pot fishery for p. cod in the GOA after August 13.

Sincerely,

Jeffrey R. Stephen  
Manager

JUN 13 1990 11:17 FROM ALASKA CRAB COALITION

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# ALASKA CRAB COALITION

3901 Leary Way (Bldg.) N.W., Suite #6 • Seattle, WA 98107 • (206) 547-7560 • FAX (206) 547-0130

June 13, 1990

Mr. Clarence Pautzke, Executive Director  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

RE: ENDORSEMENT OF REQUEST FOR EMERGENCY ACTION TO EXEMPT  
POT GEAR FROM THE FIXED GEAR HALIBUT PSC IN THE PACIFIC  
COD FISHERY IN THE GULF OF ALASKA FROM AUGUST 13, 1990  
THROUGH DECEMBER 31, 1990

Pot fishing for cod in the Gulf of Alaska is currently exempt from the 750 ton fixed gear halibut PSC cap, as preliminary observations have shown this method of fishing to have little or no halibut bycatch and even less mortality. In other words, a few halibut are caught in the pot fishery for cod, but very few die, they are released alive.


Limited observer data for 1990 shows that 75% of the observed trips resulted in no bycatch of halibut and the remaining trips had so little bycatch of halibut, they are considered insignificant.

As of the May 19 NMFS Report, 38,000 metric tons of Pacific cod were unharvested, a substantial part of the TAC. It is unlikely that this will be harvested by August 13th, although both fixed gear and trawl allocations of halibut will likely be taken by that time. Exempting pots would enable the quota of cod to be taken.

Although the ACC has some experience with pot fishing for cod in the Bering Sea, no trips have been observed. However, a nine day observed trip for bairdi crab in Zone 1 in 1989 showed zero bycatch of halibut. Only standard "Tanner boards" to exclude king crab were in use, no halibut exclusion devices.

The ACC supports this emergency action for the GOA with the recommendation that halibut exclusion devices be required and that the vessels be required to carry observers at the current rates of observer coverage.

Sincerely,

  
Arni Thomson  
Executive Director

(iii) The organization provides information that the agency may require; and

(iv) The agency determines that good cause for disenrollment exists.

(3) May require that the recipient seek to redress the problem through use of the organization's grievance process prior to a State agency determination in a disenrollment for cause request, except in cases in which immediate risk of permanent damage to the recipient's health is alleged. The grievance process, when utilized, must be completed in time to permit the enrollee to disenroll no later than the first day of the second month after the month the disenrollment request was made. If the organization, as a result of the grievance process, approves an enrollee's request to disenroll, the State agency is not required to make a determination in the case.

(f) The State agency must make a determination and take final action on the recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date that agency action was required.

(g) An agency which restricts disenrollment under paragraph (b)(2) of this section must also—

(1) Establish an appeal procedure for enrollees who disagree with the agency's finding that good cause does not exist for disenrollment.

(2) Require the organization to inform recipients who are potential enrollees prior to enrollment of their disenrollment rights; and

(3) Require the organization to notify enrollees of their disenrollment rights under this section—

(i) At least 30 days before the start of each new period of enrollment; and

(ii) No less than twice per year.

42 CFR part 435, subpart C is amended as set forth below:

**PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA**

**Subpart C—Options for Coverage as Categorically Needy**

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 435.212 is revised to read as follows:

**§ 435.212 Individuals who would be ineligible if they were not enrolled in an HMO.**

The agency may provide that a recipient who is enrolled in a federally qualified HMO (under a risk contract as specified in § 434.20 (a)(1) of this chapter) or in an entity specified in § 434.20 (a)(3) and (a)(4), § 434.26(b)(3), § 434.26(b)(5)(ii) or section 1903(m)(6) of the Act (which provides services as described in § 434.21(b) of this chapter) and who becomes ineligible for Medicaid is deemed to continued to be eligible—

(a) For a period specified by the agency, ending no later than 6 months from the date of enrollment; but

(b) Only for benefits provided to him or her as an enrollee of the organization or entity described above.

3. Section 435.326 is revised to read as follows:

**§ 435.326 Individuals who would be ineligible if they were not enrolled in an HMO.**

If the agency provides Medicaid to the categorically needy under § 435.212, it may provide Medicaid under the same rules to medically needy recipients who are enrolled in a federally qualified HMO or in an entity specified in § 434.20 (a)(3) and (a)(4), § 434.26(b)(3), § 434.26(b)(5)(ii) or section 1903(m)(6) of the Act which provides services as described in § 434.21(b) of this chapter.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: January 22, 1990.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

Approved: March 9, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-13543 Filed 6-11-90; 8:45 am]

BILLING CODE 4130-01-0

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 672**

[Docket No. 900239-0148]

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Emergency interim rule; amendment; and modification of notice of closure.

**SUMMARY:** An extension to an emergency interim rule provides

quarterly allocations of Pacific halibut bycatch to hook-and-line and trawl gear and is in effect from May 16, 1990, through August 13, 1990. The Secretary of Commerce (Secretary) amends the emergency interim rule from June 5, 1990 through August 13, 1990. This amendment to the emergency interim rule is necessary to promote effective management of the groundfish fishery. Specifically, this amendment to the emergency rule (1) further reduces the likelihood of a premature closure of the trawl groundfish fisheries by spreading the halibut prohibited species catch (PSC) limits for trawl gear over a longer period of time; and (2) allows for the retention of groundfish caught as bycatch in the hook-and-line fisheries for salmon and halibut. A notice of closure of the Gulf of Alaska to retention of groundfish caught by hook-and-line gear, effective on May 29, 1990, through June 30, 1990, is modified accordingly. This action will allow for a greater opportunity to harvest established groundfish quotas.

**EFFECTIVE DATES:** Effective from June 5, 1990 through 2400 hours Alaska Daylight Time, August 13, 1990.

**ADDRESSES:** Copies of the supplemental environmental assessment may be obtained from Steven Penoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

**FOR FURTHER INFORMATION CONTACT:** Susan Salvesson (Fishery Management Biologist, NMFS), 907-588-7229.

**SUPPLEMENTARY INFORMATION:** Under Section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary promulgated an emergency interim rule that allocated PSC limits for Pacific halibut for hook-and-line and trawl gear on a quarterly basis in the Gulf of Alaska (GOA), as recommended by the North Pacific Fishery Management Council (Council) (55 FR 5994, February 21, 1990). That rule was effective for 90 days, from February 15, 1990, through May 15, 1990. With the agreement of the Council, the Secretary extended the emergency interim rule for another 90 days under section 305(e)(3)(B), because conditions warranting the emergency still existed (55 FR 20465, May 17, 1990). In addition to the extension of the emergency interim rule, the Council also recommended a 50-percent reduction of the trawl gear PSC allocation for Pacific halibut, originally intended to be available on July 1, 1990, from 800 to 400 mt. The remaining 400 mt of PSC allocation for Pacific halibut for trawl gear would be made available beginning



August 13, 1990. This amendment to the groundfish fisheries using bottom trawl for this rule and the Assistant

(iii) The organization provides information that the agency may require; and

(iv) The agency determines that good cause for disenrollment exists.

(3) May require that the recipient seek to redress the problem through use of the organization's grievance process prior to a State agency determination in a disenrollment for cause request, except in cases in which immediate risk of permanent damage to the recipient's health is alleged. The grievance process, when utilized, must be completed in time to permit the enrollee to disenroll no later than the first day of the second month after the month the disenrollment request was made. If the organization, as a result of the grievance process, approves an enrollee's request to disenroll, the State agency is not required to make a determination in the case.

(f) The State agency must make a determination and take final action on the recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date that agency action was required.

(g) An agency which restricts disenrollment under paragraph (b)(2) of this section must also—

(1) Establish an appeal procedure for enrollees who disagree with the agency's finding that good cause does not exist for disenrollment.

(2) Require the organization to inform recipients who are potential enrollees prior to enrollment of their disenrollment rights; and

(3) Require the organization to notify enrollees of their disenrollment rights under this section—

(i) At least 30 days before the start of each new period of enrollment; and

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42 CFR part 435, subpart C is amended as set forth below:

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(a) For a period specified by the agency, ending no later than 6 months from the date of enrollment; but

(b) Only for benefits provided to him or her as an enrollee of the organization or entity described above.

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(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: January 22, 1990.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

Approved: March 9, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-13549 Filed 6-11-90; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 672**

[Docket No. 900239-0148]

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Emergency interim rule; amendment; and modification of notice of closure.

**SUMMARY:** An extension to an emergency interim rule provides

quarterly allocations of Pacific halibut bycatch to hook-and-line and trawl gear and is in effect from May 16, 1990, through August 13, 1990. The Secretary of Commerce (Secretary) amends the emergency interim rule from June 5, 1990 through August 13, 1990. This amendment to the emergency interim rule is necessary to promote effective management of the groundfish fishery. Specifically, this amendment to the emergency rule (1) further reduces the likelihood of a premature closure of the trawl groundfish fisheries by spreading the halibut prohibited species catch (PSC) limits for trawl gear over a longer period of time; and (2) allows for the retention of groundfish caught as bycatch in the hook-and-line fisheries for salmon and halibut. A notice of closure of the Gulf of Alaska to retention of groundfish caught by hook-and-line gear, effective on May 29, 1990, through June 30, 1990, is modified accordingly. This action will allow for a greater opportunity to harvest established groundfish quotas.

**EFFECTIVE DATES:** Effective from June 5, 1990 through 2400 hours Alaska Daylight Time, August 13, 1990.

**ADDRESSES:** Copies of the supplemental environmental assessment may be obtained from Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21666, Juneau, AK 99802.

**FOR FURTHER INFORMATION CONTACT:** Susan Salvesson (Fishery Management Biologist, NMFS), 907-588-7229.

**SUPPLEMENTARY INFORMATION:** Under Section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary promulgated an emergency interim rule that allocated PSC limits for Pacific halibut for hook-and-line and trawl gear on a quarterly basis in the Gulf of Alaska (GOA), as recommended by the North Pacific Fishery Management Council (Council) (55 FR 5994, February 21, 1990). That rule was effective for 90 days, from February 15, 1990, through May 15, 1990. With the agreement of the Council, the Secretary extended the emergency interim rule for another 90 days under section 305(e)(3)(B), because conditions warranting the emergency still existed (55 FR 20485, May 17, 1990). In addition to the extension of the emergency interim rule, the Council also recommended a 50-percent reduction of the trawl gear PSC allocation for Pacific halibut, originally intended to be available on July 1, 1990, from 800 to 400 mt. The remaining 400 mt of PSC allocation for Pacific halibut for trawl gear would be made available beginning

August 13, 1990. This amendment to the emergency interim rule subdivides the PSC limit for Pacific halibut for trawl gear in the manner recommended by the Council. This rulemaking is necessary because of two events expected to occur in the bottom trawl fishery for Alaskan groundfish. High bycatch rates of Pacific halibut in the bottom trawl fishery in the Bering Sea and Aleutian Islands Area (BSAI) are expected to cause a premature closure of that fishery this year, thereby redirecting effort by these fishermen from the BSAI to the GOA. Also, high bycatch rates of halibut are expected in the summer trawl fishery for Pacific cod in the GOA due to migration by halibut into shallower waters. If these events are uncontrolled, a premature closure of the trawl fishery would occur in the Gulf of Alaska before traditional fall fisheries could begin.

The Secretary amends the emergency rule by adjusting the trawl gear allocation for groundfish trawl gear fishermen in the manner recommended by the Council. Furthermore, the Secretary modifies the closure notice published on June 1, 1990, to allow for the retention of groundfish caught as bycatch in the directed hook-and-line fisheries for halibut and salmon, provided that allowable quota amounts for retained groundfish species have not been reached. This amendment is necessary (1) to maintain halibut bycatch mortality at established levels while spreading PSC limits over the year to increase the opportunity to harvest groundfish TAC amounts, (2) to prohibit directed fishing for groundfish and minimize halibut bycatch by vessels using bottom trawl or hook-and-line gear once either trawl gear or hook-and-line gear reaches the portion of the PSC mortality limit allocated to that gear type during a calendar quarter, and (3) to provide fishermen in the directed halibut and salmon hook-and-line fisheries an opportunity to retain incidental catch of groundfish, if the TAC for that groundfish species has not yet been reached.

Existing regulations close the Gulf of Alaska to fishing for groundfish with bottom trawl or hook-and-line gear once that gear type has reached its halibut PSC mortality limit. As a result, bycatch of sablefish, rockfish, and other groundfish species in the directed hook-and-line fisheries for halibut and salmon cannot be retained, unnecessary waste of fishery resources occurs, and hook-and-line fishermen suffer loss of revenue normally generated from exvessel landings of groundfish caught as bycatch. Under the amended emergency interim rule, only the directed

groundfish fisheries using bottom trawl gear or hook-and-line gear are prohibited once these gear types have reached the quarterly PSC mortality limit apportioned to each gear type. The directed hook-and-line fisheries for halibut and salmon may retain bycatch amounts of groundfish species provided that (1) established quota amounts for these species have not been reached, and (2) retained amounts of groundfish species are consistent with regulations that define acceptable levels of groundfish bycatch (55 FR 9887, March 16, 1990).

Given the above, the closure of the Gulf of Alaska to fishing for groundfish on May 29, 1990, through June 30, 1990 published on June 4, 1990 (55 FR 22794), is modified to prohibit directed fishing for groundfish, while allowing the retention of groundfish caught as bycatch in other directed fisheries for non-groundfish species.

#### Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator also finds that reasons justifying the promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under section 553 (b) and (d) of the Administrative Procedure Act. Furthermore, to avoid the imposition of an unnecessary restriction on retention of incidentally-caught groundfish while fishing for Pacific halibut, this action is being made retroactively effective on June 5, 1990.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

This emergency rule amendment is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the usual procedures of that order.

The Regional Director prepared a supplemental environmental assessment

for this rule and the Assistant Administrator for Fisheries concluded that no significant impact will occur on the human environment. A copy of the supplemental environmental assessment is available from the above address.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

#### List of Subjects in 50 CFR Part 672

Fisheries.

Dated: June 7, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is amended as follows:

#### PART 672—GROUND FISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.20, paragraphs (f)(4)(i), (f)(4)(ii), and (f)(5)(ii) are revised to read as follows, effective from June 5, 1990, through August 13, 1990:

#### § 672.20 General limitations.

(f) \* \* \*

(4) *Gear closures*—(i) *Trawl gear*. If during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using trawl gear and delivering their catch to foreign vessels (JVP vessels) or operators of vessels using trawl gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of the quarterly allocation of the halibut PSC limit provided for under paragraph (f)(5) of this section, the Regional Director will publish a notice in the Federal Register prohibiting directed fishing for groundfish by JVP or DAP vessels, as appropriate, with trawl gear other than pelagic trawl gear for the remainder of the quarter to which the PSC allocation applies.

(ii) *Hook-and-line gear*. If, during the year, the Regional Director determines that the catch of halibut by operators of

vessels using hook-and-line gear and delivering their catch to foreign vessels (JVP vessels) or operators of vessels using hook-and-line gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of the quarterly allocation of the halibut PSC limit provided for under paragraph (f)(5) of this section. the Regional Director will publish a notice in the Federal Register prohibiting directed fishing for groundfish by JVP or DAP vessels, as appropriate, with hook-and-line gear for the remainder of the quarter to which the PSC allocation applies.

(5) \* \* \*

(ii) The PSC limits expressed in metric tons (mt) established for trawl and hook-and-line gear are allocated on a quarterly basis in the following manner, subject to modification under paragraphs (f)(5)(iii) and (f)(5)(iv) of this section:

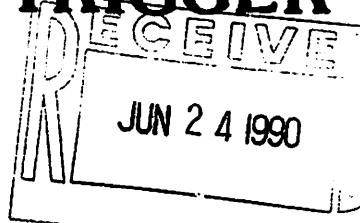
	Trawl gear	Hook-and-line gear
	Percent (PSC allocation)	Percent (PSC allocation)
Jan. 1-Mar. 31.	30% (600 mt).....	20% (150 mt)
Apr. 1-June 30.	30% (600 mt).....	60% (450 mt)

	Trawl gear	Hook-and-line gear
	Percent (PSC allocation)	Percent (PSC allocation)
July 1-August 13.	20% (400 mt).....	20% (150 mt)
July 1-remainder of year.	.....	
Aug. 14-remainder of year.	20% (400 mt).....	
Total	100% (2,000 mt).....	100% (750 mt)

[FR Doc. 90-13560 Filed 6-11-90; 8:45 am]  
BILLING CODE 3510-22-M

From : NEPTUNE 206-789-1795

Jun. 24, 1990 11:27 PM P02

AGENDA D-3(d)  
JUNE 1990  
SUPPLEMENTAL**NEPTUNE TRAP & TRIGGER CO.****P.O. Box 17417  
Seattle, WA 98107  
206-789-3790  
206-789-1795 FAX**

June 25, 1990

Mr. Don Collinsworth, Chairman  
North Pacific Fishery Management Council  
605 West 4th Ave.  
Anchorage, AK 99501

Dear Mr. Chairman,

I noticed that the Council will be considering an emergency action to exempt pot gear in the GOA from the halibut bycatch closure on Wed., June 27. This action is warranted since it has been proven that pot fishing with properly rigged cod pots has very little bycatch of halibut, or crab, and should not be grouped with other fixed gear fisheries. If possible, I would like the action to also apply to the BS/AI areas since it is likely that a similar situation might arise in this area also.

I would like to make you, and the Council, aware of an upcoming study that will be undertaken in August or September which will provide useful data concerning the pot fishery for Pacific cod. Funding has recently been secured for a project sponsored by the Alaska Fisheries Development Foundation that will document the low bycatch rates of pot gear that is targeting on Pacific cod. This study will be run by A.F.D.F. and the A.D.F. & G.. It will provide information on various configurations used to exclude halibut and crab from entering the pots.

Since there will be some hard data available as a result of this study, I would like to request that the Council hold off making any size restrictions on the tunnel openings at this time. Once the data is in, an informed decision can be made that will benefit both the resource and the fishermen.

If you have any questions on the upcoming project, you contact myself, or Mel Munsen at AFDF for details.

Sincerely,

A handwritten signature in cursive script that reads "Ed Wyman". The signature is written in dark ink and is positioned above the typed name.

Ed Wyman, President  
Neptune Trap & Trigger Co.

- 3 - The apportionment options at the bottom of the proposal seem prejudicial to Makah and other communities outside Alaska.
- 4 - We propose that any community development quota be fixed for a minimum period of years in order to provide the necessary incentive for development of that community's fisheries.

We strongly recommend that the Council include the Community Development Proposal as part of any sablefish limited entry/quota system adopted by the Council. The proposal would provide the necessary opportunity to fishing communities such as Makah that have not been able to invest in the fishery until now, and is consistent with the treaty obligation and trust responsibility of the United States to help the Makah Tribe develop its fisheries.

Thank you for the opportunity to comment on the Sablefish Management Plan. Members of our staff will attend the Council meetings to provide additional comments on this option.

Sincerely,

MAKAH TRIBAL COUNCIL



Vivian Lawrence  
Chairperson

1990 HALIBUT BYCATCH

1. Background of 12-A

(a) Purpose to allocate between competing user groups in a way that enabled OY to be taken with a minimum of bycatch.

(b) Bycatch Prediction model indicated costs to trawling far outweighed benefits to crab and halibut fishermen.

(c) Underlying premise: that fishermen could and would collectively modify their behavior so as to reduce bycatch thereby avoid costly closures.

2. Experience in 1990 has lead to a recognition that the underlying premise of 12-A was invalid and that the halibut cap was misspecified.

(a) Industry is incapable of collectively regulating bycatch without:

(i) Benchmark bycatch rates

(ii) Ability to monitor individual vessel performance-need for real time data.

(iii) Ability to sanction individual vessels

(b) Unpredicted bycatch in turbot fishery

(i) 790 MT, or 20% of halibut cap

(ii) Bycatch model did not anticipate bycatch in Greenland turbot fishery

(iii) Vessels shifted to turbot as a result of roe stripping ban.

3. Impact of 12-A on 1990 fishery

(a) current situation - bottom trawl fishery scheduled to close within a matter of days.

(i) minimum of 75,000 MT cod unharvestable, FOB Dutch Harbor - value of more than \$80 million

(ii) minimum of 30,000 MT yellowfin and rocksole unharvestable, FOB Dutch harbor value of more than \$30 million

1990 Halibut Bycatch  
June 28, 1990  
Page 2

(iii) Reallocation of some pollock from fillet to surimi production, but TAC expected to be achievable with pelagic gear.

(iv) Reallocation of cod from trawls to fixed gear.

(b) Market Implications

(i) Interruption of product supply to markets.

(ii) Increased prices to consumer

(iii) Loss of market share for fish products/ market commitments to alternative products and reliable supply systems

4. Proposed solution

a. Bottom trawling may be continued by vessels which belong to a NMFS-approved industry bycatch program

b. Bycatch Program:

(i) "Penalty box" sanction arrangement

(ii) Bycatch rates of no more than half of the target fishery rate to date.

(iii) Weekly monitoring of each vessel's bycatch performance.

(iv) For any week for which a vessel's bycatch rate was over the standard, that vessel will be excused from the program for one week.

c. The bycatch standard for each fishery will be one-half of the rate to date, to be phased in over a three-week period

<u>Fishery</u>	<u>Rate to Date</u>	<u>New Rate</u>
Cod	2%	1 %
Flatfish	1%	0.5%



1990 Halibut Bycatch  
June 28, 1990  
page 3

d. Reduced rate to be phased in over 3 week period.

Example: cod fishing, halibut bycatch

rate to date = 2%;

week 1 standard = 1 1/2%

week 2 standard = 1 1/4%

after week 2 = 1 %

e. Vessel incentive program and data collected in 1990  
useful in designing bycatch reduction system in 1991 and beyond.

test penalty box systems in DAP fishery

identify times and areas where bycatch can be reduced  
by DAP trawlers.

identify fishing techniques and procedures which will  
help fishermen improve bycatch performance.

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000  
PHONE: (907) 485-4100

June 15, 1990

Mr. Steve Pennoyer  
Regional Director  
National Marine Fisheries Service  
P.O. Box 1668  
Juneau, AK 99802

Dear Mr. ~~Pennoyer~~ *Steve*

On May 24, you issued a news release which announced the closure of the Gulf of Alaska to bottom trawl and hook-and-line fisheries through June 30. This announcement also stated that your preliminary estimates indicate that the total annual halibut bycatch mortality limit set for the hook-and-line fisheries may have already been taken. If this is true, all directed longlining for groundfish will be closed for the remainder of the year.

As you know, the 750 MT halibut bycatch cap was based on estimates of mortality in the set longline sablefish and Pacific cod fisheries. Halibut bycatch caps were developed to control non-harvest mortality in those fisheries which are known to cause significant halibut mortalities while targeting other species. The two fisheries mentioned above fit into that category.

On the other hand, halibut bycatch in the Demersal Shelf Rockfish (DSR) fishery is estimated to be low, and was not considered when the Prohibited Species Cap (PSC) limit was initiated. Therefore, we feel that the DSR fishery should not have automatically closed when the PSC halibut limit established for the other setline fisheries was reached.

It should be noted that definitive data on halibut bycatch from the directed rockfish fishery is somewhat lacking. However, three research surveys conducted by ADF&G during the summer months in the central Southeast outside area provide an estimate of bycatch in that area. These data show a wide range of from 0 to 50 percent by weight of the rockfish landed, on a set by set basis. We believe that the observed bycatch in the surveys greatly overestimates the bycatch rate in the commercial fishery for several reasons. Among them are:

Mr. Steve Pennoyer

-2-

June 15, 1990

- a. The fishery is typically conducted during the fall, winter, and spring when the halibut are in deeper water than normally fished for rockfish, rather than the summer when our surveys were conducted.
- b. The fishery concentrates only on rocky substrate while the survey transects covered a variety of habitat types.
- c. The surveys deliberately included areas where rockfish catches were low, so even a very small halibut bycatch would appear as a high percentage of the rockfish caught.

Additionally, halibut mortality in the directed DSR fishery is assumed to be greatly reduced when compared to that of the Pacific cod and sablefish fisheries. Small circle hooks attached to snap-on type gear are used almost exclusively in the rockfish fishery and the sets are very short both in length and soak time. Halibut are quite easy to release unharmed using this form of gear. This is a very slow controlled fishery where no hook extractors are used and the target fish are handled very carefully so as not to damage them. The depth fished is much shallower than for sablefish and the gear is retrieved much slower. The few halibut which are caught are normally larger adult fish. These factors all contribute to a greatly reduced bycatch mortality. Testimony from fisherman have collaborated our assumptions.

While not quantified, it is doubtful that mortality exceeds one or two percent of all halibut caught. My staff, from experience gained aboard rockfish vessels, believes that mortality does not exceed one percent, and may even be lower. One could generate a conservative estimate by assuming a one percent mortality and a rather high bycatch rate of 25 percent (bycatch in the winter fishery is assumed to be much lower than 25 percent).

Considering the current Board of Fisheries regulations governing DSR, the bulk of the remaining TAC will not become available until after October 1. The directed DSR harvest from October 1 through December 31 (when new halibut bycatch limits become available), has ranged from a high of 62 MT in 1987 to a low of 48 MT in 1989. Fishing effort during that time period has ranged from 38 to 64 vessels, and the ex-vessel value ranged between \$53,000 to \$68,000. Estimating the halibut bycatch mortality using a high catch rate of 25 percent and a mortality rate of 1 percent yields a total halibut mortality of between 265 to 342 pounds for the entire fall fishing period. In other words, this fishery can be prosecuted with a yield of between 48 to 62 metric tons of DSR at a mortality cost equaling two to three large adult halibut. A rather favorable cost benefit ratio.


Mr. Steve Pennoyer

-3-

June 15, 1990

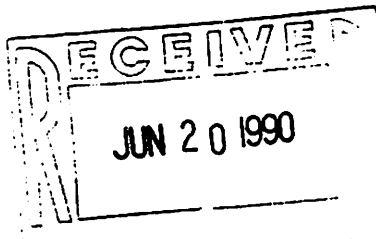
I consider this to be one of those situations which slipped through the cracks as we developed Council policy on bycatch. The question we face is whether curtailing a fishery which is as important to rural coastal communities as the DSR rockfish fishery can be justified for the sake of a minuta loss of halibut?

Sincerely,



Don W. Collinsworth  
Commissioner

cc: Clarence Pautzke



UNITED STATES DEPARTMENT OF  
 National Oceanic and Atmospheric Administration  
 National Marine Fisheries Service  
 P.O. Box 21668  
 Juneau, Alaska 99802-1668

AGENDA D-3(d)  
 JUNE 1990  
 SUPPLEMENTAL

June 13, 1990

Steve Davis, Deputy Executive Director  
 North Pacific Fishery Management Council  
 605 West 4th Avenue  
 Anchorage, Ak 99501

Dear Steve:


We have examined the 1990 observer database through "week ending date" June 2, 1990 to respond to your request for information about halibut bycatch in the Gulf of Alaska groundfish pot fishery. On August 13, 1990, the current emergency rule that exempts pot gear from halibut bycatch accountability expires, which would cause pot gear fishing to be closed in the Gulf of Alaska for the rest of the year, unless the Council recommends otherwise.

Nine records of observed Pacific cod catches with pot gear are in the database. Using a weighted vessel catch by week ending date and by statistical area, we calculate that the bycatch rate is 0.007 or 0.7 percent of the groundfish catch. In the Central Regulatory Area, the catch of Pacific cod with pot gear through May 26, 1990 is 2,419 mt. In addition, 1.3 mt of "other species" was caught. Pot groundfish catches, therefore, appear to be fairly clean with respect to other groundfish bycatch.

The amount of cod caught in the Central area with pots is 11 percent of the all-gear cod catch in that area. The assumed mortality rate of halibut caught with pot gear is 12 percent. If pot gear would harvest 11 percent of the remaining cod tonnage (37,591 mt as of May 26, 1990), the amount of halibut mortality that would occur would be 4 metric tons.

For purposes of halibut accountability in pot gear for the remainder of the year, we believe that the halibut bycatch would be small. Should the Council adopt an emergency rule to allow groundfish fishing with pot gear between August 13 and December 31, establishing a halibut PSC would probably serve little purpose. Requiring halibut exclusion devices in the pots, however, would be necessary to maintain low bycatch rates.

Sincerely,

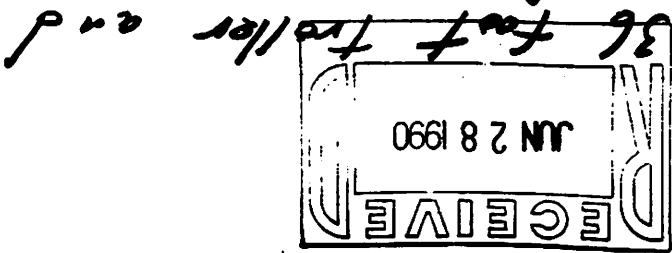
  
 Steven Pennoyer,  
 Director, Alaska Region



Halibut by catch %'s in JU-YFS  
by month + quarter

	87- S11	S13	S14	S22	88 S11	S13	S14	S21
Jan					.78			
Feb		.3			.1	.35		
March	.2	.1			.07	.2		
April	.16	.4	.05			.6		
May			.07			.4	.1	
June			.3			1.0	.13	1.7
July			.7	.18			.2	
Aug							.6	
Sept							.6	
Oct								
Nov								
Dec								

	S11	S13	S14
86	1 .15	.2	
	2 .29	.2	.48
	3	.18	.4
	4	.14	.8
87	1 .2	.17	
	2 .16	.43	.22
	3		.68
	4		
88	1 .07	.17	
	2	.3	.13
	3		
	4		



I have a  
two jiggling machines on order  
(on hold pending results of this  
meeting).

I believe that if you make  
it possible, the gift will quickly  
develop a jigging fishery. On  
the other hand, should you not  
allow the fishery it will have  
a more negative than neutral  
effect on jigging as the interest  
will turn to the more aggressive  
and dirty methods.

I'll not waste time by duplicating  
the words of others concerning the  
many benefits of jigging but  
only add that it would be truly  
ironic in the effort to control  
bycatch you throw one of  
the finest solutions out with  
the problem.

Thank you

John L. Finley  
Box 3849  
Kodiak, AK 99615

907-487-9791

DECEMBER  
JUN 28 1990

R. M. Ross  
1218 Madsen  
Kodiak, AK. 99615

June 18, 1990

Dear Sirs:

I am writing this letter to make known to you my concerns regarding the future of, and my future in the groundfish industry.

I have fished halibut with longline gear since 1977. I have fished Pacific cod with the same gear since 1987. I have a small (32 ft) boat and use snap-on gear. If memory serves me, I have never killed a halibut while cod fishing.

In 1989, I started using a jigging machine. This is one of the cleanest and most selective ways to fish, with the product coming aboard live and unharmed. Virtually all accidental by-catch can be returned the same way. The jigging machine is an excellent gear choice for small to medium vessels, and does no harm to other resources.

But now ---!! The Gulf is shut down for the rest of the year for trawlers and hook-and-line gear, so I'm out of work this fall! I urge you to consider opening it back up for jigging machines, or at least thinking about me in any future considerations. Also, I urge you to consider longline fishing using snap gear only - or at least no crucifiers! Draggers should be banned - period!!! If you people ever expect to manage these bottom fisheries, you can't do it while allowing gear as non-selective as they have proven to be!

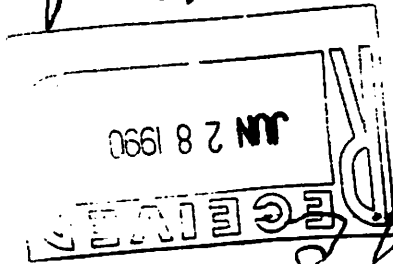
Sincerely,







6-21-90



Dear Sir

70-N.P.F.M.

I am a small local businessman  
 I have fitted small traps from  
 Kotzebue to the Yukon for more  
 than 20 years & have owned a  
 trapping machine in the past. I own  
 the staff of Alaska as long as I can  
 for hampered me on a regular basis.  
 I would like to see or trap for  
 & give. I don't know for the  
 Kotzebue area like you have in  
 James William Sound & South East  
 Alaska.

SIGNED - DAVID MARTIN

Box # 929

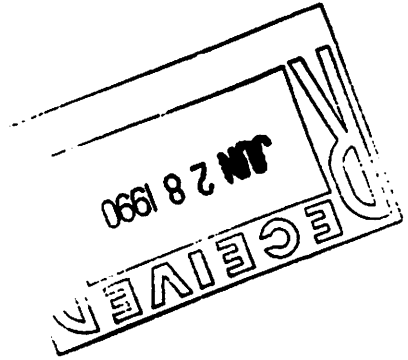
Kotzebue, AK.

99615

6/21/90

Dear Sirs:

My name is Charles E. Jones Jr. I own a taping machine and believe it would be a viable product for me. I own a small boat and previously I longed like to go out and feel that clearing the door to this type of small boat fishing because of change by - cast which he performs to myself and others. Please allow a separate quote for the jig fishermen.



F/C Marmot Fox  
 Charles E. Jones Jr.  
 BX 2302  
 Rockville MD 99615

RECEIVED  
JUN 28 1990

David Krom  
710 ORIOLE  
Box 68  
Anchor R. AK  
99576

I writing to express  
my interest in jig  
fishery for central  
Gulf region.

I'm owner /operator  
of a documented vessel.

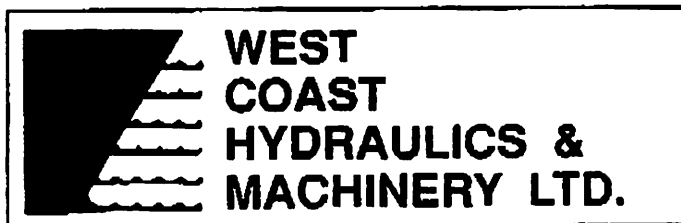
I don't own a state  
limited entry permit.

I'm looking at bottom  
fishery, haul trawl work  
and line is closed for  
remainder of '90. I can

see will be close some  
time in '91. I need  
a different method  
to harvest fish. The  
jig fishery. Has

instead we, low  
overboard; jigs are  
used no bait. less  
crew, thus more  
fishing the less crew  
problems. See and  
Rus. have jig only  
quotas. I believe  
its beneficial to have  
jig only quota for  
central Gulf. otherwise  
my probability of making  
my boat work is  
decreased to substance.

Thank you  
David Krom



AGENDA D-3(d)  
 JUNE 1989  
 SUPPLEMENTAL

4040 140TH AVE. N.E. • BELLEVUE, WA. 98005  
 BUS. (206) 883-7597 • RES. (206) 867-0829 • FAX (206) 883-7711

June 22, 1990

To:  
 North Pacific Fisheries  
 Management Council

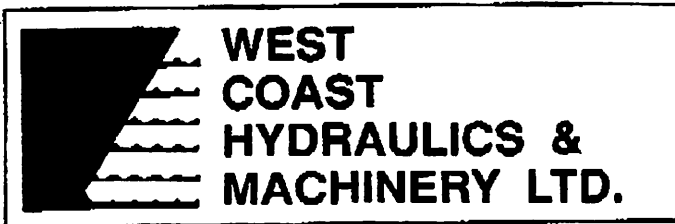
Attention:  
 Clairence Pautzke  
 Executive Director

SUBJECT: Request emergency order to allow jigging  
 machines to fish in the Gulf of Alaska.

REASONS: 1) Jigging Machines are Pelagic gear. They  
 fish from the surface to just off of the  
 bottom. Jigging machines can target on mid-  
 water species.

2) Jigging is an extremely clean fishery.  
 They do not ruin or disturb the ocean floor,  
 and when lost they do not continue to fish.

3) Halibut by-catch is practically non-existent.  
 Jigging is used primarily in specific areas for  
 targeted species. When jigging, if an unwanted  
 species is caught the fisherman can change areas  
 after releasing (returning) a few fish back to  
 the sea. (When jigging, catch and haul-back is  
 immediate therefore survival rate of returned  
 fish is very high) However, with other gear  
 types (longline or trawl for example) sometimes  
 several hundred unwanted fish are caught while  
 prospecting for a targeted species.



4040 140TH AVE. N.E. • BELLEVUE, WA. 98005  
BUS. (206) 883-7597 • RES. (206) 867-0829 • FAX (206) 883-7711

The Gulf of Alaska Harvest Report done by National Marine Fisheries Service ( J. Gharrett 06/13/90 ) shows a large percentage of the quotas of several species left for harvesting in the Gulf of Alaska. With the exception of Pacific Cod in the Western Gulf, Sablefish in the Central Gulf and Shallow-water Flatfish in the Eastern Gulf, all other species types are available for harvest.

The by-catch issue (especially for Halibut) is an important concern to all fishermen, and we feel that jigging machines would pose no threat to this species what so ever.

We can not allow a large portion of the Alaskan fishing fleet to remain tied to the docks when so many of the harvestable quotas are still available.

We ( concerned Alaskan Fishermen and West Coast Hydraulics & Machinery Ltd. ) request that jigging machines not be put in the same gear type category as longline gear, and we request an emergency order to allow jigging to continue in the Gulf of Alaska.

Thanking you in advance for your attention to this matter.

Sincerely,

Ted Blenkers

General Manager

for:

West Coast Hydraulics & Machinery Ltd.  
and concerned Alaskan Fishermen

A. L. F. A .  
ALASKA LONGLINE FISHERMENS ASSOCIATION  
P. O. Box 1229, Sitka, Alaska 99835

\*\*\*  
907-747-3400

June 15, 1990

Clarence G. Pautzke  
Executive Director  
North Pacific Fisheries Management Council  
P. O. Box 103136  
Anchorage, Alaska 99510

Re:

Dear Mr. Pautzke,

The membership of the Alaska Longline Fishermens Association (ALFA) requests that the NPFMC consider granting an exemption to the demersal shelf rockfish (DSR) fishery from the GOA halibut by-catch caps, similar to the exemption being used in the pot-caught Pacific cod fishery. The demersal rockfish fishery is conducted in a manner which prevents harmful incidental take of halibut due to short soak-time, lack of hook strippers, and absence of the "derby mentality" which pervades most of the other longline fisheries.

In the Southeast DSR fishery, there are currently a number of regulations, such as mandatory logbooks and trip limits (7,500 pounds every five days), which effectively eliminate over-fishing and gear concentrations. Market quality restrictions require that DSR fishermen produce fish that are live gill-bled, placed on ice and delivered to fresh market processors within three days. These vessels must make optimum use of every hook, and therefore take precautions to avoid catching fish that cannot be sold (or, in the case of halibut, that tear-up and destroy lighter rockfish gear).

ALFA members have testified that ". . .mortality of halibut in the demersal shelf rockfish fishery is extremely low - possibly as low as one quarter of one percent of total by-catch." Recent ADFG surveys have reported a zero halibut mortality despite occasional halibut by-catch.

Clearly it is not the intentions of the NPFMC to victimize smaller, inshore fisheries on which coastal communities depend. ALFA feels that this particular controlled fishery has little impact on the GOA halibut stocks. ADFG staff has stated that even if the highest estimated halibut mortality rate of 1% is applied, the halibut mortality for the entire DSR longline fishery would be less than 2,000 pounds.

We ask that the NPFMC review the closure of the demersal rockfish fishery at the June meeting, and grant a fishery exemption equal to the pot-caught Pacific cod fishery elsewhere in the GOA.

The following longline fishermen sincerely thank you for your attention to this important matter:

Name	Signature	Address
Paul Johnson	Paul Johnson	Box 1083 Sitka
Tom W. Young	Tom W. Young	1310 18th St Sitka
Susan E. Young	Susan E. Young	329-333 Kathleen Sitka 9983
Kent Burkhead	Kent Burkhead	123 Anna Dr, Sitka
Charles F. Wilber	Charles F. Wilber	205 Federal Sitka
Karryn M. Nichols	Karryn Nichols	305 Islander Dr Sitka
Carolyn Nichols	Carolyn Nichols	Box 3044 Sitka, AK
Kathy O'Gara	Kathy O'Gara	Box 3047 Sitka AK
Kirk Wollin	Kirk Wollin	Box 1906 Sitka, AK
JOHN PETRABORG	John Petraborg	P.O. Box 6067 Sitka, AK
DICK CURRAN	Dick Curran	P.O. Box 1336 Sitka, AK
DENNIS HICKS	Dennis Hicks	726 Segonaka Way - Sitka, AK

Page 2.

We ask that the NPFMC review the closure of the demersal rockfish fishery at the June meeting, and grant a fishery exemption equal to the pot-caught Pacific cod fishery elsewhere in the GOA.

The following longline fishermen sincerely thank you for your attention to this important matter:

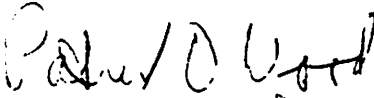


Name	Signature	Address
DAN FALVEY	<i>Dan Falvey</i>	Box 6083 SITKA
Steve Weissberg 112 MARANTZ	<i>Steve Weissberg</i>	307 Grande St Sitka
Linda Behnken	<i>Linda Behnken</i>	Box 158 Gustavus, AK PO Box 6065 Sitka.
DARRELL WELLS	<i>Darrell Wells</i>	PO Box 144 Sitka, AK.



Page 2.

We ask that the NPFMC review the closure of the demersal rockfish fishery at the June meeting, and grant a fishery exemption equal to the pot-caught Pacific cod fishery elsewhere in the GOA.


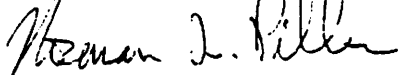
The following longline fishermen sincerely thank you for your attention to this important matter:

Name	Signature	Address
PATRICK D WOOD		PO Box 2391 SITKA, AK
Walter C. Pasternak		Box 8300 Sitka, AK
Paul Schuler		231 Katkwa 11-G Sitka, AK

Page 2.

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The following longline fishermen sincerely thank you for your attention to this important matter:

Name	Signature	Address
PAUL CUSICK		2804 H.P.R., SITKA
NORMAN L. PILLOW		3511 HPR B SITKA

COMMISSIONERS:

LINDA ALEXANDER  
BARKSVILLE, B.C.

WINS N. BROCK  
OTTAWA, ONT.

CHARD ELIASON  
SITKA, AK

STEVEN PENNOYER  
JUNEAU, AK

GEORGE A. WADE  
SEATTLE, WA

GARY T. WILLIAMSON  
SURREY, B.C.

# INTERNATIONAL PACIFIC HALIBUT COMMISSION

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

AGENDA D-3  
SUPPLEMENTAL

DIRECTOR  
DONALD A. MC CAUGHY

P.O. BOX 95009  
SEATTLE WA 98145-2009

TELEPHONE  
(206) 634-1938

FAX:  
(206) 632-2983

June 25, 1990

Dr. Clarence Pautzke  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

Dear Clarence:

Since sending our letter of June 20, 1990 regarding our opposition to increasing the halibut bycatch limits, we have developed information that suggests the halibut bycatch limit was seriously exceeded in 1989. We are very concerned that the halibut resource may have been overharvested as a result.

In 1989, halibut bycatch in the DAP fishery was estimated by a predictive model (Berger et al. 1989. Procedures for bycatch estimation for prohibited species in the 1989 Bering Sea domestic trawl fisheries. NOAA Tech. Memo. NMFS F/NWC-173) based on species composition of the bottom trawl groundfish harvest. Application of the model to the species composition of bottom trawl harvest in 1990 through June 2 (data from NMFS AK Region, 6/19/90) gives an estimated halibut bycatch of 1741 mt. At this date, bycatch estimated from observer data was 4,300 mt (NMFS AKR), or 2.5 times higher than the model prediction. If the same discrepancy between methods occurred in 1989, DAP bycatch of 3,400 mt estimated by the model in 1989 was too low. The strong possibility of having exceeded the bycatch limit in 1989 is a justification to stay within the 1990 bycatch limit.

The AKR could not provide 1989 groundfish harvest by target fishery in time for this analysis, so 1990 target fishery bycatch rates could not be applied. Instead, a combined 1990 bycatch rate was calculated by dividing total halibut bycatch by the total bottom trawl (NMFS AKR, 6/21/90):

$$4316/294,036 = 0.0146.$$

Application of the 1990 composite bycatch rate to the 1989 bottom trawl harvest is dependent on the amount of pollock caught with bottom trawl. Without observers in 1989, the bottom component must be estimated. For calculation purposes, a range of 20-50% was assumed, or a bottom trawl harvest of 425,000 mt to 725,000 mt. This results in a range of DAP halibut bycatch of:

$$425,000 \text{ mt} * 0.0146 = 6,200 \text{ mt}$$

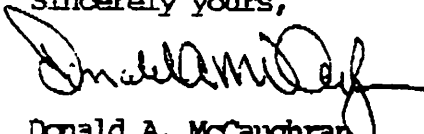
$$725,000 \text{ mt} * 0.0146 = 10,600 \text{ mt}$$

The estimate of JVP halibut bycatch in 1989 was 867 mt, which could run the estimate of 1989 total bycatch to 7,000 to 11,500 mt. Small additional amounts also were attributed to longline and crab pots.

Dr. Clarence Pautzke  
June 25, 1990  
Page 2

The large difference between 1989 halibut bycatch estimated from the model or from application of 1990 bycatch rates indicates that a more detailed study should be undertaken to provide a single best method and value. The IPHC Staff suggests that the Bering Sea-Aleutian Islands Groundfish Team re-evaluate the 1989 halibut bycatch at its next meeting. We also urge the Council to take action based on conservation of the halibut resource, and avoid increasing the halibut bycatch limit in 1990.

Sincerely yours,



Donald A. McCaughran  
Director

cc. Commissioners



101 Jerrico Drive

P. O. Box 11988

Lexington, Kentucky 40579

(606) 263-6000

RON W. CEGNAR  
SENIOR VICE PRESIDENT

PROCUREMENT AND TECHNICAL SERVICES  
(606) 263-6255

Good afternoon, Mr. Chairman and Council Members.

I am Ron Cegnar, Senior Vice President for Long John Silver's. I want to thank the Council for the opportunity to address you and talk about how your management practices affect us as users and our seafood customers.

I am here today to represent Jerrico, a company which dates back to 1929, which owns and operates Long John Silver's restaurants, a concept that was started in 1969. Long John Silver's is a private company comprised of 1500 restaurants which 1000 are company owned and 500 are franchised.

Total sales exceed \$800 million annually. Our Restaurants are located in 37 states plus the District of Columbia, Canada, and Singapore. We are the largest seafood chain in the quick service restaurant category representing approximately 61% of the 1.2 billion quick service seafood businesses and employing 14,000 people nationwide. We buy over 50 million pounds of seafood each year. Our menu is primarily seafood and through the years the menu has been continually refined to offer a wide variety of high quality seafoods. Our restaurants feature traditional battered cod products and a new breaded fish (called homestyle) introduced last year which uses Alaskan pollock. We also offer shrimp, clams, chicken and side items. New seafood menu items are constantly being developed in our kitchens. We are currently rolling out chainwide a new nonfried baked seafood menu line for the health conscious Americans which will be comprised of three new cod items and shrimp.

Seafood is our business and brings me to Alaska today to address the Council and express to you how important the Alaskan cod and pollock resources are to both of us. Our developments of Alaskan seafood products started 5 years ago when we made initial contact with many of the region's producers to begin discussions about the development of cod products which met our customers' expectations. It took 4 years for us to develop our programs with Pacific Northwest producers. Last year our first major year, we started using significant quantities of your seafood. This current year, Long John Silver's will purchase upwards of 8 million pounds of Alaskan cod. And the new Homestyle product I mentioned earlier, made exclusively from Alaskan pollock, will account for 9 million pounds. We purchase from both onshore and offshore suppliers. Both the cod and pollock will represent over \$25 million dollars Long John Silver's will invest in Alaska's seafood industry the first year. This could significantly increase if the resources are available. It's important to note that until this



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RON W. CEGNAR  
SENIOR VICE PRESIDENT  
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adventure into Alaska, all of our seafood was purchased from non American suppliers and countries in the Atlantic. As you, our primary focus is to manage our seafood sources for both the short and long term. Consequently, we weighed these considerations very seriously when we evaluated Alaska as a major resource. We were told as we developed this resource that Alaska had a stable resource, the continuity of supply and the quality which our business and, importantly, our customers and your seafood customers demand. We also felt that this buy America approach would not only help us but help you by injecting millions of U.S. dollars into your industry through our purchases and our advertising. I constantly hear how the Pacific Northwest needs to promote its seafood and we provide this source for you. This year our annual advertising budget will be \$40 million dollars which we use solely to promote seafood, some of that Alaskan. However, the early closure of Alaska's cod resource and possibly the pollock resource puts our venture in jeopardy. Obviously this forces us to rethink our position as it relates to our future with your industry. Let me again state very clearly that our interests lie in managing the fishing resources properly. Our concern focuses around whether we can depend on Alaskan cod and pollock on a year round basis and for future growth. Obviously, with 1500 restaurants serving 218 million customers annually over a 52 week period, we must have year round, consistent, dependable, reliable and quality seafood resources. Our customers don't care that seafood supplies are tight and being closed early because of by-catch issues, particularly when the resources are very healthy. If we can't provide seafood customers their desires, they will also change by going to our competition, the beef and chicken business. They continue to capture more of our customers because of their ever-growing supplies and improved economics. Remember, customers vote with their feet. Our industry, the quick service seafood segment, already charges about \$1 more for each meal. In the seafood restaurant business we do not have the ability to react quickly and adjust to unstable seafood resources because cod and pollock resources are not readily available which meet our standards. It took years to develop these resources. In today's world seafood markets, Alaska is playing a bigger role than in the past, particularly this year. You have a tremendous opportunity to take a leading role and provide much needed resources and build a significantly bigger market share in the US seafood market. If you choose not to do so you will lose this timing opportunity and possibly lose many of your users because of the service unreliability. If chains cannot get reliable seafood sources, they will have to change their menu offerings to continue to grow. Note - currently we have pulled all cod advertising. In fact, last month we promoted chicken instead. Remember that these strong markets unlike just a few years ago are not driven by demand but lack of supply. If seafood chains reduce their dependency on seafood then what market share will remain when normal fish supplies return worldwide? We built our procurement programs on long term relationships by being loyal to suppliers and paying timely at world market prices. Other world buyers might be gone.



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RON W. CEGNAR  
SENIOR VICE PRESIDENT  
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In summary, what we need are long term resources that are reliable, consistent and made in the USA. If we can't count on these resources, then we must go elsewhere. If quotas are set and depended on, then they need to be met so users can plan yearly needs. I would request that you reconsider opening the cod resource and insuring that adequate pollock supplies are available to meet our seafood customers needs.

Thank you.

  
\_\_\_\_\_  
Ron W. Cegnar

June 29, 1990

THE ECONOMICS OF FOREGONE CATCH, BSAI AND GOA

DAP GROUND FISH REMAINING:		FIRST WHOLESALE VALUE
Pollock	600,000 tons	\$70,400,000
Cod	80,000 tons	\$70,000,000
Flatfish	30,000 tons	\$26,000,000

Pollock and cod will not be foregone, they can be harvested with mid water trawl and fixed gear, longline and pots.

An alternative is to prioritize the halibut bycatch to the GOA sablefish longline fishery.

Sablefish	3,000 tons	\$14,000,000
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This illustrates, that with the option of pollock and cod being able to be harvested by alternative gears in the Bering Sea, the only DAP fishery that would be foregone is the rock sole fishery, estimated value of \$26 million.

However, if this is really an allocation issue, then should not the longline fishery be given first priority consideration, since halibut is their target fishery and they are presently foregoing the sablefish catch as a result of no halibut bycatch.

The above summary illustrates that if a reallocation is made to the sablefish fishery, in lieu of the Bering Sea groundfish fishery, then the net loss in foregone catch would be an estimated \$12,000,000.

In actuality, it would be less, depending on how cost benefit tradeoffs in terms of the down stream benefits to the bairdi crab fishery (from bairdi that will be lost along with halibut if the bottom trawling continues) and the halibut fishery. Diplomatic relations also must be considered in this case, and the Fair Trade Agreement with Canada, as the Canadian government has filed a diplomatic note with the U.S. State Dept. opposing any increase in the halibut bycatch cap.

Not having the advantage of this request having been placed on the agenda, and normal 30 day public notice being given to the industry, there has not been time to calculate the the downstream loss to the bairdi crab fishery and the halibut fishery. However, it is likely that reallocation to the bottom trawl fishery could result in the loss of possibly 1,000,000 bairdi.



**ERLING SKAAR**

W/V NORTH AMERICAN  
3901 HEARY WAY N.W. #5  
SEATTLE, WA 98104

FOR YOUR INFORMATION  
From: Arni Thomson

PRESENTATION OF ALTERNATIVE FISHING METHOD TO NORTH PACIFIC  
FISHERIES COUNCIL - AUTO JIGGING MACHINE

(FOR ADMINISTRATIVE RECORD - GOA JIGGING MACHINES  
EXEMPTION)

**Clean Fishing - Jigging**

Introduction:

JUNE 27/90

Good Morning.

I am Erling Skaar.

I am a commercial fisherman and have been one all of my working life.

I am a U.S. citizen, and was born and raised in a commercial fishing/maritime environment in Norway.

While I have been actively involved in many fisheries, from trawling, to jigging to gillnetting; my primary fisheries over the last 15 or so years has been crabbing and longlining in Alaska.

My whole family, including my children, are involved in the fisheries with me.

Background:

I am here today because, as a commercial fisherman and as a family man and as a citizen of America and as a resident of the planet Earth, I am anxious to protect and preserve our environment and our commercial fishing industry for now and for all generations to come.

I seek a quality of life that comes from a proper balance between a happy lifestyle and a good place to live.

As with most of us here today, I am aware that we are now at a very important, major crossroads for our industry.

I believe that the roads we choose now will have a long lasting and controlling impact on our ecosystem and lifestyle.

I want us to make the right choices.

With the fisheries, we must implement the best systems for harvesting the sea to give us all we need to eat without destroying those fisheries or the world that surrounds them.

RECEIVED  
JUL 6 1990

FOR THE DIRECTOR  
FROM THE DIRECTOR

REPLY TO THE DIRECTOR OF THE BUREAU OF AGRICULTURE  
WASHINGTON, D. C.

Clear Flight - 11/11/41

11/11/41

Good morning

I am writing you

I am writing you to inform you of the results of the survey conducted in the field of the Bureau of Agriculture during the month of October, 1941.

The results of the survey show that the Bureau of Agriculture has a very high reputation among the public and that the Bureau is doing a very good job of its work.

I am sure that you will be pleased to hear that the Bureau is doing a very good job of its work.

Sincerely,  
Director

I am sure that you will be pleased to hear that the Bureau is doing a very good job of its work.

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PRESENTATION OF ALTERNATIVE FISHING METHOD TO NORTH PACIFIC  
FISHERIES COUNCIL - AUTO JIGGING MACHINE

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At present we still control our destiny. We have the chance now to make the right decisions about our future. We must make them carefully.

Problem:

In this area of the world, we are employing several methods to reap our harvest of the sea.

While each and every method has its virtues, none is universally the best; some are overused.

We know that fishery by-catch has become a serious problem; one that could contribute to destruction of directed and related fisheries; even the world beyond the fisheries.

We know that we must be more selective in the implementation of our fishery methods.

I believe that to solve our problem with by-catch we need to add some different ways to harvest our fish; ways that will need regulation apart from the methods we are now using.

Purpose:

That is why I am here; to suggest a solution, another method of fishing.

It is a way to continue fishing for specific species even after by-catch has caused other methods of fishing to be halted.

Also important, it is a way to catch fish that will allow the small boat fisherman to operate as well as the owner of a large crabber/trawler of say 120 feet or so in length.

Further, it can provide product to both a shoreplant as well as a remote floater.

Solution:

The method I propose is not a new one to the fisheries of the world. It is tried and well proven to be clean and efficient.

PRESENTATION OF ALTERNATIVE FISHING METHOD TO NORTH PACIFIC  
FISHERIES COUNCIL - AUTO JIGGING MACHINE

---

Its beginnings date back to the origin of fishing for food.

It is underutilized only in our part of the world.

While its origin is from days of old, it has been fully enhanced through today's technology.

It is deceptively simple, yet very effective.

It uses artificial bait, so there is no need to use our food fisheries of cod, herring, squid, etc. for just bait purposes.

It can be very species selective.

It works well close to shore, in protected waters and far out at sea.

It fishes cleanly and quickly; any unwanted or prohibited fish can be returned to the sea within moments of being hooked.

The method is called jigging; automated jigging.

Detail:

Jigging is the present stage of development of a fishing method that had its start with the single hook handline fishery of generations of old.

That fishery developed into a multiple hook, single handline system.

Then artificial bait began to be used.

With artificial bait, it became necessary to physically dance the line and its hooks up and down to attract fish - hence the name - jigging.

Added to the system to make it easier to use were various forms of reels.

Now, today those reels are automated by compact computer systems.

PRESENTATION OF ALTERNATIVE FISHING METHOD TO NORTH PACIFIC  
FISHERIES COUNCIL - AUTO JIGGING MACHINE

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At present, there are several such automated jigging systems available to fishermen.

They are all quite compact. Two such machines would work well on a boat the size of a 32 foot gillnetter.

Each machine uses a single line with 6 to 9 hooks attached to it with gangions.

At the end of the line is a weight.

The computer controlled reel administers the placement of the hooks and the degree of jigging activity.

Depth can be set at an average level below the surface or to an average level above the bottom.

The hooks can be deployed accurately enough that the school of fish can first be found on a scope and then the line let down while the boat drifts or jogs over them.

The fishing gear never soaks. It does its work quickly, bringing the fish to the surface in moments.

Another important advantage is that jigging is fuel efficient. The boat needs to run its main engine only to find fish. While fishing it can simply drift, or just idle. There is no need to use power to line up on pot buoys or drag a large net through the school of fish.

Because the scope can be used to accurately control the placement of the hooks, it is easier to target on a single species.

The machines I am looking at are from Iceland. They have been in use there for some time now.

That is where they have proven themselves to be selective.

In Iceland the fishermen are allowed to retain certain by-catch such as halibut.

While they are urged to avoid halibut when fishing for cod, there is no incentive to under report them either.

PRESENTATION OF ALTERNATIVE FISHING METHOD TO NORTH PACIFIC  
FISHERIES COUNCIL - AUTO JIGGING MACHINE

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Under those conditions, the jigging machines have generated a very small percentage of halibut by-catch; less than 1%, way less, .02% in fact.

The jigging method can be made further selective by using special gangions and hooks.

In short, automated jigging is a simple cost effective, clean method of fishing that can be used even when other methods have exhausted their by-catch quotas. It is one that is well suited to small and large vessels. It is one that can provide the freshest and highest quality fish that come from the sea.

Request:

What I ask you to consider is this.

Jigging needs to be implemented and as soon as possible.

It is a unique fishing method that needs to be put to work under its own regulations.

I want to see it put to work now, so that we can continue to fish for cod and other species the year around; so that we can save our fisheries for our offspring; so that our fisheries can be clean and remain within reach of even the small boat operator.

With your help and cooperation we can become the nation that finally, actually managed its fisheries for now and for the future.

Please, give us jig fishermen jigging specific guidelines.

Are there any questions or comments?

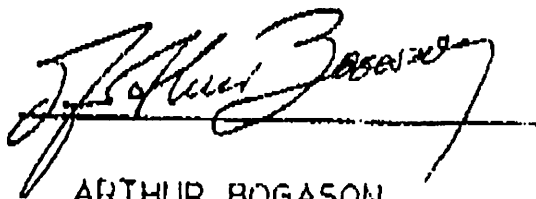
Thank you.

NATIONAL ASSOCIATION OF  
SMALL BOAT OWNERS  
Bankastræti 6, PO Box 163,  
121 Reykjavik  
ICELAND

To whom it may concern,

The total catch of halibut in Iceland is around 5000 tons pr. year. Most of this catch is done by trawlers and linefishers. Small portion is caught by netfishers, but of those 5000 tons only 3 to 5 tons are caught by jigfishers.

In Iceland it is legal to catch the halibut all year around. The price on the fresh fish markets is extremely high for this fish all year so there is no time period that the fishermen do not bring it to shore. By the south, southwest and west coast of Iceland are fishing grounds that are among the best for halibut fishing in the world. On those same fishing grounds are placed most of the jigfishers in Iceland, but they are around 4000. The total catch of the jigfishers pr. year is around 30000 tons of groundfish.



ARTHUR BOGASON

CHAIRMAN

(Translation)

FIVE ILLEGAL SALMON BOATS ORDERED BY HOKKAIDO GOVERNOR  
TO STOP FISHING FOR 20-30 DAYS

(Sapporo) Upon return to Hokkaido of the 5 small Japanese salmon boats and 16 other colleague boats, the Fisheries Department of the Hokkaido Prefectural Government began investigation on June 4. The captains of the 5 boats have admitted violations, and accordingly, the Hokkaido Governor has imposed stop fishing (stay at port) for 20 days on 4 of the 5 vessels from the date of return, and for 30 days on the remaining one boat which had also been punished last year because of the same violation (fished beyond the eastern boundary).

According to the Hokkaido Fisheries Department, these 5 small boats, despite licensed to fish within the Japanese zone, were boarded by Soviet patrolboats(s) on May 28-31 on the high seas at 41-43N and 153-159E.

The names of the five boats punished are:

Ordered to stop fishing for 20 days:

The Sankei Maru No. 35 (Akkeshi Fish Coop.)  
The Kinei Maru No. 11 (Akkeshi Fish Coop.)  
The Taisei Maru No. 55 (Akkeshi Fish Coop.)  
The Hokushin Maru No. 68 (Kushiro Eastern Fish Coop.)

Ordered to stop fishing for 30 days:

The Misaki Maru No. 15 (Akkeshi Fish Coop.)

(The Suisan Keizai, 6/8/90)

By:YNasaka, 6/8/90, 4378n



RECEIVED  
JUN 23 1990

AGENDA D-3(d)  
JUNE 1990  
SUPPLEMENTAL

6/18/90

To the North Pacific Management  
Council,

My Name is Robert Hunter. I own and run the F/V Aileen, a 36' Longliner (snap on gear). I represent no one other than My Wife and Myself.

My wife and I have made our living solely from longlining (grey cod, sablefish, and halibut).

I am writing to you because of several reasons. But mainly the bycatch issue and the closure of the Gulf of Alaska to longlining.

First is bycatch issue. What bothers me the most is the lack of distinction between boat sizes and gear types. I believe the bycatch problem was mostly due to the bycatch of Halibut in the Sablefish fishery. How can you compare a 70' conventional gear boat with 7-8 crew to a 36' vessel with snap on gear and 2-3 crew? You can't. But it's happening. The smaller boats have to fish closer to shore, usually snap on gear, and a different bycatch. Any black cod fishing is usually done in the Shelikof Straits 5-10 miles offshore. Not 30-50 off shore in

The middle of the 19th century  
 I may have had my income (I believe) in  
 due to one type of gear, conventional.  
 You probably already know this  
 but it got thin at anyway.  
 When hysterical is caught by con-  
 ventional gear, the load is removed by  
 either a clutch, two gears, or  
 clean on primary, forming a drive  
 by the primary of the motor. He  
 puts a gap in the shaft, then  
 puts the handle on the outside of  
 the sprocket on the motor and  
 holds it, letting the handle pull  
 the load out of the tank.  
 Provision with mesh on gear  
 and jigger gear, all from one  
 reversed by hand. That is a  
 feature of hysterical mentality or  
 compared to the conventional gear,  
 generally most of my work of  
 don't have any hysterical mentality.  
 I do understand there is a  
 hysterical problem. But your putting  
 all back in the same track.  
 His really quite unfair.  
 This last opening & enclosed  
 the hysterical problem, & was looking  
 very good with of Medical City a  
 couple of other offices for about  
 three months. The first month and

a half on, so I was pretty much by myself. Sure I caught some Halibut, but not many. They were all in good shape and when released dove in seconds.

However 6 weeks into fishing two large longlining processors moved into the area. One was about 65' vessel with all the latest in automatic longlining gear. The other was about 70' with hand baited conventional gear. He had two complete sets of gear. One on board, the other being rebaited in town. Both are owned by the same corporation. I fished side by side with these boats. Some times within 100 yards. Within two weeks  $\frac{1}{3}$  to  $\frac{1}{2}$  half of the Halibut I caught were injured or mangled. Wounds on head, lips & body. Lips were mangled or gone. Then the bycatch of Halibut slowly declined. Within two weeks no bycatch what so ever. I believed they were hurt bad enough the died.

What I am asking is that you make a distinction between boat sizes and gear types. Give the smaller boats a break. They're local boats. And they have a long term interest in the fisheries. It seems to me the larger boats are in for the quick buck.

There are ways to remove fish without stripping them off the hook. But it requires a little more work and time.

I have several ideas that maybe you could think about.

Outlaw all types of fish strippers other than just during Halibut seasons, for all fisheries.

Make a distinction between the smaller and larger vessels.

Make the Shelikof Straits an exclusive area for Sablefish, Halibut, Grey cod & maybe Pollock. It would keep the vessels a little more spread out and possibly easier to manage.

Also I once heard an idea of splitting the season for Sablefish, (spring & fall) being kicked around.

Why not? If the fisheries are going to be closed early due to bycatch it would spread the longline season out. And possibly reduce the bycatch of Halibut.

I am completely behind you in either a J. F. Q. or limited entry system.

The people arguing against it don't seem to understand that there are more & more boats and same or less amounts of fish. The argument I've heard the most against it is they want their children to follow in their footsteps. Well everybody

dies or retires sometimes. If they're that worried why don't they give or lease they're vessels or permits to their children. Instead of selling them to the highest bidder.


Please consider my proposals. You are in the position to do something now. Please do it before it's too late.

Sincerely,

Robert Hunter  
ROBERT HUNTER  
BX 144  
KODIAK, AK.  
99615

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke   
Executive Director

DATE: June 14, 1990

SUBJECT: Pribilof Island Proposal

**ACTION REQUIRED**

Review Pribilof proposal and consider further action.

**BACKGROUND**

In April the Council requested that the Pribilof proposal for a direct allocation of Bering Sea groundfish be placed on the June meeting agenda for consideration. The proposal is embodied in two documents received in March and April 1989 during the Council's initial consideration of the inshore-offshore issue.

As indicated on p. 3 of Document 1 under this tab, the Pribilovians are requesting:

1. A five percent allocation of the Bering Sea groundfish TAC, and
2. An allocation of licenses or transferable quotas if limited entry is implemented.

Further elaboration is in Document 2 on p. 8. The 5% allocation should be transferable (saleable) to finance and leverage vessel acquisition and other local improvements needed to accommodate fishery participation, and help the Aleuts become involved in the fishery. Further, they propose formal Aleut participation in fishery and ecosystem management organization and management structures, such as the U.S.-Soviet Bering Sea Fisheries Advisory Body, the Council's Advisory Panel, IPHC's Conference Board, and the Marine Mammal Commission. And last, they propose that critical crab habitat areas around the Pribilofs be declared off limits to bottom trawling. Document 3 summarizes government and private expenditures and investments in the Pribilofs.

Item 4 under this tab is a letter from Congressman Young urging the Council to consider the Pribilof request.

Item 5 is a letter received from the Central Bering Sea Fishermen's Association in April 1990.

NOAA-GC will provide a legal analysis.

RECEIVED MAR 24 1989

AGENDA D-3(e)(1)  
JUNE 1990

March 24, 1989

**AUTHORITY AND DUTY OF THE NPFMC TO REDRESS  
THE UNIQUE DEPENDENCY OF THE GOVERNMENT ITSELF,  
AND PRIBILOF ISLAND ENTITIES, ON CREATION  
OF A FISHERY-BASED ECONOMY ON THE PRIBILOF ISLANDS**

In 1983, Congress launched a radical social experiment. In partnership with the Alaska Native Aleuts on the Pribilof Islands and the State of Alaska, Congress is funding and implementing a transition of these two Aleut communities from a federally-dominated culture and economy based on commercial fur sealing to one based on participation in the Bering Sea fishery. Fur Seal Act Amendments of 1983 (FSAA), 97 Stat. 835 (1983), 16 U.S.C. §§ 1151, et seq.

Nowhere (certainly in Alaska) is there so dramatic a potential that fishery management decisions can either undercut or implement a Congressionally-dictated social program and massive, recent Federal, State and private investments in developing a fishery-based economy. The FSAA instituted an ongoing Federal program specifically intended to achieve, among other things, objectives identical to those of the Magnuson Fishery Conservation and Management Act (FCMA): optimum American fisheries development in all commercially valuable species, fleet safety, and efficiency in use of the resources in the fishery.

We will show that, from a fishery management perspective, everything about the history and present circumstances of the Pribilofs is radically different from other coastal villages in Alaska; indeed, from the circumstance of any coastal community in the United States. No other community --

1. is governed by an Act of Congress specifically intended to create a fishery-based economy at that precise location;

2. has, since 1983, invested so much municipal and private resources, and Federal loan proceeds, on the strength of a Congressional commitment to create a fishery-based economy;

3. faces socio-economic and cultural extinction if the NPFMC imposes license limitation or fishing privilege quotas, or if the communities cannot obtain a "bankable" allocation of fish, on which to obtain now investment in boat harbor completion and Island-based industry which will repay those investments;

4. offers a location so near to the resources in the Central Bering Sea, available (if harbor-completion financing can be found) to carry out the purposes of the FCMA: (a) develop optimally and rapidly an American fishery in the EEZ, particularly of underutilized species; (b) provide service to the fleet;



(c) provide more ready access to the fishery, less transit cost, and fresher product brought to market; (d) provide fleet safety in cases of breakdown or storms; (e) advance the social and cultural framework relevant to the Bering Sea fishery;

5. has a moral and legal commitment from the Federal government not to let it die.

The Pribilovians are requesting the following NPFMC actions:

- ♦ A five percent allocation of Bering Sea groundfish TAC.
  
- ♦ If limited entry is implemented, an allocation of licenses or transferable quotas.

If the NPFMC implemented limited entry schemes, such as ITQs or license limitation, which gave no license or quota to Pribilof entities, the marketplace would not operate to benefit the Pribilovians. The Pribilofs would, in fact, be devastated.

The Pribilovians still have no boat harbors to induce shoreside deliveries of fish or fleet service business. More important from the standpoint of the NPFMC, they have no more borrowing power or internally-generated assets to invest in their

own processors, or in boats to gain local access to the fisheries, or to purchase any transferable licenses or quotas which the NPFMC has under consideration. Yet, the investment of the United States, the State of Alaska, and municipal and private entities in creation of a locally based fishery economy is so massive and recent as to justify the NPFMC in concluding that the Pribilovian entities are more "in the pipeline" than most, if not all, boat owners with keels laid or floating.

The Pribilovian entities require an allocation of fish that is "bankable," in order to attract capital to complete their harbors, repay their loans, recoup their investments, and ultimately, to create and sustain a fishery and fleet service capability that will carry out the purposes of FCMA.

## I

### HISTORY

The history of U.S. Government dealings with the Aleut Natives of the Pribilof Islands is not one that would make anyone proud.<sup>1</sup> Aleut Natives were first brought to St. Paul and St. George Islands by the Russians as slaves to harvest North Pacific fur seals. When Alaska was purchased by the United States in 1867, their slavery did not end. Both U.S.-chartered commercial enterprises, and then the U.S. Government itself, kept the Aleut people tied to the Islands and denied them the most elemental civil rights. Only since 1966 have the Islanders been able to enjoy the full range of human and constitutional rights as other U.S. citizens.

The House Merchant Marine and Fisheries Committee in 1983 quoted from Aleut Native testimony:

[F]rom the beginning, Federal agents and the independent companies licensed by the U.S. Government to harvest fur seals dominated every aspect of native life. Unfortunately, they mismanaged the seal herd and by the 1890s, declining seal harvests created severe poverty, which led to the initiation of the welfare program the government has operated on the Islands to this day....The Aleuts became wards of the Federal Government, with no rights to

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<sup>1</sup> This history is chronicled in the records of the Indian Claims Commission, 42 Ind. Cl. Comm. 1 (1978), and in Jones, D. M., A Century of Servitude: Pribilof Aleuts Under U.S. Rule, Univ. Press of America (1980).

speak of....In the succeeding years, government control of the Islands, including a moratorium on sealing, caused some breakdown of the Aleut community and further erosion of individual control of life. Perhaps the lowest point in the government-Aleut relationship occurred during World War II.

At that time, the Pribilof Aleuts were taken from the Islands without notice and with only a few personal possessions. We were shipped like cattle to an encampment site in Southeast Alaska where we were put up in abandoned canneries in conditions that can only be described as subhuman. While interned in these camps, our homes, our religious icons, our community buildings and our churches were ransacked by U.S. soldiers....

When the Pribilof Aleuts were returned to the Islands, they were returned to the same Federal management system. Fortunately, the Indian rights movement took up the banner of the Aleuts' cause and began to help the Aleuts emancipate themselves from Federal government control. Wage reform and other lesser improvements began in the 1950's and continued in the 1960's. Despite Alaska Statehood, and the development of some civil rights on the Islands, the United States government remained largely insensitive to our needs and to our future.

In the early 1960s the government, in an economy drive, attempted to relocate Aleuts to other places and, failing that, attempted to consolidate the two separate Aleut communities into one. This was community destruction solely for the purpose of administrative ease and budget cutting. The government even burned the homes of St. George Islanders who moved to St. Paul, so that they could not return. This wasn't in the 1860's, it was in the 1960's.

It was only in the late 1960's that the concept of private property was introduced to the Pribilof Aleuts, as well as the free right to travel outside the Aleutian Islands.

Our watershed came in 1971 with enactment of the Alaska Native Claims Settlement Act. It gave us the opportunity to own real property and to create the structures to participate in the fruits of a capitalist society. Unfortunately, ANCSA has taken much time to implement. The welfare state continued through the 1970's and continues today.<sup>2</sup>

As a result of their forced dependence on the U.S. Government, and an economy based on fur sealing, the Pribilof Aleuts had few skills or financial resources to develop the abundant natural resource at their shores: the Bering Sea fishery. The Federal Government took from the Aleuts even parts of fur seals useful in the development of an alternative cottage industry in traditional Aleut crafts. More fundamentally:

[f]or our entire history, the Pribilof Aleuts have been constrained from developing entrepreneurial skills by the U.S. Government.<sup>3</sup>

So complete was Federal domination of Islanders and their social life that:

... as late as 1966 a candidate for office in the statehouse was not permitted on St. Paul Island to give a speech.

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<sup>2</sup> H.R. Rep. No. 98-213, 98th Cong., 1st Sess. 6-7 (1983) (hereafter "H. Rep. No. 98-213").

<sup>3</sup> Hearings on H.R. 2840 Before the Subcomm. on Fisheries and Wildlife Conservation, H. Comm. on Merchant Marine and Fisheries, 98th Cong., 1st Sess. 329 (1983) (hereafter "H. Hearings").

Harbors were not possible on St. Paul or St. George historically until very recent times, and I am talking about after 1975 when negotiations were completed for the turnover and elimination of some of the Government facilities and land on the islands. That land was turned over to the village corporations pursuant to the Claims Act, so that the island people have sat on their shores, and watched others harvest the fish.

When Dr. Calio was there last September [1982], there were 125 vessels over 120 feet and 7 processors preparing for the blue crab season of St. Paul and St. George. The task force and the island people and the attorneys, sat there and watched this huge fleet get prepared for opening day and there wasn't a dime spent on either island.

There wasn't a person on the island employed because of the consistent position of the U.S. Government that the islands were there to protect the seal, not to be involved in an entrepreneurial situation.<sup>4</sup>

Nevertheless, in 1979 and ensuing years, an experimental small boat halibut fishery began on the Islands, financed by the local Tribal Council and the Village Corporation. In 1979, a region-wide bottomfish conference was held in St. Paul. Over 100 fishery experts from Europe, the Orient and the United States attended. Faced with a limited entry scheme, Pribilovians went before the International Pacific Halibut Commission (IPHC) in 1981 to secure special commercial halibut regulations for the Pribilofs. The

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<sup>4</sup> H. Hearings at 330 (testimony of Mr. Smith).

effort resulted in a special amendment to the Halibut Act in 1982,<sup>5</sup> and subsequent work with the North Pacific Fishery Management Council to draft provisions to allow developing villages north of 56 degrees North Latitude to have competitive entry into the halibut fishery. The IPHC took positive action in 1983 to create favorable regulations for the Pribilofs and other Northern communities.

The first American commercial exploration of hair crab fishing around the Pribilofs was initiated by St. Paul in 1980, resulting in development of Japanese demand for American Hair crab. Unfortunately, without a port, local residents were not able to capitalize on this market. This allowed other United States boats to exploit the resource in commercial quantities for the first time in 1981. But it demonstrates how the existence of operating harbors and fleet service facilities can promote a fishery in underutilized species.

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<sup>5</sup> 96 Stat. 79, 16 U.S.C. § 773c(c).

## II

### FEDERAL WITHDRAWAL

The Federal economy drive, declining fur sealskins markets, the animal protection lobby, and the desire of Pribilovians to be free of Government socio-economic rule of the Pribilof Islands, combined to provide impetus for the radical social and economic experiment embodied in the FSAA. Reversing 120 years of history under U.S. domination, and converting to a private enterprise economy, would be no mean feat. To try, as the Government has, to do so in a couple of years was nearly impossible, tempting fate regarding the survival of these two unique communities.

When President Reagan took office, he began a much-publicized effort to eliminate waste from the Federal budget. David Stockman was commissioned to do a stem-to-stern review of Federal expenditures in an effort to eliminate anything that was unproductive or non-essential. In 1982, Stockman's Office of Management and Budget reviewed the Pribilof program being run by the National Marine Fisheries Service of the Department of Commerce and decided that it was a money-loser that had to be eliminated. There was no forewarning, and no planning or sociological review. Stockman and his staff simply informed the Secretary of Commerce that the Pribilof program was to be eliminated.



On July 13, 1982, OMB Director David Stockman wrote to Secretary of Commerce Malcolm Baldrige indicating that the Federal government would be "phasing out the Pribilof Island Program as rapidly as possible" and assigning Secretary Baldrige the overall responsibility for handling the phase-out. In that letter, he asked Baldrige to "appoint personnel to negotiate with the State of Alaska" and to enter into agreements with the State of Alaska as necessary. On July 28, 1982, Secretary Baldrige appointed Dr. Anthony Calio, then Deputy Administrator for the National Oceanic and Atmospheric Administration (NOAA), to head up a phase-out task force for the Pribilof Islands.

Faced with this ultimatum, Dr. Calio devoted himself to the job. To his credit, he went to the Pribilof Islands and got to know the people. He spent a lot of time learning about the Pribilof Island Program and gained a sense of what it would take to build a private enterprise economy on the Islands. Calio had enough compassion to understand that he was dealing with the possible extinction of a long-existing culture and a unique part of the United States. He developed a relationship of mutual trust with the people of the Island, and with the officials of the State of Alaska involved in dealing with the impending Federal withdrawal. Neither the State nor the Federal government wanted the pullout and transition to be a catastrophe to the people of the

Pribilofs and neither one wanted to be culpable if that unfortunate end-result were to take place.

At about that time, the State created a Pribilof Task Force to interface with the Federal government and the Island entities, and to protect the best interests of the State of Alaska. On August 10, 1982, Governor Jay Hammond wrote to the Alaska Congressional delegation and indicated both support and opposition. He indicated that he was sympathetic to the phase-out concept and "pleased that a Federally-run, company-town type of program may become a properly planned future community development implemented by local private and public sectors." He assured the State's cooperation in the effort and "committed agency and Governor's office staff time, dollars, and energy toward the development of options and a plan for phase-out."

However, Governor Hammond indicated that he would "resist any new responsibilities for the Pribilof Island Program until appropriate time and dollars are allotted for decision-making, planning, and implementation." While he sought "an equitable and successful future for the Pribilof Islands," the Governor was not willing for the State to become "the next landlord."

In late August 1982, Dr. Calio made a radical proposal that ultimately formed the basis of the agreements reached between the

State, the Federal government, and the Pribilof Island entities. He proposed a Federally-funded \$20 million trust fund to help tide the Islanders over the first several years after the withdrawal, during which the State of Alaska would complete boat harbors on both Islands so that a fishing-based economy could be created. Calio proposed the Federal withdrawal from the Islands take place at the end of 1983, at which time the \$20 million trust fund would be in place.

Certain of the Calio proposals were acceptable to the State and others were rejected. In a September 10, 1982 letter to Calio, Governor Hammond indicated that the State would not assume broad management responsibilities of the trust fund. That job had to remain with the Federal government. Further, Governor Hammond said that he could not agree to the State's assuming management of the fur seal harvest. Both requests were granted.

In the letter, Governor Hammond indicated that the State had a major role in the transition and told Dr. Calio that "[1]ast week, I announced in St. Paul my decision to submit to my successor a cash-appropriation request for over \$12 million from the 1983 Legislature, to ensure the most expeditious possible implementation of the Islands' dock and harbor projects already planned." He indicated a willingness for the State to assume airport

responsibilities to provide the transportation component of "this economic diversification project."

In December 1982, a Memorandum of Intent (MOI) was completed and signed by the Department of Commerce and Pribilof Island entities, stating as a --

necessary element of continued negotiations between the parties pursuit of a binding agreement...regarding transferred property, retirement and other benefits, provision of services, implementation of the Trust referred to below, delineation of the obligation of the State of Alaska, an agreement on the matter of implementing treaty obligations.

Conceding that the amount might be inadequate, the MOI stated that the United States government would appropriate \$20 million to help create a viable, self-sustaining economy on the Pribilofs.

Paragraph 5 states that the --

parties hereto recognize the State of Alaska's appropriation of the monies necessary to construct boat harbors on St. Paul and St. George Island...as an indispensable contribution to achieving the goal of self-sufficiency on the Pribilofs. Recognition of this fact shall be explicitly set out in the Trust Agreement (see paragraph 1 above) which shall permit the United States to terminate the Trust if the State has not committed funds for construction of boat harbors at St. Paul and St. George Islands.

### III

#### FUR SEAL ACT AMENDMENTS OF 1983 COMMITTED FEDERAL, STATE, AND PRIVATE ENTITIES TO CREATING A FISHERIES-BASED ECONOMY

While administrative negotiations continued, Congress began in 1983 serious review of amendments to the Fur Seal Act of 1966 that would authorize the Federal withdrawal and provide for the Federal contribution. On May 19, 1983, at a hearing before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, Dr. Calio stated the Administration's position:

[C]ontinued annual Federal appropriations would do nothing to create a stable and self-sustaining economy on the Islands. The fur seal harvest and normal functions to support it would continue, but alternatives to Federal assistance would not develop without the means to broaden the economic base.

Based on economic studies performed by Alaska and the Islands, a possible answer was to build upon the Pribilofs' location in the midst of one of the world's richest fisheries. The Islands are without harbor facilities, natural or manmade, and fishermen must rely on Dutch Harbor, over 200 miles away, to service their vessels and dispose of their catch. Harbor construction and the capital needed for fish processing and other facilities could provide a badly needed service/support industry, and could permit optimum development of the king crab, hair crab, and halibut fisheries as well as ground-fish resources.

With these goals in mind, we developed a position prior to the second meeting of the working group which proposed to: Create a \$20 million fund to replace annual Federal

appropriations which, when combined with a State initiative to construct harbors on both Islands, would give the Pribilovians the resources needed to make the transition to a self-sustaining economy; to transfer most real and personal property owned by the Federal Government to the islanders; to transfer responsibility for the fur seal harvest to the islanders; and to help the islanders get job training.<sup>6</sup>

Several justifications were advanced at hearing for removing the Federal Government's presence from the Islands as an employer, for the State's creating harbors on both Islands, and for creating a fishery-based economy on the Pribilof Islands:

1. Pribilovians could obtain economic self-sufficiency, in part, by the provision of \$20,000,000 in Federal seed capital and maintenance funding, while the Government could save money (est. \$5.8 million annually) by eliminating a social welfare program;<sup>7</sup>
2. Pribilovians could develop a local fishery;<sup>8</sup>

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<sup>6</sup> H. Hearings at 261.

<sup>7</sup> (Cong. Breaux) H. Hearings at 258, 272; (Dr. Calio) H. Hearings at 262.

<sup>8</sup> (Cong. Young) H. Hearings at 259.

3. Create returns to the Treasury from the development of an American fishing capability in the entire Bering Sea, as mandated by other law;<sup>9</sup>
4. Create harbors, more proximate to the fishery than Dutch Harbor, for fleet use for service, support,

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<sup>9</sup> (Cong. Young), id.; (Mr. Katz) H. Hearings at 299; (State of Alaska) H. Hearings at 300.

We want to emphasize to this committee that the fishing industry development on St. George and St. Paul is one that is not a local project. It is one supported by the entire Alaskan fishing industry and one that fits squarely within the purposes enunciated by Congress when it enacted the Magnuson Fishery Conservation and Management Act.

This fishery will help U.S. fishing entities develop underutilized species, and ultimately help the domestic industry fully utilize our 200-mile fishing zone. This committee could take no action that would support the Magnuson Act better than enactment of H.R. 2840.

\* \* \*

Congress and the Reagan administration have repeatedly enunciated the twin domestic policy goals of allowing private industry to develop without unnecessary government restrictions, and to have the 200-mile fishery conservation zone be utilized by United States fishermen to the greatest extent possible. We believe that this legislation will meet both of those goals and give our residents their first opportunity to be self-reliant and to gain all of the benefits that American capitalism can provide.

(Mr. Lekanof) H. Hearing at 328-329.

and optimum development of king and hair crab, halibut, and groundfish resources;<sup>10</sup>

5. A conservation measure -- over the long run, create an economic base alternative to dependency on harvesting fur seals, and displace foreign fleets that use monofilament nets that kill seals;<sup>11</sup>
6. To create a self-financing, privately-conducted commercial fur seal harvest, continuing to provide wages in the communities;<sup>12</sup>
7. Fulfill a moral obligation to the Pribilovians.<sup>13</sup>

As enacted, FSAA established a \$20 million Pribilof Islands Trust for the benefit of the Natives of the Islands, "in order to promote the development of a stable, self-sufficient, enduring and diversified economy not dependent on sealing." 16 U.S.C. § 1166(a). Actually, two Trusts are now administered by the Secretary of Commerce, through his appointed trustees. The

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<sup>10</sup> (Dr. Calio) H. Hearings at 261; (Mr. Lekanof) Id. at 328.

<sup>11</sup> (Dr. Calio) H. Hearings at 274.

<sup>12</sup> (Dr. Calio) H. Hearings at 284, 289, 291.

<sup>13</sup> (Mr. Katz) H. Hearings at 293; (Mr. Young) Id. at 299-300.



legislative history of the FSAA makes clear what the hearings disclosed: Congress and NOAA assumed that the new economy to be developed on the Islands was to be based primarily on the creation of a Pribilofian fishery and the creation of fishing fleet service facilities,<sup>14</sup> the key to which was construction of new boat harbors, funded by the State of Alaska.

The \$20 million Federal investment was not to be devoted to harbor construction or the fur seal harvest, but rather, to essential public services and economic development.<sup>15</sup> It was understood that commercial fur sealing and harbor construction would continue to provide employment during the transition; the assumption being that Islanders would gravitate to new employment in the fishery in three to five years.<sup>16</sup>

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<sup>14</sup> H.R. Rep. No. 98-213, 98th Cong., 1st Sess. 7 (1983) ["the development of a commercial fishing industry"]; S. Rep. No. 98-212, 98th Cong., 1st Sess. 1 (1983) ["The primary economic activity which is anticipated is fishing."]

<sup>15</sup> H. Hearings at 273, 335-336.

<sup>16</sup> House Hearings at 274. The Committee posed the following question to NOAA:

Question: According to a 1980 study by an independent consultant firm under contract to NMFS, approximately 73 percent of salaries and wages of Pribilof residents is derived from NMFS at an annual cost of \$2,155,000 in 1980. Are this study's conclusions still applicable? How long a period of time is it likely to be before such wage revenues and jobs can be replaced?

(continued...)

The FSAA directed the conclusion of a Memorandum of Understanding (MOU) among the Secretary of Commerce, local government authorities on each Island, the trustees, and the State of Alaska. 16 U.S.C. § 1165(d). The MOU would address responsibilities for aspects of the transition from Federal management to creation of a private enterprise economy on the Pribilof Islands. The MOU was later concluded on February 10, 1984, at which point, the State had appropriated \$16.15 million for the two boat harbors.

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<sup>16</sup>(...continued)

Answer: The study is correct concerning the Federal salaries and wages, but the conclusions are no longer applicable. The Study did not envision harbor construction in the near term nor the rapid development of an economy based on fisheries. Our information received from both Island Native Corporations indicates that these resources and jobs will be replaced within 3-5 years. The City of St. Paul estimates that by the end of 1984, the harbor will create 49 permanent jobs at an annual total income of \$1.324 million. We are assuming that the fur seal harvest will be conducted with approximately 80 seasonal jobs at \$300K in wages. Seasonal fishermen would also generate considerable income.

The St. George Tanaq Corporation estimates that there will be 20 full-time jobs during harbor construction with 40-45 full-time jobs in fish processing after construction. Up to 32 individuals are likely to participate in seasonal fishing.

At paragraph 7, the MOU states:

[A]ll governmental entities signatory to this MOU acknowledge the difficulties inherent in creating a viable, long-term private enterprise economy in an environment which has existed heretofore as a government enclave. All government agencies should take special note of this fact in considering programs of assistance in the Islands and give special recognition to the legitimate educational infrastructure, social, environmental, and economic needs of the Islands.

Most significant, paragraph 10 of the MOU states: "the signatories agree to take all actions that may be necessary and appropriate for carrying out the purposes of the Act."

#### IV

### **ASSUMPTIONS OF FSAA HAVE NOT PROVEN OUT, ENDANGERING THE CONGRESSIONAL PLAN TO MAKE THE PRIBILOF ISLANDS PART OF ITS MAGNUSON ACT STRATEGY**

The harbor development and other assumptions underlying 1983 estimates of the cost of transition to a fisheries based economy have not proven out.

First, the timing and cost of harbor completion: neither harbor is complete in 1989. Total public funds expended to date for construction of the two harbors is \$70 million, with \$15 - 20 million more required to complete construction. Construction delays and cost escalation were caused, in part, by a fifty-year storm which demolished a partially-completed St. Paul harbor breakwater in 1984. And State budget austerity caused suspension of these projects. Thus, the State walked away from the Islanders and totally undercut what Congress and every signatory to the MOI and MOU saw as the linchpin for survival of the society on the Pribilof Islands: boat harbors. This forced Island entities to obtain Corps of Engineers' funding, Federal loans (EDA and FmHA), and other sources of funds, to keep harbor construction in progress.

Second, fur seal harvest employment ended in 1985 when the Senate refused to take up or ratify a Fur Seal Treaty Protocol.

That Protocol would have had the effect of extending the commercial fur seal harvest. Accordingly, in that year, 73% of the salaries and wages on the Pribilof Islands evaporated overnight. This left a chaotic private economy and caused social disintegration from loss of work and a cultural identity with and pride in sealing.

The result of harbor construction delays and curtailment of the fur seal harvest has been to require Island "entities" (Native Corporations, municipal corporations, and tribal councils) to commit their assets and credit for the purpose of providing substitute employment and attracting substitute capital investment in the harbor projects. Thus, by leaving the harbors uncompleted and eliminating seventy-three percent of the wage base on the Islands, the Federal and State Governments have effectively annexed the financial resources and borrowing power of these municipal and private entities to bankroll a potentially disastrous social experiment.

#### Need For An Allocation

If the NPFMC implemented limited entry schemes, such as ITQs or license limitation, which gave no license or quota to Pribilof entities, the marketplace would not operate to benefit the Pribilovians. The Islands would, in fact, be devastated.

The Pribilovians still have no boat harbors to induce shoreside deliveries of fish or fleet service business. More important from the standpoint of the NPFMC, they have no more borrowing power or internally-generated assets to invest in their own processors, or in boats to gain local access to the fisheries, or to purchase any transferable licenses or quotas which the NPFMC has under consideration. Yet, the investment of the United States, the State of Alaska, and municipal and private entities, in creation of a locally based fishery economy is so massive and recent as to justify the NPFMC in concluding that the Pribilovian entities are more "in the pipeline" than most, if not all, boat owners with keels laid or floating.

The Pribilovian entities require an allocation of fish that is "bankable," in order to leverage capital to complete their harbors, maintain an equitable ownership position in developments, repay their loans, recoup their investments, and ultimately, to create and sustain a fishery and fleet service capability.

Without such an allocation, the Pribilovians are seeing a mushrooming, self-contained, non-Alaska-based factory-trawler fleet displacing the traditional vessels from the Bering Sea, consuming TAC, providing fleet service in lieu of the Islands, and over-exploiting the most commercially viable species, while underdeveloping other under-exploited species. Bottom-draggers are

removing fishery and crustacean resources from the Pribilof area. This raises the most serious question: whether there would be fish and crustaceans for Pribilovians to catch if they could attract capital for boats based at the Islands, and whether there will be a fleet in the area which needs to come to the Islands for service.

Thus, without a bankable allocation, or access limited to their benefit, the Pribilovians have little hope of repaying Federal loans, and of securing a return on the phenomenal Federal, State, municipal, and private investments that have been made in a Congressionally-mandated, fisheries based economy on the Pribilof Islands. The State and one arm of the Federal government have forced private and municipal corporations down an potentially disastrous investment path to creating a fishery-based economy on the Islands, while another arm of government -- the NPFMC -- has the power and potential either to novate or create it.

The long-term result of taking the wrong path will undoubtedly be to resurrect the cycle of dependency that has characterized the Governments' dealings with the Aleuts for well over a century.

THE NPFMC AND THE DEPARTMENT OF COMMERCE  
CAN ALLOCATE FISHERY ACCESS OR FISH,  
EITHER UNDER AUTHORITY OF THE FCMA  
OR THE FUR SEAL ACT AMENDMENTS OF 1983

Summary

The Magnuson Fishery Conservation and Management Act (FCMA)<sup>17</sup> authorizes independently the NPFMC to allocate rights in the fishery, or limit entry thereto, for the sole benefit of entities on the Pribilof Islands. Moreover, the purposes of the FSAA, being identical to those of FCMA, are incorporated expressly and in pari materia into the standards of FCMA as part of the statutory authority of the NPFMC. Since the NPFMC cannot manage the fishery to thwart the purposes and objectives of its own authorizing authority, it has no authority to undercut, through fishery access decisions, or a lack thereof, benefitting others, a program of massive, directed, public and private investment in creation of a fishery-based economy on the Pribilof Islands.

Finally, FSAA objectives being incorporated into the FCMA, the NPFMC and the Department of Commerce have a duty to assist in Federal creation of a fishery-based economy on the Pribilof Islands.

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<sup>17</sup> 16 U.S.C. § 1801, et seq.



The FCMA Incorporates Purposes of the FSAA

Section 301 of the FCMA establishes National Standards for the NPFMC's fishery management plan (FMP) for the Bering Sea fishery. 16 U.S.C. § 1851. Two FCMA standards are precisely those which, as set out in Part III above, Congress used to justify the program of harbor and fisheries development established in the FSAA:

1. prevent overfishing and achieve optimum yield for the United States fishing industry (§ 301(a)(1));
2. promote efficiency in the utilization of fisheries resources (§ 301(a)(5));

The FCMA provides expressly that FMPs shall be consistent with those standards "and other applicable law." 16 U.S.C. 1853(a)(1)(c). The FSAA is other applicable law. Moreover, even absent express incorporation by reference, where two Federal laws have parallel objectives and deal, inter alia, with the same precise subject matter -- access to the Bering Sea fishery -- the courts would read them in pari materia as part of one statutory

scheme, so that one statute (FCMA) is read to effectuate the other (FSAA).<sup>18</sup>

Even Absent The FSAA, The NPFMC Can Allocate Fish, or Limit Entry, To Benefit The Pribilof Islands

The Pribilovians are requesting the following NPFMC actions:

- ♦ A five percent allocation of Bering Sea groundfish TAC.
  
- ♦ If limited entry is implemented, an allocation of licenses or transferable quotas.

These requested measures are necessary to obtain loans and investments to complete boat harbors and attract private investment in Pribilof-controlled or owned fishery enterprises based on the Pribilof Islands, or which bring boats and fish to the Islands.

The NPFMC is authorized to grant the Pribilovians' requests and, indeed, has done so previously. The FCMA provides authority to the NPFMC to allocate fish to user groups. National standards include:

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<sup>18</sup> Kentucky Utilities Co. v. FERC, 760 F.2d 1321, at n.6 (D.C. Cir. 1985); TransWorld Airlines v. Thurston, 469 U.S. 111 (1985); Udall v. FPC, 387 U.S. 428 (1967).

(1) Conservation and management measures [which] prevent overfishing while achieving, on a continues basis, the optimum yield from each fishery for the United States fishing industry;

\* \* \*

(4) .... 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.

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

16 U.S.C. § 1851(a).

The Pribilovians' request would promote FCMA's National Standards by --

- a. preventing overfishing, by placing a limit on the over-expansion of the fleet, particularly as directed to the pollock resource;
- b. creating optimum yield in each fishery for Americans, by providing a more proximate base than

Dutch Harbor for American operations in the Central Bering Sea, particularly for gaining access to species (Pacific Cod, Rock Sole, and other flatfish) less utilized by American industry because of the overemphasis on pollock;

- c. being fair to all fishermen, by creating a Pribilovian fishery and providing a base for traditional fishermen (longliners, crabbers, J/V catcher vessels) now being displaced by factory trawlers;
  
- d. assuring that no particular individual, corporation, or entity receiving the allocation would receive excessive benefits: the size of the Pribilovians' request is not excessive, particularly when compared to the fact that "[t]he largest mothership to come on line in 1989 will be almost 680 feet long, be served by 7 trawlers, and be able to process between 150,000 and 190,000 mt of pollock per year" [10% of TAC];<sup>19</sup>

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<sup>19</sup> NPFMC, Notice of Scoping Process For Exploring Alternative Management Systems For Sablefish, Other Groundfish, Halibut, and Crab, 5 (1989)

- e. promoting efficiency in utilization by bringing fisheries closer to market and fishermen closer to fish, saving fuel and transit costs, and promoting fleet safety and repair.

Because the foregoing FCMA standards would be satisfied by the Pribilovians' requests to the NPFMC, such NPFMC action, if granted, would not be based alone on economic allocation. 16 U.S.C. § 1851(a)(5).

The NPFMC is authorized to employ a variety of measures under FCMA to directly or effectively limit access for the benefit of local fishermen: conservation zones; trip limits; area closures; ITQs; limited license allocations; specifying types of vessels, gear or equipment. 16 U.S.C. § 1853(c). Indeed, the NPFMC relied on this legal fact recently by approving for 1988 trip limits for halibut area 4C.<sup>20</sup>

Using standards for limited entry into the Halibut fishery virtually identical to the FCMA, 16 U.S.C. § 773c(c), the International Pacific Halibut Commission has adopted since 1983 several allocative schemes to benefit the Pribilovians:

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<sup>20</sup> See generally, Draft Environmental Assessment and Regulatory Impact Review of Management Proposals For The Halibut Fishery Off Alaska (NPFMC Dec. 1987)

- (a) created a separate Bering Sea Subarea 4C [50 C.F.R. § 301.4(h)];
- (b) trip limits [50 C.F.R. § 301.9];
- (c) fishing periods [50 C.F.R. § 301.5(a)];
- (d) exemption from 72-hour pre-period fishing restriction [50 C.F.R. § 301.15(1)];
- (e) vessel clearance and hold inspection [50 C.F.R. § 301.12(b)(h)].

**The NPFMC and The Department of Commerce Have a Moral and Legal Duty to Act**

We have shown that FCMA's purposes are identical to the FSAA in several particulars. Congress specifically intended to carry out FCMA's purposes by creating a fishery-based economy and fleet service and safety capability on the Pribilof Islands. In allocating fish or access to the fishery, the NPFMC must adopt measures which do not conflict with the purposes of the FSAA. To do so would be to act in contravention of its own statutory authority.

The Commerce Department has recognized at least three times its special obligations under the FSAA. First, in paragraph 10 of the 1984 MOU, adopted pursuant to § 2(d) of the FSAA. There, it agreed with Pribilof entities to "take all actions necessary used appropriate for carrying out the purposes of the [FSAA]."

Again, in a legal opinion dated December 4, 1983, addressed to the Alaska Regional Director of NMFS, the Alaska General Counsel of NMFS opined that NPFMC adoption of limited access measures for the Pribilof halibut fishery would promote the purposes of the ANCSA and the FSAA, and would not run afoul of FCMA's limited entry criteria.

Finally, NMFS pursued successfully before Congress and the IPHC, limited access rules benefitting the Pribilofs. And in 1987, it sought trip limits for Halibut Area 4C during the 1988 season, citing its "special trust relationship with the Pribilovians."<sup>21</sup> These were adopted by the NPFMC itself.

This is not a vague policy debate to which the NPFMC can pay lip service: we are talking about roughly \$100,000,000 invested collectively by the Federal, State, and municipal governments, and

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<sup>21</sup> See NPFMC EA, fn. 20 supra, at 5.

by private Native entities and individuals, only since 1983. Those investments were intended by Congress to carry out a Magnuson Act strategy. Much of that money was borrowed by the municipalities from the Pribilof Island Trusts and the Federal Government itself. Municipal and private funds, including debts owed to the Department of Commerce itself, have been spent in reliance on the moral and financial commitments made by the State and Federal Governments.

Thus, if the NPFMC effectively hampers the development of a fishery-based economy on the Pribilof Islands, it takes action contrary to the proprietary and financial interests of the Federal Government itself, as well as the moral commitment made in the FSAA.



## PRIBILOF ALEUT FISHERIES IN THE BERING SEA

The 1983 amendments to the Fur Seal Act has as their purpose, the end of government involvement in sealing. To address that purpose the bill sought to accomplish two things:

"1. End federal involvement as the employer of the people carrying out the sealing activities; and

2. Setting up a trust fund to be used by residents of the Pribilof Islands to develop new livelihoods not based on sealing. The primary economic activity which is anticipated is fishing. (emphasis added)

P.L. 98-129, SENATE REPORT, P. 1

Since those amendments to the 1966 Fur Seal Act much has changed for Pribilof Aleuts, and much has changed in the nature of the fisheries in the Central Bering Sea. A four nation treaty addressing fur seal conservation and management between the US, Canada, Japan and the USSR has lapsed. Aleut harvests of fur seals for a livelihood has been reduced to a chaperoned subsistence meat taking, which provides neither commercial return nor cultural satisfaction. In the name of the Fur Seal Act amendments, a costly and ambitious onshore development program has been undertaken by the government to facilitate fisheries participation by Aleut residents of the Pribilofs.

Besides the Fur Seal Act, two other significant Acts of Congress have altered relationships and the status quo within the Bering Sea ecosystem in which Pribilof Aleuts reside. They are the Marine Mammal Protection Act (MMPA) and the Magnuson Fisheries Conservation and Management Act (MFMCA). With the Fur Seal Act, these two laws profoundly affect and interrelate into the lives and well being of Pribilof Aleuts, and our local abilities to develop an economic alternative to fur sealing as a means to work out a survival for Aleuts in the Bering Sea ecosystem. This paper is an Aleut expression of the conditions of the Aleut environment of today within the Bering Sea ecosystem, and to assert within the intents of these three laws, an economic alternative for Aleuts other than continued dependence on federal welfare and funding, with benefits for all users of the Bering Sea fishery.

In summary, we are seeking a more aggressive ecosystem management program in the Bering Sea, a guaranteed share of fishery resources as an economic means to meeting our goals of an enduring, and self-sustaining economy for the Pribilof

Islands not dependent on fur sealing, and some specific protections for Pribilof Island habitat. Expressed within the context of MFCMA and NPFMC intentions to limit fisheries access, our plan is presented as a solution with benefits for all in the name of ecosystem harmony in the Bering Sea. Since this economic law is up for reauthorization in 1989, and since the economic welfare and well being of Aleut citizens is clearly related, Pribilof Aleuts recognize the need in their own interests to present a clear Aleut position on the Bering Sea ecosystem, the fishery, and Aleut rights to obtaining a just share of, and access to, the resources of the Central Bering Sea.

## INTERRELATIONSHIPS BETWEEN FISHERIES, ENVIRONMENTALISTS, AND THE SITUATION OF PRIBILOF ALEUTS IN THE BERING SEA

The fur seals have been removed as a renewable resource available to Aleuts for economic use. This creates a unique situation for the Pribilof Islands because without seals there is no alternative other than to turn to the fishery resources of the Bering Sea for the economic survival of the Pribilof communities. We believe that the government clearly understands this. There are no practical alternatives to occupancy of the islands either, as the US EEZ in the Bering Sea with its considerable fishery resources would be substantially smaller at the expense of the "donut hole", but for occupancy of the islands. For both the fisheries and the intent of MFMCA, and for the environmentalists and the intent of MMPA, the Pribilof Islands significantly affect the scale and scope of their purposes, and conversely, these laws have affected our abilities to develop an economy based on Bering Sea resources.

When the government withdrew from the Pribilof Islands exclusive commercial harvesting rights of fur seals was granted to Pribilof Aleuts. Almost immediately after withdrawal fur seals were systematically removed from access by Aleuts as an economic resource. Last year the last hope of keeping that avenue open vanished under an environmentalist supported MMPA declaration that fur seals were "depleted." The political impetus to declare the fur seals depleted was increased because of its convenience as an excuse to deny incidental marine mammal take permits for foreign fishing fleets. Now NMFS has noted that up to 30,000 fur seals per year are taken in discarded trawl gear, roughly the same amount taken in Aleut fur seal harvests of past years. In more ways than one, it has been for the convenience of fisheries and environmentalists that Aleuts have lost the use of the fur seals. And although Pribilof harvest activities have remained a focal point for environmental activism, it could easily be viewed that is the existence of a large diverse mechanized commercial fishery in the Bering Sea that brought the fur seal populations down, and provided the environmental excuse for the devastation of the economies of St. Paul and St. George.

The government was left with trust responsibilities. At present both islands, with federal and state assistance on a large scale, have undertaken to develop the necessary local infrastructure needed to play a role in the fisheries. Considerable private investment by both Pribilof Island village corporations has also supplemented government programs. Since 1983, breakwater and harbor development plans have been proposed, debated and opposed environmentally, litigated, and finally supported. But they are still incomplete in 1989, with more delays probable, and in need of continuing support and funding in times of high federal budget deficits and reduced

State of Alaska revenues. Due to infrastructure delays, fisheries development programs have barely gotten off the ground on the islands, and much more money is needed to accomplish the promised relief of an enduring and self-sustaining economy, not dependent on fur seals.

But if there is one bright spot in the economy of Alaska, it is the economic growth deriving from the renewable resources of the North Pacific and Bering Sea fisheries. In the last several years, aided by MFMCA directives that removed foreign fishing competition, a new American bottomfishing industry has blossomed, developed, and matured to the point where it now has become a threat to the existence of older less intensive fisheries, such as the longline and pot fisheries, and certainly a threat to developing fisheries programs on the Pribilof Islands.

The Bering Sea is the crown jewel of the fishery, holding what experts say is 20% of the world's supply of bottomfish. Besides the Bering Sea, the remaining large fisheries on the earth pale in comparison, and the importance of the Bering Sea to world protein supply should not be underestimated. Needless to say, regarding the multibillion dollar industry it supports, great fortunes are being made by those who followed in the wake of the great international fishing fleets of Japan, the USSR and Korea, as well as several smaller fleets from other nations. As an illustration of the growth, in 1986, according to the NPFMC, there were 1,010 vessels delivering to motherships and shorebased plants in the North Pacific EEZ. By 1988, 1617 vessels were engaged. The major part of this volume is in the Bering Sea.

Beginning with the Fur Seal Treaty in 1911 to manage the fur seal fishery, the US had developed a multi-treaty regime for managing these Bering Sea waters including the International North Pacific Fisheries Commission (INPFC), and the International Pacific Halibut Commission (IPHC), and periodically adjusted GIFA's. These international agreements, though imperfect, provided a means of maintaining some order within the ecosystem. Halibut bycatch for instance, to name a topic of current concern in the fishery, was significantly reduced in the foreign trawl fleets through the force of these agreements. Sometimes, as in the case of the salmon intercept fishery, fishing of greater intensity in the Central Bering Sea was traded for restraint in salmon intercepts. Since the MFCMA was passed in 1976, it has contributed to significant change in the nature of the Bering Sea fishery and the management of the Bering Sea ecosystem. While benefits have accrued to some American fishermen, international cooperation has disintegrated, as evidenced in more interception of North American salmon in the squid fishery, unaccounted for or unreliable "donut hole" fisheries, foreign poaching, and even Canadian unrest over the IPHC arrangement due to American failure to control bycatch of juvenile halibut.

## ECOSYSTEM MANAGEMENT AND FISHERIES PROBLEMS

1. Aleuts have great concern that this unique and commercially valuable Central Bering Sea ecosystem cannot be managed properly without more international cooperation. Whether one blames it on foreign or domestic fishing fleets, or even on worldwide pollution, it is clear that dangerous trends exist within the ecosystem that threaten the welfare and well being of Pribilof Aleuts, and other Bering Sea residents, and the many millions of human beings and marine mammals and sea life which depend on it for habitat and sustenance. Fur seals were the first sign that something is wrong, and Aleuts were made the scapegoat of the larger problem. Despite expensive Aleut testimony pointing to the existence of an ecosystem wide problem, seal harvests were halted as though that would solve an environmental problem. Now, a few years later, sea lion population decline in the Eastern Bering has been linked directly to fishing effort by NMFS scientists. The USFWS reports that seabird populations in the Central Bering are in a mysterious and precipitous decline. Although under various authorities through MMPA and MFMCA, our government may take various measures to address aspects of the problem, there is still simply no substitute for a scientific and management regime that encompasses the entire ecosystem, that formalizes exchange and cooperation in scientific understanding, and that provides a forum for management action. In no other manner can harmonious relationships between users and resident human, marine mammal, and fishery populations be maintained. The scientific community is well aware of this fact. Why is it taking the politicians so long to catch on?

2. Bottomtrawl fishing factories operating huge trawl nets on the ocean floor have a major effect on smaller, less wasteful and less mechanized fisheries in the Bering Sea. Bycatch take of halibut in the Bering Sea this year is authorized to the bottomdragers in the amount of 5,333 mt, equal to about 17 million pounds of adult equivalent halibut according to the IPHC, that will not be available to a future longline halibut fishery which is over 100 years old, consists of some 1500 vessels, and stretches from the Bering Sea to the State of Washington coast. The Bering Sea is the nursery grounds for great numbers of juvenile halibut. The same longline fishery in the Bering Sea area has a 1989 quota of 5.0 million pounds.

On the Pribilofs, the Aleuts began with their own funds a smallboat longline halibut fishery because there was no port for larger vessels. Our 4C quota in 1989 is whatever part of 600,000 pounds we can catch, reduced from 700,000 pounds last year due to concern by IPHC scientists that bycatch take threatens the health of the entire North Pacific and Bering Sea stock. Will Aleuts be able to rely on this fishery as the basis of a long term economy?

3. A similiar bottomdragger bycatch problem exists for the crab fishing industry. King crab has almost disappeared as a Bering Sea fishery, although its abundance once fueled a major Bering Sea fishing boom. That industry, consisting of several hundred vessels. has now shifted to the large opilio resources available in the Central Bering Sea between the Pribilofs and St. Matthew Island. Aleuts, who have watched the crab industry operating off their shore for years, have now made on-shore committments for crab processing at St. Paul, based on the abundance of the resource in the Central Bering. Can this resource be counted on to survive, while large and unobserved bycatch is permitted indiscriminately to the trawl fleet? We do not think so, and cannot imagine any rational management scheme for the Bering Sea that does not include an industry financed observor program run by the government to provide accurate data for population assessment and bycatch control of trawling operations.

4. Blue King Crab are found in the Bering Sea almost exclusively around the Pribilofs and St. Matthew Island. During the 1970's BKC populations in the Pribilof District numbered from 20 to 40 million animals. Fishing pressure on BKC began when red king crab began declining. By 1982 more blues than reds were taken from the Bering Sea, mainly from the Pribilof area. 1988 trawl surveys by NMFS estimate a Pribilof District BKC population of 2.49 million, numbers low enough to warrant closure of the fishery for this species by ADF&G. What is the explanation that can be given for the decline of BKC numbers?

Increased fishing is only a partial answer, as annual take is regulated based on prior year surveys. So the crab fleet is not entirely to blame, if at all. A July, 1987 MMS (DOI) study by the University of Washington School of Fisheries contained some interesting facts about BKC. It indicated that BKC populations around the Pribilofs is unique due to the existence of a particular type of ocean bottom habitat found only around Pribilofs and St. Matthew Island, wherein blue king crab larvae and juveniles prosper and thrive. A similar habitat preference is indicated in the same study for the Korean Hair Crab which is also disappearing. Could it possibly be that declines in BKC and KHC recruitment and populations are are the result of bottomtrawls through critical habitat areas around the Pribilofs? The critical habitat areas have been identified, and we feel that they must be declared off limits to hard on bottom fishing to preserve hope for these valuable species. So far as we are aware the MFMCA contains no directives that Councils are to sacrifice one commercially valuable species for another. The national standards also specify that management decisions are not to be based on economics as a sole factor. Rather Councils are charged with conservation management and allocation between different gear types and fisheries.

Islanders have been directed by Congress and the American people to rely on fishing for an economic livelihood. Will the environmentalists rise up and declare the BKC and the KHC as a "depleted" species? How can business investment decisions be made when near island resources, not to mention the resources of the entire Bering Sea, are in a probable state of systematic depletion by one sector of the industry which might with its growth, capitalization, efficiency and scale sacrifice long term ecosystem health in the name of development. Why is it that under international treaties a foreign trawl fleet's bycatch problem can be solved in a few years, and under a domestic regime the fishery managers can't even get a program imposed? What is the relationship of the MFMCA to management of the Bering Sea ecosystem? We strongly believe that the Bering Sea ecosystem must not be permitted to suffer the degradation and despoiling that has characterized other, notably Atlantic Ocean, fisheries. We view our marine mammals and seabirds as ecosystem monitors.

5. Fishery managers are justifiably concerned that overcapitalization of the trawl fishing fleet endangers both renewable resources and effective management. We share that concern. To control the chaos of an overcapitalized fishery, there is strong sentiment for the imposition of license limitations, or systems of individual transferable quotas, whereby TAC would be split up among the industry in transferable shares based on past participation. There is much debate whether limited access in the fishery will control overcapitalization. As we have learned in recent talks with industry there is no clear consensus for limited access. Nevertheless, at its January, 1989 session, the NPFMC established a January 16, 1989 cut-off date for entry into any bottomfish fishery, including crab, halibut and sablefish, and further stated its intention to have license limitation or ITQ systems in place by 1990. Pribilof Aleuts are only five years into a mandated conversion to a fisheries economy, do not have a harbor in place as of yet, and at this point in our development are limited to small fishing vessels. How can Aleuts support limited entry when it amounts to a snuffing of Pribilof Aleut economic rights and resource access to the waters of the Bering Sea? If a longline fishery with 100 years of participation is worried about its survival, should we not also be with our five years experience? Yet it still remains our hope that some avenues to successful entry into the fishery are available to Aleuts within the context of these proposals. If we are to participate fully in management and oversight of the Bering Sea ecosystem, which we feel we must do to protect our culture and very existence as a people, the time has come for Aleuts to return to the water and participate in the fisheries.

## THE PRIBILOF ALEUT PLAN, PROPOSAL AND RECOMMENDATIONS

1. Acceptance of Pribilof Islands development activities as a legitimate "pipeline for purposes of participation in any limited access scheme implemented by NPFMC. In a very real sense, our islands are vessels, already on the grounds and gearing up to go fishing. We do not wish to see our investment or the government's investment, both of which are extensive, fail to produce results. Yet there are industry worries that a bad precedent will be set if Pribilof Aleuts are admitted into the pipeline for fisheries participation on the premise of infrastructure projects. Thus we feel that an administrative qualification under the auspices of the Fur Seal Act, recognizing the completely unique nature of the Pribilof situation is probably advisable. Aleuts must not be eliminated from participation in the Bering Sea fisheries by a definition that does not recognize our circumstances.

2. Obtain for now a transferable allocation of 5% of Bering Sea fishery bottomfish resources, for purposes of guaranteeing resources and access when local infrastructure is in place and local fishing vessels have been obtained. The allocations can be transferred (sold) to finance and leverage vessel acquisition and other local improvements needed to accommodate fishery participation, and get Aleuts into the fishery before there is no room left. This request does not have to be dependent on limited access regimes being implemented in the fishery.

3. Aleut participation in fishery and ecosystem management organization and management structures such as the Bering Sea Advisory group of the State Department, Advisory Panel of the North Pacific Fisheries Management Council, IPHC Conference Committee, Marine Mammal Commission, etc. should be formalized.

4. The critical crab habitat areas around the Pribilofs should be declared off limits to hard on bottom trawls. These areas have been identified in the previously mentioned study. For the sake of ecosystem health, St. Matthew Island habitat areas should probably be treated in a similar fashion. We recognize that this may appear contradictory to our desire to commence fishing operations, however, everyone must realize that the ecosystem comes first if we wish to see sustained economic benefit from the Bering Sea.



## BENEFITS AND IMPACTS

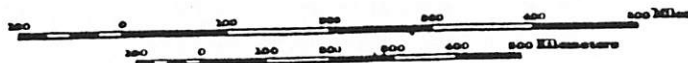
1. License limitation, ITQ systems or other fishery management regimes can be implemented without negating federal trust responsibilities to Island residents or the purposes of the Fur Seal Act, or enacting a discriminatory blocking of Aleut access to fisheries and resources of the Bering Sea.
2. The bottomtrawl fishery as well as longline and shellfish fisheries can be stabilized. Overcapitalization trend will be mitigated, and rational fishery management schemes can be implemented through NPFMC, as for instance, ITQ systems, extended fishing seasons, other no trawl zones in critical habitat areas, time and area closures and better less damaging trawlfishing techniques can be given incentives.
3. A trawl industry financed and federally managed observer program can be put in place to encourage bycatch control, with beneficial preservation of halibut and crab resources and fisheries. Canadian IPHC objections will be addressed, and halibut conservation goals can be achieved.
4. Pribilof "no hard bottomtrawl" zone will assist in rebuilding of depleted shellfish stocks and protect juvenile halibut, benefitting crab industry and longline fisheries, along with supporting need of sensitive ecosystem protection of immediate fur seal and seabird habitat around the Pribilofs. This action is "environmentally" supportable, and will damage no major fishery.
5. Using transferable allocations as leverage, Pribilof infrastructure and vessel development programs can proceed without industry or government imposed restrictions on access. Given harbor construction delays and hard budget times, fishing activities can support onshore development in the Pribilofs. In keeping with the intent of Congress in the Fur Seal Act development of an enduring, self-sustaining, private economy, not dependent on government handouts, will be facilitated on the Pribilof Islands, assuring the success of government actions and development already undertaken. Net costs to the federal budget will be decreased in the long run.
6. With a limited fishery, scaled to size of the resource, scientific evaluations, ecosystem management programs and international cooperation will be facilitated. It only through competent management of fisheries within our EEZ, and strong showing of determination by Aleuts to manage our portion of the ecosystem, that harmony and cooperation can be fostered and achieved throughout the Bering Sea ecosystem.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY

ALASKA



FIGURE 1



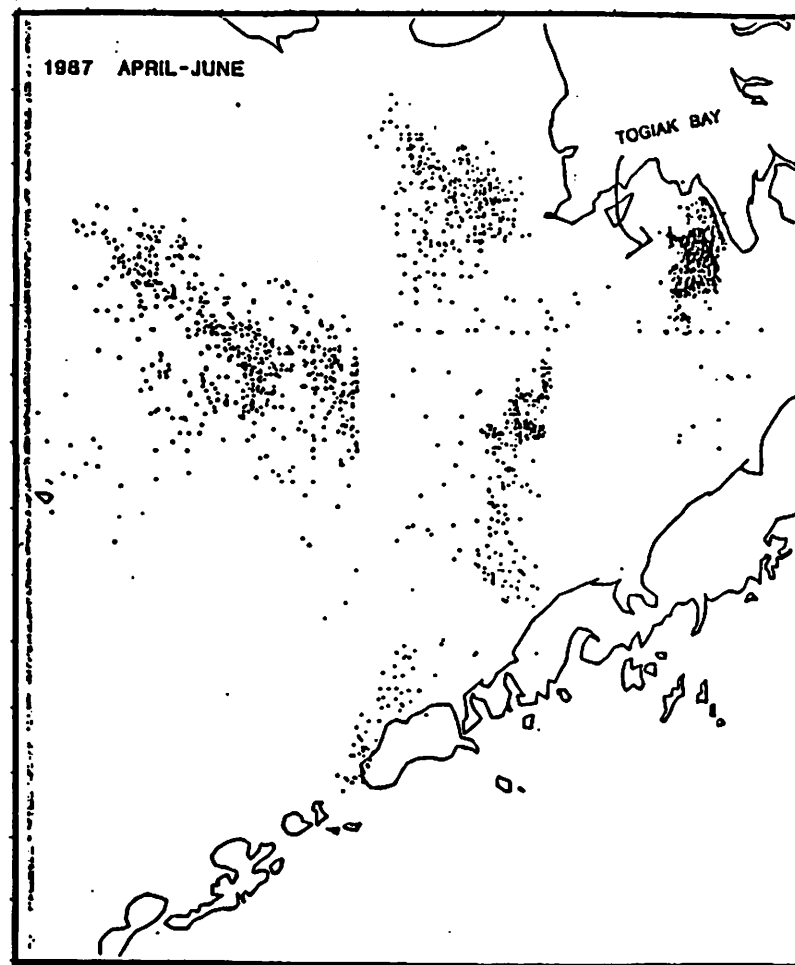
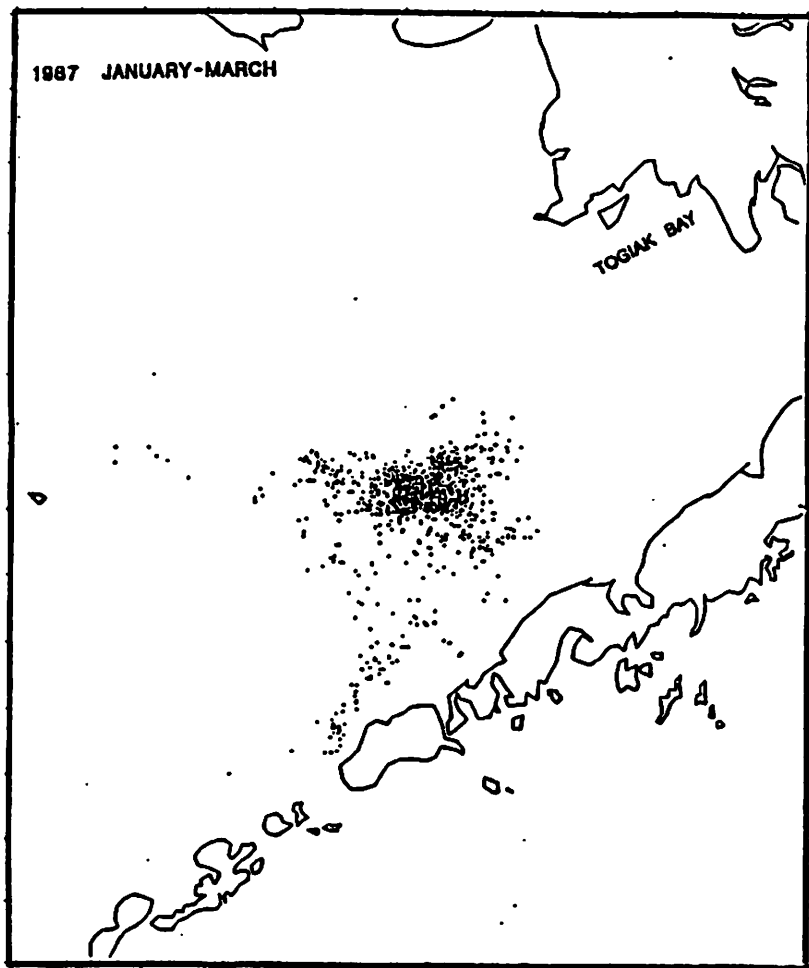


Figure 2.9(cont.)--Locations of commercial catches of yellowfin sole in the EBS by quarter for 1986 and 1987. (From NWAFC observer data).

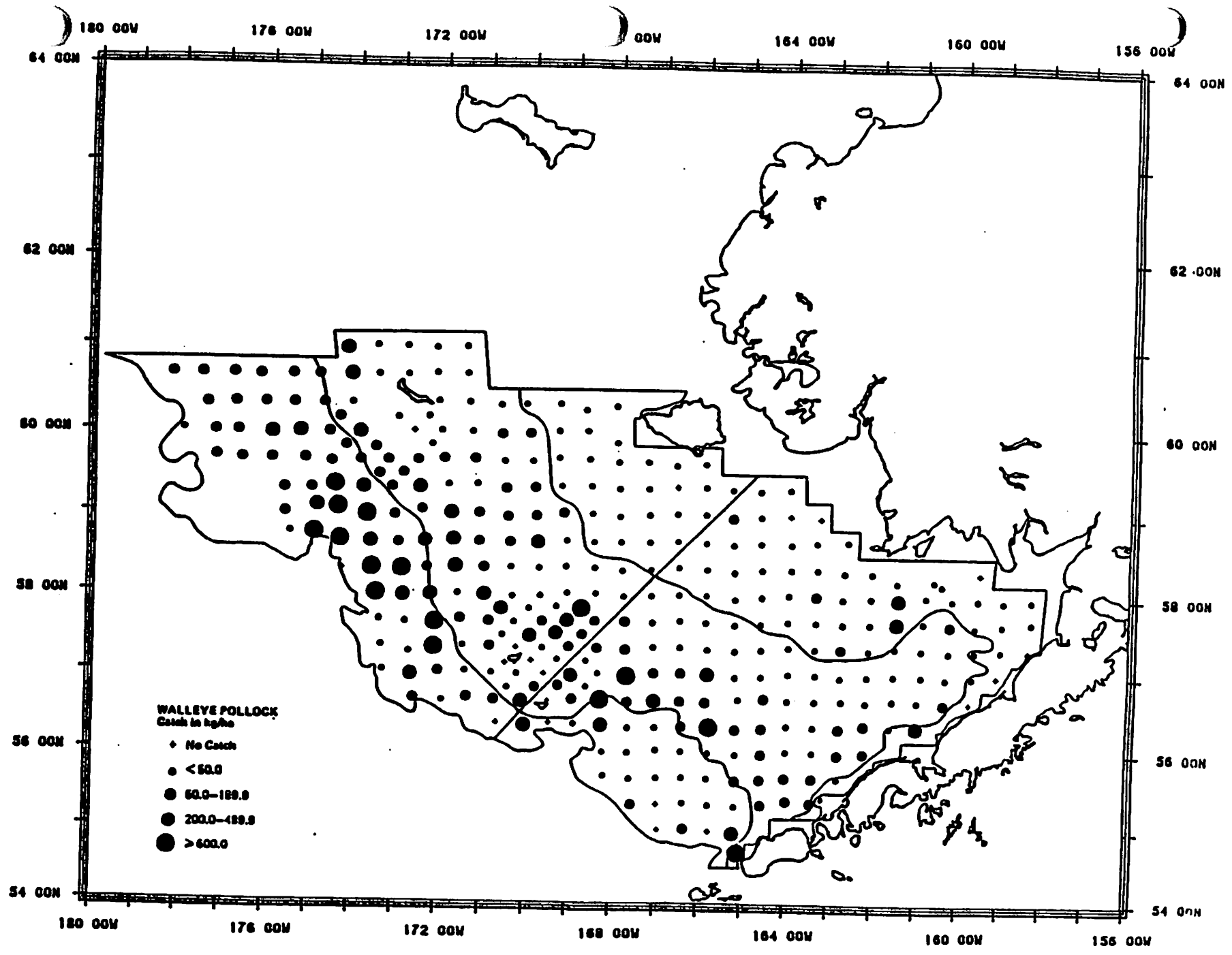


Figure 4.--Distribution of catch rates (kg/ha) of walleye pollock during the 1987 eastern Bering Sea crab-groundfish survey.

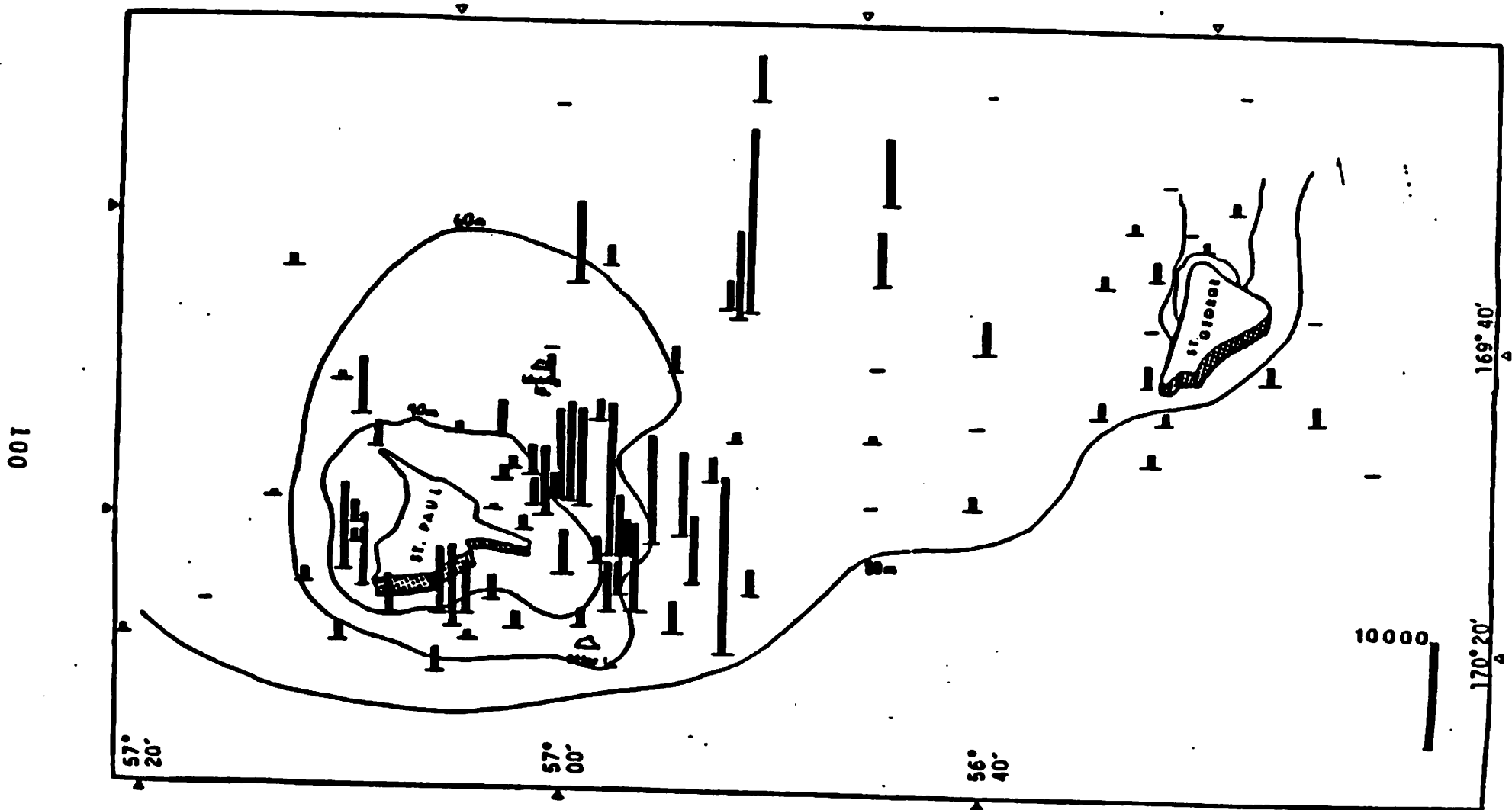


Figure 4.4 Paralithodes platypus larvae, May 1983, no. zoea/100 m<sup>2</sup>.  
 BLUE KING CRAB

Paralithodes platyous larvae  
 May 1983

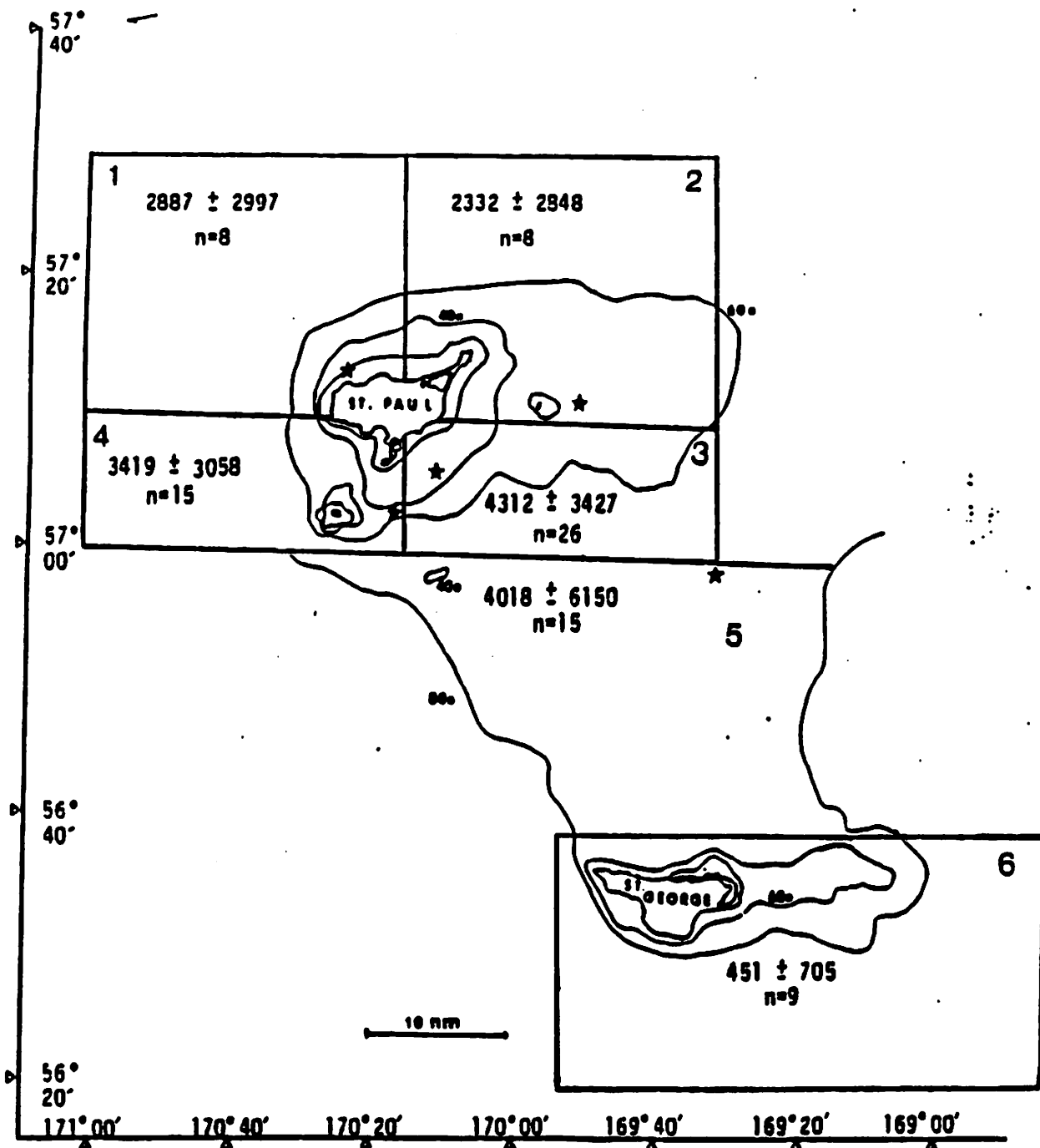


Figure 4.5 Mean larval abundance by strata ( $\bar{X} \pm 1$  SD larvae/100 m<sup>2</sup>)  
 ★ = station with the highest abundance per stratum;  
 n = number of stations with larvae.

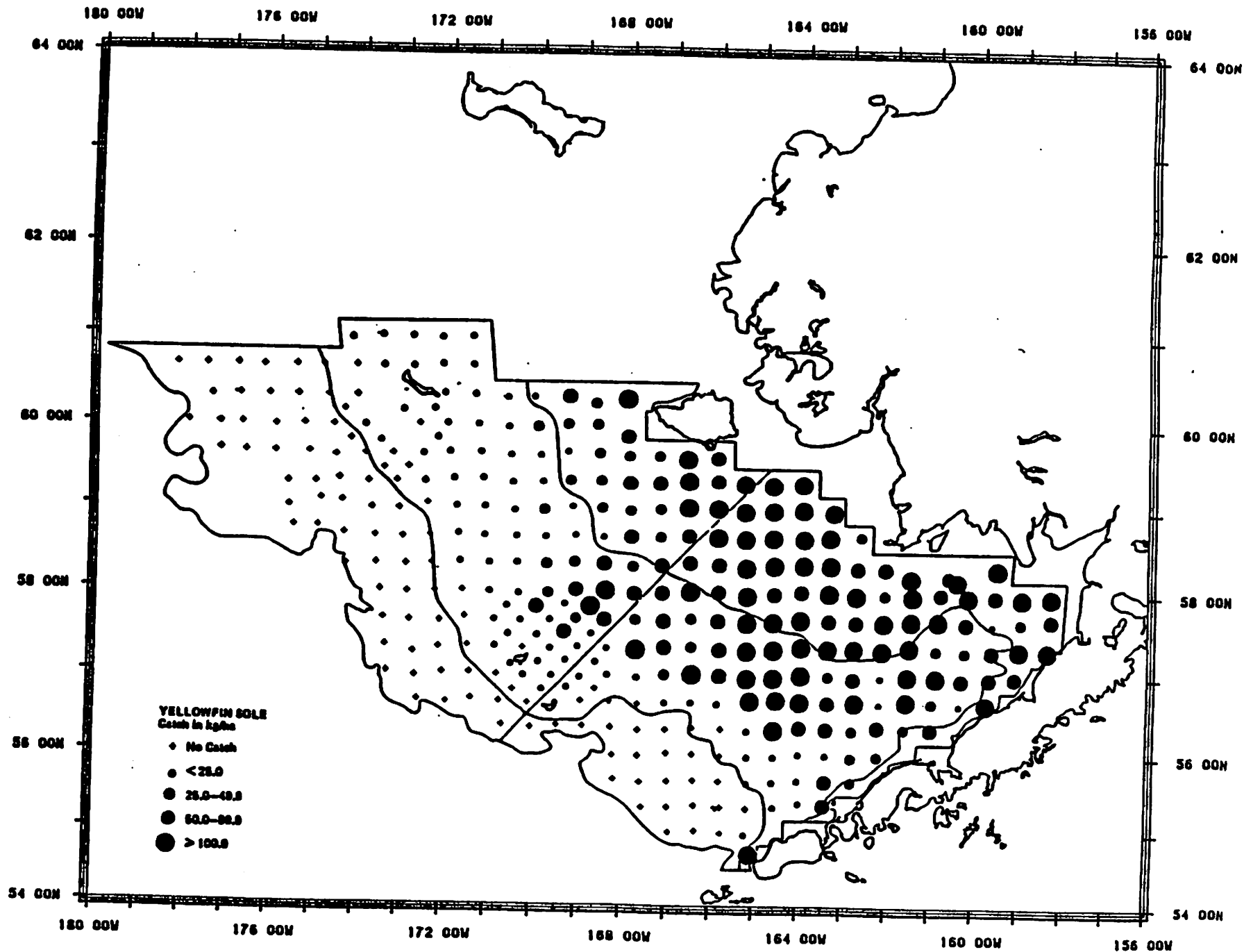
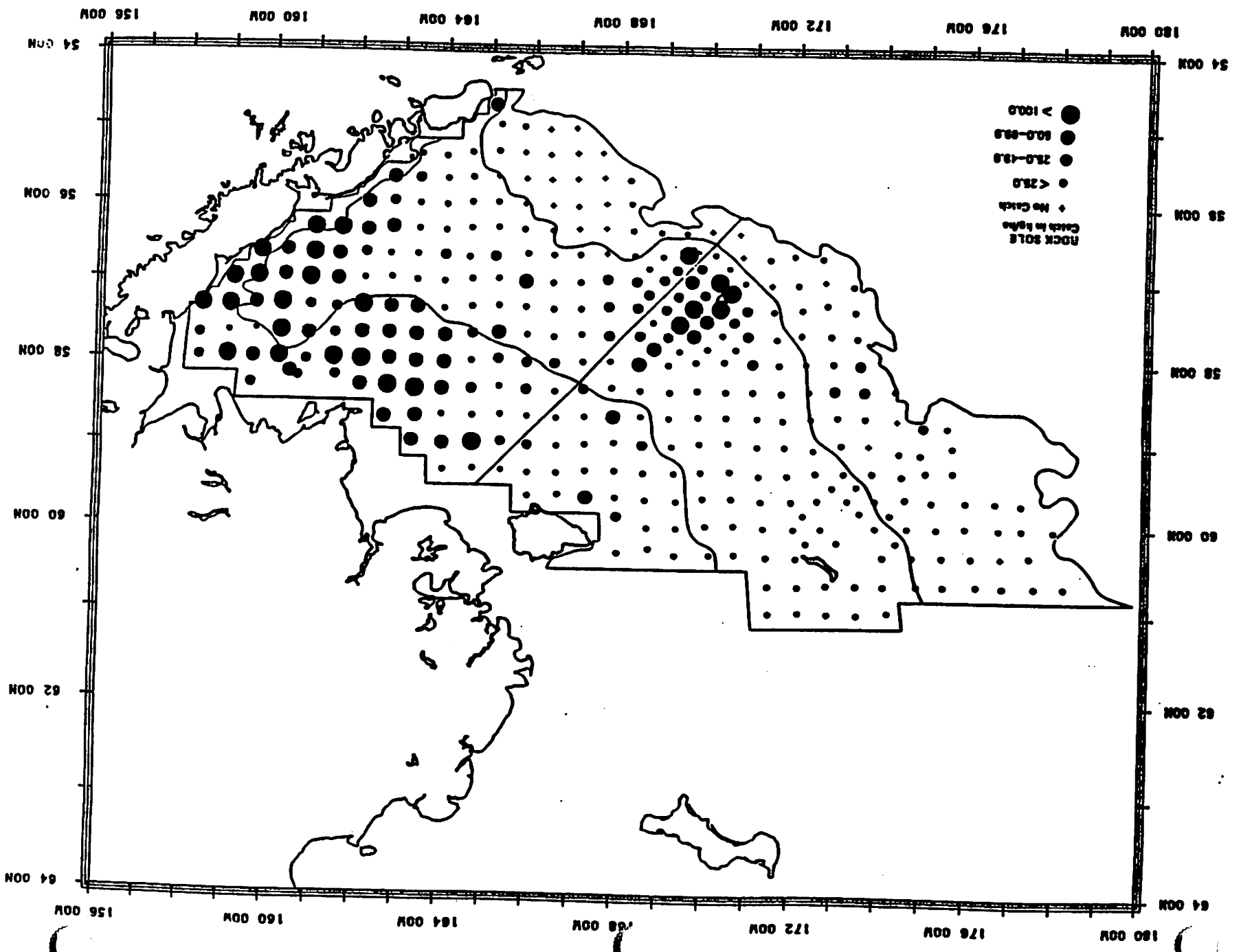


Figure 5.--Distribution of catch rates (kg/ha) of yellowfin sole during the 1987 eastern Bering Sea crab-groundfish survey.

Figure 6.--Distribution of catch rates (kg/ha) of rock sole during the 1987 eastern Bering Sea crab-groundfish survey.





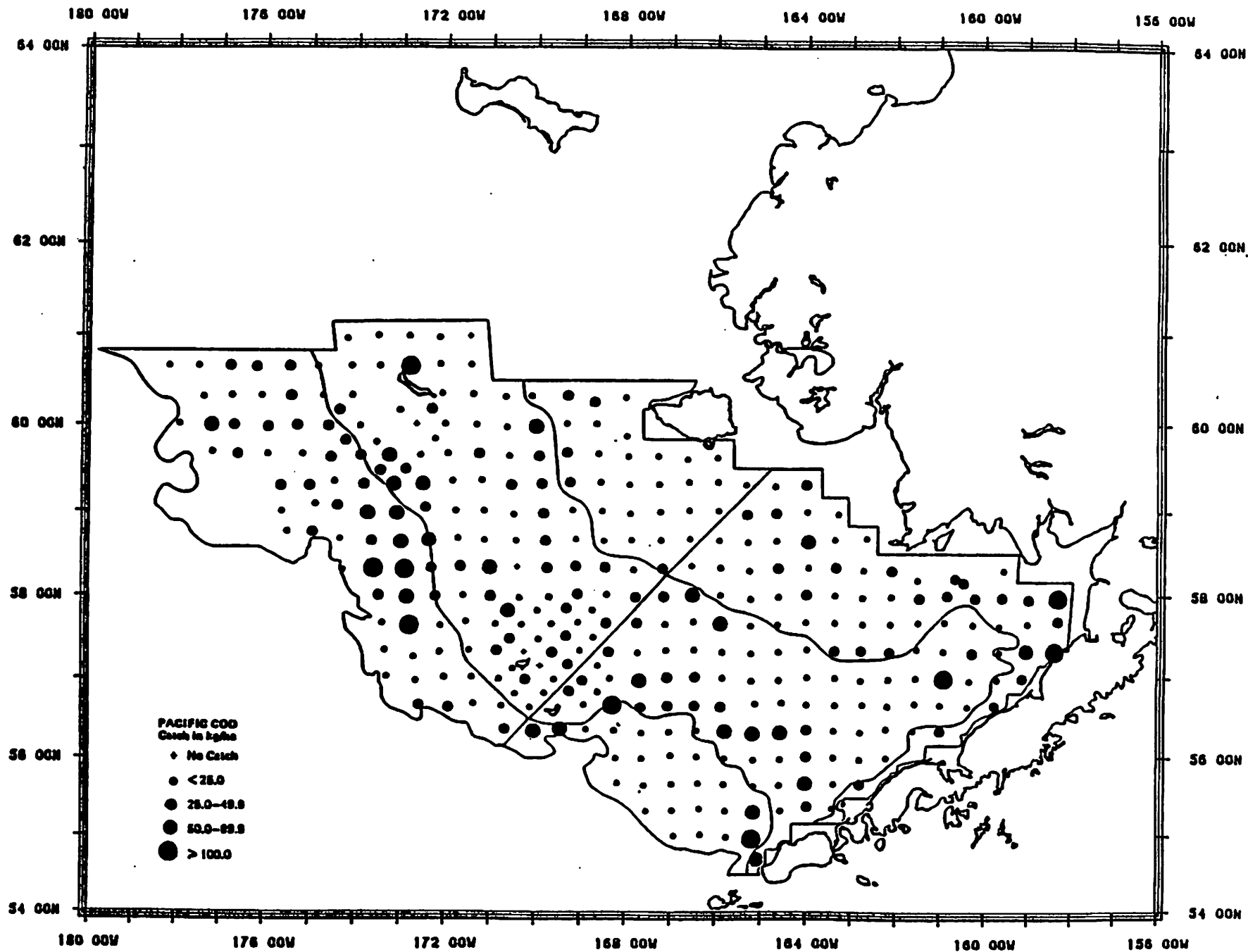


Figure 7.--Distribution of catch rates (kg/ha) of Pacific cod during the 1987 eastern Bering Sea crab-groundfish survey.

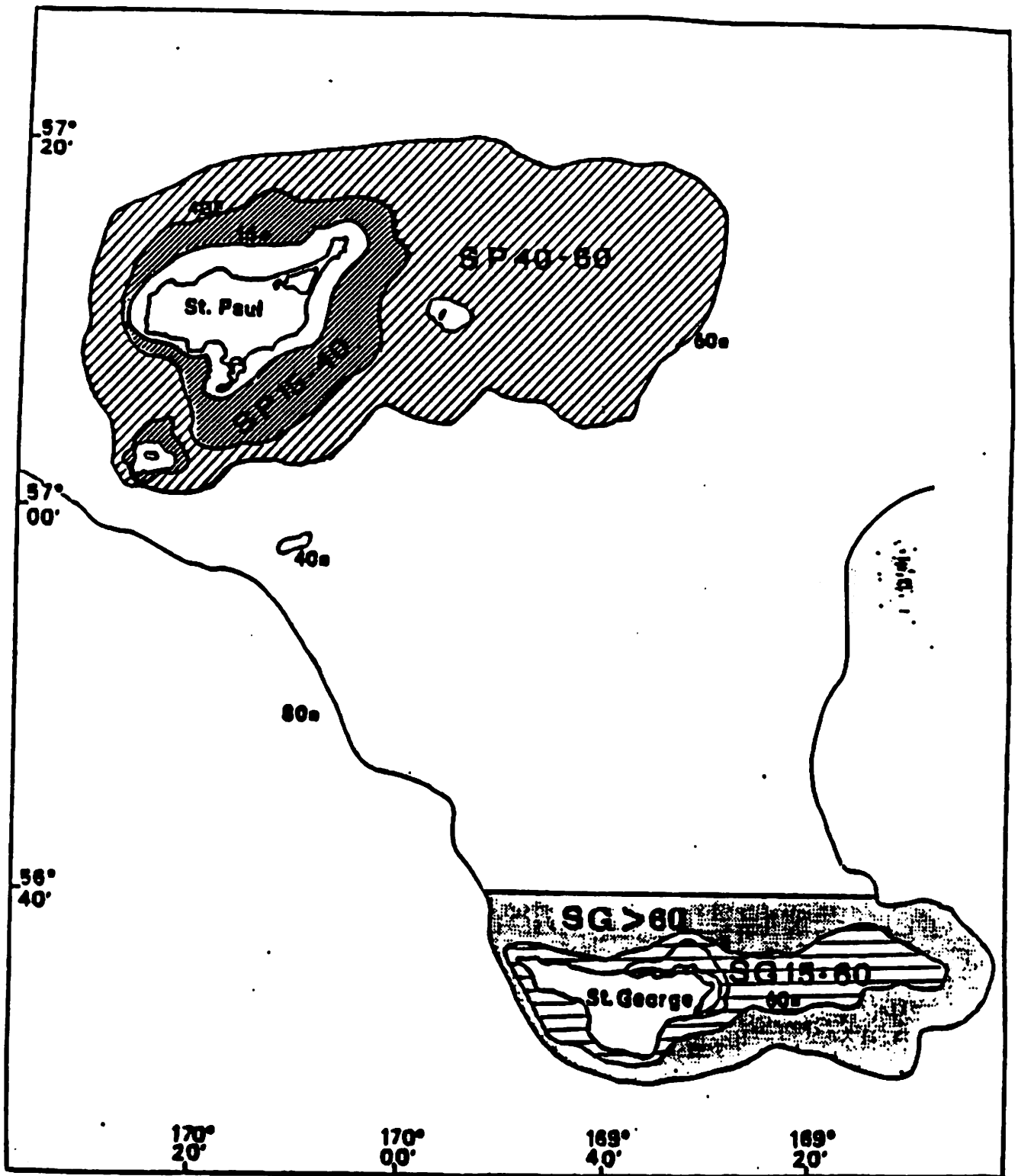
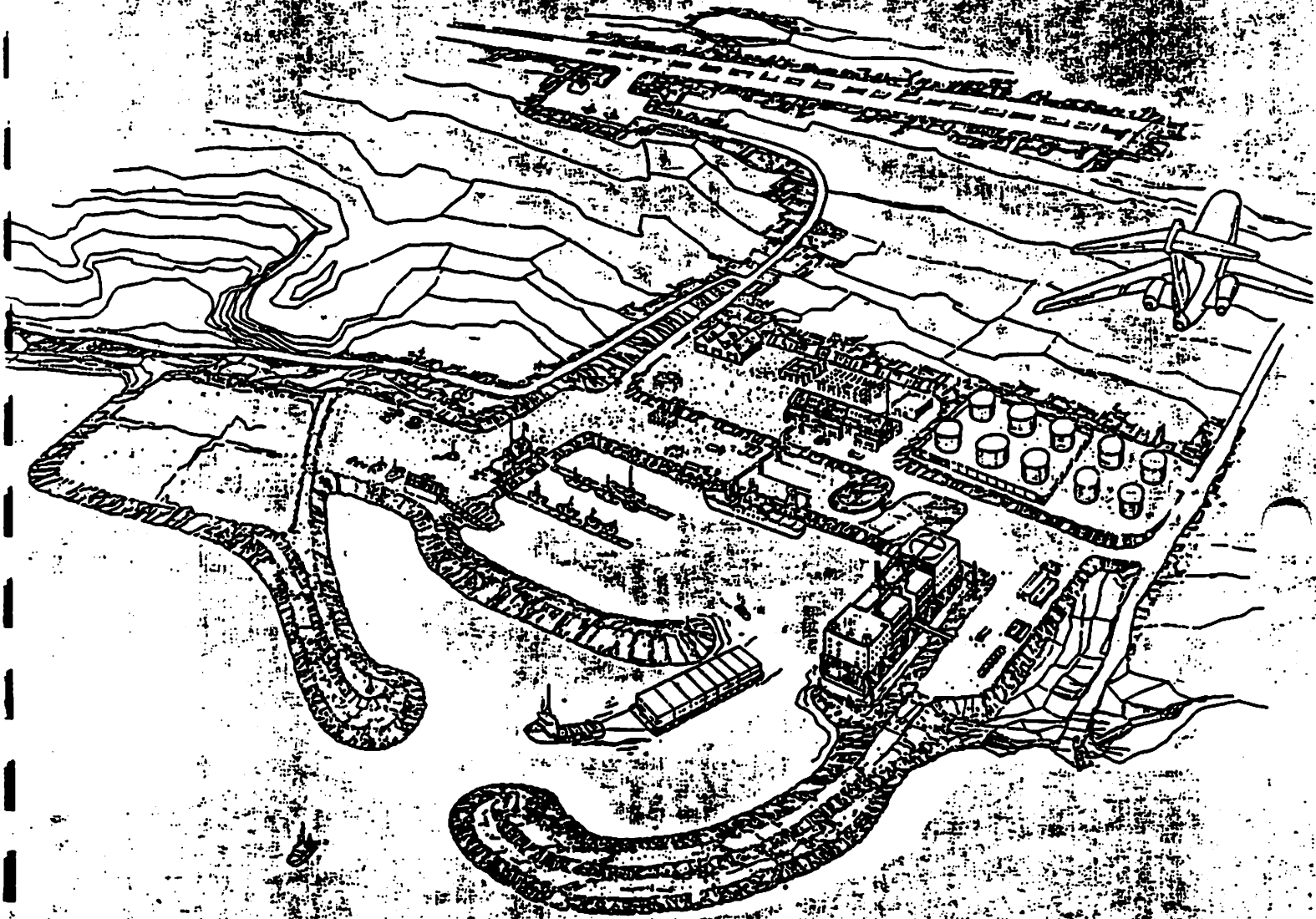


Figure 4.10 Depth strata around St. Paul (SP) and St. George (SG) Islands; intervals in meters (see Table 4.4 for areas).

# PORT OF SAINT GEORGE

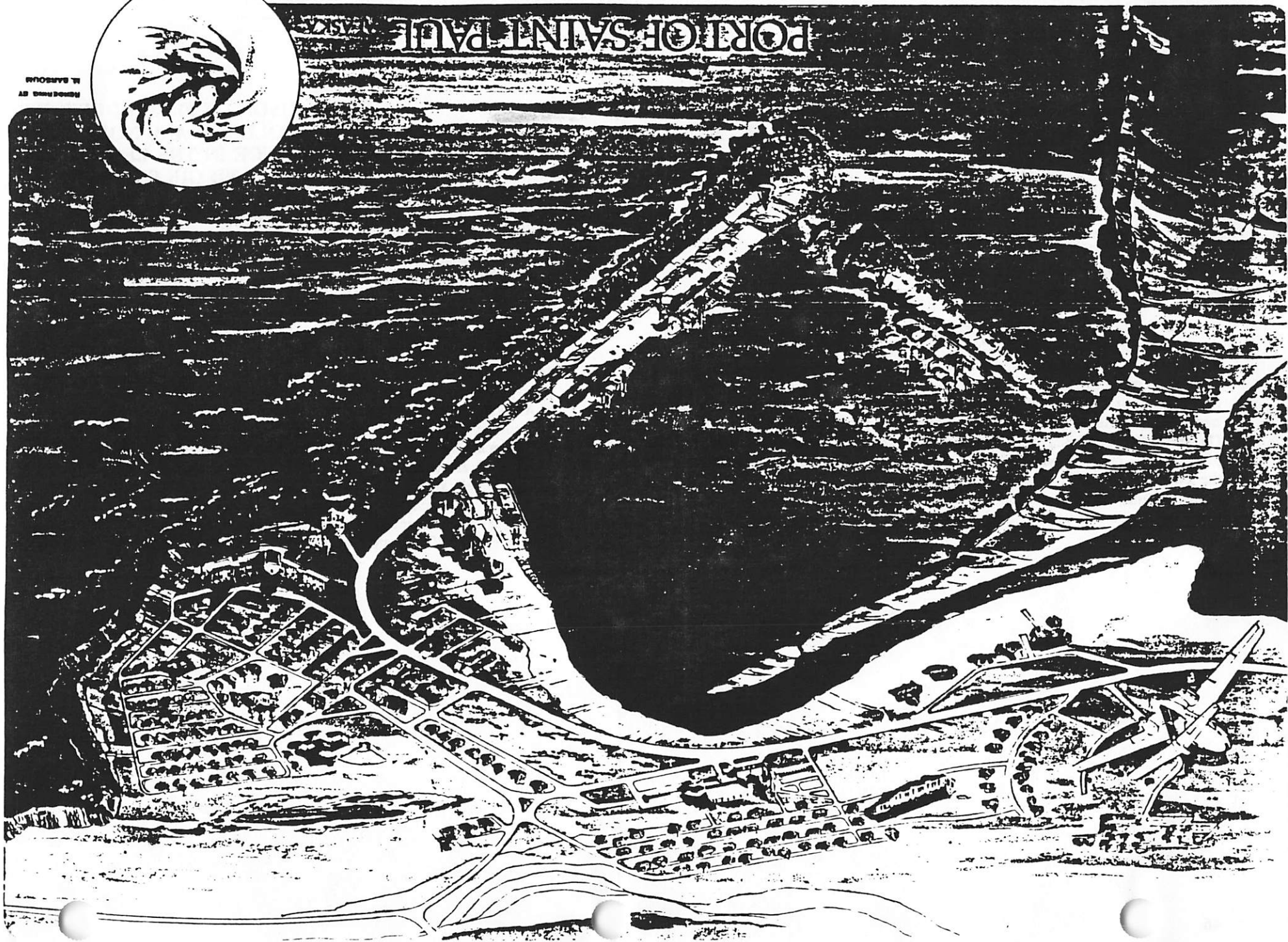


**REQUEST TO  
DEPARTMENT OF COMMERCE  
FOR  
COMPLETION OF PORT FACILITIES**

**OCTOBER 1987**

# PORT OF SAINT PAUL

REAR VIEW OF



## ABSTRACT

### **SEABIRD DEPENDENCE ON WALLEYE POLLOCK IN THE SOUTHEASTERN BERING SEA**

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Piscivorous seabirds nesting on the Pribilof Islands and on St. Matthew I. in the southeastern Bering Sea feed chiefly on walleye pollock in summer. During the 1980s, the reproductive success of kittiwakes has been poor in most years, apparently because of inadequate food availability. Population numbers of kittiwakes and murrelets have declined significantly on the Pribilofs since the mid-1970s, and these declines might be related to recent trends in relation to (1) other areas in Alaska, where seabirds are supported by different species of fishes, (2) recent climate changes in the region that might have affected the availability of pollock to birds during the breeding season, and (3) the possibility that mortality outside of the breeding season is an additional factor explaining the numerical decline of murrelets and kittiwakes on the Pribilofs.

## ABSTRACT

### **COMPARISON OF FISHING EFFORT FOR WALLEYE POLLOCK AND NORTHERN SEA LION ABUNDANCE IN THE BERING SEA AND GULF OF ALASKA**

Thomas R. Loughlin and Richard L. Merrick  
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Northern sea lions are declining in most of Alaska and the synergistic effects of commercial fisheries have been mentioned as one plausible reason for the decline. We examined walleye pollock commercial fishing catch and effort data for 1975-1985 to assess the possible role of the indirect effect of fish removal on northern sea lion abundance trends in the Bering Sea and Gulf of Alaska. The commercial fisheries take in areas near major sea lion rookeries was compared statistically with trends in sea lion abundance, and correlation coefficients were calculated. Results from the analysis showed that in some areas, such as the eastern Aleutian Islands and central Gulf of Alaska, there is high correlation between fishing effort and sea lion abundance trends while in other areas the correlation is equivocal. These comparisons should be considered during deliberations on the current proposals to increase the optimum yield for groundfish in the Bering Sea groundfish fishery management plan.

# ABSTRACT

## **IMPORTANCE OF WALLEYE POLLOCK IN THE DIETS OF MARINE MAMMALS IN THE GULF OF ALASKA AND BERING SEA, AND IMPLICATIONS FOR FISHERY MANAGEMENT**

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Approximately 31 species of marine mammals occur at least seasonally in portions of the Gulf of Alaska and Bering Sea, including 8 species of baleen whale, 11 species of toothed whales and dolphins, 10 species of pinnipeds, and 2 marine carnivores. In the Bering Sea, ice-associated species dominate the winter fauna. Temperate species make northward excursions into the Gulf of Alaska and Bering Sea during summer. Fishes, including walleye pollock, are important components of the diet of several species of baleen and toothed whales, and pinnipeds.

Walleye pollock are eaten to some degree by euryphagous baleen whales, including fin, minke, humpback, and sei whales. Pollock have been found in the stomachs of sperm whales and Dall's porpoise, but they are not a significant portion of the diet for those species. Pollock may be seasonally important foods for belukha whales, harbor porpoise and killer whales.

The importance of pollock as a food source for pinnipeds is more clearly documented. Pollock are the most important food (35% of total energy intake) of northern fur seals in the eastern Bering Sea in summer and are also eaten by fur seals in the Gulf of Alaska. Pollock compose 58% of the stomach contents of Steller sea lions and 21% of the stomach contents of harbor seals collected in the Gulf of Alaska, and are also important prey items in the Bering Sea. Pollock are important foods for spotted and ribbon seals when they are associated with the Bering Sea ice front during March-June, and may be eaten in large numbers by bearded seals.

Foraging activities of marine mammals may affect walleye pollock populations by (1) influencing abundance of certain size/age classes directly through

predation; (2) influencing the productivity of pollock populations by feeding on the same prey base (e.g., copepods, euphausiids, and forage fishes); and (3) preying on species which are competitors or predators of pollock. Conversely, pollock fisheries may affect marine mammals by altering the abundance and age-class structures of pollock stocks and incidentally killing marine mammals during fishing activities.

Available data on population sizes and feeding ecology are not adequate to accurately model or monitor interactions between marine mammals, pollock populations, and pollock fisheries. Clearly both fisheries and marine mammals remove large amounts of pollock from a complex and dynamic ecosystem. Changes in population status of marine mammals, whether or not they are directly caused by fishing activities, may have major consequences for fishery management. An intensive effort to understand and quantify interactions among marine mammal and walleye pollock populations is urgently needed.