

Executive Director's Report

New Staff Members

We have had two new staff members on board now for the past month. David Witherell has joined us as Gulf of Alaska groundfish plan coordinator, filling the position left open by Chris Oliver. Previously, Dave was an aquatic biologist with the Massachusetts Division of Marine Fisheries and has worked on stock assessments of winter flounder, ocean pout, shrimp, shad and Blueback herring. He has a Master of Science degree from the University of Massachusetts, Amherst.

Darrell Brannan has joined the staff as our management analyst. He holds a Masters in food and resource economics from the University of Florida where he studied the inshore gillnet fishery. His latest position was as a research associate studying alligator farming in Louisiana. He will work closely with our staff and in particular Marcus Hartley in developing the analysis for the comprehensive rationalization plan.

Committees

In September, we put out a call to review committee memberships. The list under B-1(a) has the latest roster for committees. Please note that Chairman Lauber has appointed an enforcement committee with Ron Hegge as chair. That committee met Monday, December 7, at 1 p.m. and will report under various agenda items that have enforcement content. Changes to other committees have been made as well in response to Council member requests. Any Council members that want on or off a particular committee should let Chairman Lauber know.

Habitat and Dredge and Fill

Section 404 of the Clean Water Act prescribes review procedures for permit applications for proposed discharges of dredged or fill material into waters and wetlands of the U.S. All permit requests are reviewed by the Corps of Engineers and applicants generally must undertake a three-step process to mitigate potential adverse impacts:

1. Avoid aquatic impacts as much as possible.
2. Minimize remaining impacts through redesign or changes in construction procedures.
3. Compensate for unavoidable impacts by creating or restoring wetlands, the goal being "no net loss."

President Bush issued a plan on August 9, 1991, to improve and streamline current regulations, one element providing that "States with less than a 1 percent historic rate of wetlands development will be able to satisfy permit requirements through minimization."

Only Alaska qualifies for this exemption, and under the proposed revision in attachment B-1(b) proposed discharges of dredged or fill material into wetlands would not have to meet requirements 1 or 3 above. Minimization, item 2, would be the requisite mitigation necessary to meet the requirements of the guidelines. EPA notes, however, that it would still be the case that no permit could be issued if it would result in significant degradation of the aquatic environment, and no discharge would be permitted if it violated State water quality standards or jeopardized threatened or endangered species. Nor would the rule affect the ability of the State of Alaska or a local

government to protect wetlands through the Clean Water Act, Coastal Zone Management Act, or other state, Federal, or local law.

The proposed rule notes that the State of Alaska is developing a categorization approach for wetlands, identifying high value areas such as spawning and nursery habitat for anadromous and commercially valuable marine species.

Comments must be to EPA by December 21, 1992. Either the Council could take this issue up in plenary session or delegate it to its Habitat Committee, chaired by Henry Mitchell, for a report back later in the week.

January Council Meeting

Just a reminder that we have moved the January Council meeting to the week of January 18 at the Hilton Hotel in Anchorage. The SSC and AP will need to begin on Sunday, and the Council will need to meet starting on Monday because we only have the meeting space through Thursday. Comprehensive rationalization plan will be a major topic, but we also have a long list of other topics carried forward from previous meetings. They are listed in attachment B-1(c). Undoubtedly, more items will be added at this meeting. I think we can get done in four days, but it definitely will be a full meeting.

Comprehensive Planning Committee

Attachment B-1(d) is a draft summary of the committee meeting of November 12-13. As noted above this topic will be a major issue on the January Council agenda and the committee has stated its intent to meet the day before the Council convenes. We have to be out of the meeting room by Thursday night and the meeting may require four days. Does the Planning Committee want to meet on Sunday/ We are looking into room availability at the hotel in case you do.

Secondly, in the summary you will find the draft problem statement developed at the meeting. Please check it over during the week; I intend to send it out to the public with the newsletter that will follow this meeting. And last, the Committee requested that certain types of catch history data be developed in as much detail as possible by the January meeting. We have queried the Center on data availability and received the letter under B-1(e) from Russ Nelson. Also, NOAA General Counsel was requested to report further on NOAA's policy that industry cannot contribute funding for analysis of regulations that might impact them.

Two additional pieces of correspondence concerning comprehensive rationalization also are included under B-1(e) for your information.

IFQ Update

National Marine Fisheries Service published the proposed rule for the halibut and sablefish IFQ programs on November 27, 1992. The Federal Register publication initiates the 45-day public comment period, which will end on January 11, 1993. NMFS will then review, summarize and respond to these comments and make any necessary changes in the rule. The Secretary of Commerce decision must come no later than January 29, 1993 (day 95). The Council staff has copies of the proposed rule available for Council members and the public and your comments are encouraged. The staff is also reviewing the rule for consistency with the Council's action which was taken in December 1991 and plans to work with NMFS to resolve any differences.

An initial review has found some small but correctable errors and inconsistencies, however there are some changes to the Western Alaska Community Development Quota (CDQ) program that should be noted. NMFS has made every effort to make the regulations regarding CDQ program for halibut and sablefish consistent with those for the pollock CDQ program developed in the Amendment 18. Three changes have been made to bring the two CDQ programs into conformance:

1. The Council motion states "within 45 days of receipt of an application from a community, the Governor shall review the community's eligibility for the program and the community development plan, and at least 14 days prior to the next NPFMC meeting, forward the application to the North Pacific Fishery Management Council for its review and recommendations." The motion also states that "if portions of the total quota are not designated by the end of the second quarter, communities may apply for any portion of the remaining quota for the remainder of that year only." These two statements imply that the CDPs will be received throughout the year, and that a system needs to be in place to ensure Council review. These regulations propose a system similar to the pollock CDQ program where the Governor would announce an open application period in the third or fourth quarter when all proposed CDPs for the succeeding year would be received. The Governor would develop recommendations for the approval of CDPs, and consult with the Council on the recommendations before sending them to the Secretary for approval.

2. "Within 30 days of receipt of the criteria from the Governor, the Secretary will approve, disapprove, or return the criteria to the Governor with recommendations for changes necessary to comply with the provisions of this act, or other applicable law." This statement refers to the criteria, or the standards for proposed CDPs. As part of the pollock CDQ program the State developed these criteria in consultation with NMFS. These criteria were used by NMFS in the regulations for the pollock CDQ program and also in these regulations. Therefore, the Secretary will approve these criteria if the pollock CDQ program final rule, or if these regulations, are approved.

3. The Council motion states that "within 30 days of the receipt of an application approved by the Governor, the Secretary will designate a portion of the quota to the community...." To make the two CDQ programs consistent, the "30 days" requirement should be changed to 45 days.

Harold Lokken Receives Award

Our past Chairman and Vice-Chairman, Harold Lokken, has been presented with a very prestigious award by the Emperor of Japan for his contributions to North Pacific fisheries. The award is called the Kun-3-Tou Zuiho-sho or Third Grade Honour of the Order of the Sacred Treasure. Only nineteen foreigners living out of Japan have received this award in the last eight years. A letter from Harold and a description of the award are in attachment B-1(f).

COUNCIL COMMITTEES/WORKGROUPS

| Committee | Council | SSC | AP | Others** |
|----------------------------------|--|-----|----|---|
| Advisory Panel Nominating | *Mace Alverson Dyson Hegge Lauber | | | |
| Comprehensive Planning Committee | *Alverson Council Committee-of-the Whole | | | |
| Enforcement Committee | *Hegge Anderson | | | L. Lindeman, GCAK D. Flannagan, NMFS-Enf. P. Gilson, AF&WP D. Purinton, USF&W R. Nelson, AFSC-Obs. Program |
| Finance Committee | *Lauber Hanson Pennoyer | | | |
| Habitat Committee | *Mitchell <i>HANSON</i> Pereyra NOAA Fisheries Rep USCG Rep USFW Rep | | | |

*Chairman

**Agency staff will attend as necessary.

NOTE: Meeting notices will be sent to all Council members.

| | | | | |
|--|--|----------------------------|------------------------------|---|
| Interim Action Committee | Poll all Council Members | | | |
| Plan Amendment Advisory Group: Groundfish | Mace Pereyra | Eggers Marasco | Burch J. Woodruff | Loh-lee Low GOA Plan Team Chairman |
| Halibut Regulatory Amendment Advisory Group | *Alverson Mitchell Pennoyer | Quinn Rosenberg | | Grant Thompson |

AD HOC COMMITTEES/WORKGROUPS

| Committee/Workgroup | Council | SSC | AP | Others** |
|-------------------------------------|--------------------------------------|------------|------------------------|---|
| Bycatch Cap Committee | | | *J. Roos, Chair | J. Beaton C. Blackburn J. Blum K. Graham L. Kozak D. Lloyd M. Lundsten J. Nelson J. Smoker A. Thomson |
| Discards Committee | *Lauber Hegge Pereyra | | | |
| Observer Oversight Committee | | | | *C. Blackburn P. Chitwood B. Collier J. Hill M. Merklein N. Munro J. Nelson B. Samuelson A. Thomson T. Vogeler G. Westman J. Winther |

| Committee/Workgroup | Council | SSC | AP | Others** |
|---|--------------------|-----|----|--|
| Pacific Northwest Industry Advisory Committee | | | | Arne Aadland Phil Chitwood Don Giles Spike Jones Kevin Kaldestad Robert Miller Kaare Ness Konrad Uri Rich White |
| Rockfish Industry Workgroup | *Hanson Behnken | | | G. Anderson D. Benson V. Curry D. Falvey R. Goni T. Gardner |
| Rockfish Technical Committee | | | | R. Berg, NMFS-AKR J. Gharrett, NMFS-AKR J. Fujioka, NMFS-Auke Bay R. Marasco, AFSC D. Ito, AFSC J. Berger, AFSC S. Lowe, AFSC B. Bracken, ADFG C. Oliver, NPFMC |



Note to Correspondents

FRIDAY, OCTOBER 30, 1992

Pursuant to President Bush's Aug. 9, 1991, wetlands plan, EPA today proposed a rule that would exempt discharges of dredged or fill material into Alaskan wetlands from the now required sequence of avoidance, minimization and mitigation.

The proposal provides that states with less than a one percent historic rate of wetlands loss be exempt from the sequencing requirement. Alaska is the only such state. Activities in Alaska that involve discharges of dredged or fill material into wetlands would still be subject to minimization requirements spelled out in the proposal. In 1988, the National Wetlands Policy Forum recognized that a national goal of no net loss of wetlands may have to be implemented at a different rate in Alaska, where there are unique wetlands circumstances.

Current wetlands regulations under the Clean Water Act Section 404 program require that mitigation of impacts to wetlands be implemented in a prescribed sequence. Impacts first are avoided through attempts to find alternative, non-aquatic sites for the discharge of material. Second, remaining unavoidable impacts are minimized by project modifications. Lastly, mitigation -- wetlands restoration or creation -- is required to offset impacts remaining after avoidance and minimization have been applied.

EPA requests public comment on today's proposal, which should be published in the Federal Register soon. Written comments will be accepted for 45 days after publication and should be submitted to: Gregory E. Peck, Chief, Wetlands and Aquatic Resources Regulatory Branch, Wetlands Alaska Docket (A-104F), U.S. EPA, 401 M St. S.W., Washington, D.C. 20460.

For more information, contact Sean McElheny in the Press Office at 202-260-1387. Copies of the proposed rule are available through EPA's Wetlands Hotline at 1-800-832-7828.

John Kasper, Director
Press Services Division
202-260-4355

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 230****[FRL-4530-6]****Exception From Wetlands Mitigation Sequence for Alaska****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the Clean Water Act Section 404(b)(1) Guidelines (Guidelines) to provide an exception from the wetlands mitigation sequence (i.e., avoidance, minimization, and compensation) for proposed discharges of dredged or fill material into wetlands in States with less than one percent loss of historic wetlands acreage. Under this proposed revision, proposed discharges of dredged or fill material into wetlands in the State of Alaska, which is the only State with less than one percent loss of his historic wetlands acreage, would be excepted from current provisions of the Guidelines that require that all proposed discharges of dredged or fill material represent the least environmentally damaging practicable alternative (i.e., avoid adverse impacts to the aquatic ecosystem). In addition, this proposed revision would no longer require, for discharges of dredged or fill material into wetlands in the State of Alaska, that all appropriate and practicable measures to compensate for potential unavoidable adverse impacts on the aquatic ecosystem be undertaken. For the State of Alaska, minimization of impacts would constitute the requisite mitigation necessary to meet the mitigation requirements of the Guidelines. The Administrator of EPA, in consultation with the Secretary of the Interior and the State of Alaska, will monitor wetlands losses in the State to determine if the assumptions underlying this rule remain valid and whether the exception would continue to apply. This rule is being proposed in accordance with the President's August 9, 1991, Wetlands Plans.

DATES: Written comments must be submitted on or before December 21, 1992.

ADDRESSES: Written comments should be submitted to: Mr. Gregory E. Peck, Chief, Wetlands and Aquatic Resources Regulatory Branch, Wetlands Alaska Docket (A-104F), U.S. EPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Details are available from Mr. John

Goodin at (202) 260-9910 or Mr. Clifford Rader at (202) 260-6587.

SUPPLEMENTARY INFORMATION:**Background**

The Federal Water Pollution Control Act of 1972 (renamed in 1977 as the Clean Water Act) established, at section 404, a regulatory program for the evaluation of permit applications for proposed discharges of dredged or fill material into waters of the United States, including wetlands. Section 404(a) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits specifying disposal sites in waters of the U.S. in accordance with regulatory requirements of the Section 404(b)(1) Guidelines (Guidelines). The Guidelines, which were published as final regulations on December 24, 1980 (45 FR 85338), are the substantive environmental criteria used in evaluating discharges of dredged or fill material under section 404 of the Clean Water Act.

The Guidelines provide four general restrictions in § 230.10 that must be met before a permit can be issued authorizing the discharge of dredged or fill material into waters of the U.S. Today's rulemaking involves two of these restrictions: The prohibition in § 230.10(a) against any discharge where there is a less damaging practicable alternative and the requirement in § 230.10(d) that appropriate and practicable steps be taken to minimize potential harm to the aquatic ecosystem. As required by the Guidelines and clarified in an EPA/Department of the Army Memorandum of Agreement (MOA) concerning the determination of mitigation (55 FR 9210, March 12, 1990), these two regulatory provisions are the basis for the Guidelines' three step sequence for mitigating potential adverse impacts to the aquatic environment associated with a proposed discharge (i.e., first avoidance, then minimization, and lastly compensation for unavoidable impacts to aquatic resources).

The mitigation process is designed to establish a consistent approach to be used in ensuring that all practicable measures have been taken to reduce potential adverse impacts associated with proposed projects in wetlands and other aquatic systems. The first step in the sequence requires the evaluation of potential alternative sites to locate the proposed project so that aquatic impacts are avoided to the maximum extent practicable. As the next step in the sequence, remaining impacts are minimized, by making changes in project design or construction methods that

reduce overall project impacts. Lastly, after all practicable steps have been taken to avoid and minimize potential adverse effects, compensation for remaining unavoidable impacts is sought by such measures as wetlands creation or restoration in order to replace lost aquatic functions and values. The result is prevention of wetlands impacts when reasonable and practicable; but where the actions necessary to prevent such impacts are not available and capable of being done, associated losses of wetland and aquatic functions and values are offset to the extent appropriate and practicable with compensatory mitigation. As recognized in the MOA, no net loss of wetlands is a goal of the section 404 regulatory program.

On August 9, 1991, the President issued a plan for protecting wetlands (President's plan or plan) that contains proposed provisions to "improve and streamline the current regulatory system." One element of the plan provides that "States with less than a 1 percent historic rate of wetlands development will be able to satisfy permit requirements through minimization." Based on historic loss data (Dahl, T.E., 1990, "Wetlands Losses in the United States 1780's to 1980's" U.S. Department of the Interior, Fish and Wildlife Service, Washington, DC, 21 pp.), this provision is applicable only in the State of Alaska. According to this data, using the estimated 170,200,000 acres of wetlands present in Alaska in the late 1700's, only 200,000 acres have been converted, or 0.1 percent of the State's original wetland acreage. Such a low loss rate in Alaska indicates a minimal impact to the State's wetlands. An estimated 45 percent of Alaska's surface area remains wetlands.

No other State in the U.S. has experienced so low a percentage loss of original wetlands acreage as has Alaska. The average wetlands loss for States outside of Alaska is approximately 53 percent of their original wetlands acreage.

In addition, the U.S. Fish and Wildlife Service has determined that 40 percent of Alaska's wetlands—68 million acres, more than the total remaining wetlands in Florida, Louisiana, Minnesota, Texas, North Carolina, Michigan, Wisconsin, Georgia, Maine, and South Carolina combined—are already in federal or state conservation units. In many cases in Alaska, there are no practicable alternatives for development except in wetlands due to factors such as topography and climate. For example, in Alaska, because of the high proportion of land that is wetland, it is difficult to

avoid impacts to wetlands when development and growth occur. Similarly, due to the high proportion of wetlands in Alaska, it is difficult to compensate for wetland loss. In most other states, compensation takes the form of restoration of historic wetlands. In the case of Alaska, because of its extremely low loss rate, it is exceptionally difficult to restore historic wetlands. In addition, opportunities for compensatory mitigation are reduced when loss rates are low and there are many unimpacted wetlands.

EPA and the Department of the Army issued a joint memorandum to their field staff on January 24, 1992, that emphasized existing mitigation provisions in the Guidelines and the EPA/Department of Army MOA that currently apply to most permit decisions in Alaska. Consistent with the Guidelines and MOA, the guidance noted that the agencies should strive for avoidance of impacts to existing aquatic resources, and that there is a general goal of a minimum of one for one functional replacement of wetlands. However, the guidance emphasized that the MOA also states that "this minimum requirement may not be appropriate and practicable, and thus may not be relevant in all cases." This statement is further explained in footnote seven of the MOA, which states in part:

For example, there are certain areas where, due to hydrological conditions, the technology for restoration or creation of wetlands may not be available at present, or may otherwise be impracticable. In addition, avoidance, minimization, and compensatory mitigation may not be practicable where there is a high proportion of land which is wetlands.

The guidance memorandum notes that this footnote makes it clear that there are areas where it may not be practicable to restore or create wetlands; in such cases compensatory mitigation is not required under the Guidelines.

Section 404(b)(1) grants authority to the Administrator to develop guidelines for use by the Secretary of the Army (i.e., the Corps of Engineers) in designating disposal sites for dredged or fill material into waters of the United States. Section 404(b)(1) commits to the Administrator's discretion the exact terms of those guidelines, which "shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under [Clean Water Act] section 403(c)." EPA believes that, if there is a reasonable basis for treating Alaska wetlands differently from wetlands in the rest of the United States (based on the geographic, climatic, historical, and

other factors summarized above), section 404(b)(1) provides sufficient discretion to the Administrator to modify the section 404(b)(1) Guidelines to treat Alaska differently for wetlands sequencing purposes.

Summary of Proposed Rule

Today's proposed rule would revise the Guidelines to provide an exception from the wetlands mitigation sequence for proposed discharges of dredged or fill material into wetlands in the State of Alaska. This rule is being proposed in accordance with the President's August 9, 1991, Plan and in recognition of: (1) The relatively low historic loss of wetlands in the State of Alaska; the State retains over 99 percent of its original wetlands acreage, which totals approximately 170,000,000 acres, or 45 percent of the State's total surface area; (2) the significant percentage of Alaska's wetlands being managed as Federal and State conservation units; (3) the limited availability of upland alternatives for development projects given the high percentage of wetlands in Alaska, as well as large expanses of permafrost, mountainous terrain, glaciers and lakes; and (4) the technical and logistical difficulties in restoring or creating wetlands in large portions of Alaska; some of these difficulties include permafrost hydrology, unavailability of restoration sites, and limited creation opportunities due to the high proportion of wetlands.

Under this proposed revision, proposed discharges of dredged or fill material into wetlands in the State of Alaska would not be subject to current provisions of the Guidelines that require that all proposed discharges of dredged or fill material represent the least environmentally damaging practicable alternative. In addition, this proposed revision would no longer require, for discharges of dredged or fill material into wetlands in the State of Alaska, that all appropriate and practicable measures to compensate for potential unavoidable adverse impacts on the aquatic ecosystem be undertaken. For discharges of dredged or fill material into wetlands in the State of Alaska, minimization of impacts would constitute the requisite mitigation necessary to meet the requirements of the Guidelines. The proposed rule would revise § 230.10 (a) and (d), and add a new subsection at 230.10(a)(6) to codify these changes. Conforming changes are also proposed at §§ 230.5(c), 230.5(j), and 230.12(a)(3).

EPA notes that subpart H of part 230, which remains unchanged, details possible actions to minimize adverse impacts of a proposed discharge. These

actions may be undertaken to minimize adverse impacts of proposed discharges in the State of Alaska, although the wetlands development and restoration techniques discussed in § 230.75(d) are no longer applicable to Alaska as part of the wetland mitigation sequence which applies in other States. Appropriate and practicable steps to minimize potential adverse impacts of proposed discharges in Alaska, as elsewhere, would continue to include the use of such techniques as altering project size or configuration.

EPA also notes that nothing in this rule affects the current provision of § 230.10(c) of the Guidelines, which requires that no permit can be issued where the proposed discharge would result in significant degradation of the aquatic environment. In addition, § 230.10(b) remains unchanged, which requires, among other things, that no discharge be permitted if it violates State water quality standards or jeopardizes threatened or endangered species.

It is important to note that the exception in Alaska from the requirements found at § 230.10(a) applies only to requirements under section 404 of the Clean Water Act. Today's proposed rule does not eliminate the need to conduct other applicable alternative analyses potentially required by such statutes as the National Environmental Policy Act, Endangered Species Act, or other regulations or Federal planning processes.

It is also important to note that this rule does not affect the ability of the State of Alaska to protect what it considers to be high value wetlands using its authority under section 401 of the Clean Water Act, applicable authorities under the Coastal Zone Management Act, or other authority under State or Federal law. Neither does this rule affect the ability of local governments to protect wetlands through their power to regulate land use, to the extent allowable under Alaska law. With regard to the most relevant Federal statutes, section 401(a)(1) of the Clean Water Act provides that "No license or permit shall be granted if certification has been denied by the State * * *". Similarly, the Coastal Zone Management Act (16 U.S.C. 1456(c)(3)(A)) provides that "No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification * * *", although under certain circumstances the Secretary of Commerce retains the right to over-rule the State.

In addition, the Administrator of EPA, in consultation with the Secretary of the Interior and the State of Alaska, will monitor wetlands losses in the State to determine if the assumptions underlying this rule remain valid and whether the exception would continue to apply.

Efforts underway by the State of Alaska to develop a wetlands categorization approach as part of a State regulatory package for freshwater wetlands may prove useful for the identification and protection of high value wetlands. Examples of the types of wetlands which may be identified as being of high value include, but are not necessarily limited to, important anadromous fish spawning habitat and significant spawning and nursery habitat for commercially valuable marine fisheries. This rule is not intended to, and should not conflict with the State's efforts. Indeed, EPA specifically invites comment on how Alaska's wetlands regulatory initiative might be integrated into EPA's final rule, and how Federal agencies might most appropriately apply Alaska's system for identifying high value wetlands. More generally, EPA invites public comment on whether or not it would be appropriate for this rule to more directly address the protection of high value wetlands as identified through Alaska's wetlands categorization process, including the option of maintaining the full sequencing of avoidance, minimization, and compensation for high value wetlands, and if appropriate, how this might be accomplished.

This proposal will become effective 30 days after publication of a final rule in the Federal Register.

Paperwork Reduction Act

Today's rule places no additional information collection or record-keeping burden on respondents. Therefore, an information collection request has not been prepared and submitted to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Executive Order 12291 and the Regulatory Flexibility Act

The Environmental Protection Agency has determined that the revisions to this regulation do not constitute a major proposal requiring the preparation of a regulatory analysis under E.O. 12291. This rule was submitted to the Office of

Management and Budget for Review under E.O. 12291. Pursuant to section 605(b) of the Regulatory Flexibility Act, the Environmental Protection Agency certifies that this regulation will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 230

Alaska, Water pollution control, Wetlands.
William K. Reilly,
Administrator, Environmental Protection Agency.

Accordingly, 40 CFR part 230 is proposed to be amended as follows:

40 CFR CHAPTER I—[AMENDED]

PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL

1. The authority citation for part 230 continues to read as follows:

Authority: 33 U.S.C. 1344(b) and 1361(a).

2. Section 230.5 is amended by revising paragraphs (c) and (j) to read as follows:

§ 230.5 General procedures to be followed.

(c) Examine practicable alternatives to the proposed discharge, that is, not discharging into the waters of the U.S. or discharging into an alternative aquatic site with potentially less damaging consequences (§ 230.10(a)), except as provided in § 230.10(a)(6).

(j) Identify appropriate and practicable changes to the project plan to minimize the environmental impact of the discharge, as provided for in § 230.10(d) and based upon the specialized methods of minimization of impacts in subpart H.

3. Section 230.10 is amended by revising the introductory text of paragraph (a), by adding paragraph (a)(6), and by revising paragraph (d) to read as follows:

§ 230.10 Restrictions on Discharge.

(a) Except as provided under § 404(b)(2) and in paragraph (a)(6) of this section, no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed

discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

(6) The requirements in paragraph (a) of this section are not applicable to discharges occurring in wetlands in States with less than one percent loss of historic wetlands acreage.¹

(d)(1) Except as provided under § 404(b)(2) and in paragraph (d)(2) of this section, no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem. Subpart H identifies such possible steps.

(2) For discharges into wetlands in States with less than one percent loss of historic wetlands acreage, however, actions to compensate for adverse impacts of discharges through wetlands development and restoration techniques, as specified in § 230.75(d), are not required.

4. Section 230.12 is amended by revising paragraphs (a)(3)(i) and (a)(3)(iii) to read as follows:

§ 230.12 Findings of compliance or noncompliance with the restrictions on discharge.

(a)
(3)

(i) Except as provided under § 230.10(a)(6), there is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, so long as such alternative does not have other significant adverse environmental consequences; or

(iii) Except as provided under § 230.10(d)(2), the proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem; or

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BILLING CODE 6560-50-M

¹ The State of Alaska is the only State with less than one percent loss of historic wetlands acreage.

Topics for January 1993 Council Meeting

1. Comprehensive Rationalization Plan.
2. Report on scallop management.
3. Necessity for outdated salmon and groundfish regulations.
4. Discussion of Magnuson Act amendment proposals.
5. Opilio OY - initial review of possible plan amendment.
6. Discussion of cod allocations by gear and season to determine if RIR/EA should be developed.
7. Final review of salmon bycatch plan amendment.
8. Discussion of IFQ block and 1,000-pound floor proposals.
9. Separate Atka mackerel from Other Species category in GOA plan. Final review of amendment.
10. Split Aleutians at 178°W - initial review of plan amendment.
11. Discussion of research priorities.
12. Discuss whether to move ahead with regulatory amendment to open all gear seasons simultaneously on January 1 or January 20.
13. Team report on feasibility of expanding resource surveys in Aleutians for Greenland Turbot assessment.
14. May need discussion of North Pacific Fisheries Research Plan, depending on status of Secretarial review.
15. Terra Marine experimental permit request.
16. Total weight measurement.
17. Regulatory amendment on defining legal gear in FMPs - final review.
18. Review proposed rule on hook and line "fair start" provisions.

DRAFT
Summary of the
Comprehensive Planning Committee Meeting
November 12-13, 1992
Seattle, WA

The Comprehensive Planning Committee for the North Pacific Fishery Management Council met on November 12-13, 1992, at the Red Lion Hotel in Seattle, Washington. Members in attendance were:

| | | |
|-------------------------|----------------|---------------------|
| Robert Alverson (Chair) | Ronald Hegge | Steve Pennoyer |
| Linda Behnken | Richard Lauber | Wally Pereyra |
| Oscar Dyson | Al Millikan | Clem Tillion |
| Robert Mace | Henry Mitchell | Capt. Bill Anderson |

The meeting was called to order by Robert Alverson, Committee Chair. Changes to the agenda included adding a discussion on the Community Development Quota program and scheduling a teleconference on or around November 23rd. Steve Pennoyer noted in reference to adding the discussion on CDQs, that the publication date for the CDQ proposed rule is uncertain so there may be some difficulty with discussing when and how to consult with the Governor. Once the rule is published in the *Federal Register* it will take about a week before the State can teleconference with the Council, and the staff can then arrange the teleconference.

1. Overview of Comprehensive Planning Process

The Committee was informed of the status of Russell Harding's discussion paper. It was approved in September for public release and has been circulated to the public and major fishing organizations to solicit their thoughts on what should be considered in developing a long-range plan for groundfish and crab fisheries under the Council's jurisdiction.

The Committee's task is to narrow the alternatives down to as few as possible for a better analysis of each. There were no comments from members on this agenda item.

2. Brief Recap of Discussion Paper: "North Pacific Groundfish and Crab - A Review of Management Options for Rationalization"

An overview of the discussion paper was presented by Clarence Pautzke. There were no comments from members.

3. IFQ Presentation by Lee Anderson and Dan Huppert

Dr. Lee Anderson, Professor of Economics at the College of Marine Studies, University of Delaware, gave an overview of the report and Dr. Dan Huppert of the University of Washington, School of Marine Affairs discussed ITQs as they may apply to our trawl fisheries. Several questions and comments were posed by members. No action was taken.

4. Development Problem Statement, Goals and Objectives

In commenting on the comprehensive rationalization program in September, the SSC and AP generally agreed that "the problem" is that there are too many fishermen chasing too few fish. Between 1982 and 1988, the Council's Future Of Groundfish committee made several recommendations on characteristics the plan should have, focused the problem statement on five major areas, and declared that open access management would exacerbate two major problems in fisheries: excess capacity and allocational conflicts. With these issues in mind, the Council prepared the following draft problem statement for public review during December and comment at the January meeting:

Draft Problem Statement

Expansion of the domestic fleet harvesting fish within the EEZ off Alaska, in excess of that needed to harvest the optimum yield efficiently, has made compliance with the Magnuson Act's National Standards and achievement of the Council's comprehensive goals, adopted December 7, 1984, more difficult under current management regimes. In striving to achieve its comprehensive goals, the Council is committed to: (1) assure the long-term health and productivity of fish stocks and other living marine resources of the North Pacific and Bering Sea ecosystem, (2) support the stability, economic well-being, and diversity of the seafood industry, and provide for the economic and social needs of the communities dependent upon that industry, (3) efficiently manage the resources within its jurisdiction to reduce bycatch, minimize waste, and improve utilization of fish resources in order to provide the maximum benefit to present and future generations of fishermen, associated fishing industry sectors, communities, consumers, and the nation as a whole.

The Council's overriding concern is to maintain the health of the marine ecosystem to ensure the long-term conservation and abundance of the groundfish and crab resources. In addition, the Council must address the competing and oftentimes conflicting needs of the domestic fisheries that have developed rapidly under open access, fisheries which have become overcapitalized and mismatched to the finite fisheries resources available. Symptomatic of the intense pressures within the overcapitalized groundfish and crab fisheries under Council jurisdiction off Alaska are the following problems:

- Harvesting capacity in excess of that required to harvest the available resource;
- Allocation and preemption conflicts between and within industry sectors, such as with inshore and offshore components;
- Preemption conflicts between gear types;
- Gear conflicts within fisheries where there is overcrowding of fishing gear due to excessive participation and surplus fishing effort on limited grounds;
- Dead-loss such as with ghost fishing by lost or discarded gear;
- Bycatch loss of groundfish, crab, herring, salmon, and other non-target species, including bycatch which is not landed for regulatory reasons;
- Economic loss and waste associated with discard mortality of target species harvested but not retained for economic reasons;
- Concerns regarding vessel and crew safety which are often compromised in the race for fish;
- Economic instability within various sectors of the fishing industry, and in fishing communities caused by short and unpredictable fishing seasons, or preemption which denies access to fisheries resources;

DRAFT

DRAFT

- Inability to provide for a long-term, stable fisheries-based economy in small economically disadvantaged adjacent coastal communities;
- Reduction in ability to provide a quality product to consumers at a competitive price, and thus maintain the competitiveness of seafood products from the EEZ off Alaska on the world market.
- Possible impacts on marine mammals and seabirds, and marine habitat.
- Inability to achieve long-term sustainable economic benefits to the nation.
- A complex enforcement regimen for fishermen and management alike which inhibits the achievement of the Council's comprehensive goals.

5. Alternative Management Solutions

A major task of the committee is to identify alternatives for further study as part of the comprehensive plan. A starting point for discussion was the seven main alternatives presented in the inshore-offshore amendment:

1. ITQs
2. License limitation
3. Auctions
4. Traditional management tools
5. Continuation of inshore-offshore allocations
6. Community development quotas
7. No action

Several points were raised in the committee's discussion of these alternatives. License limitation was examined closely in the sablefish and halibut analysis and found to not resolve many of the problems in the fisheries. Auctions are not allowed under the current Magnuson Act. In industry comment at the meeting, it was noted that catch histories and other data needed to be examined before determining which options to study further. Additionally, it was noted that some alternatives may apply to the Bering Sea fisheries, while others, or combinations of alternatives might be more appropriate for the Gulf of Alaska. None should be dropped yet until there have been more review and comment by industry.

The Committee decided to send the alternatives out for further review along with the problem statement, after the discussion paper has been expanded somewhat to show how well each alternative would address each of the problems identified. Alternative 5 was changed to read "continuation of inshore-offshore options."

6. Staff Tasking and Data Needs

To begin development of a data base so that industry and the Council could better determine which alternatives to analyze quantitatively, Clem Tillion offered the following motion, which was then adopted by the Committee:

"Staff is directed to commence, to the extent possible, collection and assimilation of the comprehensive data set which will be necessary to develop any comprehensive rationalization program. Such a data set should include all catch histories and processing data for the years 1976 to June 1992. These data should be presented by gear type, fishery, species, industry sector (DAP, JVP, etc), individual vessel catch histories, ownership by state of residence and community, divided by the GOA and BSAI by subarea."

The staff will attempt to provide as much of this information as possible by the January meeting. The Committee agreed to meet on Monday before the January Council meeting, and to narrow the alternatives then.

7. Review Proposals for Funding of IFQ Analyses

It was explained that an interagency team would be established to perform the quantitative analyses of the alternatives during 1993. A social impact assessment will be needed also. These analyses will require considerable funding and the subject of industry contributions to the studies was raised. NOAA General Counsel stated that it was the policy of NOAA that industry or any other regulated entity could not fund studies of proposed regulations that might affect that entity. She will report further on that opinion at the December Council meeting.

The Committee heard a presentation by Scott Matelich who is proposing to analyze crab IFQs. The Committee indicated that the proposal and its analytical approaches would need to be reviewed by the SSC and staff economists. No further action was taken.

8. Future Committee Activities

Committee meetings will be scheduled as necessary and at the call of the Council and Committee chairmen. The Committee will meet next just ahead of the January 1993 Council meeting. In addition, issues surrounding compliance with proposed regulations will be considered by the Council's recently established Enforcement Committee, chaired by Ron Hegge.

Council Chairman Lauber stated that meetings of the Committee should be scheduled in different locations in Washington, Oregon, and Alaska, to make the Committee more accessible to those individuals who might not be able to attend these meetings otherwise. We need to send out information and explain what we are doing as the Council progresses over the next year in developing its preferred alternative for future management of the fisheries. Staff was instructed to cost out such potential meetings and report back to the Committee.

9. Community Development Quotas

Discussion of this issue was postponed until the filing date of the proposed rule was known, and then the Council will meet in teleconference to review the Governor's recommendations.

AGENDA B-1(e)
DECEMBER 1992**UNITED STATES DEPARTMENT OF COMMERCE**
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE**Alaska Fisheries Science Center**
Resource Ecology and Fisheries
Management Division
7600 Sand Point Way NE.
BIN C15700, Building 4
Seattle, WA 98115

November 17, 1992

Mr. Marcus Hartley
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Marcus:

This letter is in response to our telephone conversation earlier today regarding the availability of catch data by catcher boat in the joint venture fisheries. We have data for individual catcher boats within the NORPAC database from 1985 through 1990. Prior to 1985, we have records of catcher boat deliveries which were not entered into the database but which are generally complete for 1984. We also have unentered data for 1983 and 1982 but observer coverage ranged between 40% and 70% by region for these years. Recovery of this data would be possible though funding and staff would need to be made available to accomplish the task and it would not be a small task. The only records we have for individual catcher boats prior to 1982 are lists within each written observer report of catcher boats which delivered to the individual processor while the observer was aboard. None of this information is entered in a computer database and observer coverage prior to 1982 was generally less than 50%. Compilation of any of this data would also be very difficult if wanted in detail. We do have lists of vessels which we think are complete of the catcher boats which operated in each of these early years but those lists do not provide any information on the catch taken by these individual vessels.

If you have any questions, give me a call. I would like to develop an agreement on a standard set of data to be compiled for this task so that we can do it once and then make what was agreed to available for your analysis and any inquiries we receive from individual vessel owners. Let me know when you want to discuss this further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Russ Nelson".

Russ Nelson
Task Leader
Observer Program

THE NUMBER OF THE FOREIGNER PRESENTED AWARD PAST 8 YEARS

| YEAR SEASON | 1984 | | 1985 | | 1986 | | 1987 | | 1988 | | 1989 | | 1990 | | 1991 | | TOTAL |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|
| | SPRING | AUTUMN | SPRING | AUTUMN | SPRING | AUTUMN | SPRING | AUTUMN | SPRING | AUTUMN | SPRING | AUTUMN | SPRING | AUTUMN | SPRING | AUTUMN | |
| NUMBER OF FOREIGNER LIVING IN JAPAN | 15 | 7 | 8 | 8 | 4 | 3 | 2 | 6 | 5 | 5 | 1 | 5 | 1 | 1 | 4 | 1 | 75 |
| NUMBER OF FOREIGNER LIVING OUT OF JAPAN | 1 | 1 | 0 | 0 | 2 | 1 | 0 | 3 | 1 | 2 | 3 | 1 | 1 | 1 | 1 | 2 | 19 |
| TOTAL | 16 | 8 | 8 | 8 | 6 | 4 | 2 | 9 | 6 | 7 | 4 | 6 | 2 | 5 | 3 | 94 | |

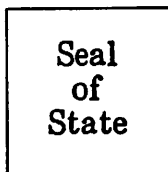
THE NUMBER OF AUTUMN OF 1991 IS NOT KNOWN YET.

AVAILABLE

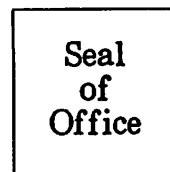
PATENT OF DECORATION

The Order of the Sacred Treasure, Gold Rays with Neck Ribbon
is hereby conferred upon Mr. Harold E. Lokken,
a citizen of the United States of America,
by His Majesty the Emperor of Japan.

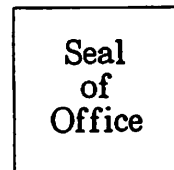
In witness thereof, the Seal of State has been affixed to these presents at the
Imperial Palace. This Day, the Third of the Eleventh Month
of the Fourth Year of Heisei. (1992)



L. S. Kiichi Miyazawa
Prime Minister



L. S. Hisao Fumita
Director-General of
Decoration Bureau,
Prime Minister's Office



The 3rd day, the 11th month, the 4th year of Heisei.

HAROLD E. LOKKEN
Room 219 West Wall Building
Fishermen's Terminal
Seattle, Washington 98119
(206) 283-0758

AGENDA B-1(f)
DECEMBER 1992

November 23, 1992

Mrs. Judy Willoughby
North Pacific Fishery Management Council
P.O.Box 103136
Anchorage, Alaska 99510

Dear Judy:

Here are the photocopies of the material I showed you at Fish Expo on Saturday.

While I was designated to receive the award, I regard it as an honor also to our North Pacific fishing industry and particularly to the North Pacific Fishery Management Council under whose auspices most of my contacts with the Japanese in later years occurred.

The Japanese indicated that the award was conferred based upon my contribution to developing and preserving fishery resources in the North Pacific and to improving the fishery relationship between the United States and Japan. As these objectives are the same as I perceive those of the Council to be, I am pleased to share the honor.

My visit with you and Helen was most enjoyable. I wish I could have stayed longer.

Please give my best to Clarence and any others who remember me.

Sincerely,

Harold

THE NATURE of THE AWARD

1 NAME OF AWARD:

KUN-3-TOU ZUIHO-SHO (THE THIRD GRADE HONOUR OF THE ORDER OF THE SACRED TREASURE)

THE ORDER OF THE SACRED TREASURE HAS 8 GRADE (FROM KUN-1-TOU TO KUN-8-TOU), AND "KUN-3-TOU" IS THE THIRD FROM THE TOP AWARD.

ANOTHER FROM ZUIHO-SHO, THERE ARE TWO ORDERS: HOUKAN-SHO (THE ORDER OF THE SACRED CROWN; EQUIVALENT TO ZUIHO-SHO, BUT FOR WOMEN ONLY) AND KYOKUJITU-SHO (I DON'T KNOW WHAT IT'S CALLED IN ENGLISH, BUT IT WILL BE PRESENTED TO ROYAL FAMILIES OR THEIR RELATIVES ONLY).

2 FROM: H. M. THE EMPEROR; AKIHITO

(HOWEVER, MR. LOKKEN IS LIVING IN SEATTLE NOW, HE'LL BE PRESENTED THE ORDER VIA CONSULATE-GENERAL OF JAPAN (THE MINISTRY OF THE FOREIGN AFFAIRS))

3 REASON OF AWARD:

MR. LOKKEN IS A FOREIGNER LIVING IN A FOREIGN COUNTRY WHO MADE GREAT CONTRIBUTION TO THE PROMOTION OF FISHERIES OF JAPAN THROUGH HIS ACTIVITIES ~~IT IS~~ IN NORTH PACIFIC RC AND INPFC, AND HE ALSO MADE GREAT CONTRIBUTION TO AMERICAN FISHERIES THROUGH FVOA ETC.

4 WHEN AWARD PRESENTED:

THIS AUTUMN, MAYBE MIDDLE OF NOVEMBER. (THESE AWARDS ARE PRESENTED 2 TIMES EVERY YEAR (APR. IN SPRING AND NOV. IN AUTUMN))

5 OTHERS: NUMBERS OF FOREIGNERS PRESENTED AWARDS IN THE PAST 8 YEARS IS SHOWN IN THE NEXT SHEET.

Harold Sparck
 4401 Roland Avenue #402
 Baltimore, MD 21210-2725
 P/F 410-243-3140
 December 1, 1992

| | | |
|--|----------------------|----------------|
| Post-It™ brand fax transmittal memo 7671 | | # of pages > 4 |
| To Clarence Parizek | From Harold Sparck | |
| Co. NPFMC | Co. | |
| Dept. | Phone # 410-243-3140 | |
| Fax # 407 271-2817 | Fax # | |

Mr. Rick Lauber, Chair
 North Pacific Fisheries Management Council
 P.O. Box 103136
 Anchorage, AK 99501

Re: Council's Comprehensive Rationalization Paper

Dear Rick,

I wish to thank the NPFMC for the opportunity to testify at its Seattle meeting, Friday, November 12 on the staff's "North Pacific Groundfish and Crab: A Review of Management Options for Comprehensive Rationalization" (hereafter "paper").

I assume the Council developed the paper to accomplish two ends. The NPFMC's first end is to set its internal house in order after 1995. Based on performance to date and strength of future direction, the second end seeks individual consideration of the NPFMC by a national audience of DC based interests, Congress, and the new Administration.

If my assumptions are correct, I believe the paper requires more work to meet these ends. The paper is a one dimensional reflection from a mirror of what the Council's fisheries are now rather than a three dimensional vision of what they could be. The paper neither protects the Council's political interests, nor discusses opportunity costs of future management options. In predicting a post-1995 Alaskan EEZ IFQ fishery, the paper neglects other Magnuson Fisheries Conservation and Management Act (MFCMA) national marine resource values.

An alternate premise for Council consideration is development of the CRP paper to achieve the Council #1 Goal, the transition of the current individual commercial species approach to ecosystem management. There is a wealth of past Council discussion and policy statements to draw from in rationalizing ecosystem management.

Time management realities impose national evaluation before internal order. The Congress must consider re-authorization of the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the MFCMA beginning in 1993. The central question in each of these marine laws is whether the eight councils, charged with ecosystem management of the nation's oceans, have successfully met the challenge of stewardship. A subset of this question is how many of these councils even tried to look beyond the commercial

fishery.

For those within the NPFMC family, increasing ABCs among most species and a profitable EEZ fishery suggest a productive ocean and prudent Council decisions. These examples benefit the NPFMC's image as a responsive and forward thinking fish regulator.

Those beyond the Council family judge performance to date and future direction by different standards. One question is how well does the NPFMC balance competition among monetized competitors, and between monetized and non-monetized marine resources? Another question is whether the Council promoted over-capitalization? A third question involves an ecosystem cause, effect, and response parable. Did the Council act promptly to test the potential relationship between the olympic system and unexplained declines of some fish stocks, marine mammals, and fish eating seabirds?

D.C. based conservation, consumer, and sportsfishing groups normally absent at NPFMC meetings will ask these questions during Congressional re-authorizations. Based on experiences with other councils, these economic classes of marine user considers federal fishermen as only one of many federal EEZ interests. Their combined issues agenda includes eco-system management, habitat conservation, fish bycatch and waste, fish quality, sport allocations, and rents.

The Center for Marine Conservation consortium has formed an umbrella conservation group for the re-authorizations. Expected policy preferences of the new Administration may bring consumer groups into the conservation alliance. Regional sportscharter and sportfishing groups have pledged to unite on allocation.

These questions and issues are either not addressed, or dismissed as insignificant in the paper. For example, the paper cites conservation as a "constraint" on the commercial fisheries in several instances, and not a necessary cost of doing business with the nation's resources. A second example is bycatch. The paper states on page 1:

"..mechanism for allocating bycatch species has become as critical as that of allocating groundfish species. Therefore, a comprehensive management program for the groundfish and crab fisheries is expected to address bycatch management."

The paper then suggests in the next paragraph that the Council has addressed the bycatch issue, as demonstrated by its continuing efforts to change bycatch management regimes. If my reading is correct, the paper subsumes waste within bycatch. However, once identified, consideration of bycatch and waste drop from the text. The paper excludes discussions of limits, practices, and alternatives for Prohibited Species Bycatch (PSC), discard of immature commercial species, harvest of commercial species when no market exists, and discard of capped species.

If the NPFMC's text remains its official view, Alaskan EEZ fisheries can be sure of several results in Congress:

- conservation groups including the NPFMC with the other anti-environmental Councils.
- Alaskan and Pacific Northwest sportsmen uniting to join their national brethren to seek a distinct allocation criteria.
- the new Administration picturing the NPFMC as unresponsive to marine conservation goals of the nation.

The NPFMC can place itself ahead of curve of public questions about its management of the North Pacific ecosystem and commercial fisheries by substituting Goal #1 for the paper's commercial fishing premise. Describing the transition from fish to ecosystem management would address each question and issue. The paper will then become the model for national discussions of groundfish policy, separating the NPFMC from other councils.

Rents are a second issue the Council must recognize. Their application will increase producer cost, reduce producer surplus, and challenge participation at the margin. The issue is pertinent, given the Administration and Congress's need to deal with the deficit and raise revenue to pay for new programs. If the NPFMC regards rents as unwarranted, it should explain its view in concert with its picture of future ecosystem management.

An additional note on this part of the paper is the License Limitation discussion on page 21. A legal responsibility of government to repurchase permits is discussed. The paper then describes the State of Alaska Commercial Fisheries permit system procedures as its buy-back example. Although the paper does not say so, the CFEC reference implies a buy-back mandate. The staff should contact the State of Alaska's Attorney General or Commercial Fisheries Entry Commission authorities for their legal opinion. In my most recent reading of the 1972 legislation, the Legislature retained its right to revoke permits. CFEC permits are a transferable use right within a market system, an IQ option the paper does not consider.

The last section of the report considers policy alternatives and evaluation of these alternatives awkwardly. The paper concludes that TQOs are the only policy tool that achieves the Council's management objectives. The paper does not attempt to "mix and match" allocative variations. Nor does the paper consider opportunity costs of a preferred alternative over a competing management concept.

Within this section, I find the discussion of Community Development Quotas too negative. The paper is correct that CDQ's

are not an end in themselves. It identifies CDQs as redistribution, presents them as an "either...or" management alternative, and concludes they exist at the expense of net national efficiency. The paper pictures CDQs as a "failed" national economic development tool before they even begin. Examples of suggested CDQ efficiency and equity are absent. Based on this paper, the NPFMC should exclude CDQs from further CRP consideration.

Yet, the Council has persistently identified benefitting small communities as one of its allocative goals. The State of Washington's obligatory member first proposed CDQs. The Council approved the CDQ concept as part of its commitment to small communities with multi-state backing. With support from the entire Council family, the State was successful in expediting Federal rule making to allow a 1992 CDQ fishery.

In July, 1993, the Council will have another chance to review the Governor of Alaska's decision criteria for the 1994-95 CDQ application period. This analyses will include a review of the 1992-93 CDQ successes to date. The working time frame of CDQs duplicates the CRP process. Council monitoring of State and participant progress will be a timely test of CDQs meeting the Council's small community goal.

Thank you again for this opportunity to respond.

in peace,



harold sparck

File:NPFMC-11.92



Alaska **L**ongline **F**ishermen's **A**ssoc.

P.O. Box 1229 Sitka, AK 99835 (907) 747-3400

November 18, 1992

Bob Alverson
Fishing Vessel Owners' Association
Fishermen's Terminal Building C-3, Room 232
Seattle, WA 98119

Dear Bob,

I wanted to clarify the point I made regarding the importance or value I see in having a social scientist involved early in the comprehensive rationalization process.

I believe that the Council has sometimes erred in waiting until Fishery Management Plans are in the final stages to enlist social commentary, a strategy that has resulted in public outrage (re: halibut IFQs) and inevitably delays. Involving a sociologist in the scoping process would help the Council to identify all sectors of the industry that are likely to be affected by an upcoming decision, to determine methods for alerting and involving these people or entities, and to develop policy aimed at minimizing socioeconomic impacts. At last week's committee meeting, Wally mentioned the importance of including in any social analysis the potential impacts of "rationalization" on factory trawl deckhands and their families; Harold Sparck mentioned foregone opportunity costs to Western Alaska communities due to over-harvest of local resources; Rick suggested "taking the show on the road" in order to educate and involve the public--all of these ideas should be evaluated and pursued. A social scientist would identify these and other considerations and advise the Council on how to best meet responsibilities. I believe that such advise would prevent, or at least minimize, the delays that occurred during the evolution of the halibut IFQ program and result in a final product acceptable to a majority of the industry and other affected people.

I can see a clear role for a social scientist throughout the comprehensive rationalization process. And, as the Council wrestles with an increasing number of allocative issues, I expect that the

involvement of a social scientists will also become increasingly important on other issues. I suggest that the Council consider hiring a full time sociologist to the staff. I have discussed the idea with a number of other Council members, and have found them supportive of the idea. What are your thoughts?

I know that you are busy with the Pacific Council this week; give me a call when you get a chance. Thanks Bob!

Sincerely,

Linda Behnken

Linda Behnken

cc: Clarence Pautzke, NPFMC

Federal regulators recognize state's unique wetlands status

by Debbie Reinwand

Private landowners, community leaders and businesses in Alaska are hailing the recent signing of an exemption that allows wetlands permits to be issued in the 49th state without the threat of expensive mitigation.

The new rule, signed October 30 by U.S. Environmental Protection Agency administrator William Reilly, is the result of three years of intensive lobbying and educational efforts by Alaska communities, Native corporations, the congressional delegation and the Alaska Wetlands Coalition (AWC). The proposal allows any state that has used less than 1 percent of its wetlands to pursue permits without having to mitigate or pay into a fund in order to secure a permit. It will be open to public comment through mid-December.

The Alaska Wetlands Coalition, spearheaded by the Resource Development Council, has been working with the Bush administration and the U.S. Congress to solve the dilemma faced by Alaska communities, private landowners and others under the "no net loss of wetlands" policy put forward in late 1989.

More than 45 percent of Alaska's land base is classified as wetlands by federal regulatory agencies, yet less than one-tenth of 1 percent has been utilized for all development in the state. The vastness of the state's wetlands, combined with stringent federal regulations that oversee wetlands use, has made it extremely difficult for communities to pursue needed expansion projects.

"This policy that requires mitigation is a hardship for small towns," said Nome Mayor John Handeland. "We do our best to minimize impacts on wetlands and avoid using them, but the fact is, we're surrounded by wetlands.

To tell a town like Nome they have to mitigate or pay to complete a community project that they've already put construction costs into is just insane."

Under the provisions of the Clean Water Act, a prospective permittee seeking permission to utilize a wetland had to go through four steps in order to receive approval. The steps included avoiding the wetland if possible, minimizing impacts, restoration work where applicable, and mitigation. The new guideline issued by Reilly removes the mitigation requirement for Alaska, because more than 99 percent of the state's wetlands are undisturbed.

"I think that is the key here—we have not touched the vast majority of our wetlands," says Paula Easley, special assistant to Anchorage Mayor Tom Fink. Easley and Fink have worked closely with the AWC for the past three years. "Nobody wants to develop a wetland. That is the last place you would like to site a project. However, we have to realize Alaska has an enormous amount of so-called wetlands and some projects will ultimately have to be built on these lands," Easley explains.

Throughout the lobbying and education process, the AWC has pointed out to Congress and the White House that half the wetlands in the Lower 48 states have been destroyed during the past 200 years, while Alaska has used less than 1 percent of its wetlands. While a comprehensive wetlands policy may make sense in overdeveloped states, it does not make sense in Alaska, which has a high land-preservation rate, says AWC President John Rense.

Rense, a vice-president at NANA Regional Corporation, is one of several Native corporation leaders who have supported the coalition and worked to achieve a flexible policy for Alaska. "In the case of corporations, the federal government gave us land to administer for our shareholders," he says. "What the no-net-loss policy did was to devalue those lands. We couldn't stand by and let that happen."

During a series of congressional staff tours, the coalition has attempted to educate Washington, D.C., decisionmakers on the state's excellent track record in preserving wetlands and show why a 1 percent exemption makes sense here. "We showed them the Red Dog Mine, which employs NANA shareholders, and discussed how a no-net-loss policy would have precluded this kind of development," says Rense.

The coalition has brought nearly 50 congressional staff members to Alaska during the past three years and taken

them to a variety of communities, including Kotzebue, Kwethluk, Bethel, Anchorage, Juneau, Sitka, Nome, King Salmon, Dillingham, Kotzebue and Deadhorse. The geographic differences and the vastness of Alaska's wetlands has made a striking impression on many of these congressional staffers.

"Our perspective is generally formed by our experience in our home states," says Joey Finley, legislative assistant to Congressman Jimmy Hayes of Louisiana. "Alaska has so many different types of wetlands and has done such a good job in protecting its land. You have to see it first-hand to appreciate it."

The staff members saw a proposed school site in Juneau that was entangled in endless permitting nightmares, visited a proposed ballpark next to a Ketchikan school that could not receive approval and walked through Juneau's homeless shelter that was held up for months due to its proposed location in an industrial wetland between a car dealership and a plumbing store.

The new 1 percent exemption was lauded by communities, Native corporations and Alaska businesses, but was not well-received among environmental organizations. Kevin Harun, director of the Alaska Center for the Environment, says the proposal would allow Alaska to "degrade" its wetlands as has happened in the Lower 48 states. As Paula Easley points out, however, that is impossible under the 1 percent scenario.

"To cry wolf over this 1 percent exemption is ludicrous. Alaska has not had a wetlands destruction problem like other states, Alaska has preserved 56 million acres of wilderness, and Alaska is being asked to pay for the sins of the other states because we *did not* develop our wetlands," she says. "This policy recognizes that policy is not fair to this state."

The Alaska exemption was published in the Federal Register on Nov. 4, 1992, and public comment will be received until Dec. 20. Comment should be directed to Gregory Peck, Regulatory Branch, Wetlands Alaska Docket (A-104F), U.S. EPA, 401 M Street, SW, Washington, D.C., 20460.

For further information, contact the Alaska Wetlands Coalition at 279-1783.

Debbie Reinwand is deputy director for the Resource Development Council for Alaska Inc., a non-profit economic development organization