

DEVELOPMENT OF OY & TALFF FOR TANNER CRAB
NORTH OF 58° NORTH IN THE BERING SEA

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*Summary that is to
go to Frank.**#4
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The North Pacific Council, from its inception, has heard testimony, received information and debated at length the subject of optimum yield (OY) for Tanner crab, C. opilio, in the Bering Sea. Since the last Council meeting the staff has transcribed those portions of the Council record dealing with Tanner crab, compiling an impressive mass of paper. Those transcribed records have been reviewed in an attempt to trace the decision-making process that has led to the recommended total allowable level of foreign fishing (TALFF) of 15,000 metric tons.

The following, therefore, is designed to show some of the precepts, testimony, evidence and debate used by the Council to arrive at that decision. Additional material is available in the transcribed record and in the Council files, though the material contained here is representative of the whole.

The acceptable biological catch (ABC) of Tanner crab north of 58° North latitude in the Bering Sea (estimated at 101,000 MT, mostly C. opilio) far exceeds the amount that could be taken without destroying the world market and thus crippling the growing U.S. Tanner crab industry. The Council has labored long and hard to develop an OY figure that would be consistent with the National Standards, fair to Japan, (the only foreign nation involved in that fishery), and that would not injure the U.S. harvest of this resource. Building on the rationale developed by the Secretary of Commerce for the preliminary management plan (PMP) covering this resource, the Council set TALFF at 15,000 metric tons for 1978. That original policy was set forth by the Secretary to "accommodate a favorable investment climate for a growing U.S. catching, processing and marketing capacity, 1/" and raised the 1976 quota of Tanner crab to Japan of 10,200 2/ metric tons to 12,500 metric tons in 1977. The PMP for the 1977 fishery said:

1/ PMP, King and Tanner Crabs of the Eastern Bering Sea p 42, 2.3.1.2(a)

2/ U.S. - Japan bilateral 1975-76

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"The plan allows a moderate increase in allowable level of foreign fishing for C. opilio over the 1976 foreign harvest. The effect of this increase in foreign catch on the U.S. markets for snow (Tanner) crab will be carefully monitored during 1977.

Appropriate adjustments in future foreign surpluses will be made in response to this monitoring effort to prevent weakening U.S. domestic and export markets."

Unfortunately, the careful monitoring of the effect of the foreign catch on U.S. markets was not done, so the Council had to work from testimony of domestic and foreign fishermen and processors at Council meetings and public hearings, from opinions by economists and industry experts, and with their own experience and judgment of the economics of the U.S. fishing industry. This material represents the best scientific information available on the market impact of increasing the foreign harvest of C. opilio. Careful attention was given testimony from the Council member from the National Marine Fisheries Service, Mr. Harry Rietze, who, in response to a question from another Council member on the economic effect of increasing the OY from the 1977 figure of 12,500 mt during the September, 1977 Council meeting said:

"Well, I don't think that as far as our agency, we don't have the data available to us that answers your question. I think our rationale, our strongest rationale, as to why any increase on that large surplus is to be in very very modest increments -- we don't want to make an increase that's going to have (an) adverse impact on our industry. So it has to be modest and we're really dealing with empirical data. If nothing happens with an increase that we can see and (we) see (that) its (not) adverse to our developing fishery, then we've got another point to consider when we deal with this question next year."

The subject of discussion during this meeting was the raising of the figure for TALFF from 12,500 MT, proposed in the first draft of the FMP for Tanner crab, to 15,000 MT.

Mr. Keith Specking, Chairman of the Council's Advisory Panel, reporting for that group at the September meeting, said:

"The Panel wishes to reaffirm its recommendation for the 12,500 MT allowance for the Japanese north of the 58th parallel and the discussion and rationale for this recommendation is based on additional amounts of Japanese processed crab coming in the American market and creating a marketing problem. It is believed that any additional increase above that would be very detrimental to marketing the Tanner crab in the United States."

The 25-member Advisory Panel to the North Pacific Council includes several industry representatives with long experience in fisheries marketing, both abroad and in the United States.

To continue testimony from the September meeting, Mr. Harville said:

"That we make a modest increase in this allowance for equity reasons in part, but I think also for good sound business reasons. It is a very difficult thing to assess what will be the market impact in a case like this. I think there are two factors which are to some extent operating contrary to each other. One is, of course, the fact that some of the product may come back to our shores. ----- The other factor that I think works in the opposite direction, is that the Japanese themselves have been the pioneers in the crab market worldwide, and I think it is very much in the interest of the U.S. industry to keep their participation in the expansion of the market. Not only in terms of the market in Japan, but in the chances of the market going elsewhere. So, I think we are looking at intangibles, but it seems to me that permitting a modest increase, a modest growth in their take of this species could in the long run have real market value to our fishery in the maintenance of the Japanese market and indeed, in the possible expansion of it to other areas."

Discussion on this subject at the September meeting, which must be looked at in conjunction with debate on a dividing line separating the U.S. and foreign fisheries in the Bering Sea, continued at length. Mr. McKernan, in discussing both the closure line, which he was proposing at that time to run at 58° North, east of 170° West and 57° North between 170° and 164° West, said that:

"In conforming to what I believe to be the intent of the Act, I think the justification for limiting the Tanner crab, which in this case will be, I presume, 98 or 99 percent opilio species, I would limit it to 15,000 tons in spite of the fact that there is perhaps in that area something over 100,000 tons available. I would do that in order to make certain that the increase in catch did not adversely affect the market conditions for the United States catch. Now, recall this last year the government finally increased the Japanese quota from, I believe, 10,200 tons to 12,500 tons."

He continued the discussion with:

"That did not adversely affect the market condition, but nevertheless it was a prudent, conservative increase and I would increase once again in a prudent, conservative way and believe that would be consistent with the development of optimum yield and the objectives of the Act --- I would ask our Japanese colleagues to help us in improving and increasing the world market for this resource which is here in substantial abundance. But it seems to me, that by doing that, then the Japanese would have an opportunity to explore the area North of 58°, but would be able to continue their fishery in an area where they have had some experience and where the motherships have operated in the past."

Mr. McKernan, after further debate and at the December, 1977 Council meeting, 1/ revised his estimate of the TALFF figure to 17,500 tons and was supported in voting by three other Council members. That testimony and supporting evidence will be covered later.

The difficulty of arriving at a figure for TALFF was stressed later in the September meeting by Chairman Rasmuson who said:

"I am urging that the Council be pretty resolute about this, and that is to insist that Washington, whether it is the State Department or National Marine Fisheries Service, not only work with us during the course of developing these OY's when we are developing the Plan, but also give us the information (on) how they decide that we should make these adjustments.

If you don't do that, I predict that your Council is going to find itself pushed into the position --- where there is going to be a conflict going on which will eventually, I think, get into Congress. Now, at (the) meeting of the Chairmen and Vice Chairmen in Portland, I was disturbed, as I announced to you before, that Director (NMFS) Schoning indicated that they were going to revise our OY. The fact that we had set the OY didn't seem to make any difference in that statement. I was wondering if any OY we set is going to be changed and I challenged him for what information you have to enable you to change that --- that you couldn't have given during the course of the development plan. And his only excuse was "Well, the Japanese came and told us about the hardships." ---I've read this discussion paper (from the Japanese Fisheries Association) ---and I don't find anything in there that gives an OY clue on opilio that is now going to help the Director or his office in Washington to make this change."

1/ Prior to the December meeting the Council had set the closure line for the foreign fishery at 58°N and TALFF at 15,000 MT.

In the discussion paper 1/ submitted to the Council by the University of Alaska on this subject, September 14, 1977, the implication was that a Japanese catch in any amount up to 17,000 metric tons would not have any appreciable effect on the world Tanner crab market. Economist Dr. Gorham, at the December Council meeting, said that the two markets for C. bairdi and C. opilio are essentially separate in Japan, and that:

"I think if your concern is targeted on what would happen to market price if, for example, you increase the quota, its my personal judgment that if you're talking about 2,500 or 5,000 metric tons that its not an amount that would substantially affect the price --- let me qualify that by saying that I can't back that up at this time with --- (with) a quantified demand function because the market has changed substantially from 1976 to 1977 so that -- if the Council had a wish to adopt a conservative approach based on the fact that there is no quantitative backup for that, then I certainly could go along with that."

In a letter from Clinton E. Atkinson, an experienced fisheries consultant and advisor, to Dr. Gorham, dated September 15, 1977, he said:

"The information being collected in this study 2/ includes data on the three major species of crab (Tanner crab, King crab and blue crab) and fragmentary information on the less important species. This additional information is an essential part of the study because of the close association/competition between all species of crab in the Japanese market."

1/ Discussion Paper - Optimum yield for C. opilio North of 58° in the Bering Sea for the NPFMC - Alaska Sea Grant Program, Univ. of AK.

2/ An ongoing study by Alaska Sea Grant Program on "Market Demands and Market Channels for Tanner Crab."

In testimony to the Council at the December meeting, Mr. Jim Ferguson, President of the Pelican Cold Storage Company in Pelican, Alaska said:

"A telephone survey was taken of known Bering Sea processors on November 28th and November 30th, 1977, asking what do you project your Company's production on Bering Sea bairdi Tanner crab will be in 1978? In raw weight based on known markets? We have a firm figure of 107 million pounds (as) the projected raw weight of this production. We have not been able to contact two major processors, namely Whitney Fidalgo and the All-Alaskan, so we would have to add in another additional 17 million for a total of 124 million pounds ---"

He continued with his testimony to say:

"Another point that I'd like to make at this time is that the decisions that will be made during this meeting are going to be very important to all the processors. Many of the processors have firm markets in Japan with literally hundreds of thousands of dollars worth of Tanner crab contracts waiting with Japanese buyers. There has been quite a change in the buying practices by the Japanese in the last several years. Traditionally, the seafood company would sell their products through the large trading companies, they would go to the Tokyo fish market or the auction where they would be sold to distributors. The demand is so great for the Tanner crab and other products from the North Pacific today that we are having many direct buyers. Chain store buyers similar to Safeway coming to us bypassing large trading companies, bypassing the large fishing companies, coming directly to our doors, to the brokers, to the processors and these are the type of people that many of the companies have contracts waiting for today and the decisions you make are going to really depend on whether these contracts will be fulfilled, because they are very worried that they will not get

their production and if they can't get it from their own fleets they'll get them from our fleets."

In answer to a question from the Council on what he thought the impact of raising the opilio quota for Japan would be on U.S. producers, Mr. Ferguson said:

"I think it would have a very definite disastrous effect, I mean the thing is that the big market for the Tanner crab, the domestic market, it has been pointed out, is growing very rapidly. Its becoming more and more accepted as a substitute for the very expensive King crab, but this would be very detrimental to increase this."

In answer to another question from the Council on whether or not he had found any hesitation or difficulty in placing orders for the 1978 catch until these figures (Council decision on TALFF) have been determined, Ferguson said:

"Definitely, this is the point, I've got requests to call Seattle as soon as the decision is made by this group. Contracts will be signed as soon as your decision is made one way or another. It depends, are we going to deal with the United States processor and fishing fleet, or are we going to deal with the Japanese, and the decisions here have far ranging affects."

The Council had heard testimony at various times during its deliberations on Tanner crab from a number of sources. Mr. N. Hayashi, representing the Japanese Crab Industry and testifying at the September Council meeting, said that approximately 6,000 metric tons of finished product were imported into Japan from Alaska last year (Tanner crab). This would approximate 19 million pounds live weight. The 1976 Alaska catch of Tanner crab was 79 million pounds. Japanese exports to the United States of Tanner crab in 1976 were approximately 8 million

pounds live weight. There is an indication in these figures that increased catches by Japan would impact both the U.S. and Japanese markets, to the detriment of the U.S. fishing industry.

At the December Council meeting, Mr. Tom Casey, Manager of the United Fishermen's Marketing Association, testified that Japan sold 1,536,000 pounds of canned Tanner crab abroad (approximately 7,680,000 pounds live weight) in 1977. The Council was told at the December meeting that 189,000 pounds of frozen Tanner crab had been "dumped" on the California market by the Japanese in 1975. Not only did this crab sell for a price appreciably lower than the going market rate, but it was of such poor quality that it was thought to have an inhibiting effect on the expanding U.S. Tanner crab market.

Continuing the debate at the December Council meeting (the FMP TALFF figure had been set at the September meeting at 15,000 metric tons and the dividing line between the foreign and U.S. fishery at 58° North) as the Council discussed a motion to uphold those two points, Mr. McKernan offered an amendment to that motion which summed up the argument for expanding the TALFF above 15,000 metric tons and a change in the 58° North dividing line as follows:

"1. It is the considered judgment of the Council that the U.S. fishing fleet will, under the estimated market conditions, be able to harvest the total allowable catch of C. bairdi in 1978. The total allowable level of foreign fishing for C. bairdi in 1978 south of 58° North will therefore be zero.

2. The Council recommends that in order to separate the U.S. and Japanese fishing fleets and to avoid foreign fishing on mixed stocks of Tanner crabs, that the following line should separate the two fleets, with foreign fishing confined to the north of the line. From the Alaska mainland south on 164° West longitude to 57°10"

North latitude, thence west on 57°10" to 168°45" West, thence North on 168°45" to 58° North and thence West on 58° North to a point where the depth of the water does not permit fishing for Tanner crabs to be pursued.

3. It is the judgment of the Council that the total allowable level of foreign fishing for C. opilio for 1978 be set at 17,500 metric tons. This will provide for a reasonable harvest of the optimum yield of C. opilio without unreasonably effecting the ability of the U.S. fleet to harvest the optimum yield of C. bairdi.

4. The management plan approved by the Council in September should be altered according to these recommendations, Table 11 on page 76, including second footnote, should be rewritten to conform with the above recommendation."

This proposed amendment to the motion was defeated by a vote of seven to four. In the discussion on this amendment prior to the vote, Mr. Rasmuson said:

"Someone should defend what we have labored so hard to do on this Tanner plan. Now the 58th parallel was set for two reasons, it was set to separate the two species, the bairdi and opilio and also to separate the fleets. There has been some refinement of those parameters here, but nothing which really changes the essence of the decision, as I see it, that was made by the Council at the last meeting. The quota that is being proposed, I can only be convinced, is merely the procedure of giving the foreign fishermen an additional amount of crab. At the time that we raised the quota last time from 12,500 metric by 2,500, I personally asked Mr. Rietze, the Regional representative of the National Marine Fisheries Service, if he thought that would go a long ways towards satisfying the desire in Washington to raise the foreign quota. Without blaming

Mr. Rietze at all, I think he in all honesty said yes at that time, and then convinced a number of us to raise them. That was a 20 percent increase on top of a 25 percent (increase) the year before and as Tom Casey has pointed out, the depreciation of the dollar vis-a-vis the yen, makes (it) much more attractive for the Japanese to buy on our market ---- I am very concerned about the cavalier disregard, as I feel it is, about the economics of the people who are engaged in the industry, both in the catching and processing (who) tell us that it is of great interest to them --- I want to point out something about the market for Tanner crab. I think everybody was surprised that the Tanner crab could go up to more than twice its market price from last year and that we could have such a substantial increase, almost - doubling, in the Bering Sea, anyway, of the catch. One of the main reasons for that was the closure by the U.S.S.R. of the catch by the Japanese in their waters; and the testimony of the economist who went to Japan states that all of the Tanner crab within the U.S.S.R. waters is opilio. So (there) we have a good example of how a shutdown of the opilio in U.S.S.R. waters did have a bouyant effect upon the price (of) bairdi in the U.S. In my mind, that helps demolish the argument, which I have never believed in much, that you could take two species, both so close alike that it is difficult for anyone to tell the difference except in size, and say that there isn't some interrelationship in the marketing. So I think it is not sound and I didn't want to leave this go unchallenged, that the market impact on bairdi and our production of opilio would not be effected by an increase in the opilio catch by a foreign nation, when we have seen that the drop off in their opilio catch last year substantially (increased) our bairdi (market)."

SUMMARY

The preponderance of testimony during the Council meetings and hearings from industry, both processing and fishing, was that the U.S. catch of Tanner crab would increase in 1978, that in fact current pack expectations

by U.S. Bering Sea processors as of December were over 124 million pounds. That would mean that there would be a strong demand for all of the OY of 89 million pounds of C. bairdi by U.S. fishermen in the Bering Sea (37.5 million pounds more than were taken in 1977) and that there was a strong possibility that the U.S. industry would attempt to process a substantial portion of opilio in 1978.

Testimony, as shown in the preceding statements, was ambiguous as to the exact level of foreign catch that would impact the U.S. market adversely and the interrelationships between various species of crab on the Japanese market. A conclusion could be drawn, however, that both C. bairdi and C. opilio occupied much the same place in both U.S. and foreign markets and that any substantial increase in catch by foreign nations of either species would adversely affect the expanding U.S. Tanner crab fishery. The exact amount a foreign fishery could take before such an impact would be felt was impossible to define precisely, though an upper limit of 17,000 MT was supported by almost all available evidence. U.S. industry and marketing representatives generally felt it should be lower than that however, most indicated it should be lower than 15,000 MT and certainly should not exceed that amount.

Based on this voluminous testimony, 16 months of discussion and debate, and after full consideration of the following precepts:

1. The precedent established by the Secretary of Commerce which recognized (a) historic trends of foreign crab fishing off the United States and past negotiations with Japan by the United States, and (b) the use of economics in OY determinations which has allowed the U.S. to increase quotas "cautiously".

The argument supporting consideration of past quotas and negotiations in setting current catch allocations was upheld in Maine v. Kreps.

2. The provisions of the Tanner crab FMP which restrict foreign fishing in order to protect foreign markets for U.S. catch are consistent with the National Standard (Section 301(a)(5)). 1/
3. The purpose of the FCMA is to promote domestic commercial and recreational fishing under sound conservation and management principles [(Sec 2(b)(3)] and to encourage the development of fisheries which are currently underutilized or not utilized by U.S. fishermen [Sec 2(b)(6)]. That in furthering these purposes foreign nations will not necessarily get everything for which they ask; but that responses to their requests will be tempered by the requirements of U.S. fishermen and the need to provide for an orderly development of the fishery.
4. Testimony presented to the Council indicated that Japan would buy Tanner crab from U.S. processors if they were unable to catch it themselves. In light of the 1977 U.S. trade deficit of 30 billion dollars, of which approximately 1.7 billion was in fisheries products, any steps that would tend to alleviate that imbalance are in the greatest overall benefit to the nation.
5. The recommended TALFF for 1978 of 15,000 MT is 20 percent more than the 1977 TALFF and 47 percent more than the pre-FCMA 1976 quota of 10,200 MT. The 1977 PMP reduced the area in which Japan could take the more desirable C. bairdi but compensated by increasing the total catch of Tanner crab, this FMP again decreases the area in which Japan can take C. bairdi and again increases the amount of Tanner crab in the TALFF to compensate for the reduction in the choicer species.

1/ Memorandum (12/2/77) from NOAA General Counsel, William Brewer, to NOAA Administrator Richard Frank.

6. The Council decision was based upon the best information available: public testimony from fishermen (both Japanese and domestic) and processors, testimony and written opinions of economists and industry experts, and the testimony and presentations of Council members themselves, many of whom are knowledgeable regarding the economics of the industry.

The Council, in a very reasoned and balanced approach to supporting the burgeoning U.S. fishery on this resource and phasing out the foreign fishery with a minimum of hardship and dislocation, based on sound principles of conservation and management, is of the considered opinion that a TALFF of 15,000 MT, to be taken north of 58° North and west of 164° West, is the best estimate that can be made.