


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: June 3, 1999

SUBJECT: American Fisheries Act

ESTIMATED TIME 20 HOURS

ACTION REQUIRED

- (a) Final action on sideboard measures (includes Implementation Committee Report).
- (b) Final action on AFA conformance measures (Amendments 62/62).
- (c) Final action on CDQ conformance measures.

BACKGROUND

(a) Sideboard Measures

The AFA requires the Council to submit sideboard measures, by July of 1999, for catcher vessels and for processors for non-BSAI pollock harvesting and processing. Several alternatives and options for structuring those sideboards have been developed and analyzed since late 1998 and are scheduled for action at this meeting. The design of the sideboard limits will be critical to successful implementation of pollock co-ops for the year 2000. The AFA stipulates sideboard measures for catcher processors, though alternatives and options are also being considered for that sector as well, for implementation in year 2000. A revised analysis of alternatives was mailed to you in early May and will be presented by staff at this meeting. Regulations defining pollock co-op structure and implementation will also be discussed at this meeting and are addressed in the report from the Implementation Committee.

Sideboard measures fall into four broad categories - catcher processor sideboards, crab sideboards for catcher vessels, groundfish sideboards for catcher vessels, and processor sideboards. Following is a brief discussion and summary of the decision points for each. The Council's specific list of alternatives and options is included under Item C-1(a)(1) for additional reference.

Catcher processor sideboards

Sideboard measures for catcher processors are specifically outlined in the AFA, though AFA intent may be unclear in some areas, or is open to adjustment by the Council. If no action is taken by the Council then sideboard measures would be implemented for 2000 and beyond as they were for 1999, using the years 1995, 1996, and 1997 as the basis for groundfish and PSC sideboard limits. Specific alternatives (and therefore decision points) identified for Council consideration are as follows:

1. Whether groundfish sideboard limits will include the catch history of the 9 retired vessels, or just the 20 listed vessels (for 1999 all 29 were included, as indicated by the AFA).
2. Whether the sideboard limits would include groundfish catch history earned in pollock targets, or be based only on catch in non-pollock targets (for 1999 only non-pollock targets were included).
3. Whether to establish PSC limits for chinook salmon bycatch.
4. Whether to close all fishing (including pollock) when a sideboard limit is reached, or only close directed fishing for that non-pollock species.

In addition, the Council requested information on PSC rates for the 20 vs 29 vessels, and information on "PSC needs assuming pelagic only pollock trawling".

Crab sideboards for catcher vessels

The AFA contains little specific guidance for catcher vessel sideboards, other than to say "*the Council shall recommend measures to prevent the catcher vessels eligible under subsections a, b, and c of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the Council as a result of fishery cooperatives in the directed pollock fishery*". The decision points for the Council, based on the alternatives and options proposed and analyzed, are as follows:

1. Whether limits would be established as crossover prohibitions (prohibit any crab fishing for certain species/areas), or restrictions to historical catch amounts, or some combination thereof.
2. If crossover limits are applied, (a) which species/areas, (b) whether applied only if joining a co-op, and (c) duration of crossover limitation.
3. If restricted to historical amounts, whether limit would be (a) in aggregate across all vessels, (b) applied on a vessel level basis for each species separately.
4. Whether sideboard limits would apply only when joining a co-op.

To assist in providing information for this set of alternatives, the Council has the EA/RIR/IRFA prepared by Council staff, as well as the analysis prepared by Dr. Scott Matulich.

For Scallop sideboards, the decision points are:

1. Whether to use catch in 1996 and 1997, or just 1997, in calculating the sideboard limit.
2. Whether to base that limit as a percentage of statewide harvest or as a percentage of the PSC cap.
3. Whether limit would apply only if joining a co-op.

Groundfish sideboards for catcher vessels

1. Whether sideboard limits would apply only if joining a co-op.
2. Whether to base sideboard limits on (a) percentage of groundfish harvest in non-pollock fisheries, (b) percentage of harvest in all fisheries, or (c) percentage of TAC in non-pollock fisheries.
3. Whether limits would be based on catch history from 1995-1997, or 1992-1997.
4. Whether limits would be applied and monitored at the vessel class level (across all catcher vessels), sector level, or co-op level.
5. Whether limits would be absolute amounts, or temporal in nature; i.e., (a) only applied during the same time as normal open access pollock fisheries, using either the 1998 dates or the 1999 dates as modified by sea lion actions, (b) limited to the season (quarter or half year) in which catch history was earned.

6. Whether to create sub-sideboard limits for (a) vessels which had minimal pollock landings (less than 1,000 - 5,000 mt from 1995-1997), and/or (b) subdivide the P. cod limit between those vessels which harvested mostly pollock during the A season (prior to March 1) and those that did not.
7. Whether to exempt from sideboard limits (a) prior to February 1, those CVs that fish for motherships, (b) each CV sector for the number of days in excess of 5 that each sector's pollock season is closed by regulation during the month of February.
8. Whether groundfish sideboards or PSC caps would close all fishing or just directed fishing for sideboard species.
9. Whether to establish PSC limits for chinook salmon. PSC limits are apportioned pro-rata to groundfish catch, though Council requested information on vessel-specific and average bycatch rates, as well as information on bycatch needs assuming pelagic-only pollock trawling.
10. For GOA, sideboards are prescribed as shown in C-1(a)(1), and the only options are: (a) whether to apply only if joining a co-op, (b) whether flatfish sideboards are based on halibut bycatch or actual target groundfish catch, and (c) whether all fishing stops upon attainment of limit or just directed fishing for non-pollock species.

The Council's BSAI Co-op Implementation Committee met in Seattle on May 17-19 and has provided the report under Item C-1(a)(2). That report provides an overall recommendation, incorporating many of the decision points outlined above. Regarding the Council's request for a qualitative analysis of inshore co-op structure (including the Dooley-Hall proposal), an outside contract is being negotiated to conduct that analysis for Council consideration this October. A report on that process will be provided by staff at this meeting.

Non-sideboard decisions

In addition to sideboard measures, there are two decisions with regard to pollock allocations to co-ops - (1) whether to use the best 2 out of 3 years pollock catch history, rather than to all three years 1995-1997, and (2) how to 'compensate' vessels with catch history delivering to catcher processors. These issues are discussed in Chapter 10.

Chapter 4 discusses definitional issues between existing regulations and AFA, specifically the definitions of 'inshore' and 'offshore' components and use of the terms 'fish' vs 'groundfish'. Specifically, the decision points are:

1. Should the duration of the BSAI and the GOA programs, and the relevant definitions, be the same? Since the Council is scheduled to approve an amendment extending the GOA program through 2004, this question is answered.
2. Should definitions of directed pollock harvest be the same in the GOA and BSAI? Staff preference is 'yes'.
3. Should the 'shoreside processor' definition apply to the processing of 'fish' or 'groundfish'? Staff preference is that it apply to 'groundfish'.
4. Should the 'inshore' and 'offshore' definitions apply to all fishing for groundfish or to directed fishing for pollock in the BSAI, directed fishing for pollock or P. cod in the GOA, or both? Staff preference is for it to apply only to the I/O species.

Chapter 4 also contains discussion of the issue of 'single geographic location' (SGL) and associated issues. The specific decision points are:

1. Should inshore floating processors be restricted (or not) to a SGL during a fishing year in which they process directed fishing amounts of an I/O species? If so, should such restriction apply statewide or just within BSAI and GOA areas separately?
2. Should the definition of 'shoreside processor' be refined, for AFA purposes, to mean the physical plant of the processor? Staff preference is yes.
3. Should regulations limit an AFA shoreside processor to receive BSAI pollock only at the same physical location at which that processor's plants existed during the qualification years of 1996 and 1997?

Chapter 5 addresses potential co-op provisions proposed by the Council including: (a) limiting co-op agreements to a specified time period (1-6 years), (b) Prohibiting linkages in co-ops to delivery of non-pollock species, (c) require disclosure of catch and bycatch statistics (already required by statute), and (d) require contracts to be submitted by December 1.

Processor sideboards

The AFA provides general direction that the Council "submit measures by July 1999 to protect processors not eligible to participate in directed pollock fishing from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery". More specific guidance is provided with regard to crab processing sideboards, in essence calling for an aggregate crab processing sideboard limit for motherships and shoreplants which does not exceed their average level in 1995-1997, and uses the 10% ownership rule in determining associated entities. Based on this direction the Council established alternatives which would limit processing of non-BSAI pollock species to no more than historic levels, using the years 1995-1997, and examining the alternatives at the entity, corporate, and facility levels. Specifically, the decision points are:

1. Whether the sideboard limits would apply to entities (as defined by the 10% ownership rule), companies, or individual plant facilities.
2. Whether the limit would apply only to AFA-eligible facilities only, or to all facilities owned by an AFA-qualified company (or affiliated with an entity through the 10% rule).
3. Whether the limit would be aggregated across all processors, at the sector level (offshore, onshore, mothership), or at the individual level (either company or entity).
4. Whether to use the years 1995-1997 as the basis, or the years 1996 and 1997 only.
5. Whether processing sideboard limits are intended to apply to offshore and mothership sectors as well as shoreside (section 211(c) of the AFA requires sideboard limits and excessive share caps for catcher vessels and shoreside processors specifically, though the analysis contains information for all processing sectors).

Ten basic options, which represent combinations of the above choices, are specifically analyzed in the document.

(b) AFA Conformance Measures

Separate analyses, including one for CDQ related measures (discussed below), were prepared for proposed FMP changes to conform with the AFA. Final action is scheduled for this meeting on three changes to the BSAI and GOA FMPs to conform with the American Fisheries Act. In April 1999, the Council approved the analysis for public review with no changes. The executive summary is attached as Item C-1(b). Changing the percentage allocations for pollock to conform the BSAI FMP with those allocations mandated by the Act through 2004 is the subject of Action 1. Changes to replacement restrictions for AFA-eligible vessels in the BSAI FMP is the subject of Action 2. While not mandated by the AFA, Action 3 conforms with Council intent

to mirror the allocation sunset dates for pollock and Pacific cod allocations in the GOA and BSAI and results in a change to the GOA FMP. During its December 1998 discussions, the Council indicated that the proposed actions under Alternative 2 for Actions 1, 2, and 3 were its preferred alternatives.

ACTION 1. BSAI POLLOCK ALLOCATIONS

Alternative 1: No action.

Alternative 2: Change the current inshore/offshore directed pollock allocations in the Bering Sea/Aleutian Islands FMP to conform with those allocations mandated by the American Fisheries Act of 1998. *Preferred*

ACTION 2. GOA POLLOCK ALLOCATIONS SUNSET DATE

Alternative 1: No action.

Alternative 2: Extend the sunset date of the current pollock and Pacific cod allocations in the GOA FMP to conform with the date mandated for the Bering Sea/Aleutian Islands area in the American Fisheries Act of 1998. *Preferred*

ACTION 3. REPLACEMENT VESSELS IN THE BSAI DIRECTED POLLOCK FISHERIES

Alternative 1: No action.

Alternative 2: Change restrictions in the BSAI FMP to conform with replacement requirements for eligible vessels under the American Fisheries Act of 1998. *Preferred*

(c) MS-CDQ Program Conformance Measures

The Council is scheduled to take final action at this meeting on two actions to conform the BSAI FMP with the American Fisheries Act: 1) to define directed fishing for pollock in the MS-CDQ program and 2) remove squid from the program. In April, the Council approved releasing a revised analysis, which incorporated additional alternatives under Action 1, to the public.

The CDQ Implementation Committee met on May 21, 1999. The Committee recommended adding alternatives to the analysis to: 1) increase the percentage by haul for defining pollock directed fishing (above 40% threshold recommended in the analysis); 2) combine weekly threshold and annual limit by CDQ group; and 3) use a targeting algorithm for calculating halibut mortality. The committee did not have a recommendation on Action 1 during the meeting, but may recommend a preferred alternative this week. The committee did recommend Action 2, Alternative 2 to not allocate 7.5% of the BSAI squid TAC to the CDQ program. The revised analysis (including the Action 1 options recommended by the committee) was mailed on May 27; the alternatives and a brief discussion of each are listed below.

ACTION 1. Defining directed fishing for pollock CDQ

NOTE: Under Action 1, Alternatives 2 and 3 focus on a 40% threshold to evaluate the percentage of pollock in the total catch by haul, delivery, or week for purposes of defining directed fishing for pollock. However, the information presented in the analysis provides information about a range of percentage thresholds from 0% to 100%. Therefore, the analysis would support alternatives for different percentage thresholds.

Alternative 1: No Action. Do not amend 50 CFR 679 to be consistent with the requirements of the AFA.

This alternative cannot be selected under the AFA, because it would result in regulations that conflict with statute.

Alternative 2: Regulations currently in effect for 1999 under an Emergency Interim Rule

Directed fishing for pollock CDQ would be based on the percent of pollock in each CDQ haul by a catcher/processor and in each delivery by a catcher vessel.

All pollock caught while directed fishing for pollock CDQ would accrue against the CDQ group's pollock CDQ. All pollock caught in CDQ hauls or deliveries that do not meet the definition of directed fishing for pollock CDQ will accrue against the pollock incidental catch allowance.

Proposed definition: Directed fishing for pollock means fishing that results in the following:

- (1) For each haul by a catcher/processor, the round weight of pollock represents 40 percent or more by weight of the total round weight of all groundfish in the haul.
- (2) For each delivery by a catcher vessel, the round weight of pollock represents 40 percent or more by weight of the total round weight of all groundfish delivered to the processor.

Alternative 3: Directed fishing for pollock CDQ would be based on the percent of pollock in all CDQ hauls for the weekly reporting period for a catcher/processor and in each CDQ delivery by a catcher vessel.

All pollock caught while directed fishing for pollock CDQ would accrue against the CDQ group's pollock CDQ. All pollock caught in weekly reporting periods that do not meet the definition of directed fishing for pollock CDQ will accrue against the pollock incidental catch allowance.

Proposed definition: Directed fishing for pollock means fishing that results in the following:

- (1) For all CDQ hauls in a weekly reporting period by a catcher/processor, the round weight of pollock represents 40 percent or more by weight of the total round weight of all groundfish in the CDQ hauls.
- (2) For each delivery by a catcher vessel, the round weight of pollock represents 40 percent or more by weight of the total round weight of all groundfish delivered to the processor.

Option 1: In conjunction with Alternative 3 (40% by week threshold), the amount of pollock that could accrue against the pollock incidental catch allowance would be limited to an annual amount which would be expressed as a percent of the total CDQ allocations for flatfish species groups for each CDQ group. The CDQ Implementation Committee, at its May 21, 1999, meeting, suggested that this option be added to the analysis to provide an upper limit on the amount of pollock incidental catch that would accrue against the pollock incidental catch allowance. The annual limit would be implemented together with the 40% threshold by week for catcher/processors and by delivery for catcher vessels. All of the pollock in each haul or delivery in which pollock was less than 40% of the total groundfish catch would accrue to the pollock incidental catch allowance until the annual limit was reached. Then, all of the pollock caught in the CDQ fisheries, regardless of whether pollock was less than 40% of the haul or greater than 40% of the haul, would accrue against the pollock CDQ allocation. This option was suggested by the CDQ Implementation Committee because NMFS expressed concern that a threshold of 40% by week could result in a significant increase in the projected catch of pollock that would accrue to the incidental catch allowance.

The CDQ Implementation Committee suggested that the annual pollock incidental catch limit for the CDQ fisheries would be a percentage of the CDQ allocations in which pollock was expected to be caught incidentally, which would be primarily the flatfish fisheries. In the example discussed at the Implementation Committee meeting, 20% of the annual CDQ allocations for flatfish would be the annual limit.¹ In 1999, that sum of the flatfish CDQ allocations is 41,945 mt² - 20% of this amount would be 8,389 mt of pollock.

Alternative 4: Directed fishing for pollock CDQ would be determined based on the predominant species in the total groundfish catch for each haul or delivery.

This alternative would define directed fishing for pollock in the same manner that target fisheries are determined to assign halibut bycatch mortality rates for the groundfish CDQ fisheries. The 1999 annual groundfish specifications identified twelve different trawl gear target fisheries, including midwater pollock and non-pelagic pollock. Each of these target fisheries has an assumed halibut bycatch mortality rate associated with it which is used to convert total halibut bycatch to halibut bycatch mortality. In the CDQ fisheries, the halibut bycatch mortality is then subtracted from the CDQ group's halibut prohibited species quota. In order to determine the appropriate halibut bycatch mortality rate to apply, the CDQ groups and NMFS classify each haul and delivery into one of these twelve target fishery categories on the basis of the predominant species in the total groundfish catch. Flatfish species are aggregated into one species group and the other species are aggregated into total allowable catch (TAC) categories, which may be a single species (e.g. pollock) or a species group (e.g. "other species"). Appendix A includes a table describing the target fishery classifications for assigning halibut bycatch mortality rates to all gear and target fisheries.

¹20% was used in this example because it is the maximum retainable bycatch percent for defining directed fishing for pollock in the open access fisheries. However, the CDQ Implementation Committee noted that this percent may not be appropriate because, under Alternatives 3, pollock is being evaluated as a proportion of total catch in a week, not as a proportion of the retained catch onboard the boat.

²5,797 mt flathead sole, 9,000 mt rock sole, 15,598 mt yellowfin sole, and 11,550 mt of other flatfish for a total of 41,945 mt.

Under this procedure, a haul or delivery would be classified into one of the two pollock target fisheries based on the following criteria:

Midwater pollock if pollock is equal to or greater than 95% of the total groundfish in the haul by a catcher/processor or the delivery by a catcher vessel.

Non-pelagic pollock fishery if pollock is the largest percent of the total groundfish catch, but does not meet the 95% requirement for midwater pollock. The catch of pollock is compared to the aggregate of all flatfish species and to the catch of all other TAC species or species groups individually.

This approach to assigning a target fishery could be adapted to defining directed fishing for pollock CDQ by using the following definition:

Proposed definition: Directed fishing for pollock means fishing that results in the following:

(1) For each haul by a catcher/processor, the round weight of pollock represents the largest percent of the total round weight of all groundfish in the haul when compared to the aggregate of all flatfish species and to all other groundfish species based on their TAC categories.

(2) For each delivery by a catcher vessel, the round weight of pollock represents the largest percent of the total round weight of all groundfish in the delivery when compared to the aggregate of all flatfish species and to all other groundfish species based on their TAC categories.

Alternative 5: Directed fishing for pollock CDQ would be based on the retained catch composition during a fishing trip under the same regulations that define directed fishing for the non-CDQ fisheries.

The CDQ group would identify whether a vessel is directed fishing for pollock CDQ on the CDQ catch report.

For vessels directed fishing for pollock CDQ:

- All pollock caught would accrue against the CDQ group's pollock CDQ allocation regardless of the percentage of catch pollock represented.
- All pollock would be required to be retained under Improved Retention/Improved Utilization (IR/IU) requirements.

For vessels not directed fishing for pollock CDQ:

- No limit is placed on the amount of pollock that could be caught by vessels that are not directed fishing for pollock.
- The vessel would be prohibited from retaining in excess of the maximum retainable bycatch amount of pollock during the fishing trip. All pollock caught above the MRB amount would be required to be discarded under the IR/IU requirements.

- As long as the MRBs are followed, all pollock caught by these vessels would accrue against the pollock incidental catch allowance.

ACTION 2. SQUID CDQ

Alternative 1: Status quo, continue to allocate 7.5% of the squid TAC to the CDQ Program and prohibit CDQ groups from exceeding their squid CDQ.

Alternative 2: Do not allocate 7.5% of the squid TAC to the CDQ Program. Squid caught while CDQ fishing would accrue against the non-CDQ squid TAC and the catch of squid would not limit the CDQ fisheries (unless the overall catch of squid reached an amount that would affect all BSAI fishing).

COUNCIL MOTION ON AFA

Catcher Processor Sideboards

For the year 2000 and beyond, the Council initiated an analysis for the 20 + 9 vessels listed in the AFA of their bycatch in both the directed pollock and non-pollock fisheries (95, 96, 97) and associated PSC levels. The catch histories of the 20 listed vessels and the 9 vessels which are removed from the fishery and the catch in the pollock and non-pollock target fisheries will be treated separately. This will allow the Council to include either all catch or only catch in the non-pollock target fisheries (for either the 20 or 29 vessels) in the caps set for 2000 and beyond.

Sub-options:

1. The caps would close both the pollock and non-pollock groundfish fisheries when reached.
2. The caps would close only the non-pollock groundfish fisheries when reached (only pelagic pollock fisheries would remain open).

Include a review of vessel specific PSC rates in addition to average PSC bycatch ratio for the 20 +9 AFA catcher/processors relative to non-AFA vessels.

Add to Table 6.9 a fourth column which illustrates a retrospective analysis of PSC needs of the 20 + 9 AFA catcher/processors using a performance-based pelagic definition.

Include discussion paper establishing chinook PSC sideboard for co-op pools in pollock, on a pro-rata basis, based on final Council action on chinook bycatch caps. (Note: The chinook bycatch option was included in the AP minutes only under catcher vessel sideboards. For consistency, staff has also included this option under the catcher/processor sideboard section).

Catcher Vessel Sideboards

CRAB SIDEBOARDS

Participation in a co-op is defined as ANY use of a vessel's catch history by a co-op, whether by direct harvest, lease, sale, or stacking of quota.

Initiate analysis of the following options to mitigate impact of possible spillover effects of AFA on other fisheries:

Options For Section 208 Vessels:

1. No crossover allowed into any crab fisheries.
2. No crossover allowed in the Tanner crab fishery only (opilio and bairdi).

3. No crossover allowed into opilio unless vessel fished opilio in 1996 or 1997.
4. No crossovers at the endorsement level.
5. Allow crossovers only into red king crab fisheries only (excludes brown and blue king crab).

Sub-options:

- a. Vessels which qualified based on bycatch of bairdi in red king crab would be restricted to bycatch of bairdi in the red king crab fishery (applied to #2 & #4 above).
- b. Only Section 208 catcher vessels that join a co-op (applies to #1-5 above and #6 below).
- c. Allow crossovers for vessels with crab landings in each of the three years (1995, 96, and 97) (applies to #1 and #2 above).
- d. Prohibit any vessel participating in an AFA co-op from lease, transfer, or sale of any license limitation program (LLP) permit.

Duration sub-options:

- a. Permanent, based on participation in a co-op.
- b. Only for year vessel is involved in co-op.
- c. Duration of AFA

6. Measures that would restrict pollock co-op vessels to their:

- Option a. Aggregate traditional harvest including a restriction to the percentage of crab harvest in all species between 1995, '96, and '97.
- Option b. Average catch history 1995, '96, and '97 on a species-by-species and vessel-by-vessel basis.
- Option c. No sale, lease, or stacking of vessel catch history in any crab fishery.

SCALLOP SIDEBARDS

1. Participation in a co-op is defined as any use of a vessel's catch history by a co-op, whether by direct harvest, lease, sale, or stacking of quota.

2. Measures that would restrict pollock co-op vessels to their aggregate traditional harvest in the scallop fishery in the years:

- Option a. 1996 and '97.
- Option b. 1997 only

Sub-options:

- a. Based on percentage of statewide catch
- b. Based on percentage of PSC cap.

GROUNDFISH SIDEBOARDS

BSAI

Participation in a co-op is defined as ANY use of a vessel's catch history by a co-op, whether by direct harvest, lease, sale, or stacking of quota.

To Whom Restrictions Apply

Restrictions should apply to all non-pollock FMP fisheries.

Sideboards apply to all Section 208 eligible vessels.

Sub-options:

- a. Applies to Section 208 vessels only if they join a co-op.
- b. Create sub-sideboard cap for catcher vessels with average pollock landings from 1995-97, which were less than:
 1. 1,000 mt
 2. 3,000 mt
 3. 5,000 mt

When the CV Restrictions Should Apply

1. Harvest levels should be restricted only during the same time periods as the normal open access pollock fishery

Sub-options:

- a. Use 1998 open access season dates by sector as a base reference
 - b. Use 1999 sea lion modified season dates.
2. Exempt those CVs that fish for motherships from BSAI groundfish sideboards prior to February 1 each year.
 3. Exempt each CV sector from BSAI groundfish sideboards for the number of days in excess of 5 that each CV sector's pollock season is closed by regulation during the month of February.
 4. Limit fishing to the season (or quarter - or half year) in which the catch history was earned.
 5. At all times during the fishing year.
 6. AFA qualified pollock catcher vessels, that during pollock A season historically had a majority of their catch in pollock, would be limited prior to March 1 of each year to the collective share of the cod fishery that these same vessels collectively harvested historically (1995, 96, 97) prior to March 1.

GOA

1. Apply the following sideboards to AFA Section 208 eligible catcher vessels.
Sub-option: Applies only to vessels participating in a co-op.
2. Any non-pollock catch limitations for AFA Section 208 vessels are aggregate caps not quotas or allocations.
3. Vessel catch history consists of the years 1995, '96 and '97.
Sub-option: Fishery is released seasonally by quarter proportionally to when caught during qualifying years.
4. Gulf of Alaska flatfish sideboards to be halibut bycatch driven. Historic target catch should be multiplied by the average halibut bycatch rate and current mortality rate to determine the halibut mortality available to AFA vessels. These amounts should be separated between deepwater and shallow water complexes.
5. Gulf of Alaska groundfish target fisheries: Target catch of each groundfish species available to AFA Section 208 vessels should be limited to the average catch, by target species, based on the average catch history.

Processor Sideboards

PROCESSOR SIDEBOARDS

(For review in April 1999) an analysis be initiated examining options to mitigate potential adverse impacts from AFA on non-pollock processors including:

1. Restricting vessels used for processing in the inshore sector to a single geographic location.
2. Measures to restrict pollock processor activity in non-pollock fisheries to no more than historic levels including options using years 1995, 96 and 97.

In order to further the analysis mandated by the AFA:

1. Analysis should evaluate impacts at both the facility and corporate level throughout the BSAI and GOA.
2. Crab sideboard limits should include all Council alternatives.

The analysis should consider the following:

1. list the adverse effects that the measures are aimed at protecting,
2. quantify how the measures will protect the non-eligible processor from the adverse effects, and
3. consider whether adverse effects have a high probability of occurring as opposed to being just perceived as a possibility of occurrence,

before any protective measures are implemented.

NOAA GC has provided an opinion that the Council is restricted under the Act from allowing additional pollock processors except when the TAC increase by 10 percent over 1997 levels, or one of the processors suffers a total or constructive loss (Section 208(f)(2)). The discussion provided by NOAA GC will be included in the amendment package.

Other Actions Under This Section

Initiate a data gathering program to identify the benefits and impacts of AFA. Information tracked should examine state and federal fisheries and include:

- ownership patterns
- processor activity
- product forms
- ex-vessel price
- employment changes
- market share

Excessive Shares

1. Initiate an analysis (for review in December 1999) of excessive share caps on AFA processors of 10%, 12%, 15% and 17.5% for BSAI pollock.
2. Non-pollock BSAI groundfish and BSAI crab fisheries should also be examined. A sub-option should also be examined which allows differential caps between pollock and non-pollock processors:

- Option a: range of 10%, 17.5%, and 40%
- Option b: the 1995-1997 average

Excessive share caps should:

- a. Use the 10% ownership rule.
- b. Provide grandfather options for existing processors in excess of the 17.5% share.
- c. Be applied by species groups (pollock, other groundfish, and crab) and FMP area (BSAI).

Other AFA Actions

1999 Co-op Agreements

Request that NMFS prepare a preliminary report on the 1999 co-ops for the October 1999 Council meeting and a final report for the February 2000 meeting. The report should specifically assess:

1. The effectiveness of pollock co-ops in reducing bycatch (all species).

2. The effectiveness of management measures to protect other fisheries from adverse impacts caused by the AFA or pollock co-ops.
3. A discussion of how transfers within co-ops may affect issues 1 and 2 above.
4. Utilization and recovery rates by species and product categories.
5. Method of monitoring and enforcement.

The report should include the most specific catch and bycatch information available on an individual vessel level to help the co-op and the Council realize the public disclosure requirements for such information envisioned in Section 210(a)(1)(A) of the AFA.

Confidential Catch & Bycatch

As described in the NMFS' January 28, 1999, discussion paper, the Council requests NMFS to begin to develop the regulatory infrastructure to provide disclosure of:

1. Vessel identification.
2. Harvest amounts by species including prohibited species and harvest rates of species.

Further, the Council initiated an analysis to consider use of a dual form of fish tickets to be used by NMFS and ADF&G that would not fall under the State of Alaska's confidentiality regulations.

The Council requests that ADF&G initiate efforts to change AS 16.05.815 to allow for the release of confidential data as provided by Section 210(a)(1)(B) and Section 211(d) of the AFA.

The Council urges NMFS to make testing of its new system to capture catch delivery information from shoreline operation a top priority for implementation this summer. The Council will write a letter to the Secretary of Commerce highlighting the need for NMFS to budget additional staff and resources to improve our catch and bycatch reporting systems in order to aid the Council's ability to comply with the bycatch reduction mandates that were included in the Magnuson-Stevens Act.

Co-op Discussion Paper

Initiate a qualitative analysis of the economic and policy issues associated with formation of processor/catcher vessel (and mothership/catcher vessel) cooperatives under the AFA, including the alternatives outlined in the independent catcher vessel proposal with a preliminary report to the Council in June 1999 and a final report in September 1999.

Report of the BSAI Co-op Implementation Committee - May 17-19- Seattle WA

The Council appointed Committee met on May 17-19 in Seattle to try and develop a plan to allow pollock co-ops to be implemented for the year 2000 fisheries. The following persons were in attendance:

Members present: Joe Kyle (Chair), Wally Pereyra (Vice-Chair), Jim McManus, Joe Plesha, Glen Reed, Doug Forsyth, John Iani, Alec Brindle, Jr., Ralph Hoard, Lyle Yeck, John Young, Dave Fraser, Brent Paine, Steve Olsen, Margaret Hall, Fred Yeck, Dave Benson, Ken Tippet, Frank Bohannon, Paul McGregor, Don Goodfellow, Terry Leitzell, Joe Sullivan

Staff: Chris Oliver, Jane DiCosimo, Sue Salveson, Kent Lind, Bill Karp, Joe Terry, Lew Queirolo, Galen Tromble, Martin Loefflad, Seth Macinko

Other: Bob Mikol, Brad Warren, Tom Casey, Mike Atterberry, Scott Matulich, Donna Parker, Karl Haflinger, Jim Seavers

The meeting began by allowing each Committee member to express general perspectives and specific issues. Major themes expressed included: (1) a great desire by industry to have pollock co-ops in place in January 2000, even if that means a very simplistic approach; (2) pollock allocations at the co-op level are essential, even if sideboards have to be allocated and managed across all catcher vessels; (3) in addition to greater flexibility and benefits from the fisheries, co-ops represent one of the best tools to respond to the specific demands of the sea lion RPAs; (4) specific allocations and sideboard limits can be effectively managed by the co-ops themselves, mitigating the need for an overly burdensome and complicated regulatory regime; (5) a concern that sideboards not be punitive in nature and destroy the opportunity for effective co-ops; (6) a concern that development of implementation objectives not drive the policy/philosophical decision points; (7) a concern that catch history disputes will bog down co-op negotiations, and therefore an 'official record' be established as early as possible; (8) a recognition that co-op agreements within the inshore sector (with over 100 vessels involved) will be more difficult to negotiate, and therefore may benefit from a more simplistic approach.

The Committee also received extensive input from NMFS personnel regarding data, implementation, and monitoring issues throughout the three days of meeting. Based on that input and the guiding principles listed above the Committee was able to reach consensus on a plan for year 2000 which appears to satisfy both industry desires and the agency's minimum requirements. This approach is summarized below and is followed by a summary of the underlying Committee discussions.

Bottom Line Approach for Year 2000 Co-ops

1. **annual pollock allocations to each co-op.**
 - overall area/season splits (RPAs) managed by NMFS at overall inshore sector level.
 - area/season splits for each co-op managed by each co-op via co-op

agreements. NMFS will publish general requirement that such provisions must be in the co-op agreements.

-No verification/appeals process of pollock catch history for year 2000.

-NMFS will manage open access portion of inshore fishery in terms of overall quota and area/season splits.

2. Request that vessel level catch data (for pollock as well as other groundfish) be released to industry for their use in co-op negotiations. The Committee believes it is not acceptable that this process is being held up by State confidentiality regulations.

3. Sideboards managed by NMFS in aggregate across all catcher vessels (CVs).

-NMFS would publish guidelines by which co-ops can effect co-op level sideboards, at least for Pacific cod (i.e., require that co-op agreements contain provisions to keep co-op participants within their traditional catch levels in other fisheries - the stop sign concept) . It is recognized that co-op level sideboards may complicate sideboard negotiations.

-Sideboards only apply to vessels in a co-op (do not apply simply if AFA-eligible).

-Temporal based sideboards are appropriate for some species, either alone or in combination with quantity based sideboards - specifically, for underutilized non-pollock groundfish species, there would be no fishing during traditional pollock seasons (those in place in 1995-1997) instead of quantity-based sideboards.

-for cod, sideboard is quantity based (on historical levels) and applies to all co-op CVs, but sideboard limit is lifted on April 1.

-same principles apply for GOA sideboards, noting that it is even more important to give industry the ability to effect co-op level sideboards because of small number of vessels which account for most of that catch, and small quotas for NMFS to manage.

-PSC sideboards are assumed to be proportional to groundfish sideboards, and would not be allocated by target fishery but would apply in aggregate across the groundfish sideboard caps.

The Committee also recognizes the ability of inter co-op agreements to further effect the intent of the general principles outlined above. While not being required, such agreements across co-ops could occur and may be necessary for industry to effectively manage the overall timing, location, and distribution of harvest.

Discussion of Issues

The following is a shorthand summary of the major points of discussion by the Committee:

Primary NMFS management issues

NMFS staff reiterated the need for a regulatory infrastructure to effect co-op allocations of pollock, and the need for an independent verification of pollock (and sideboard) catch. An ideal system

would have the following four components: (1) co-op report as with CDQ report on daily basis (something like SeaState program could substitute); (2) VMS type system to tell us exact location; (3) increased observer coverage to cover every delivery shoreside, (4) electronic delivery report (fish ticket), which is being tested this summer, and would be submitted by the plant.

The offshore sector relies on haul by haul observer data for pollock and groundfish for catch, timing, and location. Management is by this data, not the WPRs and blend system. For CV deliveries, product is weighed on flow scales. It is effectively real time data via satellite feed. The coop manages harvest by individual vessels, NMFS only manages the 40% allocation to offshore. While the offshore co-op is simpler than the anticipated onshore co-ops, NMFS, in effect, manages two co-op allocations within the overall 40% pollock allocation. Reporting and management of the catcher vessel portion of that is similar to that described in the bottom line plan.

The plan outlined by the Committee would be acceptable to NMFS, at least for a year 2000 program, if the onus is put on the co-ops for management of the co-op specific pollock allocation (NMFS does not have the ability to manage the approximately 72 quotas which would result, given the individual co-op allocations in combination with sea lion RPAs). Co-op agreements should contain provisions for each vessel's harvest inside and outside the CVOA. NMFS will only manage the overall pollock quota allocated to the 7 co-ops, so they will have to have their own management structure amongst themselves to avoid pre-empting one another in terms of CVOA and A1 A2 seasons. It is likely that catch will be assumed to come from within the CH when the A season is open, unless verified otherwise through observer. In terms of observer coverage, industry would prefer additional plant observers over having full-time vessel observers. NMFS still has to manage the open-access fishery in terms of season and CH harvest, with the intent that it would not impact inshore co-op sector. Crab and scallop sideboards would be dealt with by the State presumably. Sideboard numbers would have to be in place by January 1 via the spec process and could not be changed to adjust to boats moving in or out of a co-op

Appropriate application of sideboard limits

The Committee recommends that sideboard limits apply only to vessels which actually participate in a co-op (as opposed to being AFA-eligible). Additionally, the Committee recognizes that some AFA vessels (up to 40%) have limited reliance on pollock and more reliance on other species, which lends support to the idea of temporal based sideboards. Those vessels should not be penalized, even if they join a co-op. This was the intent of the AFA according to Committee members involved in that process. If the AFA had meant for sideboards to apply year round, then the AFA likely would have imposed sideboards in 1999. At least one Committee member disagrees and believes sideboards should apply regardless of co-op participation. The actual wording in the AFA is ambiguous and may require a legal determination as to when sideboards apply. In terms of implementation, it may make little difference, as long as NMFS knows by start of season which vessels are in the group subject to the sideboards, which have to be in place by January 1.

Sideboards could be both quantity based, and include a temporal aspect, if the actual season dates are

F/V PACIFIC RAM
P.O. Box 1256
Newport, OR 97365

May 25, 1999

Richard Lauber, Chairman NPFMC
605 West 4th Ave., Suite306
Anchorage, AK. 99501

RECEIVED

MAY 28 1999

N.P.F.M.C

Dear Mr. Lauber

I am the owner of an 82' combination cod and pollock trawler which has fished continuously in Alaska since 1991. I would like to explain why the small boat fleet needs different sideboards than the large pollack boats.

Every year we have fished A season in the Gulf and B season in the Bering Sea. Our catch in both areas consists of pollack and cod on a fairly equal dollar basis. In addition in one of the qualifying years we fished for the catcher/processor sector, which further reduces our qualifying poundage. Our combined catch in the Gulf and Bering Sea for cod and pollock is less than 1500mt. per year. If the council adopted sideboards where small boats could only fish one area, it would obviously make our operation unvailbe.

It is very important for myself and other catcher boats which have lost catch history because they fished one year in the catcher-processor sector to adopt the option to utilize the best 2 of the 3 qualifying years for determining quata history rather than all 3 years.

My situation as a small pollack boat which fishes both the Gulf and Bering Sea, and also dependent on cod is the same as many other small boats. I believe these small pollock boats deserve seperate treatment as opposed to the larger boats with extremely large catch histories.

I do not believe the intention of the AFA was to eliminate small pollock/cod boats, but we need to be able to keep and fish our catch histories from both the Gulf and Bering Sea in order to survive financially.

Sincerely,

Ernie Yeck
F/V Pacific Ram

VICTOR

SEAFOODS

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JUN - 1 1999
N.P.F.M.C

June 1, 1999

Mr. Richard B. Lauber
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Re: Groundfish Processing & Single Geographic Location

Dear Rick:

I am writing to support action by the Council at its June meeting to eliminate the current regulatory requirement that a vessel processing groundfish in the inshore sector in the Bering Sea must process groundfish in a single geographic location throughout the entire fishing year. The requirement was placed in the regulations as part of the inshore-offshore management system for pollock, primarily so that a vessel could not operate in both the offshore sector (as a catcher-processor, for example) and in the inshore sector (as a mothership) during the same seasons or year. The American Fisheries Act defines and restricts each sector so that cross-over is no longer legally possible.

PROPOSAL

We recommend the elimination of the regulatory requirement that an inshore component groundfish processing vessel operate in a single geographic location in Alaska state waters for the fishing year when processing Bering Sea pollock. The requirement to operate in a single geographic location when processing Gulf of Alaska pollock and Gulf of Alaska Pacific cod would remain in effect. Consequently, a processing vessel that processes GOA pollock or cod at a Gulf of Alaska location early in the year would be required to return to the same location if it processed GOA fish later in the year. The vessel could process Bering Sea pollock at other locations in the Bering Sea, e.g. the Pribilofs.

INSHORE-OFFSHORE REGULATIONS

The inshore-offshore regulations require that a floating processor operate in a single geographic location in Alaska state waters for the entire fishing year in order to be part of the inshore component (see 50 CFR 679.2 definition of "Inshore component"). When the inshore-offshore program was begun, the Council and NMFS structured the regulations so that a processor could not operate in both the inshore and offshore sectors during the same year and could not change sectors by season. The requirement to operate in a single location meant that an inshore floating processor could not shift to the offshore sector in the same year, nor could an offshore mothership move inshore for part of a year.

4209 21st Avenue West • Suite 402 • Seattle, Washington 98199 USA
(206) 285-8300 • Fax (206) 285-0988

1

In addition, the single location requirement provided some measure of competitive protection for processors in the Gulf of Alaska.

AMERICAN FISHERIES ACT ("AFA")

A. Three Exclusive Sectors. The AFA defines and specifies the processors that are part of each of the three sectors. The three motherships that operate at sea in the EEZ are named in Sec. 208(d); the catcher processors are named in Sec. 208(e); and the shoreside processors are defined in Sec. 208(f). Each of these sectors is exclusive under the AFA and no processor is eligible in more than one sector. Consequently, the primary policy rationale for the single location requirement has been eliminated. With regard to the second rationale relating to the Gulf of Alaska, we are willing to continue to process GOA groundfish in a single GOA location for the entire fishing year.

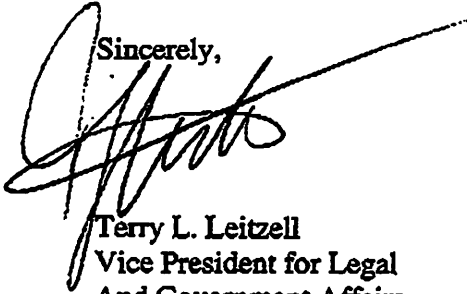
B. AFA Reference to Single Location. Although the AFA has a reference to the single geographic location definition, the AFA does not require that the NORTHERN VICTOR operate in a single location. The following analysis supports that conclusion:

1. **Shoreside Processor.** Sec. 205 (12) defines "shoreside processor" as including any vessel that receives unprocessed fish, which the NORTHERN VICTOR does. The definition does not contain the single location restriction.
2. **Inshore Component.** Sec. 205 (6) defines "inshore component" for allocation purposes to include shoreside processors, including those eligible under Sec. 208 (f). This section defines the inshore component that receives the 50% allocation of Bering Sea pollock and does not contain the single location restriction.
3. **Closed Inshore Sector.** Sec. 208 (f) limits the Bering Sea pollock shoreside processors to those shoreside processors, including vessels that operated at a single location, that processed more than 2000 metric tons of pollock in the inshore component in 1996 and 1997. This is the only mention in the Act of the single location matter. This section uses the single location definition only with reference to historical operations by inshore pollock processors during 1996 and 1997, i.e. a floater operating in a single location in those years is defined as part of the closed inshore processing component for the future. This reference to the single geographic location has no current or future application in the AFA.

Consequently, the AFA does not require that an inshore floating processor operate in the future in a single geographic location.

We appreciate your attention to this issue and urge that the Council support the elimination of the single geographic location requirement for a processor when processing Bering Sea pollock.

Sincerely,



Terry L. Leitzell
Vice President for Legal
And Government Affairs

Alaska Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615

TO: RICK LAUBER, CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

RE: AFA SIDE BOARDS FOR GULF OF ALASKA

DATE: JUNE 1, 1999

SENT BY FAX: 2 PP



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JUN - 1 1999
N.P.F.M.C.

AGENDA ITEM C-1

AMERICAN FISHERIES ACT COMMENTS ON SIDE BOARDS FOR THE GULF OF ALASKA SUBMITTED BY ALASKA GROUND FISH DATA BANK - JUNE 1, 1999

Alaska Groundfish Data recommends the following side boards be implement in the Gulf of Alaska as protections from the American Fisheries Act.

1. **NATURE OF SIDEBOARDS:** The sideboards for the Gulf should be a cap not a quota or an allocation for Section 208 vessels with history in the Gulf of Alaska
2. **VESSEL HISTORY:** Section 208 vessels' history in the Gulf of Alaska is the average catch for the years 1995, 1996, and 1997 by quarter.
 Since halibut bycatch allocations for the Gulf trawl fleet are apportioned quarterly and since the allocation of the quarterly halibut cap release between the Deep and Shallow Complexes reflects the intended fisheries for that quarter any shift among quarters has the potential to disrupt the established fisheries.
 For example, if a vessel decided to fish shallow flats, normally a second quarter fishery, in first quarter the trawl Pacific cod fishery could be curtailed by the shallow flatfish fishery.
3. **SIDE BOARDS FOR FLATFISH:** Since it is halibut bycatch, not the flatfish TAC, which determines the catch of flatfish, the side boards should be halibut driven as follows:
 For each quarter multiply the aggregate Shallow Complex flatfish target catch for Section 208 vessels and multiply the total by the current halibut bycatch and mortality rates to determine the amount of halibut mortality bycatch which should be allocated to the qualifying Section 208 vessels.
 The same methodology should also apply to the Deep Flatfish Complex.
 Actual target catch or reasonable proxy should be used since the halibut bycatch rate is based on the total catch not just the flatfish in the catch.
4. **SIDEBOARDS FOR NON-FLATFISH FISHERIES:** Catch of non-flatfish species, including pollock, should be limited to the average aggregated catch 1995-97, by target species.

OTHER AFA ISSUES

1. **INSHORE/OFFSHORE GULF SUNSET:** AGDB appreciates the staff's bringing this issue forward. AGDB member feel the Bering Sea and Gulf of Alaska I/O sunset dates should be the same.

GOA AFA SIDE BOARDS COMMENTS -- JUNE 1, 1999 -- PAGE 2 OF 2

2. **DEFINITION OF AN INSHORE MOTHERSHIP:** AGDB supports whatever wording was used in the original Inshore/Offshore regulations.
3. **DO SIDEBOARDS APPLY TO COOP ELIGIBLE VESSELS OR JUST TO VESSELS PARTICIPATING IN A COOP.** Side Boards apply if vessel is participating in co-op.

MIDWATER TRAWLERS PROPOSAL

AGDB received Midwater Trawlers' comments on side boards. However, there has not been time for AGDB members to review and comment on MWT's proposal prior to the deadline for comments. Hopefully by the time this issue comes up in the Council there will have been time for AGDB members to review the proposal.

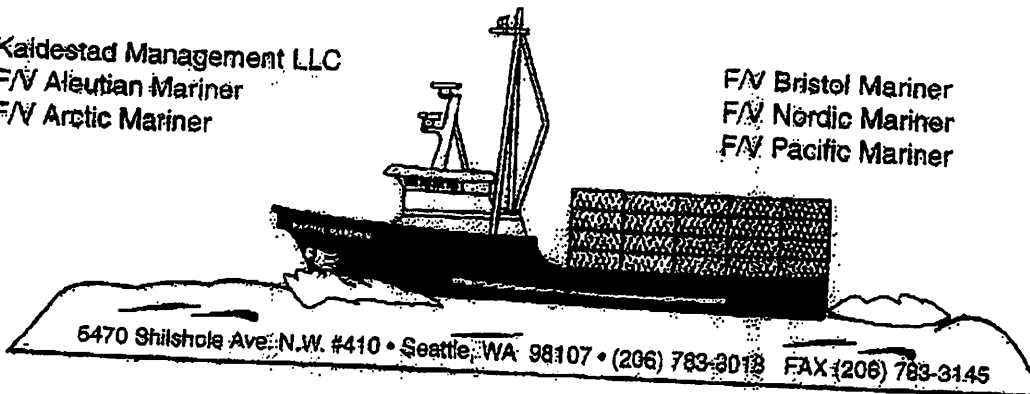
Thank you for your consideration of our comments.



Chris Blackburn, Director
Alaska Groundfish Data Bank

Kaldestad Management LLC
F/V Aleutian Mariner
F/V Arctic Mariner

F/V Bristol Mariner
F/V Nordic Mariner
F/V Pacific Mariner



RECEIVED
June-01, 1999
JUN - 1 1999

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
605 WEST 4TH AVENUE, SUITE 306
ANCHORAGE, AK. 99501-2252

N.P.F.M.C

Dear Council Members,

I am writing to you concerning the proposed sideboards for crab fisheries affected by the American Fisheries Act the council will act on at the June Council meeting in Kodiak. As the owner of independent crab catcher vessels, there are two issues which I feel are important to my sector of the crab industry.

The first is the potential of AFA vessels coming into the king and tanner crab fisheries at a time when the major fishery, the opilio fishery, is in a major decline and the next most important fishery, the Bristol Bay red crab fishery, has great uncertainty in its potential recovery and is still far below average historic levels. The crab vessels who depend on these fisheries need the council's help in preventing opportunistic AFA vessels from entering these fisheries and further intensifying the competition for the crab resource.

The second issue is the effect of limiting AFA processors in their ability to purchase crab from catcher vessels based on some level of historical participation. Some of our vessels have markets with AFA affected processors and I am concerned about the availability of other markets for these vessels if their primary market is unable to purchase product from them. Also, I believe the incentive for price competition will be greatly affected by a reduction in available buyers which could harm both vessels which fish for AFA and non-AFA processors. The council needs to use caution and carefully consider the effects of processor caps on the independent crab fleet.

Sincerely,

Kevin L. Kaldestad
Kevin L. Kaldestad

MIDWATER TRAWLERS COOPERATIVE

P. O. Box 2352 * NEWPORT, OREGON 97365

Captain R. Barry Fisher, President

Phone: (541) 265-9317 Fax: (541) 265-4557



MTC

June 1, 1999

Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Ave., Suite 306
Anchorage, AK 99501

RECEIVED
JUN - 1 1999
N.P.F.M.C

VIA FAX: (907) 271-2817

RE: AMERICAN FISHERIES ACT

Dear Chairman Lauber and Council Members:

A substantial number of MTC member vessels are AFA qualified pollock vessels. However, a majority of those members that are AFA qualified have only a small amount of pollock history and are, therefore, much more dependent upon fisheries other than pollock. Therefore, it is MTC's position that sideboards should protect the "other fisheries" from the adverse impacts of those vessels benefiting from the AFA, to the extent that they co-op but, also, clearly those vessels that did not benefit (because of small pollock history), whether they are AFA qualified or not, should not be adversely impacted by the sideboards.

Issues of primary concern to MTC include the following:

1. COD SIDEBOARD

The CV trawl fishery for Pacific cod is unique in that the vast majority of the TAC (92.99%), based on total catch, is harvested by AFA catcher vessels. In addition, within the grouping of AFA catcher vessels there are those much more dependent upon this fishery than others and, therefore, any consideration of sideboards must take into consideration not just protecting non-AFA CVs, but also should protect those AFA CVs that have historically participated in and are now dependent upon the cod fishery. MTC supports the consensus of the BSAI co-op implementation committee as it relates to the Pacific cod sideboard. Under this sideboard, a cap would be established for all AFA CVs participating in co-ops in all sectors based upon the collective history of those vessels. NMFS would establish and manage one cod cap for all CVs

Page 2

Mr. Richard Lauber, Chairman, NPFMC

June 1, 1999

in co-ops for all 3 sectors, however, NMFS, by regulation, would prohibit each co-op from exceeding its prorata share of the cod cap based upon the history of the boats in each co-op and would require a contractual provision within each co-op contract requiring the CVs therein to manage their affairs so as not to exceed their prorata share. In this manner, NMFS would not monitor compliance by individual co-ops but would only monitor all CVs in co-ops as a group. Enforcement would be limited to possible after the fact citation in the event a co-op reports landing more than its cap, and also, possibility of civil liability to other co-ops.

This proposal would reduce the risk of creating new Olympic races between co-ops for the cod cap and would also prevent individual catcher vessels, as well as co-ops collectively, from increasing their participation in the cod fishery.

2. **SIDEBOARD CAPS ON OTHER IR/TU SPECIES**

MTC proposes that the sideboard caps on the other IR/TU species (Gulf cod and Gulf pollock) would be established and managed the same as for Bering Sea cod. NMFS has acknowledged in the analysis that shoreside deliveries of pollock are fairly representative of the catch because pollock is an IR/TU species making discards unlawful. This same justification applies to the other IR/TU species. Just as in the case of Bering Sea cod, if the system is established to permit the management of the historical participation cap on all IR/TU species at the co-op level, it should prevent the creation of new Olympic races between co-ops for the caps on these species and at the same time insure that individual catcher vessels in co-ops, as well as the co-ops themselves, will not increase their participation in these other fisheries.

3. **EXEMPTION FROM SIDEBOARD CONSTRAINTS FOR VESSELS WITH SMALL POLLOCK CATCH HISTORY**

There are 120 CVs eligible as AFA catcher vessels. There are approximately 50 CVs that have less than 5000 tons of catch history in the aggregate for the years 1995, 1996 and 1997 (less than 1700 tons per year on average). These vessels clearly have been disadvantaged by the AFA because, although they are capable of participating in the Bering Sea pollock fishery, their historical participation in the qualifying years was limited, because in most cases these vessels primarily depended upon fisheries other than Bering Sea pollock (i.e., Bering Sea cod and/or Gulf groundfish). As a result, these vessels will not receive sufficient quota share under the AFA to survive on Bering Sea pollock and if they are also substantially restricted in the participation of their traditional fisheries, then they may fail altogether.

MTC proposes granting an exemption to those vessels that have an annual average of less than 1700 tons of Bering Sea pollock history for the years each individual CV's quota share is based upon. Qualification for the exemption will be determined after any compensation adjustments. The catch history amount proposed for the exemption is probably less than 1/4 of the history of an average pollock CV.

By allowing this exemption, those CVs with a small amount of catch history will be able to participate in pollock co-ops so as to receive the full economic value of what little catch history

Page 3
Mr. Richard Lauber, Chairman, NPFMC
June 1, 1999

they have, and at the same time will be able to continue in their other traditional fisheries. To not allow the exemption will most likely prevent these CVs from joining co-ops. Clearly, CVs in the category proposed for exemption did not benefit by the AFA because of the extremely small amount of pollock quota that they will be allowed to harvest in the future and, therefore, they should not be constrained by sideboards the same as the large Bering Sea pollock vessels that will be receiving significant quota opportunities under the AFA.

4. DETERMINATION OF THE INDIVIDUAL SHARE EACH CV JOINING AN INSHORE CO-OP BRINGS TO THAT CO-OP

Currently, each catcher vessel's share of the inshore quota is based upon the average catch history in the years 1995, 1996 and 1997. We recommend changing that calculation to be based upon the best 2 out of 3 years to even out the adverse impacts upon vessels that may have missed a season or portion thereof as a result of breakdowns or other occurrences.

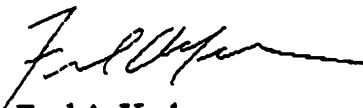
5. COMPENSATION TO INSHORE CVs WITH CATCH HISTORY TO CPs

Inshore CVs, that during the qualifying years may have fished for one or more seasons to catcher/processors prior to transferring to the inshore fishery, will lose their catch history to the CPs if the Council does not authorize compensation. The proposal is described in the analysis to compensate these vessels, by allowing them to bring into the inshore co-op the history that was lost to them in the qualifying years. MTC supports compensation to these inshore vessels because without it they will be permanently disadvantaged in their future participation in the pollock fishery.

6. CRAB SIDEBOARD

The Red King Crab fishery has historically taken place at a time of year when the pollock fishery is closed. As such, neither the AFA nor any aspects thereof, including co-oping, will have any adverse impacts on the Red King Crab fishery. There should be no sideboard restrictions limiting AFA qualified vessels from continuing their participation in the Red King Crab fishery, whether they co-op or not.

Sincerely,



Fred A. Yeck
Technical Director

**PATIENCE FISHERIES, INC.
1125 S.E. SPRUCE WAY
NEWPORT, OR 97365**

June 1, 1999

**Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501**

Via Fax: (907) 271-2817

RE: AMERICAN FISHERIES ACT

Dear Chairman Lauber and Council Members:

I am the owner of the fishing vessels Perseverance and Predator two fishing vessels that have qualified for the AFA shoreside sector. Most people would believe that I am a big winner now that the act has been passed, But this is not the case.

We qualified for the American Fisheries Act by fishing for pollock in the B season averaging 1200 tons a season at a price of 10 cents a pound a higher price than we have received in the past in the B season. We would gross \$250,000.00 about half of the operating costs per year. We make the rest of our season from cod, our most profitable fishery, and whiting. As you can tell my boats are versatile and have to fish in several fisheries to make ends meet and any sideboards that would restrict any of our existing fisheries would be devastating.

I believe we need to be put in a different category than the true pollock fleet. We need protection from the true pollock fleet in the cod fishery so they don't catch more than their traditional share of cod and that the cod fleet catches their traditional share.

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JUN - 1 1999
N.P.F.M.C**

I believe that cooping will bring benefit to the pollock fleet price and that it is a positive thing. I am hoping that the cod history can follow us into the coop and will protect our catch history of cod.

In determining the individual share of each catcher vessel, which it takes to an inshore coop, should be based on the best 2 out of 3 years. I pick this option because in one of the three years our vessels have had major breakdowns missing substantial parts of the season and I don't believe we should be penalized in the future for these mishaps.

I would support an exemption for small catcher vessels that have less than 5000 tons of pollock history in the aggregate for the years 1995, 1996 & 1997. This exemption would apply to sideboards designed to regulate the larger vessel pollock fleet.

In closing I support the MTC position on the AFA.

Thank you,

Mark Cooper
Mark Cooper, President
Patience Fisheries, Inc.

Mezich Allegiance, Inc.

Rick W. and Mary L. Mezich

May 12, 1999

Mr. Rick Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

RECEIVED
MAY 12 1999
N.P.F.M.C

RE: Comment on American Fisheries Act - Sideboard Amendment Package
F/V Fierce Allegiance, MVP #7304B

Dear Chairman Lauber and Council Members:

Once again, I would like to express my concerns over the future crab fishing rights of my vessel the Fierce Allegiance (ADF&G #55111, MVP #7304B), owned by Mezich Allegiance, Inc. Mezich Allegiance, Inc. is a family owned business managed by my wife, Mary Mezich, and I since 1992. The Fierce Allegiance has fished Bering Sea king, tanner, and opilio crab continuously since 1987. Following our purchase of the vessel in January 1992, \$1.6 million was spent to convert the boat to a combination trawler/crabber. Later that year, the Fierce Allegiance engaged in the Pollock B season as it has done every year since. The vessel has made a few Pollock A season deliveries over the past seven years, however, these have been after completing the opilio season. My expertise is in crab fishing and my market has continually required the Fierce Allegiance to fish the opilio season first. Only then, if pollock fishing was slow and there was room in the delivery line-up, would they give the vessel an A season market.

The Fierce Allegiance is an AFA qualified shorebased pollock catcher vessel and is subject to the NPFMC's proposed restrictions for pollock vessels involved in other fisheries. The vessel's revenue since 1992, however, has been much more dependent on crab fisheries than pollock fisheries. Consequently, I'm very concerned about potential impacts the proposed AFA sideboard restrictions may have on the ability of the Fierce Allegiance to fish in the BSAI king, tanner, and opilio fisheries. The vessel participated in the opilio fishery every year, 1988-1999, and in the red king crab fishery every year it was open (1988-1998).

The Fierce Allegiance is one of the vessels that qualifies to join a cooperative under section 208 of the AFA with relatively small amounts of pollock catch history. Consequently, the vessel won't receive much benefit from a cooperative, and if it were subject to AFA sideboards, the boat would also be limited in it's participation in the crab fisheries. Furthermore, to be competitive in the open access pollock fisheries, the Fierce Allegiance would need to repower for more horsepower, purchase bigger winches and

nets, and update electronics for a cost in excess of \$1.5 million. Having relied heavily on crab income in the past, the vessel has not kept up with the upgrades done by the majority of the AFA shorebased trawlers.

In reviewing our bookkeeping records recently, I compared the Fierce Allegiance's gross income from crab and pollock fisheries for the period 1992 through 1998 to determine the relative economic dependency between the fisheries. During this period of time, the vessel earned 60% of its income from crab and 34% from pollock. During the AFA pollock qualifying period, 1995-97, the vessel earned 54% of its income from crab and 36% from pollock. These figures are further supported in Dr. Scott Matulich's report to the NPFMC at the April 19-26, Anchorage meetings. The Fierce Allegiance is one of the three pollock/crab combination vessels (XO3) identified that account for 77% of the total opilio crab revenue of all 39 pollock/crab combination vessels during 1995-1997. In fact, the Fierce Allegiance alone delivered 35.4% of all the AFA vessels' 4,389,214lbs. total opilio catch for 1995-1997. The same three (XO3) vessels also accounted for 30% of all crab revenue for the 39 combination vessels for the same period. These figures help illustrate the importance that crab has for the Fierce Allegiance. If the vessel were to lose any of its rights to fish crab under the LLP, it would be devastating to its ability to remain solvent. My income from the Fierce Allegiance, both as the crab skipper and owner, is what my family survives on.

In conclusion, we wish to request that our vessel, the Fierce Allegiance, be excluded from the list of vessels subject to AFA restrictions in BSAI crab fisheries. This request is based on the unique ability of the vessel to meet the most stringent of crab landing requirements in the crab LLP alternatives, and that the vessel earns the majority of its income from crab fisheries. We ask only that the Fierce Allegiance be allowed to continue to fish its traditional catch history, on which the vessel economically depends.

Thank you for your consideration.

Respectfully,



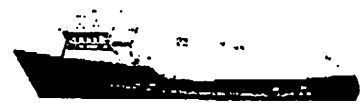
Rick Mezich
Mezich Allegiance, Inc.-President

cc: Steve Pennoyer, RD, NMFS, AK Region

FRED A. YECK, President
(541) 867-3911

F/V Seadawn Fisheries, Inc.

P.O. Box 352 • Newport, Oregon 97365
Fax (541) 867-3913



F/V Seadawn

May 26, 1999

Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501

RECEIVED
MAY 26 1999
N.P.F.M.C

VIA FAX: (907) 271-2817

RE: AMERICAN FISHERIES ACT

Dear Chairman Lauber and Council Members:

I am the managing owner of a trawler, 124 feet in length, which is qualified to fish pollock in the inshore sector under the AFA and, also, is diversified and depends to a large degree for its annual income on cod and Red King crab. Of the many issues you will be considering at the June Council meeting, those which are important to the continued welfare of vessels such as mine include:

1. **COD SIDEBOARDS**

Sideboards should only apply to those vessels that co-op because it is only CVs in a co-op that could use the benefits of the AFA to adversely impact the cod fishery. As to AFA qualified CVs participating in a pollock co-op, those vessels should be restricted to their collective history in the cod fishery. To avoid an Olympic race for the cod cap, the Council should request that NMFS implement a regulation prohibiting a co-op from exceeding its prorata share of the cod cap based upon the history of the boats in each respective co-op.

The result of this form of management will be to prevent an Olympic race for the cod sideboard cap between co-ops and will allow the vessels that have earned the history to negotiate with their respective co-ops to benefit from that history. It will prevent vessels participating in co-ops from increasing their participation in this fully subscribed fishery and will further rationalize the fishery.

2. **CRAB SIDEBOARDS**

While my vessel is qualified under LLP to fish Opilio crab, it is not dependent upon that fishery. Sideboard provisions are appropriate to prevent pollock vessels such as mine from increasing their history in the Opilio fishery, but at the same time the sideboard provisions should be such

Page 2
Mr. Richard Lauber, Chairman
NPFMC
May 26, 1999

that those who have earned a legitimate history should be allowed to continue. The preferred way for managing this sideboard would be similar to cod. If co-ops are prohibited from exceeding their history in the Opilio fishery then the co-op could restrict their members to their respective history and a new race for this cap will be avoided.

The Red King crab fishery is completely different. The Red King crab fishery has historically taken place at a time of year when the pollock fishery is closed. There are a substantial number of combination pollock/crab vessels that have become dependent upon the Red King crab fishery for a portion of their income each year. My vessel has participated in the Red King crab fishery in every year since 1991 that it was open with the exception of one season when it was prevented from doing so as a result of a major on board fire. Neither the AFA nor our ability to co-op thereunder will have any adverse impact on the Red King crab fishery as it was historically prosecuted. For that reason, there should be no sideboard restrictions limiting AFA qualified vessels from continuing their participation in the Red King crab fishery, whether they co-op or not.

3. **DETERMINE SHARES THAT CATCHER VESSELS TAKE TO AN INSHORE CO-OP BASED ON THE BEST 2 OUT OF 3 YEARS**

The AFA provides for the history of inshore CVs to be permanently determined based upon the average of 3 years. The Council has authority to modify that provision and it would be much more equitable to all vessels to base a vessel's history on the best 2 out of 3 years to reduce permanent disadvantages created by breakdowns or other occurrences. The same philosophy should apply to determining and establishing a vessel's history in the non-pollock fisheries for the purposes of establishing caps. Sideboard caps should also be based upon the best 2 out of 3 years.

Thank you for considering my comments.

Sincerely,



Fred A. Yeck

David Jincks, President
(541) 265-8694

BLUE FOX FISHERIES
P. O. BOX 352
NEWPORT, OREGON 97365

May 27, 1999

Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501

VIA FAX: (907) 271-2817

RE: AMERICAN FISHERIES ACT

Dear Chairman Lauber and Council Members:

I am the managing owner of a small trawler (85 feet in length) that is qualified to fish pollock under the AFA. However, although my vessel is AFA qualified in the inshore sector and participated in the pollock fishery in each of the years 1995, 1996 and 1997, its catch history during those years averages less than 1100 tons per year because of the vessels' relatively small size and because it fished pollock in B Season only. As a result the gross earnings from the pollock fishery represent less than 25% of the average annual gross earnings of my vessel.

Of the many issues that you will be considering, those which are critical to my continued survival, in light of the AFA, include:

1. *Determine the individual share of each catcher vessel which it takes to an inshore co-op based on the best 2 out of 3 years.*

In one of the 3 years during which an inshore catcher vessel's history is determined, my vessel fished for catcher/processor. In that year my vessel had no inshore landings and, therefore, the entirety of the catch history for that year is lost without Council modification to the AFA. My vessel will have its catch history permanently reduced by 1/3 in the pollock fishery if the Council does not modify this provision of the AFA.

2. *Consideration for AFA qualified vessels will relatively small pollock catch history.*

The issues are obviously complex, however, I hope the Council will recognize the difference between vessels such as mine that have less than 3500 tons of pollock history in the aggregate for all 3 qualifying years (less than 1100 tons per year) and vessels such as the more typical

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MAY 27 1999
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Page 2
Mr. Richard Lauber, Chairman
May 27, 1999

pollock vessel which fishes both A and B Seasons and has a capacity on the average of at least three times my vessel's capacity.

In the analysis, the graph on page 107 shows there are more than 40 small boats in my situation with aggregate catch histories for all 3 years less than 4000 tons. Vessels such as mine depend upon a majority of their income from other fisheries including Bering Sea cod, Gulf fisheries, as well as crab. If sideboards become restrictive to the point that we cannot freely participate in our historical fisheries, it is clear that we will not be able to continue at all. In your deliberations please consider and make provisions so that the small diversified vessels may continue to successfully participate in the fisheries. *Exempting from the sideboard restrictions those AFA boats with small catch history in pollock would seem to be a reasonable alternative.*

Thank you.

Sincerely,

David Jincks

David Jincks
President

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MAY 28 1999

N.P.F.M.C

May 14, 1999
North Pacific Fisheries Management Council
605 West 4th Ave., Suite 306
Anchorage, Ak. 99501-2252
Attn: Chairman Rick Lauber

Dear Mr. Lauber,

We, the undersigned, are concerned with the future of fishing in the Bering Sea. We are concerned that the opportunity to develop new groundfish fisheries around the Bering Sea and Aleutian Islands for small boats could be eliminated.

Floating processors are essential for the development of remote fisheries in Alaska. Under current regulations, floating processors are restricted from processing any groundfish in the Bering Sea or Aleutian Islands if they also process any pollock or P-cod in the Gulf of Alaska. Many of us fish for companies that have traditionally brought their processors into the Bering Sea each summer to process salmon and herring. Naturally, we hope to be able to sell groundfish to these companies as well.

Under current law, the "Inshore component of the BSAI" refers to processing of "groundfish" in general and not specifically to pollock, as it did prior to enactment of the American Fisheries Act. Unless this definition is changed, floating processors that process P-cod in the GOA would break the law if they process any groundfish at all in the BSAI in the same year, because they would be part of the "Inshore component" of both areas in the same year.

Council staff recommends that the "Inshore component" definition be changed to refer specifically to pollock in the BSAI and to pollock and P-cod in the GOA. We agree with the staff completely.

Thank you for your consideration,

Name	Address
1. <i>[Signature]</i>	P.O. Box 236 Kipruk, AK 99614
2. <i>[Signature]</i>	P.O. Box 012 Kipruk, AK 99614
3. <i>[Signature]</i>	Box 152 Kipruk, AK 99614
4. <i>[Signature]</i>	" " 032 " " "
5. <i>[Signature]</i>	P.O. Box 76 Kipruk, AK 99614
6. <i>[Signature]</i>	" " 015 Kipruk, AK 99614
7. <i>[Signature]</i>	" " 153 Kipruk, AK 99614
8. <i>[Signature]</i>	" " 141 " " "
9. <i>[Signature]</i>	" " 231 " " "
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MAY 28 1999

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May 14, 1999
 North Pacific Fisheries Management Council
 605 West 4th Ave., Suite 306
 Anchorage, Ak. 99501-2252
 Attn: Chairman Rick Lauber

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Floating processors are essential for the development of remote fisheries in Alaska. Under current regulations, floating processors are restricted from processing any groundfish in the Bering Sea or Aleutian Islands if they also process any pollock or P-cod in the Gulf of Alaska. Many of us fish for companies that have traditionally brought their processors into the Bering Sea each summer to process salmon and herring. Naturally, we hope to be able to sell groundfish to these companies as well.

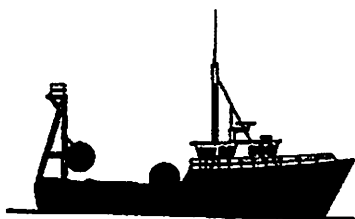
Under current law, the "Inshore component of the BSAI" refers to processing of "groundfish" in general and not specifically to pollock, as it did prior to enactment of the American Fisheries Act. Unless this definition is changed, floating processors that process P-cod in the GOA would break the law if they process any groundfish at all in the BSAI in the same year, because they would be part of the "Inshore component" of both areas in the same year.

Council staff recommends that the "Inshore component" definition be changed to refer specifically to pollock in the BSAI and to pollock and P-cod in the GOA. We agree with the staff completely.

Thank you for your consideration,

Name	Address
1 Paul Bush	PO Box 306 Kipnuk AK
2 John Gunn	Box 3 Kipnuk, AK 99614
3 John Corey	Box 286 KIPNUK, AK - 99614
4 John Corey	Box 101 Kipnuk, AK 99614
5 John Corey	Box 216 Kipnuk, AK 99614
6 John Corey	Box 215 KIPNUK, AK 99614
7 John Corey	P.O. Box 136 Kipnuk, AK 99614
8 John Corey	Box 218 " " "
9 John Corey	PO Box 34 Kipnuk, AK 99614
10 Jesse Paul	Box 62 KIPNUK, AK 99614
11 John Corey	Box 44 Kipnuk, AK 99614
12 Charles Muth	Box 114 KIPNUK, AK 99614
13 John Corey	Box 95 " " 99614
14 John Corey	Box 133 KIPNUK AK 99614
15 John Corey	Box 112 KIPNUK AK 99614
16 James T. Smith	Box 83 KIPNUK AK 99614
17 Raymond P. Egeck	Box 215 KIPNUK AK 99614
18 John Corey	Box 116 KIPNUK AK 99614
19 James Marshall Sr	Box 14 KIPNUK AK 99614

F/V Seeker Inc.

James M. Seavers
Janet E. Seavers1075 S.E. Spruce Way
Newport, OR 97365
(541) 265-9390
Fax 265-3949

May 30, 1999

Mr. Richard Lauber, Chairman
North Pacific Fisheries Mangement Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501**RECEIVED**
JUN - 1 1999
N.P.F.M.C

VIA FAX (907) 271-2817

RE: American Fisheries Act

Dear Chairman Lauber and Council Members,:

I am the owner of the F/V SEEKER, a 98' trawler that has fished in the Bering Sea since 1988, first in the JV mode, and for the last nine years delivering pollock and cod onshore.

The SEEKER historically has fished cod during the "A" pollock season and pollock during the "B" season and is in reality an AFA qualified cod boat. In an average year we get about 25% of our income from fishing pollock. Our income in the cod fishery is about double our income in the pollock fishery.

I support the Midwater Trawlers Cooperative position on sideboards to the AFA. Vessels that rely on cod for a large part of their income should have a chance to catch their historical share of cod just as full time pollock vessels have a chance to catch their historical share of pollock (via the AFA), and be protected from AFA vessels that have not relied on cod in the past.

Thank you for your consideration.

Sincerely,

James M. Seavers
Manager, F/V SEEKER



140 ARBORWAY, STE. 6, BOSTON, MA 02130-3522 USA
(617) 524-1342 • fax (617) 524-1347 • contact@ifnotnow.co

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JUN - 1 1999
N.P.F.M.C

To: Chairman Richard Lauber, Fax 19072712817
From: rep-info@ifnotnow.com
Date: May 31, 1999 6:39 GMT
Subject: Stellar Sea Lion Is Endangered

If Not Now is a web-based citizen's lobbying tool. We are forwarding to you a letter from some of your constituents. At the end of this message there is a description of how our service works and how you can respond to your constituents.

Signatures as of May 31, 1999:
There were 13 new signers. Total signers to date: 13.

TOPIC: Stellar Sea Lion Is Endangered

Dear Chairman Richard Lauber,

I am writing to urge the NMFS to create and enforce strong regulations on the groundfishing trawl industry. I am extremely concerned about the decline of Stellar sea lions in the North Pacific, and the vulnerability of other species such as seals and fish-eating birds. It is absolutely critical that NMFS act now to put this industry on a sustainable footing.

Regulations should protect all critical habitat around rookeries and haulouts, and protect foraging areas on pollock spawning grounds. NMFS also should mandate large reductions in catches from all critical habitat areas, and reduce catches in the critical fall and winter months. Please act now to protect these wildlife treasures!

New signers and comments:

Christopher Kunkel, Burke, VA 22015:

"Thank you!"

Dan Greifenberger, Baltimore, MD 21218:

"RE: NMFS, Extinction is forever! Isn't it time the government got its act together? Sincerely, Dan Greifenberger, 3212 North Calvert Street, Baltimore, MD 21218"

Larry Goyda, Swissvale, PA 15218

Joe Sexauer, Tulsa, OK 74114

Scott Bonner, Boise, ID 83702

Evan Henshaw-Plath, Northampton, MA 01060

IFNOTNOW...

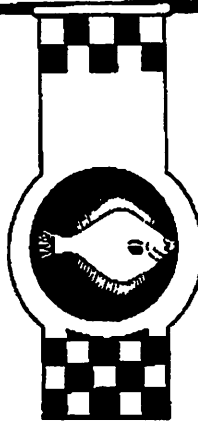
140 ARBORWAY, STE. 6, BOSTON, MA 02130-3522 USA
(617) 524-1342 • fax (617) 524-1347 • contact@ifnotnow.com

Hank Chambers, San Diego, CA 92122
Paige Folkman, SAN DIEGO, CA 92103
April Spivey, De Kalb, IL 60115
Kevi Krause, Kentfield, CA 94914
Janet And Mark Cornbise, Somerville, MA 02144
Mark Deramo, Pittsburgh, PA 15232
"Uncle" Don B Fanning, Encino, CA 91316

F/V HAZEL LORRAINE

202 Center Street
Suite 315-274
Kodiak, AK 99615

Mr. Richard Lauber
Chairman, NPFMC
605 West 4th Avenue
Anchorage, Ak 99501-2252



Tel: 907-486-7599

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JUN - 1 1999
N.P.F.M.C

May 30, 1999

Re: AFA, insure a place at the table for the small trawlers

Dear Richard,

After looking at the total 1995-1997 pollock catch history of AFA catcher vessels qualified to deliver inshore (approx 120 vessels) and the vast differences in the amounts of fish delivery by the upper 70 vessels (above 7,500mt average) it is my hope that the council will give careful consideration when building the sideboards to protect the smaller trawlers. Many of the smaller trawlers helped pioneer the groundfish fishery in Alaska and have filled an important niche in the fishery, many times filling in the "gaps" when fishing was slow. Our record in the Bering Sea reflects the timing into the market that was available to us near the end of many seasons (pollock/cod) when the GOA would close for target/bycatch and the processors in the BS would be looking for help because fishing had slowed "way down". There are many vessels that had to cross back and forth between both oceans due to weak markets in the GOA (**strong markets help create large records**) to make ends meet for the vessel and the crew. Taking chances in both oceans looking for the best market position and always hoping that you had made the best decision. AFA with the complete twist that "it" has taken makes all of my past decisions/risks look foolish at best.

The most important issue for vessels in my class is the complete rationalization of our offshore catch history into the inshore sector so that we will have a place at the table. **Vessels that are named in the CV to MS and CV to CP have retained their record best year/or years.** With the shift of tonnage (and its mortgage from the 10 factory trawler buyout) to the inshore sector, there should be more than enough fish to allow those few vessels that are trapped in this situation to choose the best 2 out of 3 years (95-97) so we may also survive.

The second most important issue for me (et al), is the cod fishery in the Bering Sea. The Council should provide protection against **stacking** in the cooperatives to allow vessels to fish cod at the start of the season that have not traditionally fished cod until pollock "A" season was done. This would place many smaller cod vessels at a great disadvantage, having to compete in poor weather against all weather class vessels for a risky fishery that has paid their bills and kept them out of the pollock fishery. We have fished for cod in the BS since 1985-96 (97-98 had to stay in Kodiak), often in the latter part of the fishery when the cream is gone and the big boats have thrown in the towel because the fishing is too slow for them to make a buck. But for some of us those small three day trips near the end of a season are

F/V HAZEL LOORAIN

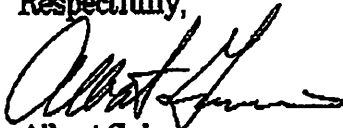
Page 2

Mr. Richard Lauber

Re: AFA, insure a place at the table for the small trawlers

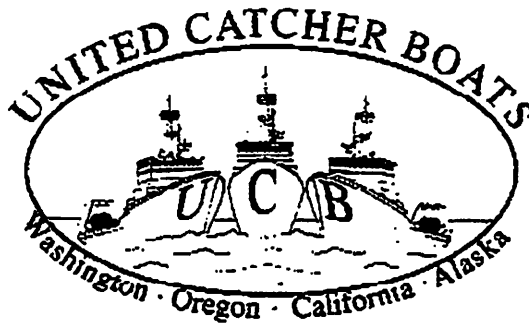
important enough to our operation, to justify the risk/expense, to pack up the gear and move 500 miles to the west once or twice a year. If stacking allowed cooperative vessels to compete in the cod fishery from early start dates, the likely outcome would be early closure of the BS cod fishery. Forcing those "closed out" small cod trawlers to search for a market in Kodiak. This would impact Kodiak vessels and labor force with early closure of any remaining fisheries. **And the waterfall effect would begin yet again.**

Respectfully,


Albert Geiser

cc: Al Burch, Alaska Druggers
Capt. Barry Fisher, Midwater Trawlers Cooperative

Brent C. Paine
Executive Director



Steve Hughes
Technical Director

Mr. Rick Lauber, Chairman
North Pacific Fishery Management Council
605 W. 4th Ave., Suite 306
Anchorage, Alaska 99501

June 1, 1999

RE: Agenda Item C-1, AFA Sideboards

Dear Rick,

Attached is an outline of the position that members of United Catcher Boats developed regarding sideboards in the BSAI non pollock fisheries, BSAI crab fisheries, and the GOA groundfish fisheries. The italicized portions are areas of our position that we are continuing to work on and will have final position before the start of the June Council meeting. I also will provide the Council with justification on our position with a follow-up letter.

Thank you,

Brent Paine
Executive Director

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UCB Motion on Sideboards for AFA CV Sectors

BSAI Groundfish Sideboards

- Shall be based on vessel catch between 1995-1997.
- Shall be based on non-pollock catch in non-pollock targets as a ratio of catch.
- Shall result in closures of directed fishing upon attainment.
- Shall apply to vessels that are members of coops under Section 210(a)(1) of the AFA.
- Shall apply at the sector level in 2000. However, NMFS shall publish the proportion of the cap represented by the aggregate catch history of the vessels in each coop, and facilitate the formation of an inter-coop agreement to monitor the sub-division of the caps at the coop level. NMFS shall require each coop agreement to contain provisions that would limit its participants to their collective "traditional" harvest in other fisheries.
- Shall be applied through out the year, except:
 - Sideboards applying to the CV Trawl P Cod allocation shall be lifted (*March 1 or April 1*), except; vessels with *up to 1700 mt* of annual average pollock catch history shall be exempt from this sideboard.
 - Sideboards applying to BSA Flatfish fisheries shall be suspended between (*March 1 or April 1*) and the opening of Pollock B season and again upon the closure of Pollock C season.
- PSC sideboard caps
 - Shall be based on the ratio of catch in each non-pollock target to the PSC cap for that target, and shall represent an aggregate cap (as with the AFA CP sector).
 - Attainment by the entire fleet of a PSC cap in a target fishery will close directed fishing to all trawl vessels in that fishery, even if the AFA vessels have not attain their aggregate PSC cap.
 - Shall be apportioned seasonally.

GOA Groundfish Sideboards

- Shall be based on vessel catch between 1995-1997.
- Shall be based on non-pollock groundfish catch in non-pollock targets.
- Shall be based on the pollock catch in the pollock target, and shall be apportioned seasonally.
- Shall result in closures of directed fishing upon attainment.
- Shall apply to vessels that are members of coops under Section 210(a)(1) of the AFA.
- Shall apply at the sector level in 2000. However, NMFS shall publish the proportion of the cap represented by the aggregate catch history of the vessels in each coop, and encourage the formation of an inter-coop agreement to monitor the sub-division of the caps at the coop level. NMFS shall require each coop agreement to contain provisions that would limit its participants to their collective "traditional" harvest in other fisheries.
- Shall be applied through out the year, except; vessels with *up to 1700 mt* of annual average pollock catch history shall be exempt from these sideboards.
- PSC sideboards caps
 - Shall be based on the ratio of catch in each non-pollock target to the PSC cap for that target, and shall represent an aggregate cap (as with the AFA CP sector).
 - Attainment by the entire fleet of any PSC cap in any target fishery will close directed fishing to all trawl vessels, even if the AFA vessels have not attained their aggregate PSC cap.
 - Shall be apportioned seasonally.

Crab Sideboards

- Shall apply to vessels which are members of coops under Section 210(a)(1) of the AFA
- Shall limit participation in the:
 - St. Matthews and Pribilof King Crab fishery to those vessels that are LLP qualified under Alt. 9, hold a LLP endorsement for that fishery, and that had a landing in 1997.
 - Opilio Crab fishery to those vessels that are LLP qualified under Alt. 9, hold a LLP endorsement for that fishery, and that had a landing in 1995, 1996 or 1997.

- Bristol Bay King Crab fishery to those vessels that are LLP qualified under Alt. 9, and hold a LLP endorsement for that fishery.
- Bairdi, Adak Red King Crab and Brown Crab fisheries to those vessels that are LLP qualified under Alt. 9, and hold a LLP endorsement for that fishery.
- For those fisheries concurrent with the 1995-1997 pollock seasons (opiho, St. Matthews, and Pribilofs) qualified vessels will capped based on vessels catch between 1995-1997
- Shall apply at the sector level in 2000. However, NMFS shall publish the proportion of the cap represented by the aggregate catch history of the vessels in each coop, and encourage the formation of an inter-coop agreement to monitor the sub-division of the caps at the coop level. NMFS shall require each coop agreement to contain provisions that would limit its participants to their collective "traditional" harvest in other fisheries.

Scallop Sideboards

- Shall apply to vessel that is a member of a coop under Section 210(a)(1) of the AFA.
- Shall limit participation in the scallop fishery to the vessel that is LLP qualified.
- Shall be based on vessel catch in 1997 (or 1996 & 1997 depending on the outcome of his negotiations with the other scallop vessels).

Compensation in Shoreside Sector Coops

- Provide compensation to vessels with offshore history greater than 499 tons (as per table 10.5).
- Utilize the best 2 of 3 years to determine the share of the inshore allocation each vessel brings to a coop.

**ARCTIC STORM, INC.**

400 North 34th Street, Suite 306
Seattle, Washington 98103 U.S.A.

June 1, 1999

Mr. Rick Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

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JUN - 1 1999
N.P.F.M.C

RE: Comments on EA/RIR Analysis of AFA Sideboard Measures

Dear Mr. Chairman,

Arctic Storm, Inc. would like to comment on Chapters 5,6,7 and 8 of the EA/RIR analysis of the American Fisheries Act (AFA) sideboard measures. Arctic Storm, Inc. owns and or manages two catcher/processors and two catcher vessels that operate in the BSAI and, to a lesser extent, in the GOA and Pacific whiting fisheries. All vessels are AFA-eligible vessels. All vessels are current participants in the offshore pollock cooperatives. Pollock is the most important source of income to all four vessels. However, crab, cod, yellowfin sole and whiting remain critical sources of income as well.

GENERAL COMMENTS

The Congressional Record as described in the Conference Reports and the Congressional floor speeches of Senators Stevens, Gorton and Murray make clear that sideboard measures should be designed to mitigate adverse impacts to non-pollock participants from spillover effects caused by participation in cooperatives. Additionally, sideboard measures were not meant to be punitive to AFA-qualified vessels that choose to participate in cooperatives.

The drafters of the AFA assumed catcher/processor (CP) participation in cooperatives because it is the only way that sector of the industry could recover the non-compensated shift of pollock allocation to the onshore sector. For that reason, the AFA details specific sideboards that are imposed with or without participation in a cooperative. The AFA also included sideboards for the offshore catcher vessel (CV) sector for 1999. This permitted the offshore CV sector to participate in cooperatives in 1999. The Council was directed to develop sideboard provisions for the inshore and mothership CV sectors by July 1,

1999 to permit participation in cooperatives by January, 2000. The Council was also asked to develop sideboard provisions for the offshore CV sector for 2000 and beyond.

The AFA did not direct the Council to develop additional sideboard options for the CP sector, but was given general authority in Sec. 213 (c) *"to recommend additional management measures as necessary to mitigate adverse effects caused by AFA or cooperatives in the directed pollock fishery, so long as such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery."* In other words, additional sideboard measures cannot be imposed unless they *mitigate adverse impacts of AFA, are applied to all sectors fairly and equitably* and take into account *all factors (including SSL RPAs) affecting the fisheries*. In requiring Council action to meet the above-described test, AFA effectively limits the use of AFA sideboards as a vehicle to accomplish other management goals, including bycatch reduction measures, unless these measures will mitigate unintended impacts of AFA or cooperatives on non-pollock participants.

Sideboard options that reduce historic levels of participation either as a percentage of our historic catch or with temporal restrictions that prohibit us from accessing the resource at reasonable times of the year that are conservation and cost effective, will be punitive, predatory, inhibit the formation of cooperatives and compromise the conservation and rationalization goals of the AFA. Bycatch sideboard constraints that are a departure from current management practices in the North Pacific and are imposed to one sector would not meet the test of the AFA directive to impose measures "fairly and equitably" to all sectors.

CHAPTER 5. COOPERATIVE AGREEMENTS AND COUNCIL REVIEW

This chapter discusses required and potential provisions of co-op agreements, including options which were identified by the Council. In addition to disclosure of catch and bycatch statistics, the Council proposed options that would limit the duration of co-op agreements to a specific duration (1-6 years), prohibit linkages of membership to delivery of non-pollock species and require contracts to be submitted by December 1. The analysis notes that these are policy issues rather than regulatory issues and, if imposed, should be implemented accordingly.

ASI strongly opposes Council imposition of limitations on the duration of the cooperative agreements at any time in which the law permits participation in cooperatives. Parties have entered into cooperative contracts with reliance on the duration provisions to make significant investments. Having relied on those provisions to make significant investments, companies could be subjected to significant adverse impacts if the current duration provisions were changed.

Arctic Storm, Inc. (ASI) supports the prohibition on linkages to other species as well as the December 1 date.

Cooperative Agreements are private contracts negotiated willingly by all participants. While it is appropriate to make cooperative agreements available to the Council as specified by AFA, it is inappropriate and intrusive for the government to force parties to renegotiate private contracts. Requiring the industry to renegotiate contracts unnecessarily puts at risk the stability required for long term investment in order to accomplish the increased recovery goals of participation in a cooperative. Finally, contract negotiations are extremely time consuming and costly and impose an unnecessary burden on the industry with no identifiable benefits to the public.

CHAPTER 6. CATCHER/PROCESSOR SIDEBOARDS

The AFA was quite specific in how the CP sideboards were to be structured as a result of negotiations in Washington, D.C.. However AFA also states that the Council could change the sideboard structure to mitigate against adverse impacts of cooperatives, so long as those measures take into account all factors affecting fisheries and are imposed fairly and equitably to all sectors in the directed pollock fishery.

Additional sideboard measures under consideration by the Council include options that would remove catch and bycatch history that was negotiated in good faith in Washington, D.C. and options that would impose bycatch caps based on those bycatch histories that could close the directed pollock fishery.

The non-pollock sideboard caps are harvest limits not allocations and, as such, serve as a restriction to the CP sector rather than as a benefit. Because the CP non-pollock fisheries remain part of the open access fisheries, they may be harvested by other sectors and are not available for the CP sector to manage as part of a cooperative that may be able to accomplish bycatch reduction in those fisheries. Options that could close the directed pollock fishery because of bycatch in the non-pollock fishery are, simply, irrational.

As noted in the analysis, the imposition of bycatch closure caps as developed in these options are a departure from current management practices including the IFQ, CDQ and open access fisheries. They also, in no way, capture the intent of sideboards which is to protect non-pollock participants.

ASI strongly opposes any measure which would single out pollock fishery cooperatives for closure of the directed fishery upon attainment of bycatch "caps." Measures such as the proposed bycatch closure caps are significant departures from current open access, IFQ and CDQ fishery management.

ASI strongly opposes both sets of historic catch reduction and bycatch closure cap options because they do not meet the threshold requirements of the AFA sideboard requirements insofar as they,

- do not mitigate adverse impacts of cooperatives,
- are not imposed fairly and equitably, and
- do not take into account all factors affecting fisheries, especially the new SSL RPAs which force the fleet to fish in new areas where increased bycatch may be encountered.

The analysis notes that changes were made to the negotiated CP sideboards for the 1999 fishing seasons and that if the Council takes no further action on CP sideboards at the June meeting, the current "changed" measures would remain in place.

As part of TAC setting process last December the Council included a measure that removed all the CP bycatch in the directed pollock fishery. In doing so, the Council left only bycatch accrued by CPs in the non-pollock groundfish to manage both the non-pollock and pollock fisheries. Had this measure been accompanied with bycatch cap closures, the CP directed pollock fishery would have been closed prematurely. For instance, 878 MT of squid, a common bycatch species in the pollock fishery was extinguished. Only 3 MT of squid, an uncommon bycatch species in the other fisheries, remained to manage both the CP pollock and non-pollock fisheries. There were also significant amounts of cod and other species removed that are valuable to the CP sector, that were negotiated for in good faith and are necessary to prosecute the directed pollock fishery.

ASI strongly urges the Council to rescind its action last December to remove from the CP sector its historic bycatch in the directed pollock fishery. Using bycatch in the non-pollock fishery is insufficient to manage both the pollock and non-pollock directed fisheries. This unreasonable measure compromises the ability to accomplish optimum yield as required under the Magnuson-Stevens Act, unfairly and inequitably removes CP access to historical catches, in no way mitigates adverse impacts to other participants, and in reallocating that portion of the resource to a sector with higher bycatch rates (as shown in Tables 6.18, 6.19 and 6.20) confounds the conservation goals of AFA and the Magnuson-Stevens Act.

ASI is a strong and consistent supporter of reasonable bycatch reduction efforts when they are applied fairly and equitably. With implementation of cooperatives in our sector, ASI implemented several bycatch reduction measures aboard our vessels including;

- tow size restrictions that were one-half historical tonnages
- severely restricted the practice of short-wiring
- bycatch rate ceilings which triggered either a change in gear or area
- immediate assessment of bycatch rates rather than waiting for observer reports which often are not complete until two or three tows later.

These measures were often successful in reducing bycatch of some species, but in changing areas, either because of bycatch rates or SSL RPA requirements, bycatch encounters of other species sometimes increased.

ASI is the pollock harvesting partner of one of the six regional CDQ groups. As such, we are intimately familiar with the bycatch components of the MSCDQ program. As indicated in the analysis, the bycatch management of the CDQ program is significantly different than the options proposed for the CP sector.

In the MSCDQ program 10% of the pollock TAC and 7.5% of all other species is allocated to the six CDQ groups. Additionally, PSC amounts and specific area apportionments of halibut and sablefish are allocated to the program as quota rather than limits. The CDQ groups can allocate their quota of non-pollock species as either directed fishing or as bycatch on other CDQ fisheries. However, any pollock taken as bycatch in the non-pollock CDQ fisheries is funded from the pollock bycatch reserve shared with the open access fisheries. The CDQ groups can also elect to apportion their PSC and bycatch allocations to be used at specific times of year. For instance, many CDQ groups delay or forego high-bycatch, low value flatfish species until after the pollock fishery concludes so that the pollock fishery will not be closed down because of insufficient bycatch or PSC allocations. This flexibility would not be available to pollock cooperatives if, as proposed, their sideboard participation in non-pollock fisheries would be a limiting "cap" rather than a specified "quota." And, unlike the MSCDQ quota fisheries, the non-pollock fisheries remain olympic fisheries for pollock cooperative participants who might otherwise accomplish reduction of bycatch if the non-pollock fisheries were managed as part of the CP cooperative.

The analysis also describes the proposed bycatch closure options as a significant departure from bycatch management in the IFQ and open access fisheries. *Even though the halibut and sablefish fishery has been allocated quotas for several years, neither bycatch reduction measures nor protective sideboards have ever been imposed in those fisheries.* The IFQ holder must retain halibut and sablefish as directed catch or bycatch until the IFQ holder's quota is reached. After reaching the individual quota amounts, all halibut and sablefish caught by the IFQ holder is treated like the open access fishery and must be discarded. The amount of discards in the IFQ and open access fisheries are limited only by the Over Fishing Level (OFL).

Halibut and sablefish quota holders also are not restricted by sideboards to protect participants in other fisheries. For instance, they are not restricted in the amount of cod or other groundfish species that can be taken either as bycatch in the halibut and sablefish fisheries or as participants in the cod or other directed fisheries. IFQ holders are free to participate in all other fisheries, like cod, and are treated like all other open access participants, despite the fact that they have been awarded specific quotas for halibut and sablefish. The only groundfish closures in either the IFQ or open access fisheries that could occur under the current management regime would be if the OFL were reached, or the halibut PSC cap were reached in the open access fishery.

Because the pollock fishery presently operates as an off-bottom fishery, there are no PSC species that completely close the pollock fishery. A crab performance standard is used to

determine whether pollock fishing is off the bottom. By regulation vessels are in violation if they exceed this standard. Certain herring and chinook savings areas close when PSC caps for those species exceed established numbers, however, the fishery remains open elsewhere.

Storm,

ASI supports future Council consideration of a comprehensive bycatch reduction plan that includes all fisheries and gear types, including the halibut and sablefish ITQ programs, CDQ fisheries and open access pollock, non-pollock and crab fisheries. However, this is a complex issue with many unforeseen and irrational consequences as occurred when the Council removed pollock bycatch history from the CP sector. To best accomplish conservation and optimum yield goals, bycatch reduction measures such as the proposed bycatch cap closures should not be ushered through hurriedly and without adequate analysis as part of the AFA sideboards. Rather, it should be considered separately and afforded the appropriate analysis and public comment it deserves. And because it does not mitigate adverse impacts to non-pollock participants, it is not appropriate to include such measures as AFA sideboard options.

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CHAPTER 7. CATCHER VESSEL SIDEBOARDS

To mitigate the impact of the AFA cooperatives on non-pollock fisheries, the Act requires the Council to recommend measures to prevent AFA-eligible catcher vessels from exceeding, in the aggregate, the traditional harvest levels of such vessels in other fisheries "as a result of fishery cooperatives in the directed pollock fishery."

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While the language in the Act refers to the aggregate traditional harvest levels of AFA catcher vessels (CV) as a basis for determining sideboard levels, there is no further specification on measures of traditional catch nor is there guidance on implementation outside the time line for submitting the amendment to the Secretary. In its development options for analysis, the Council has treated crab and scallops separately from groundfish.

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As described in Section 211(c) of the AFA, the Council is directed to develop sideboards "as a result of fishery cooperatives." ASI strongly urges the Council to restrict imposition of sideboards to co-op participation and in doing so, support this AFA mandate as well as the intent of its drafters as described in the Congressional Record.

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CRAB SIDEBOARDS

Five of the options for protecting non-AFA participants in the BSAI crab fleet are aimed at reducing or altogether eliminating participation by AFA qualified vessels in one or more BSAI crab fisheries. A sixth option would limit AFA vessels to their traditional harvest. A number of exemptions are presented as sub-options, as are variations on the duration of the restrictions. These limitations were drafted to apply equally to all catcher

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ASI supports sideboards that are based on a percentage of the *catch rather than the TAC*. This will allow future participation in the flatfish fisheries which are limited by PSC rather than TAC, to most accurately reflect historical participation.

ASI supports bycatch sideboards that are based on a pro-rata basis in proportion to the directed catch history. This would provide the industry with a bycatch incentive mechanism that could increase the amount flatfish harvest and better accomplish OY and conservation goals.

ASI does not support sideboards that are punitive or are imposed unfairly on fisheries that have not occurred concurrently with the traditional pollock fishery.

CHAPTER 8. PROCESSOR SIDEBOARDS

This chapter examines the impacts of imposing limits on processing of groundfish in the GOA, crab in the BSAI, and non-pollock groundfish in the BSAI. The analysis examines language in the AFA, analyzes the structure of the industry, and develops specific options to implement processing limits. It also includes a brief discussion on Excessive Processing Shares as described in Section 210 (e), which the Council has slated for analysis on a separate track scheduled for action at a later date.

The AFA requires the Council to submit measures by July 1999 to protect non-pollock processors from inshore and mothership fishery cooperatives in the directed pollock fishery.

Scheduled for 2000, the Act specifically describes processing restrictions already implemented for the 20 AFA-eligible catcher processors in Section 211 (b) (3) and (4). Section 211 (c) includes specific language to be used in the design of processing limits for BSAI crab and groundfish for AFA-eligible motherships and inshore processors. Included in Section 211 (c) is an ownership standard of 10% to determine whether an entity is owned or controlled by a mothership or inshore processor entity.

Though it is clear in the Act and the Congressional Conference Report that 211 (c) applies only to mothership and inshore processors, the analysis has included catcher/processors in the requirements of this section. As part of AFA, severe sideboard restrictions on the CP sector have already been implemented. They include prohibition of all AFA-eligible CPs from:

- processing any of the directed fishing allowances allocated to the mothership and inshore sectors,
- processing of all species of crab,
- participation in all other US fisheries except Pacific whiting,
- harvesting any fish in the GOA,
- processing any groundfish in area 630 of the GOA,

- processing any pollock in the GOA and
- processing no more than 10 % of cod in the areas other than 630 of the federal GOA fisheries.
- AFA CP sideboards also reduce historic participation in the Atka mackeral fishery, and require two observers on board all vessels.

By including sideboards developed to limit mothership and inshore processors on top of the sideboards already imposed on the CP sector, the Council is imposing restrictions that are disproportionately burdensome to one sector. Unless the Council rescinds existing CP sideboards or imposes those CP sideboards on the mothership and inshore processors, imposition of the mothership and inshore sideboards on the CP sector would not meet the "fair and equitable" test required by the AFA.

Though this section on mothership and inshore processors includes the following language; "for the purposes of this subparagraph, the term 'facilities' means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish" in determining use of the 10% ownership rule, clearly, because of placement in Section 211(c), this applies only to inshore and mothership operations that may also have catcher/processor operations, such as Tyson. To cast the net of these restrictions to include the entire CP sector is a misreading of the AFA and is, as cited above, unfair and inequitable.

The use of a 10% ownership standard is particularly onerous for the CP sector which, like the CV sector, is structured with ownership investments in many fisheries and gear types. There are several owners of ASI vessels that also have ownership interests elsewhere in the industry. Additionally, as noted in the analysis, a CDQ group has 20% interest in the ASI CP Arctic Fjord as well as a freezer longliner not affiliated with ASI. Though ASI investors have no ownership interest in the freezer longliner company, because of the CDQ investment, sideboard restrictions would be applied to all freezer longliners owned by that company. At least two other CDQ groups have ownership in CPs that exceed the 10% ownership standard. There is no CDQ ownership in mothership or inshore processing plants. Because this ownership structure is common in the industry, an exemption for CDQ investments will not solve the unintended and severe consequences caused by use of a 10% ownership standard.

ASI strongly opposes application of mothership and inshore processor sideboards to the catcher/processor sector and recommends that the Council seek additional analysis of application of the 10% ownership standard.

ASI would like to commend Council staff on completion of this complex analysis in a very truncated time line. Though only some of the actions included in the analysis require action by July 1999 (catcher vessel harvesting sideboards and mothership/inshore processor sideboards) the staff, at the direction of the Council, took on the added tasks of

analyzing options that do not require action at the June meeting. These additional CP sideboards, bycatch closure caps for the CV and CP sectors, reduction of the negotiated catch and bycatch history of the CP sector and implementation of the 10% processing ownership standard.

ASI strongly urges the Council to delay or reject options that do not require action by July 1999. In so doing, the Council provides adequate time to properly analyze and provide public participation in the development of complex and far reaching actions which, otherwise, are likely to trigger many unintended consequences.

Thank you for consideration of ASI's views on these important issues.

- Sincerely,



Donna Parker

Director of Business Development and Government Relations

ARCTIC STORM, INC.
Summary Bullets
Position on AFA Sideboards

GENERAL SIDEBOARD RECOMMENDATIONS

- ASI strongly urges the Council to delay or reject options that do not require action by July 1999. In so doing, the Council provides adequate time to properly analyze and provide public participation in the development of complex and far reaching actions which, otherwise, are likely to trigger many unintended consequences.
- ASI strongly urges the Council to restrict imposition of sideboards to co-op participation and in doing so, support this AFA mandate as well as the intent of its drafters as described in the Congressional Record.

COOPERATIVE AGREEMENTS

- ASI strongly opposes Council imposition of limitations on the duration of the cooperative agreements at any time in which the law permits participation in cooperatives. Parties have entered into cooperative contracts with reliance on the duration provisions to make significant investments. Having relied on those provisions to make significant investments, companies could be subjected to significant adverse impacts if the current duration provisions were changed.
- Arctic Storm, Inc. (ASI) supports the prohibition on linkages to other species as well as the December 1 date.

CP SIDEBOARDS

- ASI strongly opposes any measure which would single out pollock fishery cooperatives for closure of the directed fishery upon attainment of bycatch "caps." Measures such as the proposed bycatch closure caps are significant departures from current open access, IFQ and CDQ fishery management.
- ASI strongly opposes both sets of historic catch reduction and bycatch closure cap options because they do not meet the threshold requirements of the AFA sideboard requirements insofar as they,
 - do not mitigate adverse impacts of cooperatives,
 - are not imposed fairly and equitably, and
 - do not take into account all factors affecting fisheries, especially the new SSL RPAs which force the fleet to fish in new areas where increased bycatch may be encountered.

- ASI supports future Council consideration of a comprehensive bycatch reduction plan that includes all fisheries and gear types, including the halibut and sablefish ITQ programs, CDQ fisheries and open access pollock, non-pollock and crab fisheries.
- ASI strongly urges the Council to rescind its action last December to remove from the CP sector its historic bycatch in the directed pollock fishery. Using bycatch in the non-pollock fishery is insufficient to manage both the pollock and non-pollock directed fisheries. This unreasonable measure compromises the ability to accomplish optimum yield as required under the Magnuson-Stevens Act, unfairly and inequitably removes CP access to historical catches, in no way mitigates adverse impacts to other participants, and in reallocating that portion of the resource to a sector with higher bycatch rates (as shown in Tables 6.18, 6.19 and 6.20) confounds the conservation goals of AFA and the Magnuson-Stevens Act.

CV SIDEBOARDS

- **CRAB SIDEBOARD RECOMMENDATION:** ASI strongly urges the Council to support Option 3 which prohibits crossovers into the opilio fishery unless the vessel fished opilio in 1996 or 1997. The Council might also consider extending the qualifying years to include 1995 so that it is consistent with the aggregate years used to establish sideboards in other fisheries and does not unfairly eliminate participants. All other options seem to be vehicles to accomplish crab fleet reductions that go well beyond elimination of latent capacity and were rejected earlier by the Council.

GROUND FISH SIDEBOARD RECOMMENDATIONS

- ASI supports sideboards that are based on *percentages* of the aggregate historical catch rather than *specific tonnages*.
- ASI supports sideboards that are based on a percentage of the *catch rather than the TAC*. This will allow future participation in the flatfish fisheries which are limited by PSC rather than TAC, to most accurately reflect historical participation.
- ASI supports bycatch sideboards that are based on a pro-rata basis in proportion directed catch history. This would provide the industry with a bycatch incentive mechanism that could increase the amount flatfish harvest and better accomplish OY and conservation goals.
- ASI does not support sideboards that are punitive or are imposed unfairly on fisheries that have not occurred concurrently with the traditional pollock fishery.

PROCESSOR SIDEBOARDS

- ASI strongly opposes application of mothership and inshore processor sideboards to the catcher/processor sector and recommends that the Council seek additional analysis of application of the 10% ownership standard.

TRUSTEES FOR ALASKA

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June 1, 1999

Richard B. Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

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N.P.F.M.C.

Re: Catcher/Processor Sideboards Under § 211(b)(2) of the AFA

Dear Mr. Lauber:

Please accept these comments with respect to the catcher/processor sideboards under section 211(b)(2) of the American Fisheries Act (AFA or Act). Trustees for Alaska submits these comments on behalf of the Alaska Marine Conservation Council (AMCC). We previously submitted comments to NMFS explaining our understanding of this section of the AFA. We now provide that interpretation to the Council, together with additional observations.

As an initial and overriding matter, we note that NMFS, the Council, and the catcher/processor fleet have all advanced an interpretation of section 211(b)(2) that results in identically-worded statutory provisions being interpreted inconsistently with each other. This interpretation grants the catcher/processor coop groundfish "caps" based upon their non-pollock and pollock fishing history, PSC "caps" from non-pollock fishing history only, and then applies both "caps" only to non-pollock fishing by coop vessels. This distorted result turns the will of Congress - to reduce bycatch and provide protections for other fisheries - on its head. It thus nullifies the main conservation benefit that could be realized from implementation of this provision. As detailed below, the text of the statute, accepted conventions of statutory construction, the legislative history, and common sense all mandate that section 211(b)(2) must result in hard caps that apply equally to both pollock and non-pollock fishing, and are calculated based on historical participation in both fisheries.

Our starting point is the language of the Act itself. The section of the AFA entitled "Protections for Other Fisheries; Conservation Measures" contains the following subsection:

(2) **BERING SEA FISHING.** - The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by

Richard B. Lauber
June 1, 1999

Page 2

such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997.

(B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997.

AFA § 211(b)(2) (emphasis added). Thus, the Act sets absolute caps on the amounts of directed catch (subparagraph (A)) and "prohibited species" catch (subparagraph (B)), and then creates a formula for calculating those caps. Significantly, the Act uses identical language to establish the formula for each type of catch.

First, the provision, by its plain language, applies "in the aggregate." In other words, when all of the catch brought in by the listed catcher/processors is totaled, it will not exceed the amounts set forth in subsections (A) and (B). Thus, bycatch taken in the directed pollock fisheries will count against the aggregated caps established in subsections (A) and (B). This interpretation is supported not only by the text of the statute, it is the only one that is consistent with Congress' intent to reduce bycatch and protect other fisheries.

Second, accepted conventions of statutory construction also favor our interpretation. It is textbook law that similar language must be interpreted similarly. This canon is supported by common sense, as it is only logical that the same language must mean the same thing each time it is used. As stated earlier, NMFS and the Council have so far interpreted identical language in subsections (A) and (B) in different ways, both of which fail to secure the conservation promise of the AFA. With respect to the groundfish caps in subsection (A), all fish harvested will count toward the caps - including bycatch in the pollock fishery. However, these are not true caps because once reached only non-pollock fishing is closed to coop vessels. These vessels may continue to harvest these groundfish species in the pollock fishery. With respect to prohibited species, the caps only apply to the non-pollock fisheries. Thus, despite virtually identical statutory language for paragraphs A and B, NMFS calculated paragraph A using both pollock and non-pollock history, while calculating paragraph B using only non-pollock history, and yet manages both for non-pollock fishing only! This interpretation violates the canon of statutory construction that similar language must be interpreted in the same way and mocks the will of Congress.

Notably, these interpretations undercut the conservation intent of the Act. The subparagraph (A) interpretation grants those boats groundfish caps in other fisheries that are not true caps, while the subparagraph (B) interpretation conflicts with the paragraph (A)

Richard B. Lauber
June 1, 1999

Page 3

interpretation and again gives them bycatch caps that are not caps. This is simply not possible if both provisions are interpreted consistently.

Furthermore, in the AFA, when Congress wanted to exempt a specific fishery from bycatch caps, it did so explicitly. For instance, section 206 specifically provides that the available TAC for pollock in the BSAI shall be reduced by the 10% quota allocated to the CDQ program and an "allowance[] for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program)." AFA § 206(b). The legislative history of this provision states that it "is intended to ensure the continuation of the present system under which the bycatch in the pollock CDQ fishery and the bycatch in the non-pollock groundfish CDQ fisheries are not counted against the CDQ allocations." 129 Cong. Rec. S12779 (Oct. 21, 1998). Thus, if Congress had intended to exempt the directed pollock fisheries from absolute PSC caps, it could have done so. The language of section 211 does not evidence such an intention, and so the limits set forth in subsections (A) and (B) must be interpreted as absolute caps on the designated catcher/processors. After those caps are reached, those catcher/processors must stop fishing in all fisheries, or the caps are sure to be exceeded.

This interpretation is further supported by the legislative history of the AFA, which states that "[t]he limitations in subparagraphs (A), (B), and (C) do not ensure that the BSAI pollock-eligible catcher/processors will be able to harvest any amount of fish, they simply establish additional caps after which those catcher/processors, as a class, will be prohibited from further fishing." 129 Cong. Rec. S12781 (Oct. 21, 1998) (emphasis added). This language could not be any clearer. It is simply inconsistent with the AFA to allow the listed catcher/processors to come into the non-pollock fisheries, catch their designated level of groundfish and PSC, and then return to the directed pollock fisheries to catch more of those species as bycatch.

This interpretation also makes the most sense in terms of establishing harvest limitations. In setting harvest limitations, NMFS must determine the total allowable catch for each species, and then determine what percentage of that TAC will be caught as directed catch, and what percentage will be caught as bycatch. If these allocations are not interpreted as absolute caps that apply across all fisheries, then bycatch and PSC limits for coops are likely to be routinely exceeded, with obvious negative results for conservation. As NMFS currently interprets this provision, the catcher-processor fleet has no incentive to reduce bycatch, because the so-called "bycatch caps" are meaningless. As NMFS Assistant Regional Administrator Sue Salvesson explained at the February meeting, "we are not taking action to close a fishery, such as the pollock fishery, to these vessels upon reaching of a harvest limit. They can still continue to fish for pollock." Transcript of Council meeting, February 5, 1999. This management scheme simply is not supported by common sense, as it fails to mandate compliance with the "caps."

The text, canons of statutory construction, legislative history, and common sense all mandate that both provisions must be interpreted consistently. Accordingly, the law must apply equally to both the pollock and the non-pollock fisheries and establish true caps on both fisheries. Otherwise, as explained above, there will be no protections for other fisheries, and bycatch and PSC limits will be routinely exceeded.

Richard B. Lauber
June 1, 1999

Page 4

In conclusion, we urge the Council to interpret section 211 of the AFA to apply equally to both pollock and non-pollock fishing, thereby fulfilling the intent of the Act to reduce bycatch and protect other fisheries.

Sincerely yours,



Jack K. Sterne
Staff Attorney

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PO Box 69
Kodiak, Alaska
May 31, 1999**N.P.F.M.C**

Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West Fourth Avenue, Suite 306
Anchorage, Alaska 99501

Dear Chairman Lauber,

As the council continues the 'dirty work' of writing the details of the American Fisheries Act, there are several points I would like you to consider.

First, it is imperative that boats that delivered to catcher-processors during 1995 and 1996 be allowed to convert their catch history to the inshore sector. The original bill already cut us off from continuing to deliver offshore by using a single year for qualification. That in itself was patently unfair, but the only means of rectifying it is to convert that tonnage to the inshore sector, where we still have the opportunity to utilize it.

If, in the future, the Gulf adopts a similar coop system, our Gulf history will be reduced from what we catch there today because we spent time in the Bering Sea during '95 and '96. We've already been cut out of the offshore fleet. To lose our tonnage in the inshore fleet would be a triple-whammy from which we would probably not recover.

Secondly, I feel there should be an exemption from the proposed sideboards for vessels with small catch histories in pollock. (Less than 5000 tons total for '95-'97.) I own and operate the F/V Excalibur II, a 77 ft. trawler. Small vessels such as my own have always relied on a wide variety of fisheries. To be successful, we must regularly switch to different species and gear types as the quotas and markets fluctuate. Pollock is one of several small but significant fisheries in our season, and we need to continue fishing it, but to constrain us in our ability to switch as need dictates would be crippling for the small-boat fleet. The AFA did a fine job of rationalizing the pollock fishery for the large boats that deal primarily in pollock, but for small multi-species trawlers it could be more of a hindrance than a help. One size does not fit all when writing the rules for this game.

Lastly, I support the use of the best 2 of 3 years in determining catch history. A boat that is temporarily hampered by breakdowns or emergencies should not be permanently penalized for it. Throwing out one of three years will nullify that situation and make the system more equitable.

I urge you to consider the circumstances and needs of the smaller vessels while fleshing out the AFA. We had a very large part in developing the groundfish fisheries in Alaska, and we deserve a place at the table as that fishery matures. Thank you for your consideration.

Sincerely,



Kent Leslie
Captain, F/V Excalibur II

Ocean Spray Partnership**RECEIVED**
JUN - 1 1999
N.P.F.M.CWalt Raber
Ocean Spray Partnership
P.O. 1235
Cordova, AK 99574Phone 207-443-5769
Fax 207-443-5780

May 31, 1999

NPFMC
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

I am submitting a written comment and related information concerning the eligibility of the F/V Providian, the replacement vessel for F/V Ocean Spray, on the AFA qualified shoreside catcher boat list. As noted, I lost the "Ocean Spray" during the 1994 "B" pollock season, while delivering shoreside. With the approval of NMFS and IRS, I signed a construction contract for a replacement vessel in December 1996, which met all the replacement requirements, in the stipulated two year window. The contract called for a completion date of June 1997, but the shipyard experienced financial problems which led to their bankruptcy. I was forced to change shipyards and contend with the subsequent delays in construction schedules. In order to keep the moratorium qualification current, the NMFS advised me to transfer the permit to another active vessel and deliver on that permit before December 31, 1997. In October 1997, I transferred the permit to the F/V Majesty, owned by Trident's Seafood's, and specifically delivered during the '97 season. The permit stayed with the vessel during the '98 "A" pollock season and then transferred to my new vessel, F/V Providian in August '98. I also applied and received a Federal Fisheries permit for Alaska during that month, as the vessel was finally finished. The size requirements and transfer met all the current NMFS requirements and I expected the vessel to be able to participate in the fisheries the "Ocean Spray" had qualified for under the License Limitation Program. During our subsequent sea-trails, notice was received that the AFA 1221, disqualified my new vessel, due to a landing requirement during '95-'98. This was obviously impossible, yet I had followed all the existing regulations for a replacement vessel lost in '94. I explained my situation to Chris Oliver at the NPFMC, but received the reply the council was unable to change or add any vessels to the 1221 list, and he recommended that I take it up on the Federal level. I will enclose correspondence to Senator Steven's and Representative Don Young's offices, which relates to my effort to include my vessel as a Federal amendment, addressing technical corrections to AFA. As you may know, the portion adding the "Providian" was removed in early May. They recommended I address the problem during the June, NPFMC meeting. I trust this issue will be fairly addressed at this meeting, during discussions on the specific list of vessels which are AFA qualified.

This situation has caused my family and bankers a great deal of anxiety, as we have invested and pledged nearly everything we have earned fishing in Alaska, since 1969. The IRS involuntary conversion stipulations, and my determination to stay actively involved in the only occupation I know, led me to this multi-million dollar investment. I also mitigated my damages, due to the construction delays, by arranging a bare-boat charter for the "AJ" in September '97, which fulfilled my market obligations to Trident Seafood's and kept my crew gainfully employed, while I worked through the delays the shipyard had caused me. I have a great deal riding on my ability to gain rights to my fishing history, as my financial agreement with my lender, included a commitment to pledge those permits for collateral. It seems extremely unfair that having spent the last 30 years developing my fishing business, that at the 11th hour, a Federal mandate that supposedly is protecting American fishing interests, legislates my history out of existence. I was purposely following all existing regulations for replacing a vessel lost in 1994, and resultantly invested heavily in a vessel which cannot fish in its intended fisheries.

I thank you for your attention to this matter and will provide any further information you may require.

Sincerely,


Walt Raber

RECEIVED

JUN - 1 1999

N.P.F.M.C

TO: Dave Whaley
Senior Staff for
Fisheries Policy
fax 202-225-1542
phone 202-226-0200

FROM: Walt Raber
Ocean Spray Partnership
fax 207-443-5780
phone 207-443-5769

MESSAGE: Was able to talk to Trevor Mc Cabe on Thursday, and he indicated he would be writing up the amendment on Monday, and would be getting more input from you and I. I am interested in the results of your inquirer on "AJ", also. Please call or fax with any questions or additional information you may need.

I really appreciate your time and attention to this matter.

Sincerely,

Walt Raber 4/20/99
Walt Raber

RECEIVED
JUN - 1 1999
N.P.F.M.C

TO: Dave Russell
Senator Steven's Office

FROM: Walt Raber
F/V Providian
F/V Ocean Spray
Trident Maritime Company
Phone 207 443-5769
Fax 207 443-5780

MESSAGE: I was given your name and number by David Whaley on Friday, with the advice that you were working on the amendment for the F/V Providian. I also was forwarded a copy of the memorandum that is being circulated on its behalf. I understand there is a vote coming up this week concerning this matter and am quite concerned that all the relevant facts are considered. I will enclose a brief summary of the situation concerning the endangered status of the Federal Fisheries Permit for the F/V Providian. I am also underlining and adding my input to the memorandum. I want to reiterate that I have a Federal Fisheries Permit that was legitimately transferred to the F/V Providian, following all the IRS, NMFS, and NPFMC regulations regarding the replacement of a vessel (F/V Ocean Spray) lost in September, 1994. This is the Ocean Spray Moratorium qualification that NMFS had me transfer to the F/V Majesty, in order to remain valid for transfer to the F/V Providian. Therefore I take serious issue to the statement in the memorandum that Congress is under no obligation to qualify my vessel. I was following every Federal Regulation for a replacement vessel in the "involuntary conversion" language of the IRS, and therefore, invested millions, only to be locked out of a fishery I have been involved in for many years. I would very much like to resolve this injustice by passage of this amendment, but I understand I have legal alternatives that may be applied, and I much prefer to handle this through legislation. If needed, I will forward further information, I understand it behooves the Industry to move forward with 1221, but it cannot be overlooked, that an American citizen, whom this is suppose to protect, is being financially devastated and efforts to mitigate the damages are not very successful, I will not standstill while I am legislated out of business.

Please call back with any questions or solutions. Thank you for consideration in this matter.

Sincerely,

Walt Raber
5/10/99

RECEIVED
JUN - 1 1999
N.P.F.M.C

TO: David Whaley (Representative Don Young's office)
Dave Russell (Senator Steven's office)

FROM: Walt Raber
F/V Providian
Phone 207 443 5769
Fax 207 443 5780

MESSAGE: I forwarded letters to you this morning concerning the Amendment affecting the F/V Providian, and am now sending you copies of the Providian's Federal Fisheries Permits and other applicable licenses for your review. Please call with any questions or comments, as I am extremely concerned about the short time line for review and impending vote
Thanks again.

Sincerely.

Walt Raber
Walt Raber

5/10/99



COMMITTEE ON RESOURCES

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Republican Staff

Room H1-805 O'Neill House Office Building

Washington, D.C. 20515

Phone: (202) 226-0200

Fax: (202) 225-1542

FAX TRANSMISSION

To:

TO: Walt Rober

FROM: Dave Whaley

DATE: May 7, 1999

TOTAL PAGES (INCLUDING COVER PAGE) 6

***** NOTES *****

Here is the memo that Trevor has circulated.

MEMORANDUM**RE: TECHNICAL/MINOR AMENDMENTS TO AMERICAN FISHERIES ACT****FR: DAVE WHALEY, HOUSE RESOURCES COMMITTEE (202 226-0200)
DAVID RUSSELL, OFFICE OF SENATOR TED STEVENS (202 224-3004)
JEANNE BUMPUS, OFFICE OF SENATOR GORTON (202 224-3441)**

Attached is a document that includes the technical amendments to the American Fisheries Act (AFA) passed by the Senate as part of the 1999 Supplemental Appropriations Act and additional technical and minor amendments being considered for inclusion with these Senate-passed amendments. The additional amendments have been reviewed by some of the staff of interested members of Congress, but we are seeking the thoughts and comments of the industry and other interested parties to assist members of Congress in deciding whether to pursue the additional amendments. In general, the Congress is not considering any major changes to the American Fisheries Act at this time. The Senate-passed amendments were purely technical. Below is a summary of the additional amendments.

Insert A - purely technical amendment.

Insert B - technical amendment. As passed, section 210(g) of the AFA specified that "A violation of any of the requirements of this section [the fishery cooperative limitations section], or section 211 [the protections for other fisheries section] shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act." The intent was for the civil penalties, criminal offenses, civil forfeitures, and enforcement provisions that apply under sections 308, 309, 310, and 311 of the Magnuson-Stevens Act to section 307 prohibited acts to apply by implication to the violation of the requirements of the AFA. For greater clarity, the National Marine Fisheries Service suggests expressly applying sections 308, 309, 310, and 311 to AFA violations, as well clarifying that the penalties apply to violations of section 208 (eligible vessels) of the AFA as well.

Insert C - technical amendment. Section 202(a) of the AFA amended title 46 of the United States Code to prohibit new vessels greater than 165 feet, 750 gross tons, or 3,000 shaft horsepower from receiving a fishery endorsement unless the appropriate fishery management council and Secretary of Commerce approved the entry of the vessel into one of the fisheries under the council's authority. Section 212 of the AFA exempted vessels in the menhaden fishery from a prohibition on federal loans for vessels over 165 feet, 750 gross tons, or 3,000 shaft horsepower -- and it was thought by staff at the time that the menhaden fleet could seek the approval of the Gulf of Mexico Council and Secretary of Commerce in order to obtain fishery endorsements for new large vessels whose owners wished to participate in the menhaden fishery and/or take advantage of the federal loan program. It was later pointed out that the Gulf of Mexico Council does not manage the menhaden fishery. Insert B is a stand-alone provision that would exempt vessels to be used solely in the menhaden fishery from the size limitations for receiving a fishery endorsement. The existing menhaden vessels are 160-180 feet in length and do not exceed the thresholds for tonnage or horsepower. The likely replacement vessels for this fleet are former offshore supply vessels that may also slightly exceed the length threshold.

Insert D - amendment. Insert C would qualify two catcher vessels (the HAZEL LORRAINE and PROVIDIAN) for the inshore sector of the Bering Sea pollock fishery, and qualify one catcher vessel (the MICHELLE RENEE) for the mothership/catcher vessel sector of the Bering Sea pollock fishery. Staff note that each of the owners of these three vessels appear to have had very recent participation or

investment, but that Congress is under no obligation to broaden the qualifying criteria for vessels or to qualify these three vessels or any others. Following is a brief summary of the facts relating to the three vessels as presented to staff:

HAZEL LORRAINE-The HAZEL LORRAINE had onshore deliveries in Bering Sea pollock in 1992, 1993, 1994, and 1995. In 1996, the HAZEL LORRAINE delivered Bering Sea pollock in the "A" and "B" seasons to the Tyson Seafoods catcher/processor ISLAND ENTERPRISE and had a single onshore delivery to the Tyson Seafoods shoreplant (ARCTIC ENTERPRISE) of about 50 metric tons. In 1997, the HAZEL LORRAINE delivered pollock to Tyson Seafoods in Kodiak until a fire destroyed the plant in April 1997, then attempted but was unable to find a buyer for pollock in the 1997 Bering Sea pollock "B" season. In 1998, the owner of the HAZEL LORRAINE agreed to fish in the Gulf of Alaska to ensure that Tyson Seafood's reconstructed plant in Kodiak would have an adequate supply. To be eligible as a Bering Sea catcher vessel-to-catcher/processor under section 208(b) of the AFA, the HAZEL LORRAINE would have had to deliver at least 250 metric tons of pollock in 1997 and at least 75 percent of its catch to Bering Sea catcher/processors. To be eligible for the Bering Sea pollock onshore sector under section 208(a) of the AFA, the HAZEL LORRAINE would have had to deliver at least 250 metric tons onshore in 1996, 1997, or the 1998 "A" season. The HAZEL LORRAINE delivered only 50 metric tons onshore in 1996 and was unable to make onshore deliveries in 1997 and 1998 due, in part, to the fire in Kodiak.

PROVIDIAN-The PROVIDIAN is a new vessel (delivered in 1998) that was scheduled for delivery in June 1997, but the original shipyard went bankrupt and the owner was forced to change shipyards mid-project. In October of 1997, with the delay from the first shipyard, the owner transferred his moratorium permit to another vessel (the F/V MAJESTY), which then had Bering Sea crab landings in 1997 and Bering Sea pollock landings in the 1998 "A" season before the permit was transferred to the PROVIDIAN upon its completion. The PROVIDIAN would have qualified under section 208(a) of the AFA for the Bering Sea pollock inshore sector if it had been completed on time and therefore been able to make a 1998 pollock "A" season landing.

MICHELLE RENEE-The owner was captain and part owner of the VANGUARD, and delivered Bering Sea pollock from that vessel to the mothership, GOLDEN ALASKA, during the years 1995-1997. The owner purchased the moratorium/LLP rights to a vessel which sank in 1996, signed a contract for the MICHELLE RENEE in December of 1997, and obtained financing for the MICHELLE RENEE in January of 1998. The marketing documents presented by the owner to the lender in January of 1998 said that the MICHELLE RENEE would be used in the Bering Sea pollock mothership sector to deliver pollock to the GOLDEN ALASKA. The renovation of the MICHELLE RENEE was not completed until after the Bering Sea pollock "A" season. The MICHELLE RENEE would have qualified under section 208(c)(20) of the AFA if it had been completed and made a 1998 pollock "A" season landing. (Related note: at one point in the AFA negotiations, the VANGUARD was specifically listed as an eligible catcher vessel in the mothership/catcher vessel sector (under section 208(c)), but its owners asked to be removed from that list. The VANGUARD still qualifies under the general criteria for catcher vessels-to-motherships in section 208(c)(20)).

Insert E - amendment. Insert E would amend section 208(c) of the AFA to allow the Secretary of Commerce, upon the recommendation of the North Pacific Council, to allow catcher vessels other than those listed or eligible under section 208(c) to participate in the mothership/catcher vessel sector of the Bering Sea pollock fishery if necessary as a substitute for an eligible vessel that is unable to participate. The amendment is requested by mothership operators concerned about the ability to harvest the entire mothership allocation if eligible vessels are choose to, or are unable to, participate in the fishery.

SEC. 4011. (a) AMERICAN FISHERIES ACT.—The American Fisheries Act (title II of division C of Public Law 105-277) is amended—

(1) in section 202(b) by inserting a comma after "United States Code";

(2) in section 207(d)(1)(A) by striking "Fishery Conservation and Management";

(3) in section 208(b)(1) by striking "615085" and inserting "683219";

(4) in section 213(c)(1) by striking "title" and inserting "subtitles"; and

(5) in section 213(c)(2) by striking "title" and inserting "subtitles";

(b) TITLE 46.—Section 12122(c) of title 46, United States Code, is amended by inserting a comma after "statement or representations";

SENATE

H.R. 1141

9 244 ES

[Insert C]
[Insert D]
[Insert E]

[Insert A]
[Insert B]

~~PROHIBITION~~ ~~ERIN'S~~ ~~NEW~~ STATEMENTS A]

1 (4) in section 209(4), by striking "Uoited" and inserting "United";

[Insert B]

2 (5) in section 210(g), by striking the first sentence and inserting in lieu thereof,
3 "The violation of any of the requirements of this section, section 208, or section 211 shall
4 be considered the commission of an act prohibited by section 307 of the Magnuson-
5 Stevens Act (16 U.S.C. 1857), and sections 308, 309, 310, and 311 of such Act (16
6 U.S.C. 1858, 1859, 1860, and 1861) shall apply to any such violation in the same manner
7 as to the commission of an act prohibited by section 307 of such Act (16 U.S.C. 1857).";

[Insert C]

8 (c) MENHADEN VESSELS.-Section 12102(c)(6) of title 46, United States Code shall
9 not apply to a vessel used solely in the menhaden fishery.

[Insert D]

1 (d) ELIGIBLE VESSELS.

2 (1) CATCHER VESSELS ONSHORE.--Notwithstanding paragraphs (1), (2), and
3 (3) of section 208(a) of the American Fisheries Act (title II of division C or Public Law
4 105-277), the catcher vessels HAZEL LORRAINE (United States Official Number
5 592211) and PROVIDIAN (United States Official Number 1062183) shall be eligible to
6 harvest the directed fishing allowance under section 206(b)(1) of such Act pursuant to a
7 federal fishing permit, in the same manner and subject to the same requirements and
8 limitations as other vessels eligible under section 208(a) of such Act.

9 (2) CATCHER VESSELS TO MOTHERSHIPS.--Notwithstanding
10 subparagraphs (A), (B), and (C) of section 208(c)(20) of the American Fisheries Act (title
11 II of division C or Public Law 105-277), the catcher vessel MICHELLE RENEE (United
12 States Official Number 966996) shall be eligible to harvest the directed fishing allowance
13 under section 206(b)(3) of such Act pursuant to a federal fishing permit, in the same
14 manner and subject to the same requirements and limitations as other vessels eligible
15 under section 208(c) of such Act.

[Insert E]

16 (e) SUBSTITUTE CATCHER VESSELS TO MOTHERSHIPS.-Section 208(c)(20)(a) of
17 the American Fisheries Act (title II of division C or Public Law 105-277) is amended by striking
18 "September 1, 1998" and inserting in lieu thereof "September 1, 1998, or, upon recommendation
19 by the North Pacific Council, to be necessary as a substitute for a vessel listed under paragraphs
20 (1) through (20) that is unavailable to harvest such allowance".

United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Restricted Access Management
P.O. Box 21668
Juneau, Alaska 99802-1668

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

FIRST CLASS MAIL

TO: OCEAN SPRAY PARTNERSHIP
PO BOX 1235
CORDOVA, AK 99574



FEDERAL FISHERIES PERMIT ENCLOSED

AK996308A

NOAA 00136 (1-00)

ISSUING NMFS OFFICE: Restricted Access Management P.O. Box 21668 Juneau, AK 99802-1668		UNITED STATES DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration National Marine Fisheries Service
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FEDERAL FISHERIES PERMIT

OCEAN SPRAY PARTNERSHIP PO BOX 1235 CORDOVA, AK 99574	Vessel or Processor Name PROVIDIAN Official No. ADFLG No. Tons Length 1062183 70709 324 113 Homeport JUNEAU, AK		
Fisheries Permit Number AK996308A	Date Issued 10-AUG-98	Date Expires 31-DEC-99	
Fisheries Permitted BSA (Headfish) (KIA) Groundfish Hook and line Pot gear Trawl gear Catcher Vessel			
 Administrator/Restricted Access Management	Owner's Signature 		

See reverse side for permit conditions and information

COMMERCIAL FISHERIES ENTRY COMMISSION

State of Alaska

8800 Glacier Highway, #109
Juneau, Alaska 99801
Phone (907) 789-8150



1998 VESSEL LICENSE RECEIPT CARD
(this license must be kept on board vessel)

Vessel Owner

Permanent Mailing Address (if different)

OCEAN SPRAY PARTNERSHIP
& RICKEY AND ASSOCIATES
PICK UP AT COUNTER
JUNEAU AK 99801

OCEAN SPRAY PARTNERSHIP
BOX 1235
CORDOVA AK 99574

Vessel Description

70709
ADF&G No.

PROVIDIAN
Vessel Name

1062183
USCG Reg. or Dec. No.

112
Overall Length

Hull ID No.

IRON STEEL ALLOY
Hull Construction

476
Gross Tons

324
Net Tons

Make/Model

1997
Year Built

Vessel Activities

Salmon Troll Registration

Effective Date

Charter or Guided Sport Fishing Areas:

Salmon Net Area

Salmon Net Permits

FISHING, TENDER/PACKER

Types of Vessel Activity

1998-04-02 PR D \$250

Date of Issuance Fee Class and Amount Paid

Walt Raber
Signature of Vessel Owner or Authorized Agent (circle whichever applies)

THE VESSEL OWNER OR OPERATOR MUST CERTIFY THAT THIS INFORMATION IS CORRECT BY SIGNING THIS LICENSE RECEIPT. IT MUST BE KEPT ON BOARD THE VESSEL AT ALL TIMES WHILE ENGAGED IN FISHING ACTIVITY. Please refer to the back of this form for information concerning the vessel license and vessel identification requirements. If the Vessel License Receipt Card or the annual decal is lost or damaged, a duplicate may be requested by submitting a Request for Duplicate License (form 01-806) with the appropriate fee. To record a change of ownership, return the Vessel License Receipt Card with a Vessel License Change of Information (form 01-824).

A vessel license is required for any vessel which engages in commercial fishing activities in the state of Alaska, including charter service for the recreational taking of fish and shellfish. This also includes fishing vessels, tenders, packers, processors and any vessel which assists another vessel in these activities as well as supply, storage, refrigeration or transportation. (AS 16.05.475) There is an exemption from the licensing requirement for vessels used ONLY at salmon set net sites, or to harvest salmon in state waters between the latitudes of Point Romanof and Cape Newenham, or in state water surrounding Nunivak Island, (see AS 16.05.485).

Vessel License Size Classes: Based on overall length defined as "the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets and other similar attachments".

A - 25' and under

C - over 90' through 75'

E - over 150' through 250'

B - over 25 through 50'

D - over 75' through 150'

F - over 250'

UNITED STATES DEPARTMENT OF COMMERCE

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

**FIRST CLASS MAIL
PRIORITY**

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

TO: OCEAN SPRAY PARTNERSHIP
PO BOX 1235

CORDOVA, AK 99574

FEDERAL VESSEL MORATORIUM PERMIT ENCLOSED

MP8302A

ISSUING NMFS OFFICE:
Restricted Access Management
P.O. Box 21668
Juneau, AK 99802-1668



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service



FEDERAL VESSEL MORATORIUM PERMIT

Permit Number	Date Issued	Date Expires	Vessel Name		
MP8302A	5/30/98	12/31/98	PROVIDIAN		
Vessel Owner's Name & Address			Official No.	ADF&G No.	Length Overall
OCEAN SPRAY PARTNERSHIP PO BOX 1235 CORDOVA, AK 99574			1062183	70709	113
			Qualification Number	Maximum Length Overall	
			4753B	113	
Fishery - Gear Endorsements					
Crab Fisheries/Pot Gear Ground Fisheries/Trawl Gear Ground Fisheries/Hook Gear Ground Fisheries/Pot Gear					
CHIEF, RESTRICTED ACCESS MANAGEMENT DIVISION			Owner's Signature		
<i>Phyllis J. Smith</i>			<i>Walt Rabe</i>		

See reverse side for permit conditions and information.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21666
Juneau, Alaska 99802-1666

Date: December, 1998

TO:

RE: Moratorium Permit No. MP 8302A

Name of Vessel: Providian

**VESSEL MORATORIUM PROGRAM
NOTICE OF EXTENSION**

Dear Moratorium Permit Holder:

This will inform you that a regulation to extend the North Pacific Vessel Moratorium Program (through the end of 1999) has received final approval by the National Marine Fisheries Service (NMFS).

According to records maintained by Restricted Access Management (RAM), NMFS Alaska Region, you currently hold a Vessel Moratorium Qualification and/or Permit for the vessel identified above, on which the expiration date is set out as December 31, 1998. Because of the extension of the Moratorium Program, please be advised that the new expiration date of the Qualification/Permit is December 31, 1999. RAM will not issue a new Certificate of Moratorium Qualification or a new Moratorium Permit. This letter, together with the permit you currently hold, authorizes you to continue those fishing activities endorsed on the face of the referenced Permit through December 31, 1999.

Please do not hesitate to contact the RAM (907-304-4846) should you have any questions.

By Direction of the
Alaska Region, National Marine Fisheries Service
Steven Pennoyer, Regional Administrator

By: Philip J. Smith
Philip J. Smith, Administrator
Restricted Access Management



Royal Aleutian Seafoods, Inc.**701 Dexter Ave., N., Suite 403****Seattle, WA 98109****(206) 283-6605 / Fax (206) 282-4572**

2 June, 1999

Mr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Re: American Fisheries Act
EA/RIR Analysis

Dear Mr. Pautzke and Council Members:

It is time for the Council to do the "right" thing. Congress clearly intended to protect processors and harvesters who are ineligible to participate in the pollock fishery from adverse effects from the AFA or fishery cooperatives. Congress recognized the particular need to establish protective measures for the non-pollock participants in the Bering Sea crab fisheries including harvesters and processors.

Royal Aleutian Seafoods, Inc. (RAS) is a 100% American owned seafood company that operates from a single processing location in Dutch Harbor and is engaged almost exclusively in crab processing. The American Fisheries Act has advantaged a few processing companies and disadvantaged many others that must compete with AFA eligible companies in fisheries other than pollock.

To fully appreciate our comments one must understand the disproportionate size between the AFA eligible processing companies and the non-AFA processing entities, such as RAS. The magnitude of difference is staggering. According to *Seafood Business* January 1999 issue, Trident Seafoods (prior to its reported acquisition of Tyson Foods, Inc. - Seafood Division,) was the seventh largest seafood supplier in the United States with annual revenue nearing \$400 million. Now after the acquisition of Tyson's Seafood Division, Trident will report approximately \$634 million in annual revenues, and would represent the U.S.'s third largest seafood supplier. We at RAS believed, that one of the tenants of AFA was to reduce the size and control of market share of the then largest company, American Seafoods. Trident Seafoods after swallowing Tyson's Seafood Division will have a market share in pollock of approximately 25%, which rivals that of American Seafoods prior to the initiation of AFA. Post acquisition of Tyson's Seafood Division, Trident Seafoods will have the largest market share in each of the major fisheries in Alaska, including pollock, crab, and salmon. According to industry sources,

Royal Aleutian Seafoods, Inc.

NPFMC
2 June, 1999
2

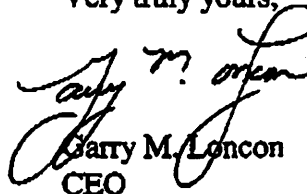
the foreign-owned companies including Maruha Corporation, Nichiro Corporation, and Nippon Susisan Kaisha each conservatively have annual revenues that exceed \$200 million.

The non-AFA processing companies that banded together to form the Fair Fisheries Coalition, have combined annual revenues that are less than one-tenth that of the AFA processing companies. So why are protective measures needed to ensure the long-term viability of competitive markets for Alaskan fisherman? Simply, the AFA eligible companies dwarf the non-AFA companies in size. They already represent a controlling market share in every major Alaskan fishery. In crab, AFA eligible companies control 60% to 74% of all crab specie. The AFA eligible companies already dominate the crab fisheries, and without enforceable, protective restrictions AFA eligible companies will undoubtedly utilize their new-found economic windfall through a protected-class status that the AFA ensured to eliminate competition in non-pollock fisheries. Independent fishing vessel owners and Alaskan communities will suffer from the elimination of the independent processing companies which provide a competitive alternative marketplace for fisherman.

Please accept these comments from a company that does not benefit from AFA, but wishes to remain in a competitive position in the Bering Sea crab fisheries. It is time for the Council to do the "right" thing and fulfill Congress' intent to mitigate the adverse impacts to non-eligible AFA processors, and act as a impartial steward for Alaskan fisheries.

The following attached represents our comments and recommendations with respect to the EA/RIR/IRFA.

Very truly yours,



Gary M. Loncon
CEO

Royal Aleutian Seafoods, Inc.

NPFMC
2 June, 1999
3

Preferred Options in EA/RIR/IRFA:

Regarding AFA Catcher Vessel Sideboards included in Chapter 7, **RAS strongly supports adoption of 7.1.6 options b and c**, using average catch history on an each species by each species and vessel-by-vessel basis, and no sale, lease or stacking of vessel catch history in any crab fishery with a prohibition of purchasing LLP rights by AFA qualified vessels.

In general, caps on AFA catcher vessels represent maximums, not set-asides, and do not represent a guaranteed right to a minimum quantity of resource.

RAS strongly supports option 7.3.1.3, with the modification that it include the historic percentage caps for all crab fisheries not to exceed in the aggregate the percentage caps reported in table 7.3. Adoption 7.3.1.3 allows all AFA eligible catcher vessels to participate in the fisheries in which they actually participated in the past.

7.3.2 RAS supports applying the crab sideboards to all AFA eligible catcher vessels regardless of whether or not they participate in a cooperative. The historic caps should be applied at the sector level.

7.3.3 RAS supports applying sideboards at all times of the year forever, unless the pollock TAC is reapportioned to pre-AFA status. In other words, the duration of AFA catcher vessel sideboards shall remain as long as allocation among pollock user groups remains as defined in AFA and not returned to pre-AFA status.

With respect to Chapter 8, Processing Limits, 8.5, **RAS strongly supports adoption of option 8.5.3, an overall limit applied to all facilities of all AFA entities, with the modification that the limit apply only to processing of fully utilized species.** This option best accomplishes the Congressional intent to mitigate adverse impacts to non-AFA processors. The other options represent far less restrictive measures to AFA processors and fail to fulfill the Congressional intent of minimizing the adverse impact to the non-pollock processors.

8.6.1, RAS supports annual implementation and in-season enforcement of overall processing limits on all AFA facilities of AFA entities. Closure should be done by NMFS when they expect the cap will be reached, except for single trip fisheries like Bristol Bay red king crab, where any overages should be deducted from the cap in the next year. Under no circumstances should the AFA eligible entities be under a self-enforcement regime subject only to post season fines and sanctions.

ALASKA CRAB COALITION

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June 2, 1999

Mr. Clarence Pauzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

RE: ACC COMMENT ON THE NPFMC EARRR (ANALYSIS) OF PROPOSED
RESTRICTIONS FOR AMERICAN FISHERIES ACT POLLOCK COOPERATIVE
QUALIFIED FISHING VESSELS AND PROCESSORS, AMENDMENT 61/61,
BERING SEA AND GULF OF ALASKA—RECOMMENDATIONS FOR
SIDEBOARDS FOR BSAI CRAB FISHERIES, COMMENTS ON COST/BENEFITS
SIDEBOARDS FOR BSAI CRAB FISHERIES, COMMENTS ON AFA PROCESSORS' CATCHER
VESSEL OWNERSHIP

Dear Clarence:

This letter responds to the opportunity for public comment on the above-referenced AFA
EARRR

**RECOMMENDATIONS FOR AFA POLLOCK COOPERATIVE
CATCHER VESSELS IN BERING SEA/ALUTTIAN ISLANDS CRAB
FISHERIES, SECTION 73, AFA EARRR**

1. Catcher vessels delivering to catcher/processors in the offshore sector: Maintain
AFA restrictions on catcher vessels delivering to catcher/processors, as required in
section 211(c)(2)(C). There are seven unique catcher vessels in this classification that
are qualified in the offshore catcher/processor co-ops, beginning in 1999. The AFA
prohibits these vessels from fishing any crab species in the BSAI, unless the vessels
harvested such species in that area in 1997 and the vessels are eligible to harvest such
species under the LLP. The Council is authorized by the AFA to recommend more,
but not less, stringent measures than those so provided. All seven of these vessels
only fished Bristol Bay king crab in 1997 and they are currently restricted to fishing
only for that "species" of crab by the AFA.

2. 73.1.2: C. Bairdi Crab Fishery: Exclude AFA vessels from the C. Bairdi fishery,
unless a vessel fished the directed Bairdi fishery, following the Bristol Bay king crab
fishery in 1995, 1996, or 1997. Eligible vessels to be restricted to their average catch

during those years, on a vessel-by-vessel basis. Other AFA vessels qualified in the crab LLP to be allowed to retain bairdi as bycatch in the Bristol Bay king crab fishery.

3. **7.3.1.3 C. opilio Crab Fishery:** Allow no crossovers into the C. opilio fishery, unless the vessel fished for C. opilio in 1996 or 1997. The NPFMC adopted this provision at the December 1998 meeting to apply to AFA vessels in 1999, to protect the Bering Sea opilio crab fishery from an influx of AFA catcher vessels. The 250-vessel Bering Sea crab fleet depends on the opilio fishery for 80% of its annual revenue, similar to the Bering Sea pollock catcher vessel fleet depending on pollock for 80% of its annual revenue. United Catcher Boats representatives testified at the time that the measure adopted by the Council for 1999 was unnecessary, because no more than the traditional number of boats, 3-7, would participate in the opilio fishery in 1999. NMFS, hearing this, decided it was not necessary to implement the Emergency Rule for 1999. Dr. Scott Mattulich's report to the NPFMC at the April 1998 NPFMC meeting presented significant information on AFA catcher vessel participation in the BSAI crab fisheries. The report showed that the bulk of the crab LLP-qualified AFA vessels have opportunistically participated in the Bristol Bay king crab fishery over the past ten years to qualify for limited entry permits. Only five of these vessels have participated in five of the past ten years in the opilio fishery. Apparently, four out of five of these same vessels would qualify for the opilio crab endorsement, under the 1996 or 1997 participation requirement.
4. **7.3.1.6 For Bristol Bay Red King Crab and Other BSAI King Crab Fisheries :** Allow AFA vessels to fish their Bristol Bay king crab endorsements and other king crab endorsements, but they would be capped at their average 1995-1997 harvest levels, on a fishery-by-fishery and vessel-by-vessel basis. Caps would be calculated and applied by splitting out each AFA vessel's average catch from the average catch of only AFA crab LLP-qualified vessels, as a percentage of the average catch of all vessels at the LLP endorsement level. (Note: The NPFMC AFA analysis estimates AFA catch and caps based on catch of all AFA vessels during the 1995-1997 period, thus the percentage estimate is higher than for the actual catch of the AFA crab LLP qualified vessels. Page 84.)
5. **7.3.2 To Whom the Restrictions Would Apply:** Apply crab sideboards to eligible AFA catcher vessels only if they joined a cooperative. Participation in a co-operative means any use of a vessel's catch history in a pollock cooperative, whether by direct harvest, lease, sale, or stacking of quota. This alleviates the concerns of vessels that qualify for the co-operative with relatively small amounts of pollock history and it does not limit their participation in the crab fisheries. It is further recommended that the decision to join a co-op should last for the duration of the AFA—to provide some level of stability for the crab fisheries, as the AFA is doing for the pollock fishery. Giving vessels an annual choice would increase the difficulty of managing fisheries, because the sideboard caps would have to be revisited each year.

6. **7.3.3 Duration of Crab Sideboards:** Sideboards should last as long as the AFA, December 31, 2004.

7. **Page 76, Option 6(c):** No sale, lease or stacking of vessel catch history in any crab fishery. It would not be fair and equitable under National Standard 4 of the Magnuson-Stevens Fishery Conservation and Management Act ("Magnuson-Stevens Act"), 16 U.S.C. 1851(a)(4), to allow AFA vessels to have the competitive and economic advantage of stacking and leasing quotas (grant ITQs), because the dedicated crab vessels do not have that privilege. In addition, vessels that under the AFA provisions are to be restricted to their historic catch levels in crab and other fisheries should be prohibited from purchasing crab LLP permits from non-AFA latent crab vessels, or sunken vessel permits or fishing histories. This prohibition would preclude a circumvention of the AFA and thus provide the congressionally intended protection in non-pollock fisheries.

II. COMMENTS ON THE EA/RIR, IMPACTS ON LARGE AND SMALL ENTITIES

Section 11.0 (pages 264 through 269 of the AFA EA/RIR) discusses consistency with other applicable law. This section, similar to the section 8 discussion of company ownership of catcher vessels, lacks information that properly should be provided. In section 11, there is virtually no cost/benefit information on the directly and indirectly affected small entities. On page 164 of the AFA EA/RIR, it is stated that cost data for the proposed action fishery's harvesting and processing sectors are not currently available to the NMFS. Essentially this means the affected AFA entities have not provided the NMFS with the necessary cost information for the purpose of the requisite cost/benefit analysis.

The discussion goes on to conclude that the proposed actions being undertaken to implement sideboards on AFA vessels and processing plants will not eliminate the fishery or even reduce the annual TAC, thus it concludes that the net benefits to the U.S. economy would not decrease by \$100 million annually once cost were included in the calculation. Therefore, based on this criterion, none of the proposed actions would constitute a "significant" action under E.O. 12866, recognizing that there may be distributional economic impacts among the various sectors of the industry affected by the proposed actions.

Section 11.2.2 discusses the number of small entities affected, but limits the entities to only those defined as eligible in the AFA to organize co-ops. The section also relies on information contained in Amendments 51/51 (the inshore/offshore 3 analysis) to determine that the only directly affected small entities which would be classified as "small entities" would be a subset of the 119 AFA eligible catcher vessels. It then estimates that there are approximately 50 catcher vessels that are independently owned, and these would be the only affected small entities. (AFA EA/RIR, page 266.)

A small entity is essentially defined by the Small Business Administration as a firm that is independently owned and operated and not dominant in its field of operation and has combined annual receipts not in excess of \$3 million for all its affiliated operations

worldwide. The Steller Sea Lion analysis goes into a lengthy explanation of the qualifications for a small business in the seafood industry, although this information is not in the AFA EA/RIR. (EA/RIR/IRFA For a Regulatory Amendment to Implement Reasonable and Prudent Steller Sea Lion Measures in the Pollock Fisheries of the BSAI and the GOA, NMFS, May 11, 1999, pages 209-214.)

The Steller EA/RIR also relies on the inshore/offshore 3 analysis to provide a detailed analysis of large and small entities in the BSAI pollock fishery.

On page 266 of the AFA EA/RIR there is a discussion of the Indirectly Impacted Entities. It states that indirectly impacted entities are a consideration relative to the proposed actions, since it is these vessels that the sideboard measures are intended to protect. These are vessels that participate in fisheries other than BSAI pollock and would be expected to benefit from the proposed sideboard measures. Taking BSAI and GOA groundfish and crab fisheries into account, there are as many as 1,300 additional catcher vessels which would likely qualify as small entities and which would be indirectly impacted (protected to varying degrees) by the proposed measures—or conversely, adversely impacted by non-restrictive measures. The EA/RIR recognizes that many of these vessels are small entities. This is the extent of the discussion about impacts to non-AFA small entities.

However, of significance to the issue of impacts to small entities in the Bering Sea crab fisheries, section 11.4, under Limited Entry Considerations, is reference to an analysis being prepared by Dr. Scott Mattulich of Washington State University, under contract to the Council, that further examines the issue of relative dependence on the crab fisheries of all participants, "including the 40 vessels which could be most directly impacted," meaning the AFA pollock/crabbers, dual-qualified for BSAI crab fisheries. This analysis will be available to the NPFMC for the June 7, 1999 proceedings.

Dr. Mattulich presented a similar paper to the NPFMC at the April 19-26, 1998 NPFMC meeting. His report was entitled Economic Reliance on Crab by Section 208 Crossover Vessels: Implications For Sideboards. This paper clearly showed that, with the exception of 5-7 vessels, AFA-qualified crabbers were not significantly reliant on crab fisheries, particularly the opilio fishery.

The Alaska Crab Coalition has presented extensive gross revenue comparisons for the BSAI pollock and crab vessels to the NPFMC at the October and December 1998 NPFMC meetings, in the course of deliberations on the Crab LLP, to illustrate the dependence of dedicated pot gear vessels on the crab fisheries and the lack of alternative fisheries available to pot vessels. The ACC also presented at that time a cost and revenue analysis of an average crab vessel operation in the BSAI crab fisheries, which showed the average vessel is operating at close to the break even point in 1996 and 1997, with an average gross revenue of \$600,000 and a net profit of \$9,000. (Attachments). This situation improved in 1998, to where the average vessel income increased to \$700,000, however, the near-term stock abundance projections are of grave concern to vessel owners. A dramatic downturn is anticipated in 2000 and 2001 in the opilio crab fishery, the mainstay of the crab fleet. The fleet will then become more reliant on the

Bristol Bay king crab fishery, which is forecasted to be in a short-term recovery. The fleet is operating on close margins and it would not take much disruption to tip the scales toward widespread financial failures.

Thus, it is clear that increased participation by AFA vessels in any of the BSAI crab fisheries could cause widespread financial disruption and bankruptcies. Strict sideboards are needed to protect the economic viability of the dedicated crab fleet, an estimated 250 vessels. It must be recalled, here, that single gear crab vessels are prohibited by law from crossing over into pollock fisheries upon which the AFA vessels depend. Fairness requires that the single gear crab fleet be provided protection from disruption of the fisheries upon which it depends for its economic survival.

The ACC office, which has been tracking the crab fleet composition and ownership for almost thirteen years, has just completed an analysis of the number of independently owned small entity vessels in the fleet. There are an estimated 175 vessels out of the fleet of 250 dedicated crab vessels that fall under the classification of small entities, that could be adversely affected by the inadequately restricted influx of AFA vessels into the crab fisheries.

It is also noteworthy that, according to the AFA EA/RIR and the Steller EA/RIR, there are an estimated 50 AFA vessels that are classified as small entities. The ACC has also been tracking the list of AFA vessels qualified in the crab LLP and has provided that information to the NPFMC on several occasions, to reflect changes as new information has become available. (See the attachment, ACC List of AFA Crab LLP Qualified Pollock Catcher Vessels, Revised May 31, 1999.) There are 43 vessels on the list and that is the same number of vessels the NPFMC lists as crab LLP-qualified in the AFA EA/RIR. The revised ACC list now has a category that identifies the small entities—there are an estimated five small entities and one exempt CDQ vessel that are presently classified as small entities that could be restricted by crab sideboards that will provide extensive protection to an additional 175 small entities. The cost/benefits to the dedicated crab fleet from restrictive sideboards are obvious.

The Steller EA/RIR also notes, on page 213, "that the provisions of the AFA which permit the establishment of operational co-operatives in all three processing sectors beginning in 2000, could result in there being no small entities (as defined under the RFA) participating in the harvesting and processing of the pollock TAC. This may be so, because fishing sector co-operatives, by definition, coordinate and prosecute the fishery as an integrated organization, sharing information, risk, and (presumably) profits among the "affiliated" members of the co-op. Under such circumstances, it is improbable that any of the co-ops would meet the RFA "small entities" criteria, and through "affiliate" status, neither would the individual co-operative members."

III COMMENTS ON THE EA/RIR, AFA PROCESSING COMPANIES OWNERSHIP IN POLLOCK CATCHER VESSELS

At the April NPFMC meeting, the ACC provided public testimony regarding the analysis and proposed regulatory actions for AFA vessels and processing companies. At that time, the ACC requested ownership information and organizational charts for the Ocean Phoenix and Victor Seafood companies, as those companies had not provided any such information for the AFA analysis as requested by the NPFMC. This information has been requested as relevant to the proposed Council action on processing caps to protect non-AFA companies. However, the information is also relevant to the proposed Council action to mitigate the impact of the AFA on the non-pollock fisheries, section 211, by providing conservation and management measures in other fisheries. Since the April meeting, it has been brought to the attention of the ACC that the ownership information of two other AFA companies, Trident Seafoods and Aleutian Spray Fisheries, are incomplete, in that it does not identify the companies' extensive ownership linkages to their pollock and crab fishing vessels. This sort of information is also unavailable for the Ocean Phoenix and Victor Seafoods companies. (See EA/RIR pages 159-180 and 256, 257.) A complete list of AFA eligible catcher vessels is provided on pages 257 and 258, but the list does not include ownership information.

However, in the current NPFMC EA/RIR For a Regulatory Amendment To Implement Steller Sea Lion Protection Measures in the BSAI and GOA Pollock Fisheries, dated May 11, 1999, there is a considerable body of information providing numerical estimates of the number of catcher vessels owned by inshore processors, offshore motherships and catcher processors. It is curious as to why this information is not also provided in the AFA analysis, or at least cross-referenced with the Steller analysis. (Section 8.2-8.5, pages 209-213.) From this information, while only in statistical format, with no vessel names and confusing to the reader due to the overlap between dual-qualified vessels in both the inshore and offshore co-ops, it is readily apparent that it could have only been developed with the knowledge of ownership of the AFA-eligible catcher vessels listed on pages 257 and 258 in the AFA analysis.

The bottom line is there are 119 AFA eligible catcher vessels. Apparently 69 of these, 57% of the total, are owned by "large" AFA entities, and 43 are qualified for the Bering Sea crab LLP fisheries. Also, of significance in terms of the potential problem that stacking pollock quota presents to the crab fisheries, in the winter 1999 A1 and A2 season pollock fishery in the Bering Sea, it is estimated that only 53 catcher vessels participated in the harvest of the inshore pollock allocation. However, the EA estimates 106 are eligible. (AFA EA, page 266; and Steller EA, page 212.) The combined ownership information in the AFA and Steller EAs substantiate the discussion in this paper of the potential threat AFA large entities present to the long-term viability of the non-AFA crab vessels and processing companies.

THE PROBLEM

Disclosure of more detailed ownership information is critical to deter AFA companies from driving out of business, not only non-AFA processing companies, but also the small entities, independent fishing vessel owners, in this case the Bering Sea crab fishermen. Disclosure of this information is important to illustrating that the threat is real, and that the need for strict harvesting caps is real, not just perceived as AFA companies would have the public believe. Disclosure illustrates concentration of wealth, in terms of pollock fishing quota, linked to ownership of fishing vessels, including combination trawler/crabbers. Under the AFA, distribution of the pollock quota is based on fishing vessel catch history and the limited license program for processors. It is reliably estimated that each per cent of pollock quota is valued at \$10 million. Improved financial position from pollock provides a vastly improved financial/competitive advantage of AFA companies over non-AFA independent crab harvestors and crab processors. Co-ops enable the AFA companies to maximize revenues and to minimize expenses, as the costly olympic race for fish is over. (See ACC comments to the NPFMC, November 5, 1998.)

Further, the AFA provides the legislative authority and the flexibility for companies and individuals with multiple vessels, once co-ops are formed, to transfer and stack pollock quota on vessels and profit share from that fishery, while freeing dual-qualified pollock/crabbers to concentrate on crab and other fisheries.

Although the ownership information in the diagrams and narrative, pages 159-180 in the AFA analysis, are quite revealing, there is little or no discussion of the linkages and the total number of vessels owned by some of the AFA large entities.

The ACC is concerned about the potential impacts of the AFA crab LLP qualified catcher vessels, if they start fishing up to capacity in the already overcapitalized crab fisheries. They will seriously decrease the revenue share for non-AFA, crab vessel owners and processing companies, and are likely to create numerous bankruptcies. Non-AFA processors have characteristically been price-setters, bringing larger AFA companies up to their level, to avoid losing market share of crab, while at the same time, vastly improving the profitability for small entity vessel owners. With short-term predatory pricing at the ex vessel level, they can drive the non-AFA independent processors out of business. This will deprive crab fishermen of markets and adversely affect prices, and thus, the financial viability of those who depend upon the BSAI crab resources.

POLLOCK/CRAB FISHING VESSEL OWNERSHIP LINKAGES OF THE FOUR AFA COMPANIES

OCEAN PHOENIX GROUP

In the case of the Ocean Phoenix group, there are eight catcher vessel owners that are partners in the Ocean Phoenix processing ship, by definition in the EA/RIR, large entity. This ship shares one-third of the mothership quota of ten per cent. After deducting 10%

of the total pollock harvest for the CDQ groups, Ocean Phoenix has control of an estimated 3% of the pollock TAC, worth an estimated \$30 million. The ownership relationship of the catcher vessels with the mothership needs to be shown, if for no other reason than to illustrate value added revenue share for the owners in groundfish, and the lack of economic reliance on crab. This places all the vessel owners in the class of large entities. This ship has also done some level of crab processing and may seek to continue that activity. Seven of eight of the catcher vessels are qualified under alternative 9 of the crab LLP—and they have publicly stated on the record, they need to participate fully, not only in king crab, but also in opilio crab, although these vessels demonstrate virtually no dependence on opilio. (See attachment, ACC list of AFA Bering Sea pollock co-operative qualified, crab LLP qualified vessels, based on NPFMC AFA, EA/RIR AFA Eligible Catcher Vessel list, pages 257, 258; and State of Alaska CFEC Vessel/Fishery Registration lists.)

This winter, one of the Ocean Phoenix catcher vessels, the Nordic Fury, demonstrated the potential threat AFA crab-qualified vessels will become to the future viability of the single gear crab fleet, when onshore and mothership co-ops are formed in January 2000. This catcher vessel started fishing opilio crab, switched to pollock for the seventeen-day mothership season and then back to opilio, subject to no pre-or-post season gear restrictions, such as the dedicated pot vessels must comply with to be eligible to register during an ongoing Bering Sea crab fishery. The vessel owner, Scott Hovik, testified to the NPFMC in April 1999, that due to the negative effects of the AFA on his family's catcher vessels, they needed to fish more aggressively now in crab fisheries.

As I noted in my public testimony at the April Council meeting, there were a total of sixteen AFA pollock catcher vessels that speculatively participated in the opilio fishery this winter (their pollock ITQs having been secured in the AFA), three times as many as normally participate, and three times more than Brent Paine and Steve Hughes forecasted in their December 14th, 1998 testimony to the NPFMC. This represents an estimated 6% of the fleet of 241 vessels. During testimony, Paine was recommending that mothership catcher vessels should be exempt from AFA sideboards, as they received no benefits from the AFA. (Attachment, ACC comments to the NPFMC, April 23, 1999, with attachment, Testimony of Brent Paine and Steve Hughes to NPFMC, December 14, 1998.)

In related testimony, Ocean Phoenix partners are pleading for leniency on sideboards, and also claiming no benefits from the AFA. However, in reality, they have gained considerably from the AFA, when one considers they have secured exemption from the 75% U.S. ownership standard. As a U.S.-built and-owned vessel, the Ocean Phoenix did not need an exemption to operate. The exemption enables the partners to seek unlimited foreign investment in the company until October 1, 2001. This could be attractive to either the Maruha or Nichiro corporations, which own the other two motherships and three large shorebased plants. Seven of the Ocean Phoenix catcher vessels also have the unique flexibility to participate in either the inshore or the mothership co-op. Even without the above-described benefits, the Ocean Phoenix partners benefited considerably, just from the profit maximization benefits of the co-op structure in the AFA. They now

have the opportunity further to maximize the utility of their vessels—which will have reduced time demands in pollock—by fishing Bering Sea crab.

VICTOR SEAFOODS

In the case of Victor Seafoods, it is apparent from this winter's activities in the opilio fishery, and from the correspondence and testimony of Mr. Terry Leitzel, Vice President for Legal and Government Affairs, to the NPFMC of April 12, 1999, that the company has an expanding "long-term business" interest in Bering Sea crab fishing and processing. This did not exist until the AFA was well underway in the U.S. Congress. Their processing ship, Northern Victor is a shorebased floating processor that will control, through its affiliated catcher vessels, an estimated 3.6% of the pollock TAC, worth an estimated \$36 million. Eight of its affiliated catcher vessels are now aggressively participating in crab fisheries, including the opilio fishery, whereas two years ago they were not. At least four of these are qualified under Alternative 9 of the crab LLP. In addition to the company having a majority or equal ownership in three vessels, there is also some ownership in at least two additional catcher vessels with John Johannesen. In addition, there is an apparent business arrangement between Victor Seafoods and three more of its affiliated catcher vessels owned by the Sultan of Brunei (through a holding company in Bothell, Washington). (ACC AFA list.) Victor admits that it engaged aggressively in the opilio fishery this winter, but claims this was only because of a last minute fire aboard the processing vessel that severely damaged the pollock processing line. However, it is well known in the industry that Victor was rigging two of the Brunei pollock catcher vessels for opilio crab fishing, including shipyard work to remove a trawl gantry, at least two weeks before the fire.

TRIDENT SEAFOODS

A third company, Trident Seafoods, and its owners, have a majority or equal interest in nine trawler/crabbers and at least four dedicated crab vessels that are qualified under Alternative 9 of the crab LLP. (ACC AFA list.) With thorough examination of ownership records under developing MARAD regulations, this number will dramatically increase. Trident now controls the largest share of the pollock quota through the catch histories of its company-owned vessels, additional independent vessels and recently, the acquisition of Tyson Seafoods and five additional catcher processors. Trident is now the third largest seafood company in the U.S. (Attachments.) It controls an estimated 25% of the pollock TAC, worth an estimated \$250 million and the largest market share of crab in the State of Alaska. In 1998, Trident had an estimated 25% of the entire Eastern Bering Sea opilio crab production and a similar share of Alaska's statewide salmon production.

ALEUTIAN SPRAY FISHERIES

The fourth and final AFA company the ACC is concerned about that has a significant investment in crab harvesting vessels is Aleutian Spray Fisheries. Aleutian Spray has the offshore catcher/processor, Starbound. The Pollock Conservation Co-operative Harvest

Schedule shows that this company has 1.37% of the pollock TAC (after discounting its share of the CDQ allocation). The ownership diagram does not show the company's controlling interest in five shorebased trawler/crabbers, which conservatively share an additional 4% of the pollock TAC. The established shorebased market for these vessels is UNISEA. In total, Aleutian Spray has an estimated 5.5% share of the pollock TAC, worth an estimated \$55 million. All five of the catcher vessels are qualified under Alternative 9 of the crab LLP. (ACC AFA list.)

The APICDA CDQ Group ownership diagram shows the interlocking business relationship between Aleutian Spray Fisheries, Trident Seafoods and APICDA. Trident markets seafood for the others in the group. What it does not show, however, is the amount of CDQ quota in pollock, crab and other groundfish this group also controls, at least 16.6% of CDQ quotas. This translates to an additional 1.6% of the pollock TAC.

LEGAL CONSIDERATIONS

Information lacking in the AFA EA/RIR, but found in the Stellar Sea Lion EA/RIR, as referenced above, presents a legal issue. The AFA EA/RIR is the core document in the administrative record of the present rulemaking. National Standard 2 of the Magnuson-Stevens Act requires that fishery management measures be based on the best scientific evidence available. 16 U.S.C. 1851(a)(2). Clearly, the measures contemplated by the AFA EA/RIR are subject to this requirement. The Guidelines applicable to fishery management measures provide that scientific evidence includes economic, as well as other information. 50 CFR 600.315(b)(1). The financial and related information found in the Stellar Sea Lion EA/RIR that is relevant to the AFA EA/RIR is the best scientific evidence developed up to that point in time. That information falls within the definition provided by the Guidelines. Accordingly, the AFA EA/RIR should be amended to include consideration of that information. The AFA EA/RIR should also be amended to provide consideration of additional information set forth in this comment.

The ACC is not fully satisfied with the treatment of the National Standards and other, relevant law, in the AFA EA/RIR. Because of the extreme burdens arising out of multiple, concurrent rulemakings in relation to the AFA, LLP, and BSAI crab management measures most recently adopted by the Alaska Board of Fisheries, the ACC has not been able to develop a full legal analysis for the purpose of this comment. The ACC will, therefore, provide legal comments on this rulemaking during the further course of Council consideration and Commerce Department review.

One AFA interest group has threatened to file suit, if its demands are not accommodated, and appears to believe that it has a monopoly on access to the courts. The ACC does not view threats of litigation to be in the spirit of the Council family, and trusts that such pressures will not have a perverse effect upon the integrity of the fishery management process.

IV. CONCLUSION

The AFA EA/RIR shows there are 119 AFA pollock co-operative-qualified catcher vessels in the inshore, mothership and offshore sectors.

- The catcher vessel owners and processing entities now control 51% of the entire Eastern Bering Sea pollock quota (TAC), after deduction of 10% of the TAC for CDQ groups.

- 43 of the total of 119 vessels will have crab LLP permits on January 1, 2000.

- The above four AFA companies control an estimated 37% of the pollock TAC with ownership in 38 catcher vessels and 6 catcher processors.

- They also have ownership in at least 30 vessels that will have crab LLP permits, of a total of 300 vessels—10% of the fleet.

- Unless the harvesting production of these vessels is capped at their 1995-1997 average, as provided by the AFA, they will have a financial/competitive advantage over dedicated crab vessels that do not have the benefit of the pollock revenue stream to cover annual operating expenses. Further, these and the other AFA companies will be able to drive the non-AFA vessels and companies out of business in a few short years. As a result of the quota-based co-operative program authorized by the AFA, the pollock vessels will also benefit from any future fleet reduction program, at the expense of the dedicated crab vessels. For example, if the fleet enters into a license buyback program to reduce capacity in the crab fisheries to 200 vessels, these 30 vessels will then represent 15% of the fleet and production, while at the same time they control 37% of the pollock TAC.

The ACC does not view the omission of information on the above named companies as intentional. These facts are common knowledge in the industry. The ACC is well aware that the Council has a tremendous burden before it, preparing analyses for not only final action on the AFA sideboards, but also the final rule on Stellar Sea Lion protection measures.

Hopefully, the Ocean Phoenix, Victor Seafoods, Trident Seafoods and Aleutian Spray Fisheries companies and the United Catcher Boats will start co-operating with the NPFMC, and in the coming months, MARAD, to provide the information for the public. The rest of the AFA companies made the information available several weeks ago.

Sincerely,

Armi Thomson
Armi Thomson, Executive Director
Alaska Crab Coalition

**cc: Honorable Slade Gorton
Honorable Patty Murray
Honorable Ted Stevens
Honorable Frank Murkowski
Penny Dalton, NMFS
John T. Marquez, Jr., MARAD**

**Average Bering Sea Crab Vessel Break Even Analysis
Based on Current \$600,000 Average Gross Revenue**

Gross Revenue	\$600,000
Fuel, Food & Crew (42%)	\$252,000
Insurance	\$100,000
Maintenance & Repair	\$90,000
Mortgage	\$70,000
Taxes, licensing & Dues	\$20,000
Gear & Supplies	\$20,000
Legal & Accounting	\$15,000
Moorage & Storage	\$10,000
Bait	\$10,000
Communications	\$4,000
Net for Emergencies and Ownership Distributions	\$9,000

Comparative Economic Analysis Of Bering Sea/Aleutian Islands S 1221 Trawl Catcher Vessel Revenues Vs. Crab Vessel Revenues

Year	Total Pollock Revenue	Pollock Vessels	Other Groundfish	Other Groundfish Boats	Ave. Pollock Revenue	Ave. Other Groundfish Revenue	Total Ave. Groundfish Revenue
1995	\$ 128,300,000	117	\$ 21,400,000	125	\$ 1,079,487	\$ 171,200	\$ 1,250,687
1996	\$ 111,800,000	119	\$ 20,400,000	131	\$ 939,498	\$ 155,725	\$ 1,095,221
1997	\$ 112,900,000	106	\$ 24,800,000	113	\$ 1,065,094	\$ 219,469	\$ 1,284,563
				Averages	Pollock is 85% of Groundfish Total	182,131	\$ 1,210,157

**References: Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis For Inshore/Offshore 3. North Pacific Fishery Management Council. August 28, 1998.
Economic Status Of The Groundfish Fisheries Of Alaska, 1997. National Oceanic and Atmospheric Administration. November 20, 1998.**

Crab Revenue & S.1221 Crossover Vessel Dependence Upon Crab

Year	Total Crab Revenue	Crab Revenue Ave. (Alt. 4, 245 Standardized) *	Actual # of XO's that fished Crab	Ave. Revenue of All Vessels Fishing Crab **	Ave. Revenue in Crab of 41 S.1221 XO Pollock Catcher Boats ***	Crab as % of Ave. Gfish Revenue
1995	\$205.6M	\$ 839,184	22	\$60,000 (Bairdi)	\$ 32,195	2.6%
1996	\$130.9M	\$ 534,286	11	\$171,000 (BBKC)	\$ 45,878	4.2%
1997	\$134.7M	\$ 549,796	36	\$110,000 (BBKC)	\$ 96,585	7.5%
Averages		\$ 641,088		\$ 113,667	\$ 58,220	4.8%

References: Economic Status Of The Groundfish Fisheries Off Alaska, NMFS (1999). Alaska Dept. of Fish & Game, Westward Region Shellfish Economic Report (1999).

- * Crab revenue based on major fisheries: Bering Sea opilio and bairdi, Bristol Bay king crab and St. Matthew/Pribilof Islands blue and red king crab.
- ** Pollock catcher vessel crossovers almost exclusively fish Bristol Bay king crab only, and retain a bycatch of bairdi in that fishery. Or in the case of 1984 and 1995, when Bristol Bay king crab was closed in November, bairdi was the only fishery available to crabbers and trawlers. Thus, the average crab revenue for trawlers that participate is only based on these fisheries and does not include opilio, the major crab fishery that sustains the crab fleet, but conflicts with the trawlers main fishery, the pollock roe A season.
- *** This revenue figure illustrates the average revenue of the 41 Alternative 9 crab LLP qualified S 1221 vessels and the average level of economic non-dependency.

Revised: 5/31/99

LIST OF BERING SEA AFA COOP-ELIGIBLE POLLOCK/GROUNDFISH TRAWLERS, NPFMC APPROVED, ALTERNATIVE #9 FOR THE LICENSE LIMITATION PROGRAM, FOR BERING SEA KING & TANNER CRAB FISHERIES. (TOTAL VESSELS: 43)

VESSEL NAME	ADF&G	LOA	OWNERSHIP INFORMATION	SMALL ENTITIES
AJ	57934	150	Saga Sfds. WA	
ALASKA DAWN (OK alt. 4)	69765	90	William Gilbert AK	Small
ALDEBARAN	48215	132	Trident Sfds. WA	
ALSEA	40749	124	Halls OR	
AMERICAN EAGLE (OK alt. 4)	00039	120	R. Tynes, J. Wabey WA	
ANITA J	00029	130	Sultan of Brunei WA	
ARCTIC WIND	01112	123	Victor Sfds./Aleutian Spray WA	
ARCTURUS	45978	132	Trident Sfds. WA	
ARGOSY (OK alt. 4)	38547	124	Halls OR	
BLUE FOX	62892 or 66039 ?	85	F. Yeck OR	
CAITLAN ANN (OK alt. 4)	59779	103	J. & R. Dooley CA	Small
COMMODORE	53843	133	Victor Sfds., J. Johannesen WA	
DOMINATOR (OK alt. 4)	08668	130	Trident Sfds. WA	
DONA MARTITA (OK alt. 4)	51672	152	Trident Sfds. R. Desautel WA	
ELIZABETH F	14767	90	Brekken/S. Stutes AK	
FIERCE ALLEGIANCE (OK alt. 4)	55111	166	R. Mezich WA	Small
FLYING CLOUD (OK alt. 4)	32473	124	Trident Sfds. WA	
GOLDEN DAWN (CDQ)	35687	149	Trident Sfds., APICDA AK	
GOLDEN PISCES (OK alt. 4)	32817	98	Elmer McNabb OR	Small
GUN MAR	41312	172	G. Ildhuso WA	
LADY JOANNE (OK alt. 4)	62922	58	David Wilson AK	
LISA MARIE (CDQ)	70221	78	YDFDA AK	Exempt
MAJESTY	60650	106	Trident Sfds. WA	
MAR GUN	12110	110	G. Ildhuso (Ocean Phoenix) WA	
MARCY J (OK alt. 4)	00055	97	H. Jones AK	
MARGARET LYN	31672	103	R. Czeisler (Ocean Phoenix) WA	
MARK I	06440	98	C. Garbrick (Ocean Phoenix) WA	
MUIR MILACH	41021	86	D. Fraser WA	Small
NORDIC FURY	00200	93	Hovik/Stone (Ocean Phoenix) WA	
NORDIC STAR	00961	123	Aleutian Spray Fisheries WA	
OCEAN HARVESTOR (OK alt. 4)	00101	108	K. Ness (Trident partner) WA	
OCEANIC	03404	122	E. Langesater (Ocean Phoenix) WA	
PACIFIC FURY	00033	110	M. Stone (Ocean Phoenix) WA	

ROYAL AMERICAN	40840	105	O. Austneberg.	WA
SBA STORM	40959	123	Oyang, W. Pereyra	WA
SEA WOLF	35957	143	AK. Boat Co./Wards Cove	WA
SEADAWN	00077	124	F. Yeck	OR
STAR FISH	(OK alt. 4) 00012	123	Aleutian Spray Fisheries	WA
STARLITE	34931	123	Aleutian Spray Fisheries	WA
STARWARD	39197	123	Aleutian Spray Fisheries	WA
STORM PETREL	39860	123	Victor Sfds., J. Johannesen	WA
VESTERAALEN	38342	124	E. Pedersen (Ocean Phoenix)	WA
VIKING EXPLORER	(OK alt. 4) 36045	125	Trident Sfds.	WA

MAJOR PERMIT HOLDERS: Ocean Phoenix group 7, vessel owners are partners in the mothership; C. Swasand/Aleutian Spray 4; Trident Sfds 9; Victor Sfds./J. Johannesen 3.

ADDITIONAL AFA VESSELS, CURRENT PARTICIPANTS IN CRAB, NOT ALTERNATIVE #9 QUALIFIED IN CRAB: Dona Lilliana, (R. Desautel/Trident); Half Moon Bay, Sunset Bay, (Sultan of Brunei); Poseidon, Royal Atlantic, (J. Johannesen); Vangard, (V. Hall).

(Sub Total: 23 of 43)

(Sub Total: 7)

10.0 POLLOCK ALLOCATION TO COOPERATIVES

10.1 Introduction

Four sections will be included in this Chapter. The first section will provide a preliminary list the catcher vessels that are expected to be eligible to participate in pollock cooperatives. Section two will provide background information and distributional information on the catcher vessel compensation issue. The third section will be a brief discussion of using the best two of three years to determine the amount of pollock a catcher vessel will be allowed to take into a cooperative. Finally, the fourth section is a discussion of the terms under which the Inshore sector will repay the \$75 million AFA loan.

10.2 AFA Eligible Catcher Vessels

Members of industry have requested that a preliminary list of the AFA eligible catcher vessels be made available to the public. That list has been compiled and is included in Tables 10-1 to 10-4 below. Four separate groupings of catcher vessels are reported in this section. Those groupings correspond to the table structures in Chapter 7, where the catcher vessels that are likely eligible to make deliveries inshore, to inshore and motherships, to motherships only, and to catcher/processors are treated separately.

Table 10.1: Preliminary List of AFA Eligible Catcher Vessels in the Inshore Sector

ADFG	Name	ADFG	Name	ADFG	Name
57934	AJ	55153	DONA PAULITA	48173	OCEAN HOPE 3
69765	ALASKA DAWN	14767	ELIZABETH F	64667	OCEAN STORM
38989	ALASKA ROSE	32554	ENDURANCE	51073	OCEAN ENTERPRISE
57321	ALASKAN COMMAND	54653	EXCALIBUR II	50759	PACIFIC ENTERPRISE
48215	ALDEBARAN	33112	EXODUS	54643	PACIFIC KNIGHT
40749	ALSEA	53247	F/V WESTWARD I	54645	PACIFIC MONARCH
00039	AMERICAN EAGLE	55111	FIERCE ALLEGIANCE	61450	PACIFIC PRINCE
00029	ANITA J	32473	FLYING CLOUD	61792	PACIFIC RAM
51092	ARCTIC I	40309	GOLD RUSH	00047	PACIFIC VIKING
55923	ARCTIC III	35687	GOLDEN DAWN	57149	PEGASUS
57440	ARCTIC IV	32817	GOLDEN PISCES	09200	PEGGY JO
64105	ARCTIC VI	37660	GREAT PACIFIC	12668	PERSEVERANCE
01112	ARCTIC WIND	41312	GUN-MAR	37036	POSEIDON
45978	ARCTURUS	39230	HALF MOON BAY	33744	PREDATOR
38547	ARGOSY	57117	HAZEL LORRAINE	00006	PROGRESS
56153	AURIGA	47795	HICKORY WIND	56395	RAVEN
56154	AURORA	62922	LADY JOANNE	40840	ROYAL AMERICAN
40638	BERING ROSE	56119	LESLIE LEE	00046	ROYAL ATLANTIC
62892	BLUE FOX	70221	LISA MARIE	35957	SEA WOLF
59779	CAITLIN ANN	41520	LISA MELINDA	00077	SEADAWN
61432	CAPE KIWANDA	30332	LONESTAR	59476	SEEKER
57634	CARAVELLE	60650	MAJESTY	00012	STAR FISH
62906	CHELSEA K	49617	MARATHON	34931	STARLITE
54648	COLLIER BROS	00055	MARCY J	39197	STARWARD
39056	COLUMBIA	66196	MESSIAH	39860	STORM PETREL
53843	COMMODORE	59123	MISS BERTIE	35527	SUNSET BAY
56676	DEFENDER	38431	MORNING STAR	40250	TOPAZ
60655	DESTINATION	56164	MS AMY	00008	VIKING
08668	DOMINATOR	00961	NORDIC STAR	36045	VIKING EXPLORER
55199	DONA LILIANA	36808	NW ENTERPRISE	34919	WALTER N
51672	DONA MARITTA	48171	OCEAN HOPE 1		

Table 10.2: Preliminary List of AFA Eligible Catcher Vessels in both the Inshore and Mothership Sectors

ADFG Name	ADFG Name	ADFG Name
00045 ALYESKA	06440 MARK I	00033 PACIFIC FURY
00028 AMBER DAWN	00200 NORDIC FURY	58821 TRAVELER
24255 AMERICAN BEAUTY	00032 OCEAN LEADER	39946 VANGUARD
31672 MARGARET LYN	03404 OCEANIC	22294 WESTERN DAWN
12110 MAR-GUN	06931 PACIFIC CHALLENGER	

Table 10.3: Preliminary List of AFA Eligible Catcher Vessels in the Mothership Sector

ADFG Name	ADFG Name	ADFG Name
50570 ALEUTIAN CHALLENGER	68858 MISTY DAWN	55512 POPADO II
33697 CALIF HORIZON	38294 PACIFIC ALLIANCE	38342 VESTERAALEN
61372 FIERCE SEA		

Table 10.4: Preliminary List of AFA Eligible Catcher Vessels in the Catcher/Processor Sector

ADFG Name	ADFG Name	ADFG Name
62152 AMERICAN CHALLENGER	32858 NEAHKAHNIE	40969 SEA STORM
59687 FORUM STAR	00101 OCEAN HARVESTER	54654 TRACY ANNE
41021 MUIR MILACH		

10.3 Compensation for Inshore Catcher Vessels

AFA eligible inshore catcher vessels will be allowed to form cooperatives in 2000. The amount of pollock they will be allowed to take with them into a cooperative will be based on their individual catch histories. As discussed above, the Council is considering three options for calculating catch history, 1995-97, 1992-97, or the best two years from the two previous options. Section 210(b)(4) of the AFA specifically lists the years 1995, 1996 and 1997 as the years to be considered, but the Council has the option of choosing one of the other options if they desire.

Some inshore pollock catcher vessels have made deliveries to both the inshore and offshore sectors during the qualifying years. Catcher vessels with histories split between the mothership sector and the inshore sector are able to fish both histories pursuant to the AFA. However, catcher vessels which made deliveries to both the inshore sector and the catcher vessel to catcher/processor sector lose the catch history that was delivered to the catcher/processor sector. This occurs because the AFA does not specifically create a mechanism for these catcher vessels to obtain credit for that catch history. The AFA states in section 210(b)(4) that *"any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owners of such qualified catcher vessel."* This language seems to place the burden of compensating members of a cooperative on the cooperative itself. However if each inshore processor forms a separate cooperative, the burden of compensating members may be more onerous on some cooperatives than others. For example, a cooperative that did not have any members with offshore catch history would not need to "pay" any compensation, but a cooperative that had several members with offshore catch history could require substantial compensation "payments" by its members.

ALASKA CRAB COALITION

3901 Leary Way N.W. Ste. 6
Seattle, Washington 98107
206 547 7560
206 547 0130 Fax
Email: acc-crabak@msn.com

DATE: April 23, 1999

MEMO TO: Rick Lauber, Chairman, NPFMC
Steve Pennoyer, Regional Director, NMFS

FROM: Arni Thomson, Executive Director *Arni Thomson*

RE: AMERICAN FISHERIES ACT POLLOCK COOP ELIGIBLE
CATCHER VESSELS THAT FISHED THE 1999 OPILIO CRAB
FISHERY

This memorandum is to inform you that 16 AFA pollock vessels registered and made deliveries in the 1999 Bering Sea opilio crab fishery. I have confirmed this in response to a request for verification of a list of vessels I submitted to ADF&G on March 17th, 1999. The memo is attached.

Two out of the list of 15 vessels I submitted did not make deliveries, the American Eagle and the Caitlan Ann. However, there are an additional 3 vessels not on the list, that also made deliveries, making a total of 16 AFA vessels. This is a substantial number of boats, it is 5.3% of the 241 total vessels registered in the fishery. To the best of my knowledge, the attached list of vessels are all UCB members.

Coincidentally, if these vessels were fishing up to their potential, they could harvest a value of crab equal to the 1999 CDQ allocation. That value is an estimated \$8.5 million of the \$161 million total exvessel revenue of the fishery.

Permit me to remind the Council that this level of participation contradicts the testimony of Brent Paine and Steve Hughes of UCB at the NPFMC on December 14th, 1998, when the Council was adopting an emergency rule to protect the opilio fishery from speculative spillover effects of AFA boats. In response to questions, they stated to the effect that they had "canvassed" UCB members, and that very few of their vessels planned to fish opilio in 1999, that there would be no speculative entrants. They recommended it was unnecessary to implement the emergency rule that would restrict AFA boats to only those that fished opilio crab in 1996 or 1997, from entry into the fishery in 1999. They further claimed that An emergency rule could not be implemented, because there was no list of AFA vessels to use as a basis for the rule. We attach the UCB, NMFS based list of AFA pollock coop boats submitted to the U.S. Senate and the NPFMC list of pollock catcher and catcher processor vessels, used for the Inshore/Offshore 3 analysis, EA/RIR, August 1998.

I also attach a citation from MSFCMA regarding false statements and a transcript of Brent Paine and Steve Hughes testimony to the NPFMC on December 14, 1998.

ALASKA CRAB COALITION

3901 Leary Way N.W. Ste. 6
 Seattle, Washington 98107
 206 547 7560
 206 547 0130 Fax
 Email: acc-crabak@msn.com

DATE: March 17, 1999

MEMO TO: Rance Morrison, Earl Krygier, Pete Probasco, ADF&G

FROM: Arni Thomson, Executive Director *AT*

RE: AMERICAN FISHERIES ACT POLLOCK COOP QUALIFIED
 TRAWLERS, REGISTERED AND/OR FISHING FOR OPILIO 1999

The ACC office noticed in the ADF&G closure notice of March 12th for the Bering Sea opilio fishery that an estimated 5 pollock coop-qualified trawlers entered the fishery after the closure of the pollock fishery on February 28th.

Based on a current CFEC list and fleet observations of pollock vessels in the fishery, the ACC estimates that there are not 5, but likely 15 AFA pollock coop-qualified vessels in the opilio fishery, seven or eight of which have fished only crab this winter. As you know, this is a very controversial issue, not only within the crab fleet, but it is also a controversial issue at the NPFMC and within Congressional offices in Alaska and Washington. The NPFMC passed an Emergency Rule at its December 1998 meeting, restricting pollock vessels from entering the opilio fishery in 1999, to only those who had participated in the fishery in 1996 or 1997. This would have limited the number of pollock vessels in the fishery to five.

Based on the CFEC Vessel/Permit holders list, the following AFA vessels are likely registered for the fishery. Could you verify if all these vessels are registered for the opilio fishery?

VESSEL	ADF&G	VESSEL	ADF&G
AJ	57934	Sunset Bay	35527
Alsea	40749	Vesteraalen	38342
American Eagle	00039		
Anita J	00029		
Arctic Wind	01112		
Argosy	38547		
Caitlan Ann	59779		
Fierce Allegiance	55111		
Flying Cloud	32473		
Half Moon Bay	39230		
Marcy J	00055		
Nordic Fury	00200		
Storm Petrel	39860		

Testimony of Brent Paine and Steve Hughes
December 14, 1998
11:38 am

Lauren: Mr. Chairman, this is Lauren, I just want to make sure no misconceptions are created. Brent is borrowing my copy of my NMFS Federal Register Guidelines. He didn't have a copy and asked to borrow mine.

Chairman: It's free you know.

Brent Paine: Thank you Mr. Chairman. My name is Brent Paine and I brought my bodyguard Steve Hughes to protect me. I'd like to start out to address some comments on the issue before you which is catcher vessel restrictions and what you're going to do in terms of S1221 in tasking the staff to develop an analysis that will be able to, that you can look in the June Council meeting as well as the initial review in April. And then I have some comments on some of the issues that have come up here today in regards to speculation over capitalization emergency rules. I think for the record the advisor panel did a very admiral job in looking at this issue. They spent an awful lot of time on this and their report was very thorough and incorporates many of the concerns that have been expressed today.

Our concerns are basically six or seven fold and I've kind of made it kind of simple. The first concern is who these restrictions should apply to. And I know some of the questions Ms. Behnken asked about trying to figure out should it apply to vessels that are on the list of pollock eligible vessels in the Bering Sea or versus coop vessels. If you look at the language in the Act, it says, "these restrictions should apply to" and I'm reading from sections C of 211, "prevent catcher vessels eligible under sections A, B, and C" those are the three catcher vessel sectors, "from exceeding in the aggregate the traditional harvest levels of such vessels and other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery."

And I think the key phrase there is the last clause, "as a result of the fishery cooperatives." Our interpretation is meant that Congress was meaning that that if you have a resulting effects of cooperatives, then these sideboards do apply. Our recommendation to you is apply these sideboards to catcher vessels that do coop.

In listening to some of the testimony from some of my members previously for example, the mother ship sector, they didn't receive benefits an increased allocation. In fact, they received a reduction by 1221. Why

would you want to impose additional sidebars or sideboard catcher vessel restrictions on these vessels that have had a reduction in pollock catch if they don't co-op. They historically have fished many fisheries and they need the dependence on those other fisheries. So putting catcher vessel restrictions on them is more of a punitive type of behavior rather than a restrictive type of behavior. So I hope that you don't get into the mode of being punitive here but more rational.

In addition, the second point I'd like to make is what nonpollock fisheries restrictions should apply. And I think those are defined by the fisheries that the pollock boats participate in. And I think the AP did recommend what fisheries those are and I won't go through that. When the catcher vessel restrictions should apply, you've heard testimony from Groundfish Forum and others that they should apply year round. We've always felt that 1221 did rational (inaudible) [Change to 11:42 am tape]

[Break in sequence]

Brent Paine: ... is that you should apply these restrictions just when the pollock fishery occurs. Now we have a little problem because the stellar sea line issue changed those season dates around and I believe the AP addressed that by frame working that motion and you can look at their minutes on that issue.

The amount of catcher vessel restrictions is also an issue that you've been dealing with. The Act says the word "aggregate" and how do you define "aggregate." Because it ties into historic and how do you define historic. Again, I think the AP did recommend a frame work action that will help you with that decision on what those definitions of those terms are going be at your April and June Council meeting so we don't need to take time with this. I guess I'm urging you to look at the AP motion and maybe move it as an option to give the staff direction.

Moving along to this issue of emergency rules for the opillio season for 1999. I think you need to look closely at what Lauren brought out as what authority do you have under the emergency rules statutes or law. Rather than me reading this to you I think you should have the general counsel read this to you because it will give you guidance as to what you can do as a Council under emergency rules and what constitutes an emergency. But just on that point there are some issues.

We don't recommend that you implement emergency rule for closure to S1221 vessels for the opillio fishery. The testimony from the crab industry is correct. There have been roughly between 7 and 3 vessels that fish

opillio that are also fishing pollock. I have canvassed my membership over the last couple of days. I don't see any additional effort into the opillio fishery other than that somewhere 3 and 7 boats historic that have been dependent on the opillio fishery. I think you heard Scott Holvig testify. Those guys don't have a 250 ton criteria that makes them eligible for shore side pollock markets. They historically, the fiery [sp] boats have historically fish pollock and crab. That was their choice because they have been true crabbers even though they have a gantry onboard. So, I don't think there's an emergency.

Secondly, there is no list for 1221 qualified vessels for 1999 so how are you going apply that. The mother ship sector and the shore side catcher vessel sector, there is no official list, or endorsement, or license, or what ever you want to call it for 1999 so you can't apply it to anybody. In addition, co-ops cannot be in effect for those two sectors for 1999 they only go into effect for the year 2000. So, you won't have the effects of a cooperative on the opillio fishery for next year. So I think with that, I would urge you to move the AP recommendation.

I would like to just summarize the theme that's been presented to you today by many of the speakers before me. And that theme is one of speculation and overcapitalization and it's the same theme that people have been preaching to you for the last 15 years at this Council. Obviously the moratorium didn't work. Obviously license limitation didn't work. When are enough people going to have to come up here and say we've got a problem with too much gear in the water? Right now the issue is 1221 and catcher vessels because their fearful that I might go and take some yellow fin sole away from Teresa Candianes operation, or I might go with my vessels and take crab away from Arni Thomson's operation. I think Kevin asked a great question of the crabber. There might be true crabbers that are preempting longline cod fishermen. So the issue isn't just relative to catcher vessels here. The issue is overcapitalization, and preemption, and speculative entry because of what this Council might do in the future. So, I ask you guys to look at this issue of overcapitalization real seriously for about the fifth time. Thanks, Steve.

Steve Hughes: I'd just like to say I've said enough in the last few days and I hope you're all having a good day.

O'Leary: Brent, I thought I heard you testify, I don't know which meeting it was, I guess it was the special meeting in November we had, that as a result of 1221, the people that were going to be involved or qualified under 1221 didn't have any problem with the reduction in endorsements that were

earned as a result of king crab fishing and incidental catcher tanner crab to the opillio fishery. The numbers that Arni presents us kind of indicates to me that there aren't many participants in the opillio fishery on the part of those vessels. So I don't understand that if that's the case, why you don't, or what the problem is with having an emergency action just to assure the industry that there isn't going to be this speculative effort from this universe of vessels that are qualified but don't really, aren't real opillio crab fishermen.

Council: Steve would like to speak.

Steve Hughes: You know Kevin, we've asked ourselves these same things. I think the answer is paranoia. National Marine Fisheries Services is going to have their hands more than full with emergency measures. The target here recently has been these 33 combination vessels that basically belong to UCB. Let's not make any bones about it, that's the only vessels we're talking about here. And I don't see that effort from our vessels leaving pollock, their pollock markets. These guys have had markets that are long term with shore plans and their mother ships for long, long periods of time. I don't see them leaving that and going into opillio this year any more than they did last year or the year before.

The only real issue here, if you sort through all the nonsense, the only real issue is Bristol Bay red king crab and whether or not vessels that have had a substantial history in Bristol Bay red king crab, by and large are going to be allowed to continue that. And the exception are these, I think properly said, 3 through 7 boats that have some history in opillio. I don't know where these other boats are going to come from.

Council: Other questions? Break.

Contact: Chuck Bunnart, (206) 783-3818

Trident to Acquire Portion of Tyson's Seafood Group

Seattle - Trident Seafoods Corporation and Tyson Foods, Inc., signed a definitive agreement today whereby a Trident subsidiary will acquire Tyson's Pacific Northwest and Alaska seafood assets.

Founded in 1973, Trident is a 100% American-owned seafood harvesting, processing and marketing company which has its corporate headquarters in Seattle. Trident is a privately held company with longtime fishermen Chuck Bunnart, Kaare Ness, Bert Eaton and Edd Perry as its principal shareholders. The company currently has approximately 2,800 employees and operates five seafood processing plants in Alaska located at Alutan, Ketchikan, St. Paul, Bristol Bay and Sand Point, and three in Washington State at Bellingham, Anacortes and Fife.

In the purchase from Arkansas-based Tyson, Trident would acquire five groundfish catcher/processor vessels, as well as shore-based processing plants located in Kodiak, Alaska, Newport, Oregon and Uchelet, British Columbia and an inshore floating processing ship moored near Dutch Harbor, and a processing facility located at Pier 91 in Seattle.

The purchase includes the trademark Arctic Ice®, which Bunnart, Trident's president, said will strengthen the company's effort to promote branded seafood products. "Trident is working to increase seafood consumption in the United States by promoting branded products. Arctic Ice® is distinguished in the market as representing high quality whitesth products."

"We would like Trident to be the best company possible for our customers, the independent fishermen who fish for Trident, and for Trident's employees and their families," Bunnart explained. "Adding Tyson's seafood facilities will allow us to provide a more constant supply of product to our customers as well as expanding markets for the independent fishermen who deliver to us."

As part of today's agreement, International Home Foods, Inc., of Connecticut, agreed to purchase Tyson's salmon analog production facilities in Dutch and Mokey, Minnesota, and Toronto, Canada.

The transaction is expected to close after standard government approvals are received. The financial terms of the deal were not disclosed.

Starkist Seafood Co. is a division of Star-Kist Foods Inc. a subsidiary of the H.J. Heinz Co., headquartered in Pittsburgh, Pa. Starkist Seafood's North American sales account for \$800 million. Starkist Seafood controls nearly 45 percent of U.S. supermarket sales of canned tuna.

25 Sales of top suppliers exceed \$9.5 billion

Nearly one in five have annual sales exceeding \$400 million

2 Sysco Corp.
Sales: \$876 million

Sysco Corp.
1390 Enclave Parkway
Houston, TX 77077
Phone: (281) 584-1241
www.sysco.com

Director of Seafood: Mike Sexton
Products: shrimp, frozen finfish, shellfish value-added seafood

1 Starkist Seafood Co.
Sales: \$1.2 billion

Starkist Seafood Co.
1 Riverfront Place
Newport, KY 41071
Phone: (606) 855-5700
www.starkist.com

President: Ed Johnson
Products: canned tuna, salmon, sardines

ties), some 21 percent posted sales of \$200 million or less, 55 percent had sales between \$201 million and \$400 million, and 24 percent had sales exceeding \$400 million.

We've profiled in detail the Top 10 suppliers. Please note that there are ties for the No. 5 and No. 10 positions. A complete listing of all the Top 25 North American seafood suppliers can be found in the table below.

Continued from page 1
ranks second on this year's list, and tied for the No. 10 spot is Alliant Foodservice, a broadliner reporting a phenomenal 20 percent growth in its seafood category.

In the coming years, these distributors are expected to continue to grow their presence in seafood.

Of the 29 companies represented on the Top 25 list (accounting for

North America's Top 25 Seafood Suppliers

COMPANY	1997 SALES	COMPANY OFFICER	HEADQUARTERS
1 Starkist Seafood Co.	\$1.2 billion	President/COO: Ed Johnson	Newport, Ky.
2 Sysco Corp.	\$876 million	Director of Seafood Operations: Mike Sexton	Houston, Texas
3 Fishary Products International Ltd. (FPI Ltd.)	\$493 million	Chairman/CEO: Victor Young	St. John's, Newfoundland
4 George Weston Ltd., Fisheries Division	\$461 million	Chairman/CEO: Donald A. McLaughlin	Toronto, Canada
5 Red Chamber (Group) Co.*	\$450 million	Chairman/CEO: Shan Chun Kou	Los Angeles, Calif.
6 ConAgra Seafood Cos.*	\$443 million	Chairman/CEO: C. J. Ryan	Tampa, Fla.
7 Bumble Bee Seafoods Inc.	\$390 million	President: Renato Curto	San Diego, Calif.
8 Trident Seafoods Corp.	\$350 million	President: Renato Curto	Seattle, Wash.
9 Tri-Marine International Inc.	\$338 million	President/CEO: Alfonso Salazar	San Pedro, Calif.
10 Ocean Garden Products Inc.	\$300 million	President/CEO: Dennis Mussel	San Diego, Calif.

10	Alliant Foodservice Inc.*	\$300 million	Senior Category Manager (Seafood): Jim Burhop	Dearfield, Ill.
11	Ocean Beauty Seafood Inc.	\$280 million	President/COO: Bill Terhar	Seattle, Wash.
12	American Seafoods Co.	\$275 million	CEO/President: Michael J. Hyde	Seattle, Wash.
13	Pacific Seafood Group	\$270 million	President: Frank Dulcich	Portland, Ore.
14	Admiralty Island Fisheries Inc., dba Aqua Star	\$280 million	President: Mike Girton	Seattle, Wash.
15	Tyson Foods Inc. — Seafood Division	\$254 million	President: Roy Brown	Seattle, Wash.
16	Van de Kamp's Inc.	\$249 million	Chairman: Ian R. Wilson	St. Louis, Mo.
17	Rich-SeaPak Corp.	\$241 million	Chairman/CEO: Frank Holas	St. Simons Island, Ga.
18	The Mazzetta Co.	\$225 million	President: Thomas Mazzetta	Highland Park, Ill.
19	North Pacific Processors Inc.*	\$210 million	CEO/President: Misashi Sugiyama	Seattle, Wash.
19	Iceberg Seafoods Inc.*	\$210 million	CEO/President: Ogh Gillis	Seattle, Wash.
20	National Sea Products Ltd.	\$203 million	Chairman: D.J. Hännigar	Lunenburg, Nova Scotia
21	Clearwater Fine Foods Inc.*	\$200 million	President: John Flisely	Badford, Nova Scotia
21	Stade Gorton & Co. Inc.*	\$200 million	President: Michael Gorton	Roxbury, Mass.
22	Peter Pan Seafoods Inc.	\$189 million	CEO/President: Barry Collier	Seattle, Wash.
23	Z.B. Industries Inc., dba Contessa	\$188 million	President: John Blazevich	San Pedro, Calif.
24	Empress International Ltd.	\$180 million	Chairman: Bernard Faldut	Port Washington, N.Y.
25	Export Packers Co. Ltd.	\$175 million	Chairman: Max Kubehaton	Brampton, Ontario

How we got our numbers...Compiling a ranking of seafood suppliers by revenues is an inexact science, one which requires gathering information from a number of sources. Through the use of credit-reporting agencies, Securities and Exchange Commission documents and phone interviews with company presidents and CEOs, the editors have made every attempt to ensure accuracy. We would like to thank the officers at each of these companies for their assistance on this project. An asterisk (*) indicates companies with tied rankings.

FAIR FISHERIES COALITION
Agenda Item C-1

June 2, 1999

Richard B. Lauber
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, Alaska 99501-2252

Dear Mr. Chairman:

Attached are the Fair Fisheries Coalition's recommendations regarding specific options that the Coalition would like to see the Council adopt in order to meet its statutory mandate under section 211(c) of the American Fisheries Act (AFA) regarding safeguards to prevent catcher vessels eligible under the AFA from exceeding in the aggregate their traditional harvest levels in non-pollock fisheries and to protect processors excluded from the pollock fishery from adverse impacts as a result of the AFA. The Coalition plans to testify at the meeting in Kodiak regarding these recommendations and any others that may arise in the course of the meeting, and would be pleased to answer any questions you or other members of the Council may have.

The Coalition would also like to draw the Council's attention to the recent announcement that T T Acquisitions, a wholly owned subsidiary of Trident Seafoods, is purchasing all of the catch history and almost all of the assets of Tyson Food's Seafood Division. With this purchase Trident will have access to roughly 25 percent of the total allowable catch of pollock in the Bering Sea, an amount far in excess of the statutory limit of 17.5 percent set forth by Congress in section 210(e)(2) of the AFA. The Council delayed discussion of excessive processing share caps until December despite requests by the Coalition and others that it be included in the package of safeguards recommended to the Secretary of Commerce at the Kodiak meeting. At the time the Council may have felt that there was not a pressing need to get the Congressionally mandated cap in place. With this change in events it is apparent that the Council should reconsider that decision, and the Coalition respectfully requests that the Council put the industry on notice at the Kodiak meeting that when it does consider excessive share caps it has no plans to grandfather any amount of processing history in excess of 17.5 percent. This notice must be given now so that parties to any pending or future acquisition cannot claim ignorance of the statutory cap or the Council's intent to enforce that cap.

Thank you for your consideration of this request and the attached recommendations. The Coalition looks forward to working with you and the Council as you seek to complete the difficult task of implementing the AFA.

Respectfully,



Earl W. Comstock
Counsel to the Fair Fisheries Coalition

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1.888.786.4171 - 360.752.0784 - FAX: 360.671.2271 - EMAIL: granger@memes.com
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Fair Fisheries Coalition

Agenda Item C-1

FAIR FISHERIES COALITION PREFERRED OPTIONS IN EA/RIR ON AFA

For convenience and to ensure items are not forgotten or overlooked, the issues listed below are raised in the order they appear in the document.

Chapter 4 – Definitions (pages 35 – 40)

4.4.1 – 4.4.4 The Coalition supports the staff preferred options for 1 through 4. Adoption of these recommendations will remove ambiguities and conflicts in definitions used for the BSAI and GOA.

4.4.5 The Coalition supports retaining the single geographic location restriction for inshore floaters that process BSAI pollock (or GOA pollock or P-cod) and other species. There is no indication in the AFA of any intent to change the existing restrictions. Without the restriction floaters that process pollock in addition to crab or other groundfish species will be able to increase their participation in those other fisheries because they can move to optimum locations for those fisheries without losing their pollock processing rights.

4.4.6 The Coalition strongly supports the clarification that the definition of “shoreside processor” for purposes of AFA section 208(f) be limited as identified under option (b)(i) and (b)(ii). These clarifications would make it that it is a plant or vessel that qualifies and not a company, and restrict the AFA eligible onshore processors to receiving pollock at the same location as they did during the qualifying years. This restriction is necessary to prevent AFA-eligible processors from starting new pollock processing operations or relocating their facilities to the disadvantage of processors who are excluded from competing with the closed class processors.

Chapter 5 – Coop Agreements (page 42)

5.2 The Coalition supports limiting the duration of cooperative agreements to one year in duration and requiring that the agreement be submitted by December 1.

The Coalition also requests that the Council include as a requirement that all AFA-filed cooperative agreements must contain an affirmative statement that any agreement that the cooperative enters into with respect to delivery of BSAI pollock to a processor will NOT include any understanding, condition, or requirement, written or otherwise, regarding the delivery such processor of any species of fish other than fish caught in a directed fishery for BSAI pollock. This affirmative requirement is necessary to discourage processors from linking processing of pollock with other species, and to give the Secretary the legal ability to refuse to set aside pollock for a cooperative if the processor successfully forces a cooperative to agree to deliver other species of fish as a condition of the processor taking delivery of the cooperative's pollock.

Chapter 7 – AFA Catcher Vessel Sideboards (pages 80 – 148)**Crab Sideboards**

7.3.1. The Coalition supports adoption of a prohibition on the sale, lease, transfer, or stacking of LLP licenses or endorsements by AFA-eligible catcher vessels. In addition, the Coalition recommends that the Council modify the sideboard to include a prohibition on the purchase by an AFA-eligible catcher vessel of the LLP licenses or endorsements of any non-AFA eligible catcher vessel. The prohibition on the purchase of LLP licenses or endorsements from non-AFA eligible vessels is necessary to ensure that participation by AFA-eligible catcher vessels does not exceed their historic numbers as well as harvest levels. The historic harvest level is a cap, not an allocation, and by increasing the number of AFA-eligible catcher vessels able to pursue that cap the greater the certainty that AFA vessels will always achieve that cap.

7.3.1.3 The Coalition strongly supports adoption of option 7.3.1.3, with the modification that it include the historic percentage caps for each species of crab shown in table 7.3. Adoption of this modified option would prohibit AFA catcher vessels with Tanner crab endorsements from fishing *C. opilio* unless that vessel fished for *C. opilio* in 1996 or 1997. AFA catcher vessels with all other crab endorsements would be able to continue to participate in those fisheries up to the historic percentages shown in table 7.3.

7.3.2 The Coalition supports applying the crab sideboards to all AFA-eligible catcher vessels regardless of whether or not they participate in a cooperative. The historic caps should be applied at the sector level (i.e., all AFA-eligible catcher vessels) and not at the class or cooperative level. Adoption of option 7.3.1.3 allows all AFA eligible catcher vessels to participate in the fisheries in which they actually participated in the past. Enforcement will be considerably simplified if the sideboards are applied to all AFA qualified vessels at the overall level. This will mean the AFA catcher vessels must compete against each other in addition to the non-AFA eligible vessels. Also, as staff point out in the context of groundfish sideboards on page 106, owners of multiple vessels have an incentive to keep one or more vessels in open access in order to avoid safeguard restrictions and thus increase their participation in other fisheries.

7.3.3 The Coalition supports applying the sideboards at all times of the year for the duration of any inshore-offshore allocation. If the inshore-offshore allocation is extended, then the sideboards should be extended at the same time. The Council can always make adjustments in the sideboards if needed.

The Council state clearly that these sideboards are caps and not allocations or set-asides for the AFA-eligible vessels. If the cap is reached the AFA eligible sector is shut down, and there can be no carry forward if the cap is not reached.

Fair Fisheries Coalition

Agenda Item C-1

Groundfish Sideboards

7.5.1.1 The Coalition supports applying the groundfish sideboards to all AFA eligible catcher vessels that either participate in a cooperative or that share common ownership (using the 10% rule) with another AFA-eligible vessel. The staff analysis on page 106 demonstrates accurately that owners of multiple boats have a strong incentive to try and game the system by keeping one or more vessels in open access while participating in the cooperative with their other vessels.

7.5.1.2 The Coalition supports the first option, which would apply the sideboards at all times of the year, for the duration of the AFA and any extension. As the staff notes on page 110 this is the only option that will keep AFA catcher vessels from exceeding their historic participation in other fisheries.

7.5.1.3 The Coalition supports monitoring and enforcing the sideboards at the sector level (i.e., all AFA catcher vessels subject to sideboards under 7.5.1.1), rather than at the class or cooperative level. As staff points out on page 117, monitoring at the cooperative level may raise confidentiality problems and significantly increases the monitoring requirements for NMFS.

Chapter 8 – Processing Limits (pages 149 –231)10% Ownership Rule (Page 154 and Pages 227-229)

8.2.1 The Coalition supports adoption of the Multiplicative Interpretation of the 10% Ownership Rule. Adoption of this interpretation will help ensure that those with very limited ownership connections are not affected by the historic processing caps. The 10% ownership rule is critical to the effectiveness of the historic processing cap. Without it the Congressional intent to protect non-AFA processors is severely undermined. Should the Council believe that some entities may be unfairly captured by the rule, the Coalition supports creation of an expedited process for appeal where the affected entity must demonstrate that they receive no benefit. This appeal process could be administered by the Secretary of Commerce through NOAA general counsel or NMFS enforcement.

Assumptions and Issues

8.4 The Coalition strongly recommends that the Council use only the histories of U.S. documented vessels and facilities that an AFA-eligible entity currently owns or controls to calculate the historic processing caps. Vessel and plant catch and processing histories and rights should be presumed to go with the vessel or plant. Vessels that are not longer U.S. documented or vessels and plants that are no longer owned, controlled, or operated by an AFA-eligible entity should not be counted toward establishment of the historic processing cap even if they were documented, owned,

controlled, or operated by the AFA entity in the qualifying years. By selling the ownership or control, or removing the vessel from U.S. documentation, the AFA entity has forfeited its right to that history.

The Coalition also strongly recommends that the Council apply the historic processing caps to all AFA-eligible entities, regardless of use of cooperatives. If the bulk of the AFA-eligible entities participate in cooperatives, the open access pool may operate as a defacto cooperative for the few AFA-eligible entities that do not participate.

Selection of Option for Historic Processing Cap

8.5 The Coalition strongly supports adoption of option 8.5.3 (page 191), an overall limit applied to all facilities of all AFA entities, with the modification that the limit apply only to processing of fully utilized species. This option best accomplishes the Congressional intent to mitigate impacts on non-AFA processors.

8.6.1 The Coalition supports annual implementation and in-season enforcement of overall processing limits on all AFA facilities of AFA entities. Closure should be done by NMFS when they expect the cap will be reached, except for single trip fisheries like King crab, where any overages should be deducted from the cap in the next year. Under no circumstances should the AFA-eligible entities be under a self-enforcement regime subject only to post season fines and sanctions.

Chapter 9 – Implementation and Monitoring (page 246)

9.4.6 The Coalition supports the position of NMFS that inshore pollock cooperatives should be treated the same as CDQ groups with respect to record keeping and monitoring requirements. If the benefits to bycatch reduction and other fishery management objectives are to be adequately met, and to ensure cooperative allocations are not exceeded, then accurate monitoring and record keeping will be needed.

June 2, 1999

Mr. Rick Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Re: American Fisheries Act Sideboards, Agenda Item C-1

Dear Rick,

I have been involved in the Bering Sea crab industry for 30 years, and never before have I been so afraid for the future of this industry. I have been through the good seasons, and the bad and have made it work. My biggest fear is not the future abundance of the resource, but instead, the American Fisheries Act. This Act has given those select few AFA qualified processors and catcher boats control of crab and groundfish resources in the Bering Sea. Policy regarding the crab industry is being decided by the small minority of crab vessels which are qualified under the AFA. Consolidation is happening right before your eyes. The big are getting bigger, simply dwarfing the companies which were not fortunate enough to be written into the American Fisheries Act. I feel that two very important sideboards to the AFA should be passed at the June Council meeting.

Processor Caps:

1. Placing a cap on the AFA qualified processors, as to the amount of crab they can process. This cap should be based on the years 1995-1997. These should be aggregate caps at the facility level. No exemptions to this cap should be granted.

The above restriction will result in the continuation of the Bering Sea crab industry as it has been in the past. AFA processors will be no worse off, since they can process up to the historical average of their sector. Non-AFA processors will be no better off, because the cap again is representative of historical processing.

I am very worried about the future of the Independent Processors. These Independent Processors have been the price setters of crab. Without these Independent Processors, many of the crab catcher vessels will not survive, due to low prices. It would take very little by a large AFA processor such as Trident Seafoods (with over \$700 million in annual revenues) to force an Independent Processor (typically much less than 1/10 the annual revenues of Trident) into consolidation or bankruptcy.

Again, I am not asking that you give the Independent Processors any sort of gain. All I ask is that you allow a future for these vulnerable Independent Processors, for the benefit of all independent fishermen in the Bering Sea crab industry.

Harvester Caps:

2. AFA qualified vessels which are also crab qualified should also be limited to caps in the amount of crab they can catch. Every species of crab should have a cap based on the years 1995-1997. These caps should be applied to individual vessels. In addition, to qualify for opilio, an AFA vessel should have landed opilio in either 1996 or 1997. Lastly, catch histories (and future LLP crab licenses) should not be transferable between AFA qualified crabbers and non-AFA qualified crabbers. Again, no exemptions to this should be granted.

The above restrictions will also result in a continuation of the Bering Sea crab industry as it has been in the past. AFA catcher vessels will be no worse off, since they can catch up to their historical average. Non-AFA catcher vessels will be no better off, because the cap again is representative of historical catch.

Applying vessel caps on the individual basis is practical from a management standpoint, because skippers have a very good idea as to how much crab they have on board at all times (the crab are counted as they go in the tank and average weights can easily be determined). Overages should be penalized. These individual caps will allow those very few (Dr. Matulich's analysis shows the number is 3) AFA qualified crabbers who have a reasonable level of economic dependence on crab to maintain their historical share. If the caps are based on the aggregate level, many AFA qualified crabbers who have never significantly fished crab, could enter the crab fisheries and cause these 3 vessels to be significantly affected from a historical standpoint.

It is obvious that the Bering Sea crab fisheries are currently operating at economic break-even. Matulich's analysis shows that the number of non-AFA crabbers participating in crab has been fairly consistent over the years. Additional non-AFA licenses are available, but are not being fished, because it does not make economic sense to fish only for crab at this time. However, crab fishing does make economic sense for those vessels which can subsidize their fixed costs during pollock fishing.

Matulich's analysis also shows that AFA qualified crab vessels grossed \$1,000,000 more on average per vessel than the average non-AFA qualified crabber, during 1997. The \$1,000,000 extra revenue AFA qualified crabbers earned in 1997 is plenty to pay for all fixed costs for these vessels. What this means is that AFA qualified crabbers must only pay for variable costs while fishing crab, whereas the non-AFA qualified crabbers must pay for both fixed costs and variable costs through crabbing operations. The bottom line is that many vessels which are totally dependent upon crab will go bankrupt if additional AFA qualified crabbers enter the fishery full time. For this same reason, transfers of catch history and future LLP crab licenses should not be allowed between the AFA qualified crabbers and the non-AFA crabbers.

With the combination of the processor and harvester caps I have proposed, the crab industry will hopefully experience few effects of spillover from the American Fisheries Act. Without these sideboards, the crab industry as we now know it will be dominated by these AFA qualified processors and harvesters. Finally, I endorse the positions of both the Alaska Crab Coalition and the Fair Fisheries Coalition regarding AFA sideboards.

Sincerely,



Kris Poulsen,
Owner, Kris Poulsen & Associates

DRAFT

SCOPE OF WORK FOR A DISCUSSION PAPER ON AFA INSHORE COOPERATIVES

June 3, 1999

In February, the Council asked staff to initiate a qualitative analysis of the economic and policy issues associated with formation of inshore sector catcher vessel cooperatives under the AFA, including the alternative outlined in the independent catcher vessel proposal with a preliminary report to the Council in June 1999 and a final report in September 1999. In April, the Council reaffirmed its request for a discussion paper which would examine the broader policy and economic issues associated with formation of inshore cooperatives. This scope of work was developed in response to that request.

Based in part on the preliminary results of the cooperative for the factory trawler sector of the BSAI pollock fishery, the formation of inshore sector cooperatives is expected in aggregate to increase the net benefits received by participants in the inshore sector of the BSAI pollock fishery. It would do this by decreasing harvesting and processing costs and by increasing product quality and value. However, the inshore cooperatives can also affect the distribution of the net benefits. The topic of this discussion paper is the expected effects of the current set of AFA rules for inshore sector cooperatives and of three alternative sets of rules on the following: 1) the distribution of the benefits among the participants in the inshore sector of the BSAI pollock fishery and 2) the probability that such cooperatives will be formed. With respect to the former, the paper will address how each set of rules for inshore sector cooperatives is expected to effect: 1) the bargaining position of independent catcher vessels relative to inshore processors; 2) rent sharing between independent vessel owners and processors; and 3) the long-term economic viability of the eligible independent vessel owners, other eligible vessels owners, and the eligible inshore processors.

A variety of other implementation issues will affect the probability of inshore cooperatives actually occurring. These include: 1) the catch and bycatch monitoring programs that will be implemented for cooperatives and 2) the sideboards implemented to protect participants in other fisheries from changes in the participation in other fisheries by those involved with inshore cooperatives. If the former are too expensive or if the latter are too restrictive or punitive for participants in the cooperatives, the inshore cooperatives will not occur. Such effects are beyond the scope of this discussion paper but will be among the broader range of effects that will be addressed in the regulatory analysis package that is required as part of any rulemaking exercise. However, as noted above this discussion paper will address how each of the alternative sets of rules for inshore cooperatives is expected to affect the probability that inshore cooperatives will be formed. The discussion paper is not intended to be a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA); however, it will provide information that can help address some of the requirements of an RIR/IRFA.

Objectives

The objectives of the discussion paper are as follows:

- a. Provide information that will help determine if the implementation of inshore sector cooperatives for the BSAI pollock fishery, as provided for in the American Fisheries Act (AFA), is expected in aggregate to have beneficial or adverse effects on the independent vessel owners who, under the AFA, are eligible to participate in the BSAI pollock fishery. An independent vessel owner is an entity that owns fewer than three vessels in the BSAI pollock fishery.

- b. Determine which, if any, of either the features of the AFA inshore cooperative rules or the characteristics of the inshore sector of the BSAI pollock fishery substantially increase the probability of adverse effects.
- c. Determine the effects of three specific alternatives to mitigate any such adverse effects. In particular, determine the expected effects on the independent vessel owners, other vessel owners and pollock processors who are eligible to participate in the inshore sector of the BSAI pollock fishery.

The three alternatives to the current AFA rules for inshore sector cooperatives for the BSAI pollock fishery are listed below.

- a. Implement the Dooley-Hall Independent Catcher Vessel Owner proposal.
- b. Replace the 10% limit on sales to another eligible inshore processor with a higher limit.
- c. Eliminate the requirement that an eligible catcher vessel can only belong to a cooperative that will principally deliver its pollock apportionment to the inshore processor that received more of the pollock delivered by that catcher vessel than any other inshore processor in the previous year. This could be done by allowing any eligible catcher vessel to join a cooperative that was established to receive a catch allocation that can be used principally to deliver BSAI pollock to a specific inshore processor.

The current AFA rules for inshore cooperatives and the rules for each of the three alternatives are identified in the two attachments.

The first two objectives are in response to the following AFA restrictions on changes to fishery cooperative limitations (Sec 213(c)(1)).

The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—
(1) that supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery.

Although the rules for inshore cooperatives can be changed by the Council and NMFS for other reasons, it appears that the main reason that alternative rules are being considered is to mitigate adverse effects on owners of fewer than three vessels in the directed pollock fishery caused by fishery cooperatives in the directed pollock fishery. The implementation of fishery cooperatives for the inshore sector of the BSAI pollock fishery under most any set of rules would be expected to have a variety of beneficial and adverse effects on independent vessel owners and on other eligible, inshore-sector participants in the BSAI pollock fishery. Therefore, the first objective for the discussion paper is to determine the types of effects that are expected and whether in aggregate the effects are expected to be beneficial or adverse for the independent vessel owners with the current AFA rules. Clarifying the reasons for such expectations is the second objective. The conceptualization of hypotheses concerning potential effects and the identification of the assumptions that affect the validity of each hypothesis will be central elements of meeting all three objectives.

Contractor Tasks

1. Prepare a discussion paper that meets the three objectives by September 13, 1999.
2. Present the discussion paper to the Council in Seattle the week of October 11.

NMFS Tasks

To assist in the preparation of the discussion paper, NMFS will perform the following tasks.

1. Describe the current structure of the BSAI pollock fishery.
 - a. Numbers of eligible catcher vessels and fishing companies
 - b. Number of eligible processors
 - c. Nature of relationships between fishing companies and processing companies
 - d. Concentration of fishing companies
 - e. Concentration of processors
 - f. Process for establishing ex-vessel prices
 - g. Product markets
 - h. Other sectors of the BSAI pollock fishery (factory trawlers and motherships)
 - i. Allocation of TAC by sector (inshore, motherships, factory trawlers, CDQ, and pollock bycatch)
2. Summarize AFA elements related to inshore sector cooperatives.
3. Describe the three alternatives.
4. Provide a technical monitor for the contract.

Tasks 2 and 3 are completed (see Attachments 1 and 2) and Task 1 will be completed and available for public review by mid-June.

Attachments

1. Summary of AFA elements related to inshore cooperatives
2. Three alternative sets of rules for inshore sector cooperatives

ATTACHMENT 1

SUMMARY OF AFA ELEMENTS RELATED TO INSHORE COOPERATIVES

1. The following BSAI pollock TAC allocations were established:
 - a. 10% to CDQs
 - b. An unspecified reserve for pollock bycatch in other groundfish fisheries (it is expected to be about 5% of the TAC)
 - c. 50% of the remainder (i.e., after the first two allocations) to catcher vessels delivering to inshore processors
 - d. 40% of the remainder to factory trawlers and catcher vessels delivering to factory trawlers
 - e. 10% of the remainder to catcher vessels delivering to motherships
2. The allocations in 1998 were as follows:
 - a. 7.5% to CDQs
 - b. 35% of the remainder (i.e., after the CDQ allocation) to catcher vessels delivering to inshore processors
 - c. 65% of the remainder to factory trawlers and catcher vessels delivering to factory trawlers and motherships
3. The AFA either lists the vessels and inshore processors that are eligible to participate in each of three sectors of the BSAI pollock fishery or specifies the historical performance necessary to be eligible.
4. The three sectors and their members are:
 - a. Inshore (eligible inshore processors and the catcher vessels eligible to deliver to them)
 - b. Factory trawler (eligible factory trawlers and the catcher vessels eligible to deliver to them)
 - c. Mothership (eligible motherships and the catcher vessels eligible to deliver to them)
5. The types of participants for which specific lists of or criteria are established are as follows:
 - a. Factory trawlers (20 are listed and criteria are specified for others)
 - b. Catcher vessels that deliver to factory trawlers (7 are listed and criteria are specified for others)
 - c. Motherships (3 are listed and there are no provisions for others to qualify)
 - d. Catcher vessels that deliver to motherships (19 are listed, criteria are specified for others, and 2 additional vessels tentatively have been identified as meeting the criteria)
 - e. Inshore processors (none are listed, criteria are specified, and, tentatively, in total 8 shore plants and floating processors are eligible)
 - f. Catcher vessels that deliver to inshore processors (none are listed, criteria are specified, and tentatively, 106 vessels are eligible)
6. The criteria for eligibility differ by sector and by type of participant but are in terms of catch history for specific periods from 1996 through September 1, 1998.

- d. The contract must allow the owners of any other eligible catcher vessels to enter such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.
17. No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.
18. The North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in the directed pollock fishery. In recommending the excessive processing share, the North Pacific Council shall consider the need of catcher vessels in the directed pollock fishery to have competitive buyers for the pollock harvested by such vessels.
19. The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act that supersede the provisions of this title, except for the allocation and eligibility sections (206 and 208), for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery.
20. The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act that supersede the provisions that establish the share of the inshore sector pollock allocation that may be harvested by a fishery cooperative.
21. By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—
- (A) prevent the eligible catcher vessels for the three sectors from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery; and
 - (B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery.
22. Effective January 1, 2000, the owners of the eligible motherships and the eligible shoreside processors that receive pollock from the directed pollock fishery under a fishery cooperative are prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997.
23. The Fisherman's Collective Marketing Act provides specific exemptions from antitrust liabilities to fishermen. The authority for fishermen to form cooperatives has existed for many years. The Bering Sea Marketing Association is a fishery cooperative. The AFA allows a cooperative of specific subsets of inshore eligible catcher vessels to receive an apportionment of the inshore sector pollock allocation.

24. Under the AFA, an inshore processor, as a processor, would not be part of an AFA cooperative; however, it could have a contract with a cooperative or it could be a member of one as the owner of a qualified catcher vessel. It is not clear if having such a member would adversely affect the antitrust exemption for that cooperative or what the implication of such a loss would be for the cooperative. The Department of Justice has been asked to comment on both issues prior to the June Council meeting.

25. The term "shoreside" (i.e., inshore) processor is defined loosely; therefore, it isn't clear whether it applies to a plant or a company. Similarly, it isn't clear if a processor that receives pollock from a cooperative can transfer that fish to another processor. If a processor is determined to be a company and not a plant, then it needs to be determined if two or more companies owned by a single company are one or more processors. The answer will determine if an inshore sector cooperative is associate with one or multiple plants and whether an eligible processor can build or purchase another plant for the BSAI pollock fishery.

ATTACHMENT 2

THREE ALTERNATIVE SETS OF RULES FOR INSHORE SECTOR COOPERATIVES

Three sets of modification to the inshore cooperative rules listed in Item 14 of Attachment 1 were discussed at the April 1999 Council meeting.

1. The Dooley-Hall (Independent Catcher Vessels) Proposal
 - a. No change: Such cooperatives can be implemented beginning in 2000.
 - b. Substantial change: The contract implementing a cooperative must be signed by the owners of five or more catcher vessels eligible to harvest pollock in the directed pollock fishery and deliver it to an eligible inshore processor.
 - c. Rule eliminated: A cooperative could deliver pollock from the BSAI pollock fishery to any eligible inshore processor(s).
 - d. No change: The share of the inshore sector available to the vessels in a specific cooperative will equal the percent of the inshore sector harvest of pollock in the pollock fisheries in 1995-97 accounted for by the vessels in that cooperative and the contract will prevent the members of a cooperative from catching more than that share.
 - e. Some change: The contract must allow the owners of other ~~qualified eligible~~ catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the ~~qualified eligible~~ catcher vessels who entered into such contract upon filing.
 - f. Rule eliminated: An eligible catcher vessels would not be qualified with respect to a specific eligible inshore processor.
 - g. Some change: The contract shall, to the extent practicable, provide fair and equitable terms and conditions for the owners of ~~qualified eligible~~ catcher vessel that delivered pollock to factory trawlers or motherships during 1995-97.
 - h. No change: The share of the inshore sector allocation not apportioned to the AFA cooperatives will in aggregate be available to the vessels that do not participate in a cooperative. Due to 1995-97 catch by catcher vessels that will not be eligible to participate in the inshore sector pollock fishery, that share will be greater than the percent of the inshore sector harvest of pollock in the pollock fisheries in 1995-97 accounted for by the vessels that do not participate in an inshore cooperative.
 - i. No change: The eligible vessels that are not in a cooperative may deliver pollock to any eligible inshore processor(s).
 - j. Rule eliminated: A cooperative would be able to decide what part of its allocation to deliver to any or each eligible inshore processor.

- k. No change: There are no provisions to allow one cooperative to transfer pollock to another cooperative. Therefore, for example, if one cooperative exceeded its apportionment, it could not correct for this error by acquiring pollock from another cooperative.
2. The current AFA rules with one exception. The transfer limit in item j would be increased. Therefore, the rule would be as follows:
- j. A contract may provide for up to x percent of the pollock harvested under such cooperative to be processed by an eligible inshore processor other than the principal inshore processor to which pollock will be delivered under the contract. The value of x has not been determined but it would be greater than 10.
3. The current AFA rules with the following changes for item e:
- e. The contract must allow the owners of other ~~qualified eligible~~ catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.

Draft Implementation Plan for AFA Inshore Co-ops

NMFS-Alaska Region

Formation of Co-ops

- Co-op formation: Co-ops may form at any time. Regulations need not guide co-op formation, only the application for co-op pollock allocations.
- Application for co-op allocation: Regulations will specify application requirements, application procedures, and deadlines (probably no later than December 1).
- Co-op fishing permit: Fishing permit issued to co-op will specify pollock co-op allocation as well as rights and responsibilities of co-op members.
- Co-op representative: Each co-op must have a designated representative who will interact with NMFS on co-op issues.
- Liability: Co-op members will be jointly and severally liable for any violations of terms specified in co-op permit.

Implementation timeline

- October 1999 Council meeting: Opportunity for Council to review draft inshore co-op rulemaking.
- November 1, 1999: Publication of interim final rule and/or emergency rule setting out inshore co-op regulations.
- December 1, 1999: Application deadline for year 2000 co-op allocations.
- December 1999 Council meeting: Opportunity for Council and public review of co-op contracts and proposed co-op allocations.
- December 15, 1999: Deadline for late entries and/or exits.
- Late-December 1999: Publication of interim specifications including annual co-op allocations, groundfish and PSC sideboards, and remaining “open access” inshore pollock allocation.

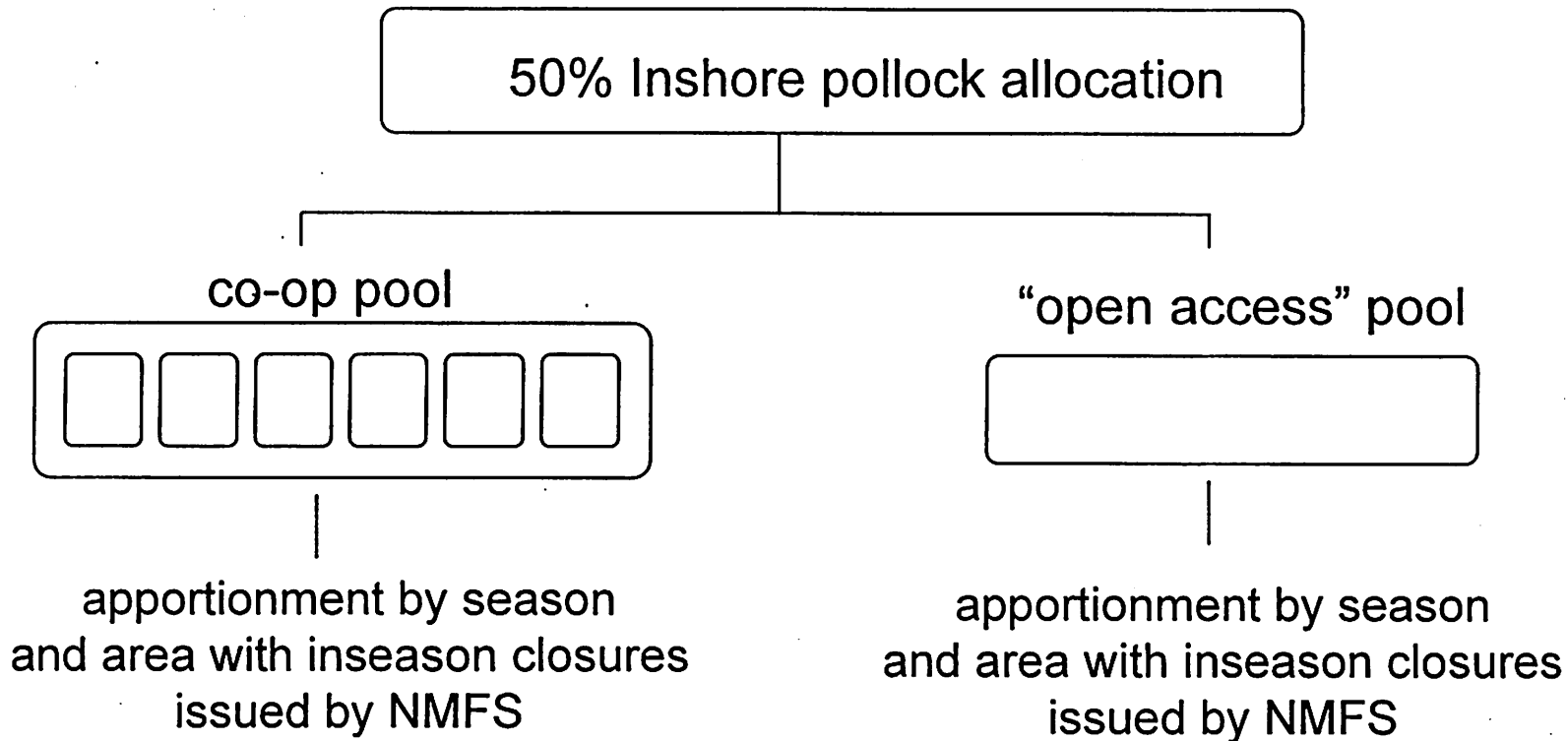
Database Issues

- Data source: ADF&G fish ticket data are only source of 95-97 inshore pollock landings.
- Confidentiality issues: Signed waivers must be received from all vessel operators before individual vessel catch data may be released to a vessel owner or co-op.
- Confidentiality work-around: In absence of completed waivers, aggregate data and pollock allocation will be released to co-op however individual vessel data will be unavailable.
- Appeals: Year 2000 co-op fishing be based on “interim” database due to lack of time for data verification and appeals. Appeals may be heard during 2000 and adjustments to official data record will be made for 2001 fishing year.

Annual Co-op Pollock Allocations

- Annual allocations: Each qualifying co-op will be issued an annual allocation of pollock that will not be parsed by season or area.
- Overages: Pollock landings in excess of annual co-op allocation will be considered a violation of the terms of the co-op permit and co-op members will be subject to enforcement action. Unlike IFQ program, no inter-annual quota adjustments for overages are proposed.
- Underages: No inter-annual quota adjustments for underages are proposed. Furthermore, no mechanism is proposed to distribute unharvested co-op allocations to other co-ops, open-access vessels, or other sectors.

Inshore Quota Management under Steller Sea Lion RPA Measures



Inter-co-op agreement necessary to control competition between co-ops for more desirable season/area apportionments.

Advantages/Disadvantages

- Inter-co-op agreement will be necessary to prevent co-ops from competing for more desirable season and area apportionments.
- Inter-season transfers: Because co-op allocations are annual, co-ops will be free to distribute and transfer catch effort by area and season in any mutually agreed upon scheme.
- Overages, underages and rollovers of season and area apportionments at the co-op level will be managed by industry and not NMFS.

Recordkeeping and Reporting Changes

- Co-op report: Each co-op will be required to submit weekly reports of co-op fishing activity similar to current CDQ report. NMFS will use co-op reports to debit annual co-op pollock accounts
- Electronic shoreside delivery report: New electronic shoreside delivery reporting software will be available to all processors. NMFS will use this system to track individual catcher vessel activity on a daily basis for inseason management of pollock and sideboard species.
- Faxed fish tickets: Processors not using new electronic shoreside delivery report system will be required to fax fish tickets to NMFS on a daily basis for any landings by catcher boats to which a groundfish sideboard applies.

Observer Coverage Requirements

- Catcher vessels: No changes to existing observer coverage requirements are proposed provided that sideboard limits apply fleet-wide rather than to individual co-ops.
- Inshore processors: CDQ-level observer coverage will be required at plants that receive co-op landings. All landings must be observed by plant observer. This means that at least two plant observers will be necessary for plants intending to operate more than 12 hours per day.



TRIDENT SEAFOODS CORPORATION

5303 Shilshole Avenue NW
Seattle, WA 98107
(206)783-3818
FAX (206)782-1720

Date: _____

From: Alaska Support/Engineering

No. of pages: _____

To: DAVE WILSON

Re: FAX TO: HELEN / JOE PLESNA

.....
DAVID PLEASE FAX YOUR memo to

HELEN / JOE PLESNA

1-907-486-3430

FAX *David*

TOTAL P.01

Joe **LATE COMMENT**

I am against processor caps in the crab fleet as it would affect me as a crab boat at my market.

*David Wilson
R/V Silent Lady*

POLLOCK CATCHER/PROCESSOR
(C/P) SIDEBOARDS

- (1) **Purpose of Sideboards.** To prevent "adverse impacts" from co-ops on
 - non-pollock fishermen
 - processors
- (2) **C/P Sideboards.** Negotiated last summer with other fishing/processing groups - incorporated in AFA §211(b).
- (3) **Non-Pollock Groundfish Sideboards.** Limit C/P's to historical catch levels of non-pollock groundfish in the BSAI by the 20 + 9 vessels during the years 1995-97.
- (4) **Caps not Quotas.** C/P's authorized to catch "up to" their historical harvest levels of non-pollock groundfish, but no guarantee they will be able to catch all of their various sideboard species limits.
- (5) Caps to be based on historical percent of TAC, not catch.
- (6) Council can modify to mitigate "adverse impacts" on other fisheries or for conservation purposes.
 - No adverse impacts resulting from co-op.
 - No conservation problems resulting from co-op.

AFA Pollock and Groundfish CP Sideboard Specification

Species	Source	20 AFA Eligible CPs	9 AFA Ineligible CPs
Pollock	Pollock Catch in the Pollock Fishery	Yes*	No
Non-Pollock Sideboard Species	Groundfish Bycatch in the Pollock Fishery	Yes	Yes
	Groundfish Catch in the Non-Pollock Fisheries	Yes	Yes
	Groundfish Bycatch in the Non-Pollock Fisheries	Yes	Yes

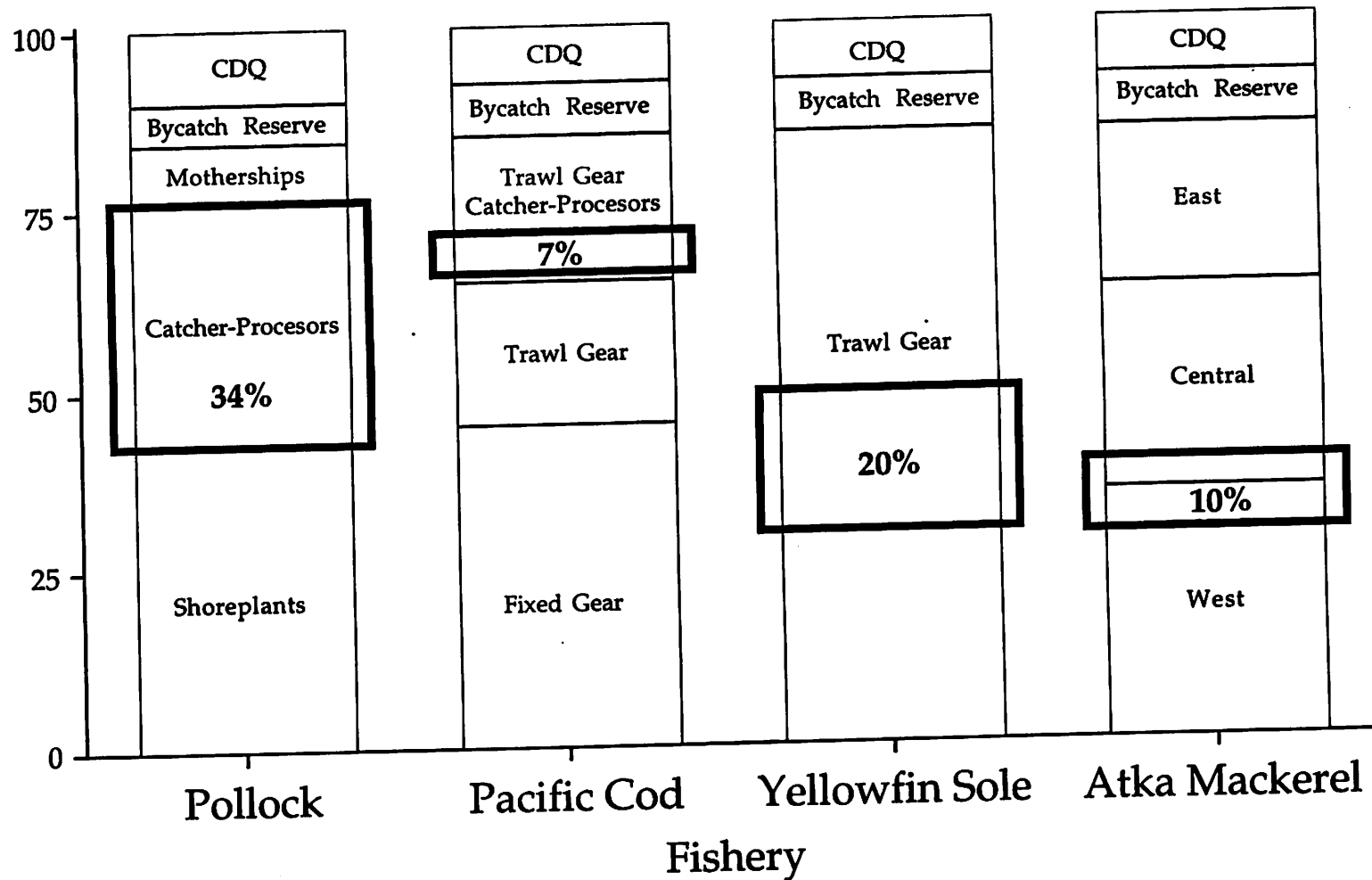
* Less 5% of pollock TAC as part of Inshore-Offshore III

AFA Pollock and Groundfish CP Sideboard Specification

Species	Source	20 AFA Eligible CPs	9 AFA Ineligible CPs
Pollock	Pollock Catch in the Pollock Fishery	Yes*	No
Non-Pollock Sideboard Species	Groundfish Bycatch in the Pollock Fishery	Yes	Yes
	Groundfish Catch in the Non-Pollock Fisheries	Yes	Yes
	Groundfish Bycatch in the Non-Pollock Fisheries	Yes	Yes

* Less 5% of pollock TAC as part of Inshore-Offshore III

AFA Sideboard Amounts Pollock and Groundfish Specifications 20+9 CP Groundfish Bycatch History



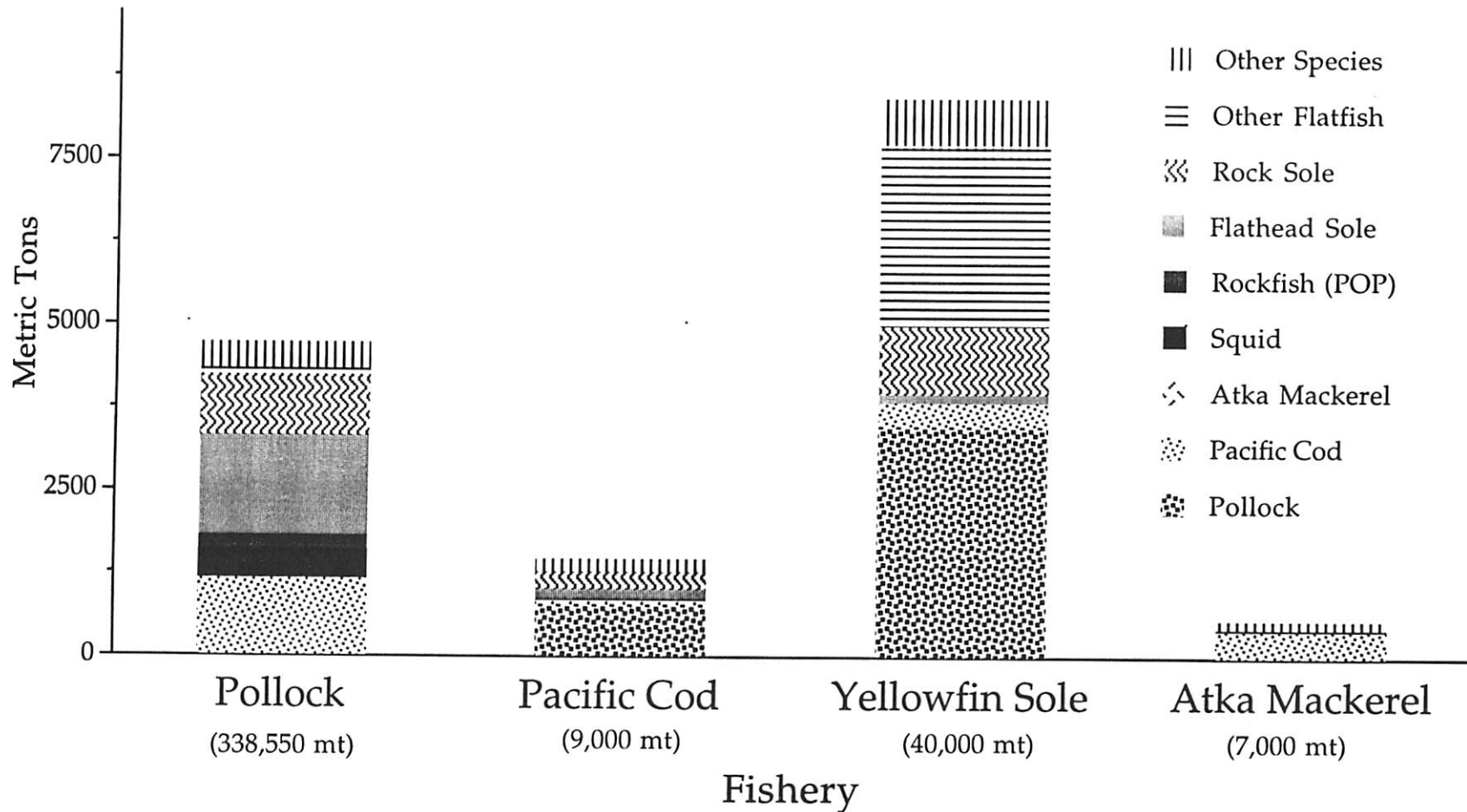
Source: Final 1999 Harvest Specifications for Groundfish, Federal Register Vol. 64, No. 47, pp. 12103-12116;
EA/RIR for Amendment 61 — AFA Sideboard Measures, NPFMC, May 5, 1999.

1999 Pollock and Groundfish CP Sideboard Specification

Species	Source	20 AFA Eligible CPs	9 AFA Ineligible CPs
Pollock	Pollock Catch in the Pollock Fishery	Yes*	No
Non-Pollock Sideboard Species	Groundfish Bycatch in the Pollock Fishery	No	No
	Groundfish Catch in the Non-Pollock Fisheries	Yes	Yes
	Groundfish Bycatch in the Non-Pollock Fisheries	Yes	Yes

* Less 5% of pollock TAC as part of Inshore-Offshore III

Pollock Conservation Cooperative 1999 Projected Groundfish Bycatch



Source: SeaState, Inc.; projections based on bycatch rates through May.

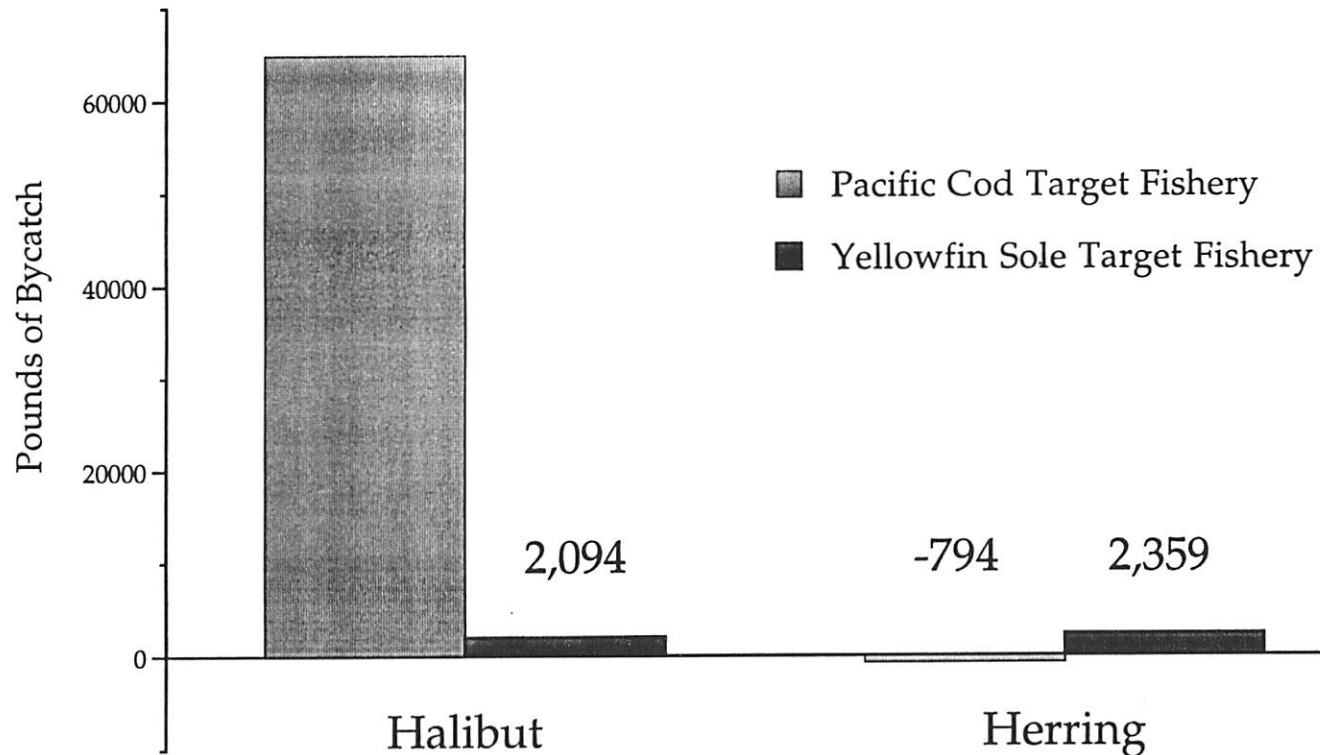
Alternative Catcher-Processor Sideboard Options (based on 1999 TACs)

Species	1999 * Specification	AP Motion	Difference
	--- Metric Tons ---		
Arrowtooth	2,398	8,337	5,939
Flathead Sole	2,234	5,585	3,351
Rock Sole	7,446	9,078	1,632
Other Flatfish	17,148	17,802	654
Yellowfin Sole	41,190	41,898	708
Pacific Cod	10,119	12,851	2,732
Other Species	1,508	2,374	866
Squid	3	400	397
POP-Rockfish	18	32	14

* 1999 specifications, Federal Register Vol. 64, No. 47, pp. 12103-12116.

Halibut and Herring

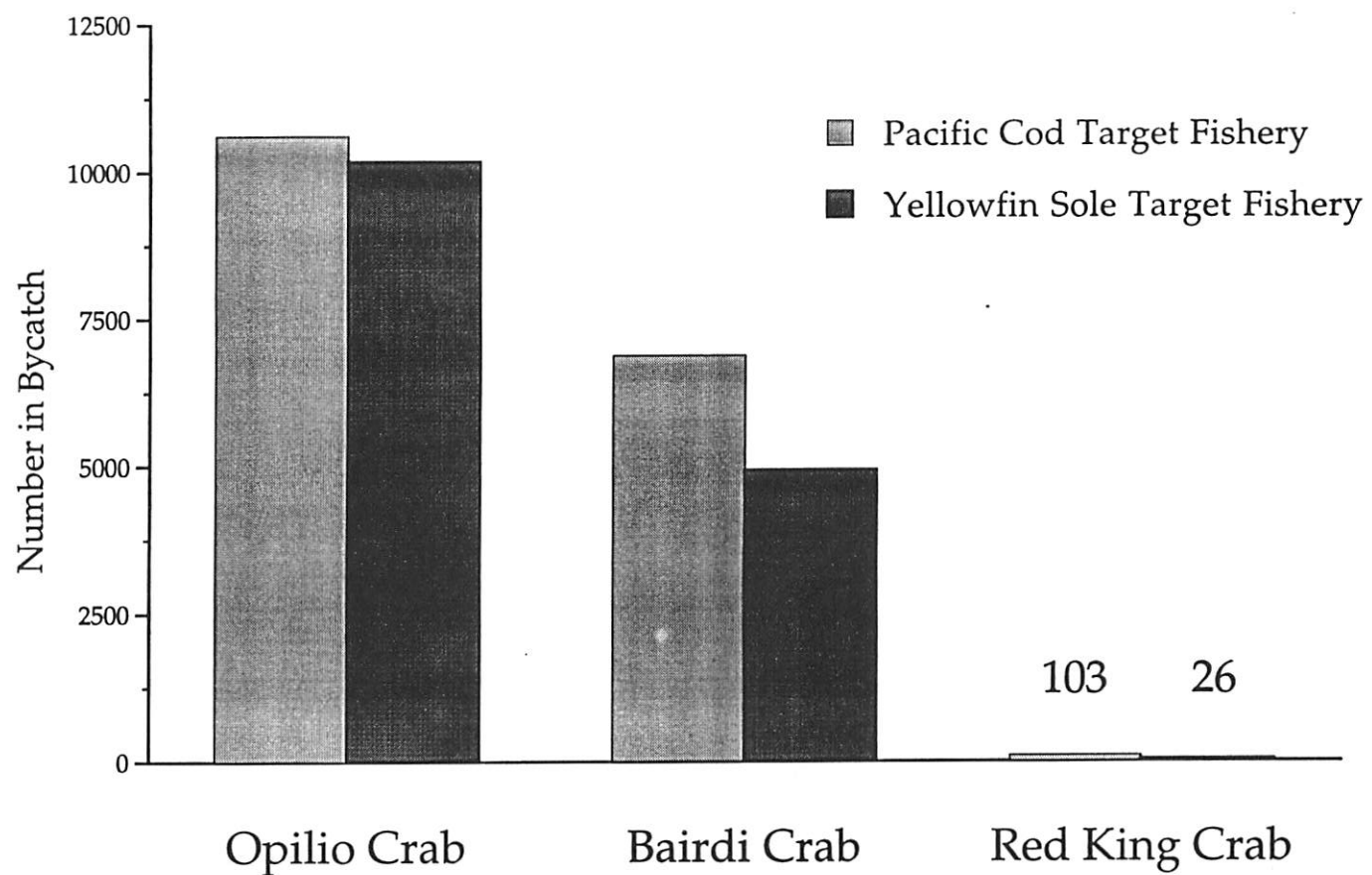
Increased PSC Bycatch Resulting from a Transfer of 1,000 mt of Target Cod and Yellowfin Sole Catches from AFA to Non-AFA CPs



Source: Tables 6-19, 6-20, EA/RIR for Amendment 61 — American Fisheries Act Sideboard Measures, North Pacific Fishery Management Council, May 5, 1999.

Crab

Increased PSC Bycatch Resulting from a Transfer of 1,000 mt of Target Cod and Yellowfin Sole Catches from AFA to Non-AFA CPs



Source: Tables 6-19, 6-20, EA/RIR for Amendment 61 — American Fisheries Act Sideboard Measures, North Pacific Fishery Management Council, May 5, 1999.



**alaska
fresh
seafoods, inc.**

PLANT: 105 MARINE WAY, KODIAK, AK 99615 (907) 486-5749 FAX (907) 486-6417
HEAD OFFICE: 4241 21ST AVE. WEST, SUITE 204, SEATTLE, WA 98199

June 8, 1999

Richard B. Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

Dear Chairman Lauber,

I understand that the Council is currently reviewing options that are associated with AFA impacts to the Gulf of Alaska. I have heard that one of the options under consideration may result in a limitation of which processors are able to process pollock in the Gulf, and that the Council may require some recent processing of pollock in the Gulf to qualify for a permit to process pollock in the Gulf. I am not totally aware of what restrictions may be under consideration, but I would like to ask the Council to ensure that Alaska Fresh Seafoods is able to continue to participate, without restriction, in the purchase and processing of pollock in the Gulf of Alaska.

In 1986, 3 Kodiak shoreside plants started the on-shore fishery for pollock in the Gulf of Alaska, and Alaska Fresh Seafoods was one of those 3 processors. I am attaching an article from the Kodiak Daily Mirror (September 26, 1985) that reports on our pioneering effort in processing Gulf of Alaska pollock.

Alaska Fresh Seafoods is an American owned company, and we have been processing fish and shellfish on the Kodiak waterfront for 21 years. With the decline and deterioration of opportunities for Kodiak processors in recent years, Alaska Fresh Seafoods cannot afford to lose our ability to process pollock. Although we have not processed pollock in recent years, economic necessity and market opportunities have led us to the decision to reenter pollock processing beginning in the next quarter. Depending on the economics of the pollock marketplace, it is very possible that pollock will represent an important part of our revenue stream in the coming years. We do not believe that we should be cut out of this industry.

In conclusion, please keep in mind that twenty years ago there were approximately fifteen processing plants in Kodiak that were busy processing year around. Now, you will see that there are only seven plants left on the Kodiak waterfront. If we lose the ability to process pollock, there may be one less processor on the Kodiak waterfront. Please understand that this could be an issue of economic survival for Alaska Fresh Seafoods. Since I have an investment in this company, along with 3 other partners, this is an important issue for us.

Please contact me if I can provide any further information to you. Thank you for your time.

Sincerely,

David Woodruff
Vice President

4 processors seek OK to handle pollock in '86

By CHRIS BLACKBURN
Special Correspondent

ANCHORAGE — Three Kodiak processors and the owners of a floating processor Wednesday announced plans to process pollock in 1986 and asked the North Pacific Fisheries Management Council to allow domestic fishing on the Gulf of Alaska pollock stocks.

National Marine Fisheries Service hydro-acoustic surveys indicate the mass of pollock which congregate in Shelikof Strait for spawning has declined drastically. The council's Plan Maintenance Team recommended no fishing on Gulf of

Alaska pollock in 1986.

Harold Jones, representing All-Alaskan Inc., which owns the shore-based Star of Kodiak processing plant, told the council his company planned to process 9,000 metric tons of pollock and 4,000 metric tons of Pacific cod in 1986.

All-Alaskan plans to process roe pollock to start because of the value of the roe.

"This is probably a very viable way to get into groundfish — with a more valuable product," Jones said.

All-Alaskan has purchased a Baader 182-A filleting machine which is scheduled to be delivered

In November, he said.

Alaska Fresh Seafoods of Kodiak plans to process 2,000 metric tons of pollock for roe and for fillets. The fillets are for the U.S. market, said plant manager and part owner Dave Woodruff.

Alaska Pacific Seafoods in Kodiak anticipates it could process as much as 18,000 metric tons of pollock in 1986, said company head Brian Kelly.

APS is producing surimi under an Alaska Fisheries Foundation development grant.

For APS's operation it is important that pollock be available over a long-term period, Kelly said.

The floating processor Golden

Alaska plans to process Shelikof Strait pollock for roe in 1986, said company representative Ed Letrell.

Because the Golden Alaska is a foreign-built hull it can only process, but cannot fish. The company plans to buy pollock from U.S. fishermen, Letrell said.

"I can't give you any stated tonnage at this time, but our operation will be substantial. We are committed to the roe fishery," Letrell said.

The decline of the Shelikof Strait biomass of pollock is the result of a failure of the fish spawned in 1980-83 to survive, according to NMFS biologists.

However, the 1984 crop of pollock, which will begin to reach fishable size in 1987, appears to be quite large.

The council's Plan Maintenance Team recommended no pollock fishing in the Gulf of Alaska in 1986, saying the adult pollock stock is below a "threshold level."

The council's Scientific and Statistical Committee disagreed with the Plan Maintenance Team's interpretation of threshold level, though it supported the concept.

In view of the large 1984 year-class of pollock on the grounds the SSC told the council a conservative fishery could be held in 1986.

The SSC recommended a 100,000 metric ton quota and said fishing on the spawning pollock

did not appear to represent any significant problems for the stock, according to SSC chairman Don Rosenberg.

The council's advisory panel recommended a 50,000 metric ton quota on Gulf of Alaska pollock for domestic use. To encourage exploration for spawning pollock concentrations elsewhere in the Gulf, the panel recommended allowing joint venture fishing for pollock outside Shelikof Strait during the first four months of 1986.

The council agreed to submit a 100,000 metric ton quota for Gulf of Alaska pollock to the public for review.

The recommended catch level for all species of Gulf of Alaska and Bering Sea fishery catch will be sent out for public review. In December the council will make its final recommendations for 1986 quotas.

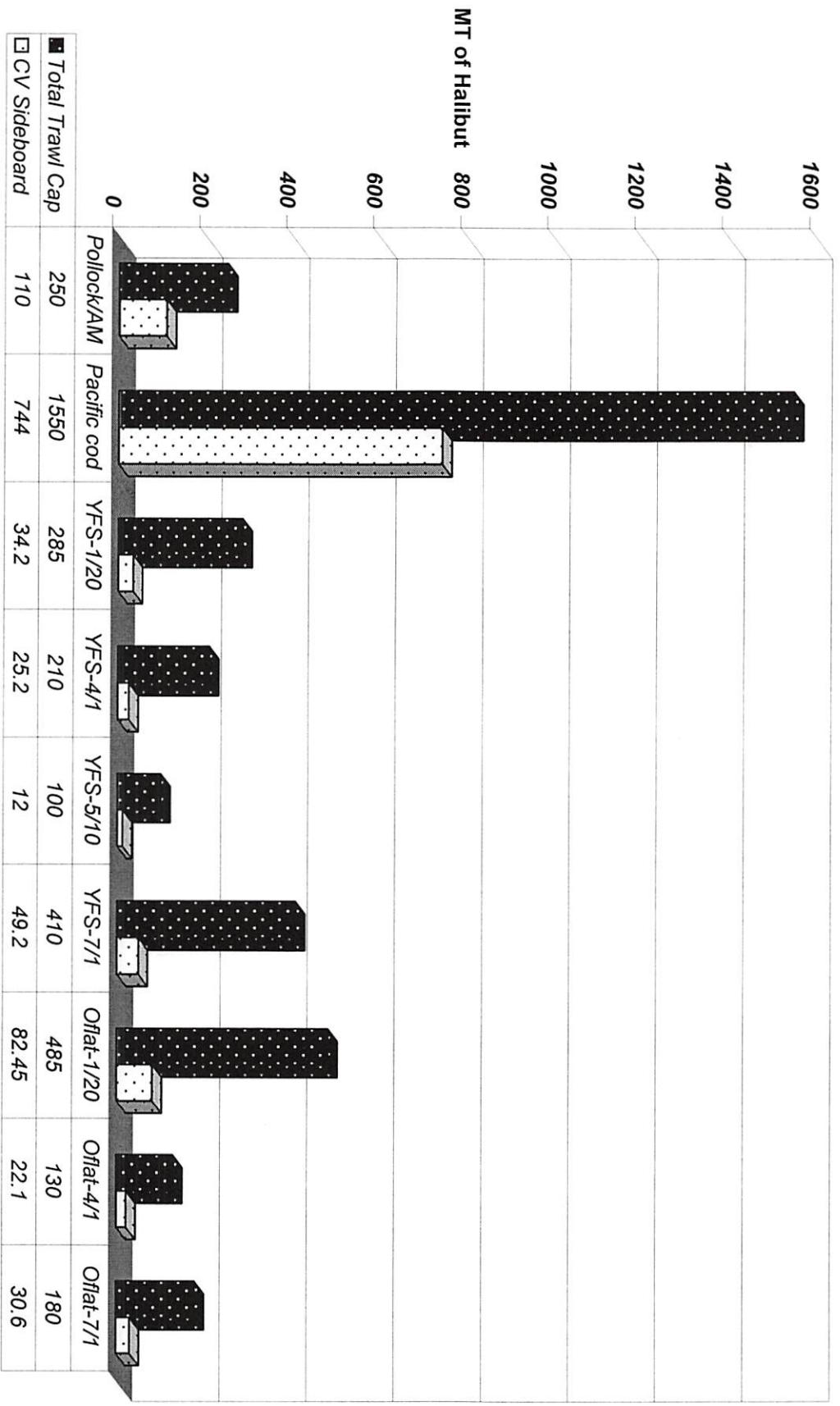
Alice Knowles
for
SCHOOL BOARD



Paid for by Alice Knowles
Candidate for School Board, Box 377, Kodiak AK

Handwritten:
 Andersen
 Gyser Forum

Fishery Specific PSC CV Sideboards





Fishermen's
Finest

Fishermen's Finest, Inc.

4039 21st Ave. W. #201 ■ Seattle, WA 98199
TEL: (206) 283-1137 ■ FAX: (206) 281-8681

June 9, 1999

Mr. Richard B. Lauber
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

**RE: American Fisheries Act Implementation – Sideboards
Agenda Item C-1**

Dear Chairman Lauber:

In Senator Steven's floor speech before Congress, on October 21, 1998, he stated that the Bering Sea pollock fishery's "state of over capacity is the result of mistakes in, and misinterpretations of the *1987 Commercial Fishing Industry Vessel Anti-Reflagging Act*." We sincerely hope that the same does not happen with the *American Fisheries Act*.

In order to maintain the current level of participation in the non-pollock groundfish fisheries, Fishermen's Finest, Inc. urges the Council to adhere to the intent of the *American Fisheries Act*. Sideboards for catcher-processors and catcher vessels should be based on traditional participation in those fisheries.

Background

Fishermen's Finest, Inc. operates two H&G trawlers: the *American No. 1* and the *U.S. Intrepid*. Both vessels have history in the directed pollock fishery, in amounts less than the AFA qualifying tonnage, and some of it in non-qualifying years, such as "B" season 1998. While our largest tonnage was equal to just several days of fishing for one large factory trawler, this same inconsequential amount of fish in 1999 represents a million dollars of lost income to our trawl vessels. The implementation of the *American Fisheries Act* resulted in permanent and significant loss of earnings to our company and crew.

We have been asked why we have not shown a continuous presence in pollock if it is such a viable fishery for us. The answer is, simply, that we concentrated our efforts on developing other fisheries for the times when H&G or round pollock were not good options. We did fish for pollock during the qualifying years when it made economic sense to do so. Pollock market conditions for the past year and half have been very good but this is a market we no longer have access to, at a time when it has become very economically attractive. We have also received the

suggestion that we “top-off” on pollock since we are allowed 20% bycatch under IR/IU. Our response is that this does not compensate for our lost market share.

Now that the groundfish playing field is no longer level among sectors of the trawl fleet, we urge the Council to consider the following:

Catcher Processors

Sideboards for the catcher-processors should be implemented using the same rationale that was used to assess whether our vessels were eligible for inclusion in the AFA. In order to get the fish you have to have earned it.

The non-pollock groundfish target history of the nine retired catcher-processors should not be given to the 20 remaining catcher-processors. Almost all of the nine retired vessels were fillet boats that targeted on cod and yellowfin sole after the pollock seasons. We do not see that other vessels, particularly surimi vessels, should have access to this groundfish. It is not rational to preclude participation of vessels that have true history in pollock while at the same time awarding non-pollock groundfish to vessels that did not earn it.

Authority under the Act to change the current sideboards of the AFA catcher-processors is found in Sec. 211 (a-b) and Sec. 213 (c). The Council may recommend protections that supersede the catcher-processor sideboards that took effect on January 1, 1999, and can recommend additional management measures to mitigate any adverse impacts to other fisheries.

Catcher Vessels

The AFA-eligible catcher vessels have exclusive access to the pollock fishery, but have not relinquished their harvest rights to any fishery, unlike the catcher-processors that have given up the Gulf and much of the atka mackerel. Sideboards are desperately needed for the catcher vessel sector to ensure continued rationalization of the non-pollock groundfish fisheries and markets.

We support sideboards whether or not Co-ops are in existence. With the race for fish eliminated, the pollock fishery can be harvested in a more deliberate way. The harvesting of non-pollock groundfish, then, can also be more deliberately prosecuted. The PSC caps can be used to manage the AFA boats' fisheries more effectively than in our open-access fishery where PSCs are tied specifically to each target. It is this increased flexibility in harvesting and marketing strategy that mandates the need for sideboards, not the presence of Co-ops.

Sideboards must apply year-round, must be accrued seasonally, must be in place for all groundfish and prohibited species, and must be based on traditional harvest, expressed as a function of the TAC. Sideboards that are in effect only when pollock fishing is allowed, but then is suspended when pollock fishing is disallowed or the quota is harvested, offer no true protection and mock the very notion of sideboards. To preserve non-pollock groundfish market integrity, quarterly sideboard history must be preserved. A sideboard that can be lifted because a species' TAC remains under-harvested does not take into account unfavorable quality issues or market conditions of each particular fishery. Under-utilized species in the Bering Sea and Gulf of

Alaska are generally left in the water because of two things: bycatch-driven management regimes that prevent full-utilization of the target species, or poor market conditions. Part-time or piecemeal sideboards misrepresent the intent of Sec. 211 protections and the Act's aim of rationalizing the fisheries.

Summary

We want to express support for the Groundfish Forum for their initial work on the sideboards with the catcher-processors, and we also appreciate the catcher vessels' recent efforts to negotiate their sideboards with us. Our company and crew, however, feel very strongly about what's fair and equitable in light of being shut out of the directed pollock fishery. As a company that actively sought to continue its comparatively meager presence in the directed pollock fishery, we assert that the sideboards should reflect a use of catch history that does not jeopardize the integrity and health of the groundfish fisheries or markets. We are asking not that the participating vessels' catch histories are removed, as was ours, but that that they are preserved at traditional levels, in a historically legitimate time frame.

Thank you for letting Fishermen's Finest, Inc. express our concerns about the Act and its sideboard provisions.

Sincerely,


Rudy A. Petersen

F/V American No. 1
F/ U.S. Intrepid
F/V Pathfinder
F/V U.S. Liberator

Purse Seine Vessel Owners Association

Position paper on Bering Sea-Aleutian Islands (BSAI) Co-op implementation and the Gulf of Alaska (GOA) Sideboards

Although only a recent participant in the Council process, we know a problem when we see it. Clearly, implementation of the American Fisheries Act (AFA), and in particular, the potential establishment of fishery cooperatives in the pollock fishery, may well dictate the future of Alaska's small boat fishing fleet. The recent announcement by Trident Seafoods to purchase Tyson Seafood's further evidences the rapid vertical integration and consolidation of the Alaska seafood industry, and the precarious future for our industry.

Our immediate concern is the lack of representation by small boat groundfish harvesters in the design and implementation of the BSAI Pollock Co-ops and GOA Sideboards. Small boat groundfish harvesters (vessels less than 59') account for 77% of the entire groundfish fleet in the Alaskan EEZ, and that fleet is 86% Alaskan owned. Under present LLP rules, 38% of all GOA trawl endorsements will go to small boats less than 59', and yet small boats presently harvest just 1.7% of the total allowable catch (TAC). We strongly maintain that the small boat fleet needs increased groundfish opportunities if we are to maintain an independent fleet, and real fishing jobs for Alaskans.

The Sideboard provisions required under the AFA are intended to protect non-AFA qualified entities from negative impacts from BSAI Co-op pollock boats. Yet the BSAI Co-op Implementation Committee is recommending that "*sideboard limits only apply to vessels which actually participate in Co-ops (as opposed to being AFA eligible)*". How can this recommendation possibly be justified as a safeguard? It is increasingly evident that the BSAI pollock industry should not write their own sideboard rules, certainly not without our input and participation in the process.

We appreciate the very strong desire to implement Co-ops for the year 2000 in the BSAI inshore pollock fishery. We also understand that NMFS is on record as saying that they will not be able to monitor the Co-ops sufficiently well to insure absolute adherence to historical harvest levels of non-pollock species by individual Co-op members. These two factors, however, cannot justify a "**Co-op at any cost**" mentality, which ignores the concerns and participation by all affected sectors of the industry.

We agree that comprehensive rationalization of other groundfish fisheries is desirable, necessary, and inevitable. In fact, AFA style Co-ops may be an appropriate mechanism to accomplish that end. However, if our choice is to accept the BSAI pollock industry managed Sideboards, without appropriate consideration for the small boat fishing fleet, then we support the status quo for at least another year. These Sideboard measures are simply too important to us and to the entire fishing community to allow one group to rush into this new private fishery paradigm.

Let PSVOA represent the small boat fleet in the sideboard development process, or let's all wait until NMFS does get the resources together to guarantee everyone their legally required Sideboard protections.



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FACSIMILE TRANSMISSION

June 9, 1999

LATE COMMENT

To: North Pacific Fisheries Management Council

**From: Alan Chaffee
President**

I would like to take this opportunity to let it you know that Yardarm Knot Fisheries, LLC adamantly opposes any caps on AFA crab processors. This type of management plan would seriously impact the competitive nature of this fishery, to the detriment of the fishermen and the industry as a whole.

ENCLOSURE NO 8 2/10/99

DRAFT MOTION ON HISTORIC PROCESSING CAPS

This motion would adopt OPTION 3, an overall limit applied to all processing facilities owned or controlled by AFA entities, with modifications. The option can be found on page 191 of the EA/RIR, with the staff estimates of the historic cap shown in table 8.7 on the same page.

Motion

That the Council adopt a single, overall historic processing cap that would apply to all processing facilities owned or controlled by AFA entities.

1. NMFS will determine which processing facilities are owned and controlled by AFA entities using the multiplicative version of the 10 percent rule described on page 228 of the EA/RIR. Owners of processing facilities eligible under section 208 would be required to identify to NMFS as part of their processing permit requirements all processing facilities that process fish under the Council's jurisdiction in which the owner has more than a 10 percent interest using the multiplicative rule.

A. A processing facility is any plant or U.S. documented vessel that processes fish under the jurisdiction of the North Pacific Council.

B. Only common ownership or control of processing facilities will be considered in determining AFA entities for purposes of the historic processing cap.

C. Processing facilities that are owned or operated by a CDQ group are exempt from the historic processing cap, and any processing history of CDQ owned or operated processing facilities will not be included in the historic processing cap. One of the purposes of the CDQ program is to encourage those groups to increase their participation in the fishing industry, and inclusion under the historic processing cap could conflict with this purpose.

2. The processing cap would be determined annually based on the average of the 1995 – 1997 processing history of U.S. documented processing vessels and processing plants owned or controlled by AFA entities at the start of that fishing year.

A. The processing history of the nine catcher processors removed by the AFA shall be added to the historic processing cap because those vessels can no longer be owned or controlled by any entity, and they were last owned by an AFA entity.

B. If an AFA entity sells a processing plant or processing vessel to a non-AFA entity, or if a processing vessel is no longer U.S. documented, the 1995-1997 average processing history of that plant or vessel is removed from the historic processing cap. Likewise, if an AFA entity buys a non-AFA processing plant or U.S. documented vessel, then the 1995-1997 average processing history of that plant or vessel is added to the historic processing cap.

C. For fully utilized species the historic processing cap would be determined based on the percentage of the TAC processed by AFA entities.

D. For underutilized species the historic processing cap would be determined based on the percentage of the actual catch processed by AFA entities.

4. The processing cap would apply to all facilities of AFA entities regardless of whether or not the AFA entity receives fish from a cooperative.

5. The cap would apply year around.

6. NMFS is directed to provide the Council with options for enforcing the historic processing cap for each species at the October meeting, with final action on how the historic processing cap would be enforced planned for the December meeting.

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10 June 1999

A Letter to the Fisheries Management Council and all Interested Parties –

As the Council considers the structure of sideboards for the American Fisheries Act (SR 1221), the impact of the proposals on the Bering Sea crab fishers should be given serious consideration. Certain measures have been proposed with the intention of minimizing perceived inequities among crab processors caused by the Act. The AMA has worked hard to establish lines of communication with all our crab processors and I do not wish to jeopardize any relationship by appearing to take sides in these matters.

The ability of crab fishers to engage in trade is directly related to the crab processing capacity of the buyers. The ability of crab fishers to negotiate an appropriate price for their product is directly related to the number of buyers participating in the industry as well as their processing capacity. Fishers establish relationships, fiduciary and otherwise, with specific processors. To remove processors from a fishery before a quota has been reached is to effectively remove the boats that fish for them from the fishery. A significant reduction in processing capacity would result in economic chaos for the fleet. Boats would line the docks - crab dying in their tanks - forcing fishermen to sell their product for a fraction of its value. Our present negotiated price would devolve to a battle of the lowest bidder.

The instability of such a system would shake all levels of the market.

Crab fishers are at the bottom of the industry food chain. We pay landing tax. Processing taxes are passed to us as a reduced ex-vessel price. Restricting processing capacity or the number of buyers seriously impedes our ability to conduct business. I appreciate the position of non-1221 processors in this matter. Concerns about their viability in the industry are valid. I implore the council to embrace a solution that is not hostile to crab fishers.

Thank You,



Jake Jacobsen, AMA Manager