

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Clarence G. Pautzke
Executive Director
DATE: June 3, 1994
SUBJECT: Sablefish and Halibut IFQs

ESTIMATED TIME

4 HOURS

ACTION REQUIRED

- (a) Receive Progress Report on Implementation.
- (b) Review Actions from April Meeting.
- (c) Review Draft Amendments/Agency Reports.
- (d) Receive Report from Implementation Team.

BACKGROUND

- (a) Progress Report on Implementation

Staff from NMFS Restricted Access Management (RAM) Division will be available to update the Council on implementation of the program.

- (b-c) Review Actions from April and Any New Amendments, Analyses, or Reports

For ease of understanding, we have batched the IFQ-related issues into three broad categories for this meeting: (1) those items for which the Council has taken action; (2) those items for which the Council has requested additional information or analyses before taking final action; and (3) those items which were referred to the Implementation Team for further development. In addition to the items listed below, we note that the Final Rule for the QS appeals regulations has been published and can be obtained from Council or NMFS offices. Also, the change in the limits for CDQs (from 12% to 33% per applicant) has been published as a Proposed Rule.

Group 1 Items - Council action taken:

1. Business entities in Southeast. In April the Council clarified that the entity which existed in 1991 will be used for purposes of determining the nature of the business entity receiving an allocation of QS in IPHC Area 2C (Southeast Alaska for sablefish). This was done to ensure that the owner on board provisions for these areas cannot be circumvented by incorporating now. Regulations to implement this intent have not been initiated; NMFS may have a status report on this specific issue.

2. Sablefish CDQ compensation. The Council voted to use the average of the 1988-1994 TACs, as opposed to only 1994, for purposes of calculating the CDQ compensation formula. This is a regulatory amendment which needs to be in place by October. Regulations are being drafted by NMFS.

3. Catcher-vessel IFQ use on freezer vessel. The Council clarified in April that the use of sablefish catcher vessel QS/IFQ on freezer vessels is allowed, so long as no processed IFQ product is on board during that trip (size categories still pertain). This will allow for freezing of rockfish and cod for example. However, the Council did not vote to extend this to halibut. Currently the regulations do allow for halibut QS/IFQ to be used on freezer vessels. A Plan Amendment is required in this case, which will be undertaken after the June meeting.

4. Personal use fish. The Council clarified that personal use fish must be counted against IFQs. This was always the intent of the program and the regulations; however, to ensure that this is always done would require additional regulations for persons to weigh their entire load at first point of landing, or at a registered buyer in the case of persons selling directly off their vessel. A rule clarification, on the other hand, which would allow IPHC biologists to inspect IFQ landings, may accomplish the intent. At this time, it is the understanding of NMFS that the Council wishes to proceed with both.

Group 2 Items - Council has requested additional information/analyses

1. Hardship provisions. In April the Council requested examination of a 'hardship' amendment to the IFQ program which would allow for IFQ qualification to vessel owners who lost a vessel during the second half of 1987 and did not fish as a vessel owner during the original qualification period, but remained 'active' during this period. NMFS is scheduled to report to the Council at this meeting on implications of this proposal.

2. Ownership/use caps in BSAI. The Council requested examination of a proposal to relax the ownership and vessel use caps in the BSAI. This amendment may no longer be necessary in the immediate future because vessel owners are grandfathered in the initial allocation. This could be amended down the line if necessary. NMFS has additional information regarding this issue.

3. Underage/overage. The Council, at the suggestion of the IPHC, requested that an underage provision be incorporated into the IFQ program, in addition to the overage provision already in place. This amendment will be initiated after the June meeting and would be in place by the end of 1995 when it will be necessary.

4. Season opening in Aleutians. The Council requested an examination of possible changes in the season opening date for the Aleutian Island sablefish fishery (i.e., it could open earlier than the other IFQ fisheries). NMFS is scheduled to report to the Council at this meeting on this proposal. Item C-2(a) is a letter to the Council regarding this issue.

5. PSC suspension. The Council requested an examination of the effects of suspending the fixed gear halibut PSC cap in the GOA for purposes of the IFQ program. This information will be brought to the Council in September as part of the annual specifications process. In the meantime, a simple regulatory amendment needs to be prepared to ensure the Council has the flexibility necessary to suspend the caps if necessary.

6. Fish from outside EEZ. In April the Council requested a regulation which would prevent fishermen from fishing beyond the EEZ (seamounts) if they also intend to fish under the IFQ program. NMFS is dealing with this issue outside of the context of IFQs - it is a problem under current management regimes and will be no different under IFQs.

Group 3 Items - Referred to Implementation Team for further development

1. Hail weight accuracy. Require hail weights to be within a certain percentage of actual weight for landings outside Alaska. This was a suggestion from the Enforcement Committee and is being examined by NMFS. They will report on this issue at this meeting.

2. Hail weight notification. Require hail weight for all IFQ landings; the intent was not to necessarily be within any specified percentage, but rather to inform NMFS and IPHC for purposes of inspections. NMFS is not yet proceeding with any regulations to implement this proposal. On a related issue, the IPHC requested the Council to examine a hail out requirement which would require operators to notify NMFS when they are preparing to take an IFQ trip. This is consistent with the Council's original program intent.

3. Canadian ports for IFQ landings. The Implementation Team has a recommendation on this issue.

4. Comprehensive registry for liens, titles, and transfers. This was an issue of significant discussion in April and we are scheduled to receive a report from NMFS.

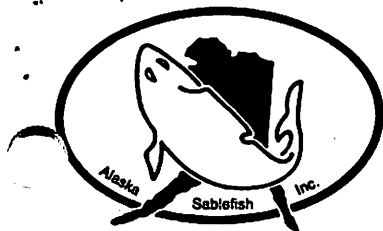
5. Block Amendment. This is an issue for which the Council has taken final action and is scheduled for review by the Secretary this summer. The Council in April requested the Implementation Team to provide any comments it may have on the Block amendment. However, the comment period for the proposed rulemaking will not be open at the time of this meeting, as originally expected. It looks like this amendment will be published as a Proposed Rule in late June, at which time the Council will distribute a newsletter to the industry on the proposed Block amendment.

6. Limiting areas per trip. IPHC has requested the Council limit IFQ fishing to only one area per trip. No action has been taken on this proposal.

7. Partnership issues. The definitions of partnerships has been at the center of Council discussions on the allocation and use of QS/IFQs. NMFS/NOAA-GC is scheduled to provide clarifications on this issue at this meeting.

(d) Report from the IFQ Industry Implementation Team

The Implementation Team met on May 11-12 in Juneau, Alaska to review several of the issues surrounding the program. Their report is included as Item C-2(b) in your notebook, and Team Chair Kris Norosz is available to answer questions.

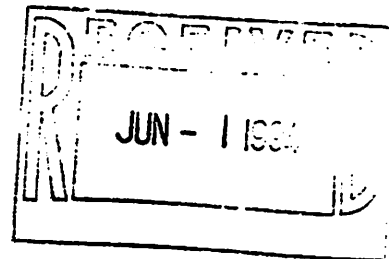


Alaska Sablefish Inc.

F/V Judi B

P.O. BOX 319, HOMER, ALASKA 99603 (907) 235-5581

May 25, 1994



Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
P. O. Box 103136
Anchorage, Ak. 99510

RE: Blackcod Season Begin Date 1995 Under the IFQ Plan

Dear Mr. Chairman and Council Members,

As most of you will probably recall, I was at the last Council meeting held in Anchorage. I stayed through the end of the meeting hoping my situation would be resolved. Unfortunately, time ran out.

In my testimony, I stated I was in hopes of keeping the Aleutian Islands' blackcod season opening date January 1st as it has been for the past 10 years. Throughout those years, our freezer longliner, the JUDI B, has been there every year on that opening date usually resulting in a 250 day to 300 day season.

The first 2 months of the year bring extremely high prices for blackcod because by tradition, the Japanese love to eat sablefish during the cold winter months. During the first 3 months of the year, the fishing effort is very small, usually 6 to 8 vessels, due to extreme weather conditions, tremendous currents in the passes, and yes, killer whales.

Mr. Richard Lauber
Council Members
Page 2
May 25, 1994

Naturally since we've put so much time and effort into this fishery, we're in line to receive a healthy amount of IFQ shares. In years past, it has taken 10 to 11 months to harvest allocated quota. If we were to lose the first 2 months of our fishing year due to a later season begin date, we lose our most profitable months of fishing and it is very conceivable that we may not have enough fishing time to harvest IFQ shares that will be allocated to us. This probably holds true for other freezer longliners as well.

How ironic; this is not what I believe the Council wishes to see happen. If everyone begins fishing in March or April and floods the market, the effect will be the same as the Gulf season, lower prices. We all agree a small flow of fish for the market every month of the year is our goal. This promotes a better quality product, higher prices, safety and fairness.

It would seem that having everything in place and targeting March 1st as a start up date for the program could be very difficult to meet given the complexities of the application process and final allocation of shares. We are deeply afraid that if the process actually took more time, we could lose 4 to 6 months of our season.

In reviewing our records, we find that during the first 3 months of each year about 20 to 30% of allocated quota has taken. But with higher prices during that period, 50% or better of our gross income is realized.

Due to these facts, we are requesting the begin date for the blackcod season in the Aleutian Islands remain January 1st for 1995 and subsequent years. In keeping with the IFQ plan requirements, perhaps harvested amounts during the first 3 months of the year could be deducted from the respective share holder's allocation.

Mr. Richard Lauber
Council Members
Page 3
May 25, 1994

In closing, we would like to say we are proud to be one of the few Alaskan owned and operated freezer longliners and would like to thank each one of you for your time and consideration in this matter.

Respectfully yours,



PAT MCBRIDE
BARBARA MCBRIDE
MARY STANDAERT

Draft Minutes of the IFQ Industry Implementation Team
May 11-12, 1994

In attendance were:

Committee Members:

Kris Norosz, Chair, PVOA
John Bruce, DSFU
Linda Kozak, KLVOA
Jake Phillips, ALFA
Perfenia Pletnikoff, CBSFA
John Woodruff, Icicle

Participating Agency Personnel:

Jessie Gharrett, NMFS
CAPT Bill Anderson, USCG
Elaine Dinneford, CFEC
Heather Gilroy, IPHC
Jay Ginter, NMFS
Marcus Hartley, NPFMC
LCDR Walt Hunnings, USCG
John Lepore, NMFS
Jeff Passer, NMFS
Phil Smith, NMFS

* **Overage/Underage Program.** The Committee emphasized their support of the concept of an overage and underage program and underage/overage percentages (10% or 400 lbs whichever is greater) for an experimental three-year period. The overage percentage applies only to the last trip of the year. The underage percentages apply to the year's total IFQ. It is the Committee's intent that the underage program not be used to exceed the 1% vessel cap in the next year. It is also the Committee's recommendation that any overage or underage that occurs must be rectified in the calendar year following the overage/underage.

Hailing In Requirements. When a vessel with IFQ species on board notifies NMFS that they will be making a landing, they need to declare the following four items: 1) vessel and operator identification, 2) harvest regulatory area, 3) estimated hail weight, and 4) location and name of the intended registered buyer. There was considerable discussion with regard to identifying the registered buyer. It was felt that many vessels may be able to identify the buyer until they get into port. The Committee did not take any action on this issue, but indicated that it was their intent that the identification of the registered buyer not be binding.

Hail Weight for Landing Outside Alaska. The Committee recommends that the accuracy of the hailed weight for landings outside Alaska should be within 10% of the actual weight on board. There was discussion with regard to making this a 5% standard, but the Committee felt that with shrinkage of perhaps 3% on a trip to the lower 48, the 5% standard would be impossible to meet.

* **Hail Out Requirements.** The Committee recommends that vessels with valid IFQs using longline gear have a hail out requirement similar to Canada's. This would be required to be made 24 hours prior to setting gear. Notification to NMFS may be made by phone, fax, radio, etc., and should include vessel ID, regulatory area, and expected landing port. The intent of the motion is to exclude jig and troll vessels with valid IFQs from the hail out requirements.

The Committee recognized this as a good enforcement tool to anticipate landings. This information is made public in the Canadian system, however a similar public disclosure provision is not included in the Committee's recommendation at this time.

Bellingham Clearance Issue. The Committee approved the following motion: Industry is prepared to have vessel clearance requirements for vessels leaving the US EEZ with IFQ products on board. The committee noted that the enforcement plan puts four uniformed officers in Bellingham. The motion is consistent with what is desired for vessels returning from Russian waters. The Committee also voiced its frustration in waiting four months with no advice forthcoming from NOAA GC.

Canadian Delivery Ports. The committee recommends that Port Hardy, Prince Rupert, and Vancouver be the sole ports of delivery in Canada, at this time, for US IFQ product. The Committee believes that the motion will benefit enforcement and monitoring. Further, it was noted that the IPHC has staff in these three ports, and they would be able to conduct data collections on such landings.

Allowing Fishing in Only One Regulatory Area Per Trip. The IPHC believes that with the many small allocations of QS, particularly those due to the CDQ compensation program, there may be a tendency to misreport harvest areas which could affect stock assessments. Although the IPHC recognized this as their most important request, the Committee did not concur. The Committee noted that only 2% of the entire halibut quota would be redistributed via the CDQ compensation program, and that these small allocations would quickly be consolidated. The Committee recognizes that this issue may need to be revisited in a few years after allowing initial transactions to occur.

Fishing Outside the EEZ. The Committee noted that this problem is not specific to the IFQ program and that it is being considered for all groundfish fisheries under NMFS jurisdiction. NMFS staff is preparing a discussion paper on the issue and the Committee decided to defer action until they had an opportunity to review the paper. Neither NMFS or the Committee necessarily wants to discourage fishing outside the EEZ, but is only interested in preventing fishers from claiming that fish was caught outside the EEZ if in fact it was caught within the EEZ.

Delete the Longline PSC cap in the GOA. The Committee reiterated its prior position to support the elimination of the halibut PSC cap in the GOA as it applies to hook and line vessels. The Committee believes that in the GOA the longline PSC cap for halibut will not be necessary because almost all Gulf longline participants will be able to use their halibut IFQs to retain and sell their bycatch. If the caps are left in place, the race for fish will continue and PSC will be a driving force in the fishery.

The discussion also dealt with the difficulty of enforcement of PSC caps on vessels without IFQs. Further, it was pointed out that the elimination of the PSC cap in the BSAI is inappropriate because BSAI Pacific cod vessels did not have a history in halibut, and would not receive adequate IFQs to cover their bycatch. The Committee reiterated their desire that NMFS continue to track PSC bycatch in the GOA.

Partnerships. The Committee discussed the issue of whether the definition of partnership pertained to the ownership of the operation or the ownership of the vessel, and which of these would be considered eligible to receive initial allocations of IFQs under the final rule. An example of the former would be a partnership whereby one person owned the vessel and another owned the gear and together they fished. An example of the latter would be a partnership whereby the partnership is the legal owner of the vessel. The Committee voiced its frustration that they had not received guidance from NOAA GC. No action was taken.

Sales of Corporations and Partnerships or Portions Thereof. This item was on the agenda only to apprise the Committee of the situation which exists with corporations and partnerships which have been

sold but which are still in existence. Do the QS get issued to the owner(s) of the corporation at the time of the accrual of catch history and/or qualification, or does the QS get issued to the present owners of the corporation or partnership? Phil Smith has requested clarification from NOAA GC on this issue. Further discussion on this item will await the NOAA GC clarification.


BSAI Halibut Ownership and Vessel Cap. After reviewing the DSFU, KLVOA, FVOA letter regarding the halibut ownership (QS use) and vessel caps in the Bering Sea, it was decided that there doesn't appear to be a problem for initial recipients; the current regulations allow initial recipients to exceed both use and vessel caps, i.e., they are grandfathered. There was some concern that the caps may be considered overly constraining for "second generation" owners. The Committee reserved the right to revisit this issue when actual quota share pools are known or if a problem actually materializes.

Season Length and Open Date for BSAI Sablefish. The Committee recommends that the sablefish opening date and duration be the same as now written in the regulation for the IFQ program. The Committee felt that the issue was a market oriented situation, and that all sablefish and halibut market conditions are likely to change dramatically with the advent of the IFQ program.

Freezer Issues. The Committee discussed the Council's April action (or lack thereof), and noted that the Council did not heed their earlier recommendation to allow the use of halibut catcher shares on freezer vessels, and that the Council's December action would create discards and waste. The issue now has the group divided, and therefore, no action was taken at this time. The Committee would like the opportunity to comment when the analysis for the plan amendment (resulting from the December action) becomes available.

CBSFA Letter Asking for Changes in the CDQ Regulations for the Sablefish and Halibut IFQ Program. The Committee approved a motion as follows: For those vessel owners or lease-holders who receive CDQ compensation, a one time trade (or paired transfer) of QS between the CDQ areas and non-CDQ areas will be allowed. Vessel category restrictions will not apply for transactions under this provision. This provision will sunset after a one-year period following its effective date. QS transfers under this provision will be exempt from the block restrictions that otherwise might apply. The intent is that the person who makes such transactions will not be stuck with two blocks of QS.

The problem was described as follows by representatives of CBFSA and KLVOA: Fishers residing in Bering Sea communities (generally fishing on vessels less than 35 feet) would like to consolidate their QS/IFQ holdings by transferring their CDQ compensation shares with fishers residing in Gulf communities whose QS will be in larger vessel classes. In turn, the Gulf residents would like to consolidate by transferring their regular Bering Sea QS to Bering Sea community residents. However, because of the vessel size class restrictions these transfers are impossible. The only small boat QS will already be owned by the Bering Sea residents.

 The Committee approved a motion which "recognizes that the CDQ fishery for halibut and sablefish will be significantly different than the pollock CDQ program, and recommends that a discussion paper be developed to see if the program needs some changes specific to the nature of these fisheries. In particular the paper should discuss:

- 1) the transition and/or phasing of CDQ to IFQs or some other form of harvest rights,
- 2) possible sunset provisions for the CDQ program,

- 3) the fact that the pollock fishery and sablefish and halibut fisheries are very different and therefore it may not be absolutely necessary that the two programs be identical, and
- 4) an explicit recognition that the focus of the sablefish and halibut IFQ program has always been on a owner operated fishery and this is at odds with the CDQ program as currently depicted in the regulations."

Request by the Klawock Cooperative Association. Since there was no specific proposal before the Committee, it was impossible to make a recommendation on this issue. However, the committee noted that communities in the GOA and in particular in Southeast are in a fundamentally different situation than are Western Alaskan Communities in the CDQ program; the difference being that Klawock has had access to the sablefish and halibut fisheries, transportation, and markets.

Block Plan. The Committee was informed that the analysis is currently under review by the region, and therefore, the group chose not to comment on the plan without first seeing the document.

Administrative Issues. These were strictly informational for the Committee and for the staff and no recommendations were made. Discussion points included the availability of transfer and crew-member verification forms, that there would be no cost to fishers for transfers, of the investigation into NMFS registry of titles and liens, and the feasibility of in-season transfers.

New Hardship Provisions. The Committee approved unanimously a motion rejecting the Council's April 1994 action. The Committee discussed the fact that hardships were already accounted for in the current program under both the catch history and qualifying periods. Further, the Committee believed that allowing a single hardship case in the door was inappropriate, and that if new hardships were to be discussed then all hardships should be reconsidered. The Committee believes it is imperative that arbitrary and capricious situations, and those that are discriminatory in nature be avoided when considering hardships.

Request For Meeting between NMFS and Registered Buyers. The Committee noted that NMFS has had many discussions with IFQ fishers, but that there also needed to be some discussions between NMFS and Registered Buyers.

Schedule for Enforcement Start-up. The Committee was informed that NMFS Enforcement Program for IFQs may be difficult to have in place by March 1, 1995. This is because of the amount of time needed for the training of uniformed officers to be stationed in primary ports.



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

June 7, 1994

MEMORANDUM FOR: North Pacific Fishery Management Council
 FROM: Philip J. Smith *Philip J. Smith*
 Chief, Restricted Access Management
 SUBJECT: Implementation of the Pacific halibut and
 sablefish Individual Fishing Quota (IFQ)
 Program

This Memorandum will bring you up-to-date on the efforts that we have undertaken to implement the IFQ program. It remains our goal to have the program up and running by next spring ('95). At this point, no major impediments to achieving that goal have been encountered.

APPLICATIONS ACTIVITY (AS OF 5/31/95)

As you know, there is a two-step applications process:

First, each potential applicant was sent a Request for Application packet, containing the necessary forms to provide us with the information that we need to prepare an individualized application in both the halibut and sablefish fisheries. This packet was mailed in late December, 1993.

Second, upon receipt of the Request for Application forms, we prepare an individualized application and mail it to the applicant with specific instructions for completing the application. The applicant then completes the three-part application, signs and dates it, and returns it to NMFS/RAM for processing.

The following numbers (amounts) display specific applications activity through May 31, 1994:

<u>Activity</u>	<u>Numbers (comments)</u>
Requests for Application: Mailed (sablefish)	8,730 (7,026 halibut; 1,714)
Requests for Application: Returned (sablefish)	5,704 (4,507 halibut; 1,197)
Requests for Application: currently	"Undeliverable" 395
Halibut Applications: Mailed	4,275
Halibut Applications: Returned	1,962
Sablefish Applications: Mailed	1,076
Sablefish Applications: Returned	364



Although only a little over a month remains before the deadline for submitting applications, we are not too concerned. First, those who have submitted their Requests for Applications are considered to have timely filed for the QS privilege. Second, we are aware that sorting out vessel leases and claims to partnerships (the processing of which was put on hold as a result of the April Council meeting) has slowed things down somewhat. Finally, we were purposefully "over-inclusive" in the Request for Application mail-out, and it could well be that most recipients who have not returned their Request have determined that they are simply not eligible to apply under the terms of the program.

PUBLIC INFORMATION

In April, we reported community visits to some 15 long-line ports. That effort has slowed down; however, as part of the on-going effort to help "spread the word" on the programs, we have visited the following communities during the past six weeks:

<u>Community</u>	<u>Date(s)</u>	<u>Activity</u>	<u>People (Estimated)</u>
Kake	5/4/94	Public Workshop	20
Toksook Bay	5/10/94	Public Workshop	10
Dillingham	5/15/94	Public Workshop	5
St. Paul	5/16 & 17/94	Public Workshop	25
Yakutat	5/26 & 27/94	Workshop/assistance	40

Also, as noted in our April report, the Aleutians East Borough has retained two individuals to provide assistance to communities within their jurisdiction. As a result of their efforts, we are informed that public information efforts, and private assistance, has been provided in Akutan, Nelson Lagoon, King Cove, Sand Point, etc.

STAFFING

We have retained a college intern to work over the summer on the issue of establishing reporting formats that will be useful for those engaging on the socio-economic effects of the distributional decisions made under the program. Ethan Stein will be contacting academics and research practitioners to help us to understand the needs and to design the most useful formats.

By the time of this report to the Council (Thursday afternoon), we expect to have retained an Appeals Officer. Several excellent candidates presented themselves for consideration and I feel confident that all appeals from RAM Division determination will be handled efficiently and professionally.

OTHER ISSUES

Jay Ginter is prepared to speak on regulatory issues, while a number of "discussion papers" have been prepared to address concerns raised during the last Council meeting (definition of partnership, owner-on-board restrictions in SE Alaska, etc.).

**HALIBUT AND SABLEFISH IFQ PROGRAM
REPORT TO THE
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
FROM THE
ALASKA REGION, NATIONAL MARINE FISHERIES SERVICE**

JUNE 9, 1994

This report is comprised of discussion papers on the following topics:

- 1. Owner-on-board restrictions applicable to business entities formed after 1991 in Southeast Alaska**
- 2. Use of catcher vessel IFQ on freezer vessels**
- 3. Hardship allowance for persons who lost a vessel during the last half of 1987**
- 4. Vessel use limitations**
- 5. Early season allowance for sablefish fishery in the Aleutian Islands subarea**
- 6. Hail weight accuracy and notification requirements**
- 7. Partnerships and eligibility for initial allocation of quota shares**

DISCUSSION PAPER

"OWNER-ON-BOARD" RESTRICTIONS IN SOUTHEAST ALASKA IFQ FISHERIES

BACKGROUND

At its April meeting, the North Pacific Fishery Management Council (the Council) passed a motion to clarify its intent with respect to the "owner-on-board" requirements in Southeast Alaska IFQ regulatory areas [halibut area 2(c), sablefish area east of 140 degrees west longitude (or, East Yakutat, EY)]. The essence of the motion was that business entities other than individuals (i.e., partnerships, corporations, etc.) that were formed after September 26, 1991, and that receive, upon initial issuance, quota share in Southeast Alaska IFQ regulatory areas, may not hire a master to fish the resulting IFQ.

The Current Regulations

1. The IFQ implementing regulations [at Sec. 676.22(i) and (j)] reflect the owner-on-board requirement as it was submitted by the Council and approved by the Secretary of Commerce (Secretary) on January 29, 1993. In summary, the regulations state that initial issuees of Quota Share (QS) may hire masters to fish the IFQ resulting from the QS, provided that the initial issuee owns the vessel upon which such fishing is to occur. An exception to this general rule is that, in IFQ Regulatory Area 2(c), or E. of 140 degrees W. Longitude, only initial issuees that are business entities other than individuals may hire masters to fish the IFQ.

2. The IFQ implementing regulations [at Sec. 676.20(a)(1), in which qualifications for initial issuance of QS are set out] further provide that "...Qualified persons, or their successor-in-interest, must exist at the time of their application for QS." The regulations do not require that a corporation or a partnership or some other entity that is not an individual must have existed as of some time in history.

DISCUSSION

Implementing the Council's Motion

1. One indicator of the extent to which Council intent (as stated in its motion) may be thwarted in the absence of regulatory action is the numbers of Requests for Applications (RFAs) returned to the National Marine Fisheries Service (NMFS) from entities other than individuals. As of May 31, 1994, a summary of the returned RFAs yields the following information:

	RFA's Mailed	RFA's Returned
Halibut area 2(c)		
Corporation	54	31
Partnership	2	8
Individual	2248	1699
Deceased	40	25
Sablefish area EY		
Corporation	45	43
Partnership	1	3
Individual	565	494
Deceased	15	15

From these data, it is difficult to support the notion that a large number of qualified persons who were individuals as of September 26, 1991 have chosen to change the nature of their business in order to "get around" Council intent with respect to the owner-on-board requirement.

2. The Council's motion, were it to be included in regulatory language, creates a challenge of evidence. The RFA form requests an applicant to state its date of incorporation or partnership; however, this information is not independently verifiable. A review of returned RFAs reveals that fewer than 12 companies indicated dates of incorporation or partnership after September 26, 1991. This number seems to be very low, though there is no other way (short of additional inquiry) to verify these dates.

3. Another challenge, and perhaps the most difficult one, is determining which individual should receive the privilege to fish the IFQ. In short, to whom does NMFS issue the IFQ card, if it can not be to the individual named by the partnership or the corporation? In other words, if a corporation or a partnership is formed after September 26, 1991, and is thereby prohibited from naming a master to fish the IFQ, how does NMFS determine just which individual is authorized to fish it? Is it the "authorized representative" of the corporation or partnership? If so, who determines that authority? And what will keep a partnership or corporation from simply authorizing the (otherwise "unauthorized") hired skipper?

4. Another issue is the possibility of unintended consequences resulting from the imposition of new restrictions. Many formal vessel ownership documents list both husbands and wives as "owners" of the vessel (for tax, liability, or financial reasons). By definition, eligible owners will have owned the vessel(s) in question prior to the September 26, 1991, date. Although it is clear that not all co-owners (marital or otherwise) of vessels are "partners" under the Uniform Partnership Act, if marital parties in that situation choose to characterize their relationship as a "partnership," the burden will shift to NMFS to demonstrate that it wasn't.

CONCLUSION

It is the recommendation of NMFS that the Council take no additional action on this matter, since: 1) there is insufficient evidence that a problem exists, and; 2) "solving" the problem would result in considerable complexities and disruptions to the existing implementation process.

If, however, the Council wishes to proceed with its policy, it is recommended that the following questions be addressed prior to development and publication of a proposed rule:

1. What evidence of the existence of a partnership or corporation prior to September 26, 1991, may the RAM Division require prior to permitting that entity to name a master to fish the IFQ that results from the QS issued to the entity?
2. If husbands and wives allege partnerships for purposes of gaining eligibility for initial issuance of QS, to what extent (if at all) may the Division require evidence of such a partnership beyond vessel ownership and registration documents?
3. To whom does the Division issue the IFQ card if an eligible partnership or corporation has been formed, and has received QS, after September 26, 1991? If to the "authorized representative" of that partnership or corporation, how is the Division to determine who is, or is not, authorized?

DISCUSSION PAPER

USE OF CATCHER VESSEL IFQ ON FREEZER VESSELS

Issue 1: Current status

Response: The Council, at its meeting in April 1994, reconfirmed the action it took in December 1993. Basically, if implemented, this action would:

- Prohibit use of catcher vessel IFQ for halibut on freezer vessels; and
- Allow for the freezing of non-IFQ species such as rockfish and Pacific cod, when catcher vessel IFQ for sablefish is used on freezer vessels.

Currently, the IFQ implementing regulations (at § 676.22(i)(3)) allow for the use of catcher vessel IFQ of either halibut or sablefish providing no frozen or otherwise processed fish of any species is on board a vessel when catcher vessel IFQ is being used.

Issue 2: Would the action taken by the Council in December 1993, require an FMP amendment or a regulatory amendment?

Response:

An FMP amendment is required to change the prohibition against freezing or processing any fish species while catcher vessel IFQ is being used to allow freezing or processing of non-IFQ species. This is because the IFQ plan amendment text states that no frozen product "of any species" is to be on board a vessel using catcher vessel IFQ.

A regulatory amendment is required to make the allowance to use catcher vessel IFQ on freezer vessels applicable only to sablefish and not halibut. This is because the IFQ plan amendment text refers only to sablefish harvests in this context. and no change in the plan amendment text is required.

DISCUSSION PAPER

ANALYSIS OF HARDSHIP ALLOWANCE PROPOSED FOR THE INDIVIDUAL FISHING QUOTA PROGRAM FOR PACIFIC HALIBUT AND SABLEFISH

Issue No. 1:

Number of vessel owners that lost their vessels during the second half of 1987 and remained active in the fishery but did not fish as a vessel owner during the 1988-1990 qualification period.

Discussion:

According to data obtained from the United States Coast Guard (USCG), 26 documented vessels were reported lost between July 1, 1987, and December 31, 1987. The USCG identification numbers for those vessels were cross-checked with the databank at National Marine Fisheries Service (NMFS) for Individual Fishing Quota (IFQ) identification numbers that corresponded to those USCG identification numbers. IFQ identification numbers were located for all 26 vessels. Having an IFQ identification number means that a pre-application was sent to a person by NMFS, or that a request for application was sent by a person to NMFS, but it does not mean that the person is qualified. Qualification cannot be verified until the application period has expired and all possible claims on vessel ownership (or leases) have been evaluated.

By using the IFQ identification numbers, persons who registered ADF&G numbers to the vessels that were lost were checked to see if they had registered ADF&G numbers to other vessels after 1987. Of the IFQ identification numbers that corresponded with the lost vessels, nineteen had registered ADF&G numbers after 1987. Of those nineteen, seven had landings during the qualification period.

The ADF&G numbers associated with three of the vessels lost in the second half of 1987 were used after those vessels were lost. This may indicate that either those vessels were salvaged or that they were misreported as lost. In either event, those three vessels are three of the seven vessels that had landings after 1987 by persons with IFQ identification numbers.

The above data establishes that seven IFQ identification numbers (i.e., persons) did not register a vessel with an ADF&G number after losing a vessel in the second part of 1987. This would indicate that these seven persons were not vessel owners during the

qualification period, however, it does not indicate whether these persons were active in the fishery.

Issue No. 2:

What does it mean to remain active in the fishery?

Discussion:

The proposal provides that eligibility for quota share (QS) would not be denied to persons that lost a vessel at any time between July 1, 1987, and December 31, 1987; provided that: (1) the vessel was unsalvageable, and (2) *the person remained active in the fishery during the qualifying years.* (emphasis added) Presumably, "active in the fishery" means participating as a crew member in the halibut or sablefish fixed gear fishery in the Bering Sea and Aleutian Islands Area or the Gulf of Alaska. This meaning would need to be distinguished from that of "IFQ crew member," which requires working as part of a harvesting crew in *any United States commercial fishery.* (emphasis added).

It can be argued, however, that "active in the fishery" means something other than participating as a crew member. For example, could participation in some other sector of the fishery, as opposed to participation as part of a harvesting crew, be considered (i.e., working on a processing vessel, working at an inshore processing plant, participating in seafood marketing, etc.)? If not, why not? Furthermore, could other behavior be construed as more meritorious when it comes to awarding eligibility; for example, a person that actively pursued purchasing or leasing a new vessel to participate in the fishery, as opposed to foregoing the risk of re-entering the fishery as a vessel owner/lesor and instead participating as a crew member?

Issue No. 3:

Distinguishing between losing a vessel and other hardships.

Discussion:

Losing a vessel is only one of many reasons why a person may have been prevented from participating in the fishery. The following is a partial list of some of the hardship claims provided to NMFS for the IFQ program:

- * oil spill
- * undelivered vessel
- * blown engine
- * fire
- * sick spouse
- * sick fisher
- * heart attack
- * shoulder replacement
- * bad weather

Determining whether a claim has merit, despite the initial cause, is fact specific. For example, persons that lost a vessel (perhaps due to their own negligence) during the second half of 1987 and remained "active in the fishery" during the qualifying years, would be eligible. On the other hand, persons that were prevented from participating in the fishery for reasons beyond their control (i.e., unavoidable) would not be eligible just because their vessel was not lost.

This may place NMFS in the untenable position of granting eligibility to one person, despite the fact that the event was avoidable, and then denying eligibility to another person that had no control over the events that prevented participation. Also, unless a valid distinction could be made between losing a vessel and other type hardships (or for that matter, between losing a vessel in June 1987, as opposed to July 1987), NMFS may be unable to provide a defensible rationale for allowing eligibility for such a specific set of circumstances.

Issue No. 4:

Hardship claims with the Alaska Commercial Fisheries Entry Commission.

Discussion:

The Alaska Commercial Fisheries Entry Commission (CFEC) provided for hardship claims (i.e., unavoidable circumstances, special circumstances, and extraordinary circumstances) in several limited fisheries. These hardship claims were not limited to loss of vessel, but included other hardship claims, such as loss of gear, loss of crew, mechanical problems, legal or administrative circumstances, medical conditions, moral obligations, and economic or occupational circumstances. Although time did not permit an exhaustive analysis of all hardship claims (a conservative estimate would place the

number over several hundred), some analysis was performed on hardship cases particular to vessels.

Of the 173 cases evaluated, 75, or 43 percent, were granted. Of the 24 cases that were specific to a lost vessel, 9, or 38 percent, were granted. Other circumstances included in the 173 cases were: mechanical problems (31 cases); vessel construction, repair or replacement (51 cases); inability to obtain vessel (33 cases); and financing problems with vessels (34 cases).

The reason why other cases were evaluated was to emphasize the precipitous addition of cases through the slightest variation of factors.

Conclusion:

Careful consideration must be given to allowing special dispensation for hardship claims. Taken at face value, the current proposal might not seem to open the IFQ program to many new claimants, however, once the floodgate is slightly opened, it may be difficult to stem the tide of hardship claims. It can be argued that the proposal is very specific to what type of hardship would be allowed, but, if challenged, NMFS may be placed in the untenable position of justifying why one hardship deserves meritorious consideration while other hardships do not. It will be much easier to justify a "bright-line" approach to hardship claims (i.e., allowing no hardship claims), than to allow some and not others. Furthermore, allowing three years to establish eligibility (1988, 1989, and 1990) was provided to avoid the hardship issue, it was decided that three years window was sufficient to allow a person to establish eligibility in case circumstances prevented that person from participating in two of the three qualifying years.

DISCUSSION PAPER

VESSEL USE LIMITATIONS FOR IFQ HALIBUT AND SABLEFISH

Issue 1: What are the limitations on how much IFQ halibut and sablefish may be harvested with one vessel in any fishing year?

Discussion:

Vessel harvest limitations are specified at § 676.22(h) of the IFQ implementing regulations. This paragraph reads as follows:

"(h) Vessel limitations.

"(1) No vessel may be used, during any fishing year, to harvest more than one-half percent (0.005) of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, except that, in IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent (0.01) of the halibut catch limit for this area; and

"(2) No vessel may be used, during any fishing year, to harvest more than 1 percent (0.01) of the combined fixed gear TAC of sablefish for the Gulf of Alaska and Bering Sea and Aleutian Islands IFQ regulatory areas, except that, in the IFQ regulatory area east of 140° west longitude, no vessel may be used to harvest more than 1 percent (0.01) of the fixed gear TAC of sablefish for this area.

"(3) A person who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all of that IFQ with a single vessel. However, two or more persons may not catch and retain their IFQs with one vessel in excess of these limitations."

If the halibut and sablefish longline fisheries were operating under the IFQ program this year, vessel harvest limitations under this paragraph would be as follows:

Halibut 2C through 4E combined total catch limit = 46,300,000 lb.

Halibut catch limit for Area 2C = 11,000,000 lb.

Sablefish combined GOA and BSAI fixed gear TAC = 54,150,076 lb.

Sablefish Southeast-Outside-fixed-gear-TAC = 14,949,732 lb.

Issue 2: How are these limitations applied?

Discussion:

The total IFQ landings from any vessel making such landings will be monitored through the IFQ landing reports regardless of the number of IFQ permit holders have landed IFQ fish from that vessel in any fishing year. The only exception to this will be for a person who receives an initial allocation of QS that results in an IFQ that exceeds the vessel limitations in a fishing year. In this event, two or more persons will not be allowed to harvest IFQ fish on their respective IFQ permits in excess of the vessel limitations.

Issue 3: Will a vessel's harvest of CDQ halibut or sablefish be counted against that vessel's IFQ harvest limitations?

Discussion:

No. Harvests of CDQ fish will be counted against a separate CDQ allocation. Such harvests will not be considered IFQ harvests despite the fact that CDQ harvest limits are derived from the overall fixed gear catch limits for halibut and sablefish.

DISCUSSION PAPER

PROVIDING FOR AN EARLY SEASON SABLEFISH FISHERY IN THE ALEUTIAN ISLANDS SUBAREA

Background

Longline fishing for sablefish in the Aleutian Islands (AI) subarea of the Bering Sea and Aleutian Islands (BSAI) area may begin each fishing year on January 1. Under the sablefish IFQ program, directed fishing for sablefish in all areas is scheduled to begin on March 1 (§ 676.23(b)). Hence, longline fishing for sablefish in the AI subarea will be constrained, beginning in 1995, by having to forego fishing activity in January and February.

At its meeting in April 1994, the Council heard from at one participant in this early season fishery contending that waiting until March 1 to begin sablefish fishing in the AI subarea would be detrimental because:

- the sablefish market offers its best prices in the early-year winter months; and
- the normal 10 to 11 months of fishing operations will have to be constrained to nine months (March through November) under the IFQ program.

Issue 1: What is the rationale for the sablefish season (March through November) under the IFQ program?

Response:

Ideally, fishing would be year-round under any IFQ program. This ideal could be achieved in the sablefish fishery except that time must be allowed for:

- official publication of the final specifications of sablefish usually in January or early February;
- calculation of each IFQ; and
- notification of the precise amount of IFQ sablefish that may be harvested to each IFQ permit holder.

Two months (January and February) is a reasonably sufficient time period for these administrative actions to take place.

In addition, the annual halibut catch limits are not specified by the International Pacific Halibut Commission (IPHC) until late January. One of the principal reasons for marrying the halibut IFQ and sablefish IFQ programs was to reduce bycatch problems. This objective can be achieved best by having concurrent seasons for the IFQ fishery for each species. During early IFQ implementation discussions, the IPHC staff expressed concern, for biological reasons, about allowing a halibut fishery in winter.

Therefore, to accommodate administrative and IPHC requirements, December through February were chosen as the months during which no IFQ fishing for either species would be allowed. This provides for a

nine-month IFQ fishery or 75 percent of the ideal year-round fishery. Although the Council agreed with the implementation teams' recommendation for a March through November IFQ fishing season, these dates are not specified in the plan. The Council may annually review and specify the sablefish IFQ season. The season for halibut fishing is set annually by the IPHC.

Issue 2: How many vessels typically participate in the AI sablefish fishery during the first three months of the year, and how much sablefish do they harvest? What is the halibut bycatch of this early-season fishery?

Response:

On average, fewer than 5 hook-and-line vessels have participated in the AI sablefish fishery in the first two months of 1993 and 1994. The average sablefish harvest in January for these two years is about 60 metric tons (mt). The two-year average harvest in February, however, is about 143 mt. This average harvest increases slightly in March despite the addition of more vessels. The following preliminary data are from NMFS current records.

Month	Average Number of Vessels	Sablefish Harvested	Halibut Bycatch	Halibut Mortality
Jan. 93	2	52	23	3
Jan. 94	2	67	26	4
Feb. 93	7	177	81	11
Feb. 94	5	109	77	11
Mar. 93	9	173	273	38
Mar. 94	8	116	159	22

Notes: Amounts of fish are expressed in mt. The halibut bycatch mortality rate is assumed to be 13.75 percent.

Issue 3: What are the alternatives?

Response: The following are some potential alternatives that the Council may consider regarding an early-season sablefish fishery in the AI subarea. This is not an exclusive list and no rationale to support any particular alternative is offered.

A. Do nothing.

Pro: No change in current IFQ rules. Sablefish and halibut seasons would remain concurrent.
Con: --Would impose a shorter fishing season on some AI sablefish fishermen for non-biological reasons.

B: Reserve a specified amount of the AI sablefish fixed-gear TAC for an open access fishery in January and February.

Pro: Provides for early-season fishing in the AI.

Con: An open access fishery provides the basis for a race for fish and attendant management problems that are resolved by the IFQ program. An open access reserve would reduce the amount of quota that could be harvested under the IFQ program. Sablefish and halibut seasons would not be concurrent and a separate halibut PSC limit may have to be specified.

C: Allow IFQ fishing in January on 25 percent of the preliminary TAC specified in the fall as already provided for in the BSAI groundfish regulations.

Pro: Provides for early-season fishing in the AI.

Con: IFQ permits will not be issued until February based on quota share holdings as of January 31. An exception would have to be made to allow fishing without an IFQ which would make monitoring difficult. The final TAC may be different from the preliminary TAC which may put some fishermen at risk of unknowingly overharvesting their IFQ. Sablefish and halibut seasons would not be concurrent.

D. Change the fishing year (regarding sablefish) from its current January 1 through December 31 to March 1 through the last day of February (or some other period).

Pro: Provides for early-season fishing in the AI.

Con: Biological statistics regarding stock and recruitment by year class would have to be converted to the new fishing year. Sablefish and halibut seasons would not be concurrent.

DISCUSSION PAPER

HAILING REQUIREMENTS FOR THE IFQ PROGRAM

Issue No. 1:

Require an accurate report of the weight of IFQ species when obtaining clearance at a port in Washington or another state other than Alaska.

Discussion:

Section 676.17(a) currently requires vessels obtaining clearance at a port in Washington or another state [other than Alaska], to report to NMFS, Alaska Region, the estimated weight of the IFQ halibut and the IFQ sablefish onboard.

It was suggested by the IFQ Industry Implementation Work Group during its May meetings in Juneau that the term "estimated weight" should be replaced with a 10 percent standard (i.e., weight reports should be within 10 percent of actual weight of IFQ species onboard.

This "10 percent" standard is not endorsed by NMFS. Enforcement must have some latitude when determining whether a fisher is violating the intent of the regulation. Establishing a rigid standard could result in absurd results. For example, a fisher may have a small amount of IFQ species, say 775 pounds. A "10 percent" standard would be violated if the reported weight was not within 77.5 pounds of the actual weight. On the other hand, a fisher with a large amount of IFQ species, say 17,000 pounds, would only need to be within 1700 pounds of the actual weight.

NMFS Enforcement has limited resources and must focus its effort on serious violations. Setting a rigid standard in the regulations would force NMFS Enforcement to investigate any violation, no matter how small the amount. Instead, NMFS Enforcement would prefer to exercise the "rule of reason" for investigating potential violations, expending resources on those cases that merit action.

Recommendation:

Change the requirement from "estimated weight" to "accurately report the weight of IFQ species."

Issue No. 2:

Require an estimated hail weight when the operator of a vessel that has IFQ species onboard notifies NMFS that he/she will be making a landing.

Discussion:

Section 676.14(a) currently provides that an operator of any vessel must notify NMFS, Alaska Region of any landing of IFQ species, no less than 6 hours before the landing. This requirement was intended to ensure an accurate account of IFQ species landed, and to allow sufficient time for NMFS Enforcement and observers to arrive at the landing site for verification, inspection, and sampling of the IFQ species.

These intended purposes would be augmented if an estimated hail weight was included with the requirement to notify. This would provide additional information to NMFS Enforcement and observers when they are deciding whether to go to the landing site. NMFS Enforcement will have limited resources and will need to make choices on how to allocate those resources based on the information available. A single enforcement officer or observer may have to choose between multiple landing sites. Having an estimated hail weight (i.e., whether the IFQ landing will be large or small) may prove to be the deciding factor on how to best allocate resources.

There would be no accuracy requirement for this estimated hail weight, it would merely be intended as an informative measure for enforcement officers and observers.

Recommendation:

Add reporting the "estimated weight of IFQ species" to the notification requirements found at § 676.14(a).

Issue No. 3:

Require fishers that plan to harvest IFQ species to notify NMFS, Alaska Region where and when the harvest is to take place at a time prior to harvest.

Discussion:

This requirement, sometimes known as "hailing out," is used in the Canadian Fisheries. The IFQ Industry Implementation Work Group suggested that this requirement could be implemented as an enforcement tool. NMFS does not endorse this requirement,

primarily because it would increase the amount of recordkeeping and recording required for fishers and enforcement officers. The amount of resources that would have to be expended to keep track of this information would not be justified by the incremental gains achieved by having this information.

Also, this requirement may become unwieldy if all fishers that hold IFQ were required to "hail out." For example, this would require salmon power trollers, which may have a small amount of halibut IFQ for incidental catch, to call in each time they plan to fish on the chance that they may catch IFQ species.

Furthermore, this requirement would not assist with the mission of NMFS Enforcement. Its concern is not when and where a fisher harvests the resource (as long as it is during the season and within proper regulatory areas, of course), but accurate accounting of landed IFQ species. The "hail out" requirement would add a large administrative burden NMFS Enforcement without adding significantly to the accomplishing of its tasks.

Recommendation:

Do not require fishers to "hail out" prior to departing for the fishing grounds to harvest IFQ species.

DISCUSSION PAPER

"PARTNERSHIPS" AND ELIGIBILITY FOR QUOTA SHARE UNDER THE IFQ PROGRAM

BACKGROUND

At its April, 1994, meeting, some members of the North Pacific Fishery Management Council (the Council) expressed concern that the definition of "partnership" being used by the Restricted Access Management (RAM) Division of the National Marine Fisheries Service (NMFS) was overly inclusive, in that it did not require that each individual member of an alleged partnership demonstrate a specific ownership interest in a qualifying vessel.

In a detailed memorandum to NOAA General Counsel (GC) following the meeting, the RAM Division explained its practices and requested specific guidance regarding such issues as quota share (QS) eligibility determinations for partnerships, dissolved partnerships, and successors-in-interest to partnerships, together with standards to establish the sufficiency of required evidence. In response, GC reviewed the regulations that govern the Individual Fishing Quota (IFQ) program, the provisions of the Alaska Uniform Partnership Act (U.P.A.), and relevant court decisions that have interpreted the Act.

The following discussion, analysis, and conclusions are drawn from the exchange of memoranda between the RAM Division and GC (both memoranda are available for review).

DISCUSSION

Definition of Partnership; Regulations, Statutes, and Decisions

1. The IFQ implementing regulations provide for issuance of QS only to qualified persons, defined as

...a "person," as defined in Sec. 676.11 of this part, that owned a vessel that made legal landings of sablefish and halibut, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year. A person is a qualified person also if (s)he leased a vessel that made legal landings of sablefish or halibut, harvested with fixed gear, from any IFQ regulatory area in any qualifying year.... Qualified persons, or their successors-in-interest must exist at the time of their application for QS. A former partner of a dissolved partnership or a former shareholder of a dissolved corporation who would otherwise qualify as a person may apply for QS in proportion to his interest in the dissolved partnership or corporation.

Further, the definition of "person" includes partnerships that are United States citizens.

2. The term "partnership" is defined in the U.P.A. as:

...an association of two or more persons to carry on as co-owners a business for profit.

3. The key elements of a partnership under this definition are:
 - a. the existence of an agreement, written or oral, to combine property, money, effects, skill and knowledge to carry out a business enterprise;
 - b. co-ownership of the business, conferring upon each partner some authority in the management of the enterprise and some opportunity for sharing of profits;
 - c. the existence in fact of a business enterprise, rather than mere co-ownership of property; and
 - d. the intent to operate the business enterprise to make a profit.

This definition does not require that each person claiming an interest in a partnership must demonstrate an ownership interest in the assets of the partnership (i.e., a vessel).

Sufficiency of Evidence to Establish the Existence of a Partnership

1. The final rule does not specify the evidence that a QS applicant must submit to prove the existence of a partnership. In those cases in which a written agreement exists, it is reasonable to require the applicant to submit a copy. However, there are many cases in which a written partnership agreement was never executed or is now unavailable.
2. In those cases, it is reasonable to assume that uncontested statements, signed by all available parties to a partnership, could be prima facie evidence that the partnership actually existed and the statement should be given considerable weight. However, if the statement is contested or if there is any reason to doubt the veracity of the statement, the claim should be denied [in which case the applicant(s) may appeal that determination to the RAM Division appeals officer].
3. In the alternative, the RAM Division could require a full evidentiary hearing as a matter of course each time an applicant asserts that an "oral partnership agreement" exists. However, this seems like an unwarranted expenditure of agency resources in cases in which the existence of the partnership is uncontested.

Sufficiency of Evidence to Establish that the Partnership Owned or Leased a Qualifying Vessel

1. The RAM Division should resolve issues regarding the ownership or lease of vessels by partnerships in the same manner that these issues are resolved regarding individuals, corporations or other persons.
2. However, the U.P.A. and the final rule may not be entirely consistent regarding the factors to consider in determining whether the partnership owned the vessel from which qualifying landings were made. In all situations in which an applicant partnership can not produce documentary evidence of vessel ownership or lease-holding as provided for in the final rule, consultation with General Counsel on a case-by-case basis is indicated.

CONCLUSION

The following guidelines are adopted to govern the RAM Division's interpretation of the partnership issues discussed herein:

Definitions

1. An applicant entity claiming partnership and able to demonstrate that it is (or was) "...an association of two or more persons to carry on as co-owners a business for profit" shall be considered a partnership by the RAM Division.

It is not necessary to demonstrate that each member of the partner holds (held) some identifiable ownership interest in the physical assets of the partnership (i.e., the vessel used by the partnership for commercial fishing).

Likewise, the mere existence of co-ownership of an asset is not sufficient, by itself, to demonstrate the existence of a partnership. For instance, a husband and wife who can demonstrate co-ownership of a vessel have not, by that fact alone, demonstrated the existence of a partnership.

2. To be a "qualified person" (i.e., eligible for initial issuance of QS), any such partnership must be able to demonstrate that it owned or leased a vessel upon which qualifying landings were made.
3. A "successor-in-interest" to a partnership is a person that held an interest in a partnership that was a "qualified person" and that no longer exists.

Successors-in-Interest to Partnerships

1. To be qualified, an applicant claiming to be a successor-in- interest to a partnership must demonstrate:
 - a. that a partnership did, in fact, exist during one or more of the qualifying years;
 - b. that the applicant was a bona fide partner in the partnership;
 - c. that the partnership did, in fact, own or lease a vessel upon which qualifying landings were made; and,
 - d. that the partnership no longer exists.

Required Evidence

1. In the absence of a contemporary written partnership agreement, an uncontested, sworn, and notarized statement, signed by all available parties to (members of) a partnership, in which the facts of the existence of the partnership are set out, is generally sufficient evidence to establish the existence of a partnership; however, signers are to be cautioned of the penalties that pertain to falsely swearing in order to receive a benefit. Further, if any contrary evidence (for instance, a conflicting claim, or any other reason to doubt the statement) exists, additional inquiry will be undertaken. If concern about the veracity of the statement results, the matter will be referred to Enforcement for investigation and appropriate action.
2. In the absence of such a statement, or in the event the statement is questioned for any reason, the person claiming the existence of a partnership must demonstrate the "key elements" of a partnership as set out herein. In most instances, these factual determination will be made (in the first instance) by the RAM Division appeals officer.
3. Evidence that the partnership owned or leased a qualifying vessel shall be required. Sufficient evidence of ownership by the partnership shall be limited to those items set out in the final rule. Sufficient evidence that a partnership leased a vessel during the relevant year(s) shall be limited to those items set out in the final rule.
5. When evidence to establish that a qualifying vessel was owned or leased by a partnership is not clear on its face, or if the evidence demonstrates a conflict between the provisions of the final rule and the requirements of the U.P.A., consultation with General Counsel shall occur on a case-by-case basis.

----- ALLIANCE AGAINST IFQS

PO Box 237, Seldovia, AK 99663

NPFMC and individual Councilmembers

May 31, 1994

JUN - 11 1994

re : Unauthorized Secretarial modification of the Council's
sablefish/halibut IFQ Plan.

The Secretary's addition of Bellingham, WA to the primary port list in the final rule substantially altered the sablefish/halibut IFQ Plan and seriously impacted the effectiveness of the Council's adopted enforcement mechanism. Although the Council had been constantly assured that any such changes would be sent back as required by the Magnuson Act for approval, the Final Rule was published without Council approval of changes. The Council is faced with the prospect of continued substantial Secretarial changes to future plans if it does not get definitive clarification of this process.

Since the 30 day window for petition for judicial review has closed, the only vehicle for definitive clarification is the timely petition of the Alliance Against IFQs. The Council, or individual members, may wish to consider filing an amicus brief on this sole point. The vehicle to seek a resolution of this point is Count # VII of the Alliance petition..

Although at first it may seem a bit strange for the Council or members to argue on the plaintiffs' side, such an amicus brief would not relate to the plan but only to the degradation of the plan by unauthorized Secretarial changes. I hope you realize that there are really only two possible outcomes of the judicial review: 1) the Plan stands as is, or 2) Court identification of procedural irregularities, illegalities or inconsistencies with the administrative record. In the latter case the Plan comes back to the Council for modification or rejection.

If you have any question about the degradation of your enforcement mechanism you may refer to the enclosed October 7, 1993 enforcement analysis provided to Steve Pennoyer by David Flannagan.

Jere Murray

ALLIANCE AGAINST IFQS
Jere Murray, coordinator
PO Box 237, Seldovia, AK 99663
Ph. & Fax (907) 234-7646

10-7-93 12/00 YPP AF

IFQ Administrative
Record Index # 982



UNITED STATES DEPARTMENT OF COMMERCE
N.O.A.A. / National Marine Fisheries Service
Alaska Enforcement Division
P.O. Box 21868
Juneau, Alaska 99802-1868

DATE: October 7, 1993

COPY

MEMORANDUM FOR: F/AKR - Steve Pennover

FROM: F/ENS - David C. Flannagan

SUBJECT: IFQ Changes - Bellingham Port

The original intent of restricting primary ports to the management area was deterrence. Although Alaska is a large state, commerce is fairly restricted and we have a much better chance of intercepting illegal shipments of IFQ fish while it is in transit in Alaska. We have no practical ability to effectively monitor landings in the Puget Sound area. The costs would be staggering. Further we have little ability to monitor landings in Canada. We know that reported U.S. landings of sablefish and halibut in Canada have steadily increased in the last 3 years. We believe this is primarily for the purpose of avoiding trip limits and bycatch restrictions. We have reason to believe that the Canadian IFQ system does have leaks.

No NAAP Enforcement?

A primary port in Washington defeats the purpose of the clearance requirement in the proposed enforcement plan. It makes little sense to insist on clearance at the outflow end of the pipeline when we know that any intelligent bandit will simply land illegal fish at any one of a 1,000 sites in Canada or Washington prior to clearing through the Bellingham port. Continuance of the primary port concept for the purpose of clearance is pointless and an unnecessary expense. Our funding would be better spent on investigation of violations after the fact. I would therefore propose that we increase the investigative and audit element of the plan and reduce the inspection (deterrence) element. The following changes should be made in the regulations and implementation plan:

- 1) Eliminate the enter and clear requirement for vessels leaving the management area.
- 2) Eliminate the requirement that products being exported be shipped through a primary port.
- 3) Require electronic clearance only from Alaska.

radio call? 0 0 1 2

This would cause us to change our enforcement plan. We would increase the investigative side of the plan (plus 2 agents) and decrease the deterrance side of the plan (less 4 uniformed enforcement officers and eliminate enforcement aides in 7 of the 16 primary ports). Estimated savings approximately \$456K. Revised total cost would be approximately \$1,944K over a base of \$2,000K. We would need a total of approx. \$3,685K for FY94 and \$3,944K for FY 95. FY 93 was \$1,789K.

I cannot say for certain if the loss of primary ports in Alaska is a show stopper. Certainly the plan is less effective and more fish will be lost. I cannot gauge the extent of the loss. If it is widely believed that excess fish can be readily disposed of in Washington, then the amount going directly south will grow. We would under the revised plan, rotate uniformed officers down to Puget Sound to establish a presence, but I do not see this as an effective deterrent. The addition to the investigative staff may allow us to track some fish that is lost that we would not otherwise be able to document. We would concentrate on those operations that we believe are routinely misreporting significant quantities of fish. In my opinion the real show stopper would be the failure to fund the remaining program, in particular, failure to provide a credible deterrance in the major ports in Alaska.

**TESTIMONY TO THE
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
113TH PLENARY SESSION**

JUNE 8-11, 1994

**PRESENTED BY
THE METLAKATLA INDIAN COMMUNITY**

I. INTRODUCTION

My name is Tom Lang. I am a member of the council of the Metlakatla Indian Community and vice chair of its Natural Resources Committee. I bring greetings from our mayor and our council. Thank you for an opportunity to present testimony on behalf of the Community to encourage the North Pacific Fishery Management Council to take a close look at establishing Community Development Quotas or some similar for of allocation of halibut and sablefish in the Gulf of Alaska to benefit villages in the area. Metlakatla is joining with Klawock, and, we expect, other villages, to take on what we understand to be the formidable task of convincing you that such a program is justified, indeed essential, to the economic survival of remote villages there. Before I offer what we consider the justification for consideration of our proposal, let me give you a little background on Metlakatla.

The Metlakatla Indian Community is a federally recognized Indian Tribe located a few miles south of Ketchikan. It has a membership of approximately 1500 Tsimshians and other Alaska Natives, most of whom live on the Annette Islands Reserve. The Reserve contains approximately 100,000 acres of upland and the waters within 3,000 feet of the its islands. The Reserve was established by Congress in 1891.

Metlakatla is a fishing community. Virtually the entire population is dependent in some way on the fishing operations within the Reserve. Its commercial salmon and herring gillnet fleet numbers over 80 boats, making it the Community's largest employer. Only a few seiners still operate out of Metlakatla. Despite its size, almost the entire fleet must fish within our reserve waters. In the 1994 canning season, the Community will be operating the Annette Island Packing Company for the 104th consecutive year, which makes it the oldest continually operated Indian enterprise in the United States. The packing company cans several million pounds of salmon annually, primarily pink salmon. The company also operates a cold storage for fresh and frozen products. A tiny portion of the company's production includes bottom fish. By any measure, however, the canning operation has been the backbone of Metlakatla's economy for decades.

II. PURPOSE OF THIS PRESENTATION

We have chosen to enter our testimony under the agenda item entitled

TESTIMONY OF THE METLAKATLA INDIAN COMMUNITY
North Pacific Fishery Management Council
June 8-11, 1994
Page 2

Sablefish and Halibut IFQs because we think viable CDQ programs can be developed for those species that will benefit our peoples. We know that the IFQ program will be initiated in 1995 and have encouraged our fishermen who are eligible to comply with the application deadlines. We admit that we might be viewed as coming late to this process, although our mayor expressed our interest in the CDQ program to you in the Spring of 1990. Indeed, we have been told by some that we are too late, that CDQs for halibut and blackcod will not be given consideration for Gulf or that, if we push too hard, we will jeopardize other interests. Some say that the important issues that will command your attention relate to the IFQ program implementation, which will require considerable energy and resources to be successful, and our efforts will only undermine the program.

We are more optimistic than that, even though we recognize the political and economic realities of this situation. That is because we have no intention of threatening anyone else's legitimate interests in a fair share of the resources. Metlakatla understands that this Council is not directed to allocate resources based strictly on social and economic considerations. We also recognize the huge difficulties associated with allocating scarce resources among various user groups, all with competing interests and motivations.

At the same time, Metlakatla is not afraid to ask that this Council incorporate the interests of the villages in Southeast Alaska into computing the complex equation of fishery allocations. We believe the allocation of fishery resources is a dynamic process, involving changing considerations. We believe that this body has the responsibility to continue to seek ways to better the fishing industries and the communities they support, not just to allocate fish without regard to the broader economic impacts associated with that allocation. We think the inclusion of the Comprehensive Rationalization Planning on the agenda is evidence that you agree. Assuming that we are not too far off the mark, we are here to suggest several reasons why villages in Southeast Alaska, including Metlakatla, should be given consideration in the allocation process.

III. REASONS TO CONSIDER CDQs FOR SOUTHEAST ALASKA VILLAGES

A. Economic Conditions of Metlakatla and other Villages

Metlakatla has an unemployment rate in mid-summer, even with its fishing industry in full-swing, of 25%. If you consider employees making less than \$7,000 as unemployed, the rate increases to 37%. In the winter, the rate goes well above 65%. This is not a community that can be considered economically well-off. A similar, and often worse, statistical story is told in virtually all Southeast Alaska villages. The

problem is compounded by the fact that most villages have population growths that far exceed the national average. It is not possible or appropriate to set forth the entire social and economic justification for this proposal in this presentation. It is important, however, to acknowledge the social and economic problems that are inherent in a situation combining a rapidly growing population with a poverty stricken environment. Suffice it to say that all of us have an obligation to seek ways to avoid or mitigate the consequences of that kind of situation.

B. Collapse of the Canned Pink Salmon Market

The canned pink salmon market has been depressed for a number of years and, for Metlakatla, despite near record production, it has been impossible to remain profitable. It is not an exaggeration to characterize the industry as in a state of market collapse. It simply costs as much to put fish in the can as the price anyone will pay for the finished product. In the condition the industry is in, profitability will not be assured for Metlakatla without diversification of its product lines - that is, expansion of the cold storage to process and market bottom fish and other species. Unfortunately, for Metlakatla, diversification is virtually impossible under the circumstances. Metlakatla does not have a commercial bottom fish fishing fleet nor sufficient suitable waters within the reserve to support a bottom fishery. We have operated a "test" halibut fishery for a number of years, the results of which confirm that statement. Because its operations traditionally processed only salmon, its fleet will qualify for little under the IFQ program. It cannot now and, under any foreseeable circumstances in the future, afford the cost to expand and upgrade its facilities to gain access to raw materials from the off-island fleet. In short, if Metlakatla is forced to rely on canned pink salmon production for its economic base, it faces a bleak economic future.

C. Declining Timber Industry

The economy of Southeast Alaska is adversely affected by more than the pink salmon markets. Its other bellwether, the timber industry, has its own difficulties. It is not too early to begin to consider what might happen if the timber industry is completely gone from Southeast Alaska. Environmental concerns are likely to have the same affect on log supply in Southeast as they have had in the Pacific Northwest. With collapse of the timber industry, unless fishing makes a comeback, the economy of Southeast Alaska will become almost wholly dependent on the vagaries of the tourist industry, an industry that historically has had little influence on village economies.

D. Legal Considerations

TESTIMONY OF THE METLAKATLA INDIAN COMMUNITY

North Pacific Fishery Management Council

June 8-11, 1994

Page 4

We believe that certain legal principles related to Native and Indian rights must be given some consideration in the overall allocation effort. First of all, the United States government has an obligation of trust to all Alaska Natives and Indian tribes. We do not mean to imply any threat that Metlakatla or any other village intends to assert an iron clad legal right to a portion of the fishery resource based on fiduciary obligations. While it might be difficult to argue that a fiduciary responsibility translates into a indisputable substantive right, it certainly suggests that this Council, in formulating allocation policies as an arm of the United States, should give serious consideration to the impacts of its decision, good or bad, on Native and Indian communities. We think this principle probably played some role in the decision to establish the Bering Sea CDQ program and fairness suggests that it should be considered here.

IV. CONCLUSION

We understand that a decision to grant a fair allocation of halibut and sablefish to Southeast Alaska villages cannot be made here and now. We know you will need more data, which we intend to supply. What we want right now is an expression of a willingness to involve us in the process - to give us the chance to tell you about us and to learn why this proposal has merit. We understand the reality that we are engaging in a political process. We need time to make our case. We ask, for now, that you give us that time and your open minds. Thank you.



KLAWOCK COOPERATIVE ASSOCIATION

**P. O. Box 112
Klawock, Alaska 99925
(907) 755-2265**

"Site of the First Salmon Cannery Built in Alaska"

June 9, 1994

**Council Members
North Pacific Fisheries Management Council
605 West Fourth Avenue
Anchorage, Alaska 99501**

**Re: Proposed Amendment for Sablefish and
Halibut Individual Fishing Quota
Programs.**

Members of the Council:

I am the President of the Native Village of Klawock and Aaron Isaacs is the Vice President, which is located on Prince Wales Island in Southeast Alaska, organized under the name the "Klawock Cooperative Association." The community of Klawock requests that the Council amend the Individual Fishing Quota program for sablefish and halibut in the Gulf of Alaska to include regulations establishing a Community Development Quota (CDQ) program, thereby allowing Klawock to receive a percentage of the available Total Allowable Catch allocation for sablefish and halibut in the Gulf of Alaska management area.

The Klawock Cooperative Association believes that CDQ programs are an integral part of the enlightened "limited access" fisheries management system currently being implemented by the Council. While we strongly support the Bering Sea/Aleutian Islands CDQ programs already either established or currently being implemented in pollock, sablefish and halibut for that region, we also support a similar program for the sablefish and halibut for Klawock in the Gulf of Alaska.

Council Members

June 9, 1994

Page 2

The record developed in support of CDQ's for the BS/AI management area lacks any basis for distinguishing between the participating communities in the BS/AI region and those communities outside the BS/AI region which otherwise meet the criteria as defined for the BS/AI's CDQ program. Geographically limiting the sablefish and halibut CDQ program to the BS/AI region denies the community of Klawock the opportunity to develop a small boat fleet and participate in these fisheries.

The community of Klawock is virtually identical to communities participating in the pollock CDQ program in the BS/AI management area. The only distinguishable difference is the location of the community: Klawock is not located in the BS/AI area.

Klawock is located in Southeastern Alaska on Prince of Wales Island, and residents have historically relied upon the fisheries located in the waters surrounding Klawock for subsistence and commercial purposes. Currently, residents of Klawock conduct more than one-half of their fishing efforts in the same waters.

Klawock has not previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation offshore of Prince of Wales of Island. Extending this program to the Gulf of Alaska sablefish and halibut fisheries will allow Klawock to develop a small boat fleet, and will also provide the resource necessary to realize a return from the community's refurbished cold storage facility.

Klawock is in the process of renovating an existing cannery located in the community. When we began this process, revenue projections included processing of halibut and sablefish caught in the water surrounding the community. With the implementation of the IFQ program, local fishermen are losing the ability to effectively participate in these fisheries, and our processing plant will in turn lose potential revenue. If the CDQ program is extended to the Gulf region, these local fishermen would then be able to continue fishing, and Klawock would also be able to realize economic benefit from the renovated processing facility.

Klawock Cooperative Association is a federally-recognized Indian tribe, organized under Section 16 of the Indian Reorganization Act, 25 U.S.C. 476. Klawock is also certified by the Secretary of Interior as a Native village under the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et seq.*

National Standards

The Magnuson Act provides for National Standards that must be met when regulations implementing a fishery management plan are promulgated. These standards

will be met if Klawock and the Gulf of Alaska halibut and sablefish fisheries are included in the Community Development Program.

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

Including Gulf of Alaska communities in the CDQ program is consistent with this standard. The amount of fish designated as the total allowable catch will not be changed by including Klawock and the Gulf of Alaska in the CDQ program. Therefore including Klawock in the CDQ program will not result in overfishing nor will it prevent optimum yield from either fishery.

2. Conservation and management measures shall be based upon the best scientific information available.

Including Klawock in the CDQ program will not require the Council to consider different or new scientific information regarding the determination of the total allowable catch for these species. Extending the CDQ program to Klawock will merely change the division of each TAC. Therefore this change will not affect this standard.

3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

Extending the CDQ program to include Klawock and the Gulf of Alaska will not affect this standard. Halibut and sablefish are included in the same Individual Fishing Quota program because these species of fish are interrelated. The overall management of these species will not be affected by extending the CDQ program to Klawock and the Gulf of Alaska management area.

4. Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be: (1) fair and equitable to all such fishermen; (2) reasonably calculated to promote conservation; and (3) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Extending the CDQ program to the Gulf of Alaska is consistent with this standard. The council has already determined that the CDQ program for the BS/AI region is consistent with the standard, a finding which applies with equal force to the

Council Members

June 9, 1994

Page 4

Gulf of Alaska region. No improper discrimination will occur as a result of duplicating the CDQ program in the Gulf.

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

Extending the CDQ program to the sablefish and halibut fisheries in the Gulf of Alaska and to Klawock is consistent with this standard. More efficient management will result with the allocation of a quota share of the TAC to Klawock and other similarly situated communities. A certain percentage of the TAC will be allocated to only one entity, thereby reducing the amount of enforcement resources required to monitor this part of the fishery. In contrast, if this percentage were allocated to individual fishermen, enforcement efforts would increase to monitor the increased number of individuals fishing.

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

Extending the CDQ program to the sablefish and halibut fisheries in the Gulf of Alaska and including the community of Klawock will not affect this standard. The determination of the TAC will not be affected by this change.

7. *Conservation and management measures shall, where practical, minimize costs and avoid unnecessary duplication.*

This standard is not affected by extending the CDQ program to the sablefish and halibut fisheries in the Gulf of Alaska and including the community of Klawock. Again, the allocation of a percentage of the TAC to one entity will allow a reduction in costs for managing these fisheries. Therefore the requirements of this standard are met.

Conclusion

We respectfully request and strongly urge the Council to extend the Community Development Program to include the community of Klawock for the sablefish and halibut fisheries in the Gulf of Alaska. Our community would greatly benefit from this change, and there would be minimal, if any, disruption to the plan as proposed today.

We have included some economic and statistical information regarding Klawock, as well as other communities in Southeastern Alaska for the Council's consideration.

Council Members
June 9, 1994
Page 5

Please let me know if there is any additional information we can provide to assist the Council in its deliberations.

KLAWOCK COOPERATIVE ASSOCIATION

By Roseann Demmert
Roseann Demmert
President

By Aaron Isaacs
Aaron Isaacs
Vice President

Enclosures
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THE FULL VALUE DETERMINATION

WHAT IS IT, AND WHAT IS IT USED FOR? HOW IS IT DETERMINED?

Quite often, we are asked about the dreaded Full Value Determination, how is it calculated, what is it used for and what it really means. This paper explains the hows and whys of the Full Value Determination which is determined each year by the Office of the State Assessor.

The Full Value Determination (FVD) is used in two major state revenue sharing programs, the educational foundation funding and municipal revenue sharing, both of which are formula driven. This simply means that as certain characteristics, such as population or assessed value, of a particular municipality change, so does the amount of funding that municipality receives from that program.

FULL VALUE DETERMINATION

The FVD can be defined as being the equalized measure of taxable wealth of a municipality. In theory, the more wealth a municipality has, measured by its equalized tax base, the better it can afford to provide education and other basic governmental services. Consequently, the FVD is supposed to represent the TOTAL taxable value (wealth) of a municipality. This measure should reflect the total value estimate of property that a municipality could levy taxes against, should it so desire. The fact that a municipality chooses to exempt some class of property does not alter the FVD, as that exempted amount is included in the FVD. However, property which is mandated by state law to be exempt, such as churches, senior citizens/disabled veterans, cemeteries, etc., are excluded from the FVD. Only the value of property which may legally be taxed is included in the FVD.

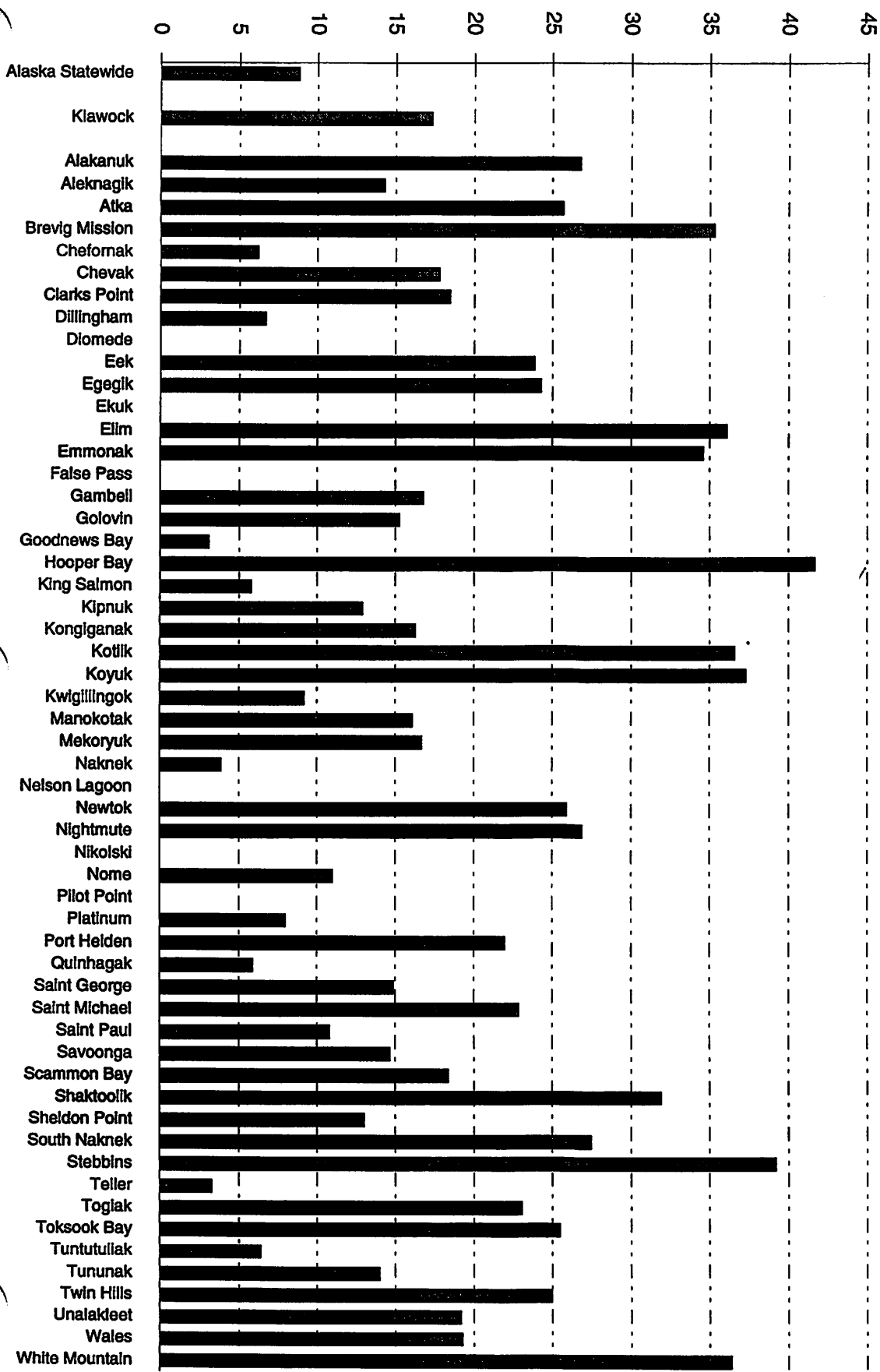
In order to estimate the FVD, the Office of the State Assessor "equalizes" each assessment district so that, when comparisons are made between municipalities, the comparisons utilize similar relative data. In other words, when the FVD is given for different municipalities, it represents ALL the taxable value for each municipality. If, for example, two similar municipalities have a total taxable value of \$1,000,000 and municipality "A" chooses to optionally exempt all personal property subsequently reducing its assessed value by, say, one-half, an unequalized comparison would show one municipality with a value of \$500,000 and the other at \$1,000,000. This comparison would seem to indicate that municipality "A" could raise only half the revenue as the other with the same mill levy, even though they both had the same measure of taxable wealth. In order to reflect the "true" value of both municipalities, the value of the optionally exempted personal property should be added into the FVD.

Presented by: Steve Van Sant
State Assessor

FULL & TRUE VALUE DOLLARS PER CAPITA				
Descending Order by Per Capita Dollar				
	Community	Populatio	Full & True Value	\$ Per Capita
1	St. George	138	\$11,310,699	\$81,962
2	St. Paul	763	\$56,571,800	\$74,144
3	Dillingham	2,017	\$127,166,600	\$63,047
4	Togiak	613	\$30,661,058	\$50,018
5	Newtok	207	\$10,207,216	\$49,310
6	Clark's Point	60	\$2,876,937	\$47,949
7	Koyuk	231	\$11,074,238	\$47,940
8	Toksook Bay	420	\$20,099,151	\$47,855
9	Shaktoolik	178	\$8,354,941	\$46,938
10	Brevig Mission	198	\$9,221,963	\$46,576
11	Mekoryuk	177	\$8,118,481	\$45,867
12	Nightmute	153	\$7,014,998	\$45,850
13	Golovin	127	\$5,753,875	\$45,306
14	Alakanuk	544	\$24,552,492	\$45,133
15	Atka	73	\$3,271,038	\$44,809
16	Emmonak	642	\$28,532,912	\$44,444
17	St. Michael	295	\$13,084,153	\$44,353
18	Kotlik	461	\$20,256,791	\$43,941
19	Stebbins	400	\$17,537,495	\$43,844
20	Scammon Bay	343	\$14,897,018	\$43,432
21	Elim	264	\$11,428,929	\$43,291
22	Chefornak	320	\$13,635,895	\$42,612
23	Gambell	525	\$22,306,117	\$42,488
24	Eek	254	\$10,758,957	\$42,358
25	Manokotak	385	\$16,079,321	\$41,764
26	Unalakleet	714	\$29,794,036	\$41,728
27	Aleknagik	185	\$7,645,559	\$41,327
28	Tununak	316	\$13,005,333	\$41,156
29	Quinhagak	501	\$20,611,482	\$41,141
30	Savoonga	519	\$21,320,864	\$41,081
31	Goodnews Bay	241	\$9,852,252	\$40,881
32	White Mountain	180	\$7,290,869	\$40,505
33	Chevak	598	\$23,882,521	\$39,937
34	Teller	232	\$9,261,374	\$39,920
35	Diomedes	178	\$7,093,818	\$39,853
36	Platinum	64	\$2,482,836	\$38,794
37	Pilot Point	53	\$1,915,800	\$36,147
38	Wales	161	\$5,714,465	\$35,494
39	Nome	3,500	\$122,757,400	\$35,074
40	False Pass	68	\$1,727,300	\$25,401
41	Port Heiden	119	\$2,834,200	\$23,817
42	Klawock	722	\$14,808,300	\$20,510
43	Hooper Bay	845	\$5,696,100	\$6,741

Source: DCRA Alaska State Revenue Sharing Full & True Values for FY 95 (12/29/93)
Population: 1990 U.S. Census

Percent Unemployment



Percent Unemployment
Statewide, Klawock, and CDQ Communities
From 1990 U.S. Census Sample Data



U.S. DEPARTMENT OF COMMERCE
Economic Development Administration

605 West 4th Ave., Rm. G-80
Anchorage, Alaska 99501

June 8, 1994

(907) 271-2272
(907) 271-2274 (FAX)

To Whom It May Concern:

The latest Alaska Department of Labor statistics show the Prince of Wales-Outer Ketchikan region of the State to have the highest or near-highest unemployment rates of all parts of Alaska. February (revised) numbers showed 19.2% unemployed, while the preliminary March figures indicated 17.0% unemployed. The Department notes:

The official definition of unemployment currently in place excludes anyone who has made no attempt to find work in the four-week period up to and including the week that includes the 12th of each month. Most Alaska economists believe that Alaska's rural localities have proportionately more of these discouraged workers.

There is little incentive for an unemployed individual to go to Ketchikan or Juneau to confirm that there was no work in the local community.

Based upon the limited jobs available in Alaska Villages, especially within the private sector, and upon various data which have been collected concerning the unemployed and underemployed, I feel that stating that the Native population of Klawock has an unemployment rate in excess of 40% is actually a very conservative estimate.

Please feel free to contact this office if you feel that we might be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Bernhard Richert".

Bernhard Richert
Economic Development
Representative



**U.S. DEPARTMENT OF COMMERCE
Economic Development Administration**

Room G-80
605 West Fourth Avenue
Anchorage, Alaska 99501

Fax: (907) 271-2274

Telephone: (907) 271-2272

February 19, 1992

EDR Analysis of Klawock Cooperative Association (IRA) PW Renovation
of Cannery Building for Marine (and compatible) Commercial Facility

From: Bernhard Richert *Bernert*
EDR, AK

The Klawock Cooperative Association, the Indian Reorganization Act Tribal entity, has been working on this project for a number of years. There is very strong support for the project by both the City of Klawock and the Klawock Heenya (Village) Corporation, as is shown in the attached 101P. Among the businesses that will be established in the facility will be a smokery, jointly owned and operated by the Tribal and corporate entities. There are a number of strong letters of interest for space in the commercial center by other businesses.

Actual unemployment in the community approximates a rate of some 80 percent, while a figure of 40 percent is regarded as conservative. There are sufficient jobs created or saved by the project to be highly competitive under regular Public Works, but because the closing of the lumber mill in Klawock several months ago meant the loss of 200 jobs, because the direct labor intensity of the project is projected at 33 percent, because the local skills are available locally and because people need the local employment badly, it appears most appropriate to pursue a Public Works Impact Project with local Force Account. The Tribal Council is knowledgeable, and the Tlingit-Haida Central Council has offered assistance, if required, to make the Force Account go smoothly.

The Project is very much in keeping with the Alaska State Strategy; the community is one of the worst-off in terms of unemployment rates (double digit); the project has gradually and thoughtfully developed over time; the Tribal entity will provide substantial capital to the project through a loan from either the National Cooperative Bank or the BIA. A positive response is anticipated shortly on this availability of match. The project diversifies the local economy, adds value to local resource activity, provides more year-round activity and jobs, and is based upon a strong commitment to cooperation and planning in the community.

To answer the Federal Register considerations for Public Works grants, the Project will: improve oppportunities for the

Klawock Cooperative Association EDR Analysis - 2/19/92 - page 2

successful establishment and expansion of industrial and commercial activities; assist in creating and retaining a significant number of jobs within a short period of time, as well as provide long-term job expansion opportunities; benefits long-term unemployed and low-income families; fulfills several pressing needs, including a basic commercial and industrial facility where jobs can be generated; is consistent with the Tlingit-Haida Central Council OEDP and has very strong local support; will be supported by substantial private sector investment, much of it local; will have evidence of local match and of satisfying legal requirements permitting construction by time of submission of the 101A; and shall be able to provide evidence of being able to begin and complete construction in a timely manner.

Public Works Impact Program considerations for the project indicate that the project will: directly assist in creating immediate useful work for the unemployed and underemployed in the community; improve the economic and community economic environment; provide a specific PWIP Employment Strategy on how the appropriate target population will be hired; assist in the development of long-term employment opportunities; primarily benefit low-income Native families in the development of jobs and related benefits; be able to begin construction within 120 days of EDA grant award; have strong labor intensity in the renovation of the facility.

I am most pleased to strongly support this project. This proposal can lead to turning around a most distressing situation in this Indian community.

94619

A Proposal for Research

**Alaska's Community Development Quotas:
Analyzing Their Significance to Western
Alaska Communities**

**Submitted to the
Western Alaska Fisheries Development Association
(WAFDA)**


by the


**Department of Rural Development
College of Rural Alaska
University of Alaska Fairbanks**

April 8, 1994

Approved:


Richard A. Caulfield
Department Head
Rural Development


Ted DeLaca
Director
UAF Office of Arctic Research


Ralph Gabrielli
Acting Executive Dean
College of Rural Alaska

INTRODUCTION

The Department of Rural Development, University of Alaska Fairbanks (UAF) proposes to conduct socioeconomic and cultural research relating to the Community Development Quota (CDQ) Program in western Alaska during the period from May to September 1994. This proposal for research is submitted at the invitation of the Western Alaska Fisheries Development Association (WAFDA), which represents four regional CDQ organizations. If funded, this research project will result in a report to WAFDA submitted by September 20, 1994, detailing the significance of the (CDQ program to western Alaska communities and regions.

The CDQ program, implemented by the North Pacific Fisheries Management Council (NPFMC) in 1992, features innovative partnerships between Alaska Native communities on the Bering Sea coast and the large bottomfish industry operating offshore. Community development quotas are designed to enable western Alaska communities to make substantial progress toward economic self-sufficiency by

- promoting economic well-being in local communities,
- diversifying local economies,
- providing new employment opportunities, and
- providing access to Bering Sea fisheries requiring high capital outlays.

By focusing on these goals, CDQs enable coastal communities to address the costly problems of chronic unemployment, social disruption, and economic disenfranchisement.

Discussions about CDQs began in the late 1980s when rural Alaskans began advocating for a guaranteed harvest quota model in the Bering Sea, similar to those in place in countries like New Zealand, Iceland, and Greenland. After extensive debate, first in the Congress and then in the NPFMC, advocates were successful in gaining a 7.5 percent allocation of the harvestable surplus of Bering Sea pollock as part of a NPFMC inshore-offshore allocation plan. In 1992, state and federal officials developed guidelines for the CDQ programs, enabling over 60 Bering Sea coastal communities to submit proposals to the state for allocations. A total of six regional applications were received, and in December of 1992 Governor Walter Hickel made recommendations about quota allocations. These were approved by the Secretary of Commerce. Of the six CDQ allocations, four went to fishing organizations now represented by the Western Alaska Fisheries Development Association (WAFDA). WAFDA member organizations include the Bristol Bay Economic Development Corporation (BBEDC), Coastal Villages Fishing Cooperative (CVFC), Yukon Delta Fisheries Development Association (YDFDA), and the Norton Sound Economic Development Corporation (NSEDCC). Together, these organizations encompass 56 Bering Sea coastal communities extending from Bristol Bay in southwest Alaska north to Bering Strait.

Each of these four regional organizations developed a joint venture relationship with an established corporate fishing partner. Furthermore, as part of their application for a fisheries allocation, they developed a community fisheries development plan that outlines how the organization anticipates generating employment, enhancing educational programs, and moving toward greater economic self-sufficiency. State and federal officials evaluated these competitive applications based upon a variety of factors, including clear goals and objectives, measurable milestones for evaluating progress, methods for developing jobs and a sustainable economy, and mechanisms for fisheries investment and profit-sharing. Allocations based upon these evaluations were made in 1992 for the 1992 and 1993 fishing seasons.

The CDQ program has been in effect for almost two years. The program will soon be up for review and evaluation by the NPFMC, state and federal agencies, and by Congress. Anticipating this review, WAFDA has invited a faculty research team with the Department of Rural Development, University of Alaska Fairbanks (UAF) to submit a proposal for research that will examine the significance of the CDQ program to communities and regions within its membership.

PURPOSE OF THE RESEARCH

The purpose of this research will be to describe the significance of the CDQ program to western Alaska communities and to illustrate the range of responses of affected regions, communities, and households to the CDQ initiative. The research will focus in particular on community-level dynamics through a series of detailed community case studies. Researchers will examine new employment and economic activity generated by the CDQ program, the distribution of economic and other benefits, new economic opportunities created, and the availability of enhanced educational and training programs.

Focusing on community and household-level data should provide a more complete picture of the program's significance than can be obtained through statistical data alone. While analysis of statistical data is an important backdrop to this research, it may be difficult to isolate baseline data sufficient for detailed comparisons of pre- and post-CDQ implementation periods. Similarly, it is not clear whether statistical data will be sufficiently refined to reflect fully the effects of CDQs at the regional or local levels. With these limitations in mind, the research calls for analysis of these data with the possibility that they may reveal significant changes over time.

The product of this research will provide local communities, regional organizations, and WAFDA with specific, detailed, and credible information for policymakers that will illustrate the significance of the CDQ program. It will provide WAFDA and state and federal policymakers with a common set of statistical and community-based data that will enable them

to make informed decisions about the program's future. Furthermore, the research design, focusing on detailed community baseline studies, will enable WAFDA or others to conduct longitudinal studies of the CDQ program over time should funding be available for this purpose.

Faculty with the Department of Rural Development at UAF are uniquely qualified and advantageously situated to carry out this research (see attached vitas). Research team members include:

- Richard A. Caulfield, Ph.D., Fairbanks
- Patrick Dubbs, Ph.D., Fairbanks
- Mary C. Pete, M.A., Bethel
- Roswell Schaeffer, B.A., Kotzebue
- Norman Stadem, M.A., Dillingham

All five research team members have extensive experience living and working in rural Alaska. Three of the five (Pete, Schaeffer, and Stadem) were born and raised in rural Alaskan coastal communities, and all members have extensive research experience in those communities. As a group, the research team has expertise in the following areas: business management; rural community economics; local and regional government administration; fisheries economics; natural resources management, research, and policy; Yup'ik and Inupiat cultures; and resources co-management. Equally important, all have practical experience in western Alaska fisheries as limited entry permit holders, vessel owner/crew members, or subsistence fishers. Three of the five team members are located in western Alaska communities, where they can travel to surrounding communities in a cost-effective manner to carry out the research.

RESEARCH OBJECTIVES

Research goals will be accomplished through six objectives:

1. conduct a literature review of pertinent documents and data relating to CDQs in western Alaska and of materials describing socioeconomic and cultural conditions in WAFDA area communities and regions
2. compile and analyze statistical data for all communities within the WAFDA region, focusing on data relating to changes since CDQ implementation in demographics, employment, income, educational opportunity, and other socioeconomic variables
3. interview statewide and regional policy makers and business leaders about the significance of the CDQ program in local communities and in WAFDA regions
4. conduct a telephone survey of selected community leaders in all WAFDA area

communities (three to five per community) to examine general awareness of the CDQ program and local perceptions of the program's significance at regional, community, and household levels

5. select seven study communities within the WAFDA area for intensive research and conduct a formal survey (stratified random sample) of households affected directly or indirectly by the CDQ program; household sample will be developed in consultation with community leaders and CDQ board members
6. for the seven study communities, conduct detailed interviews with selected individuals benefiting directly from CDQ programs (e.g. employees, scholarship recipients). Interviews will focus on nature and degree of involvement in the CDQ program, distribution of benefits from involvement, and perceptions of changes associated with the CDQ program.

METHODOLOGY

A variety of research methods will be employed in the proposed project, including library research, computer analysis of statistical data, formal and informal interviews, and telephone surveys of community leaders. Research outcomes will include detailed community baseline data (at community, household, and individual levels), regional and statewide perceptions of the CDQ program, and analysis of available statistical data.

Library research will focus on review of appropriate CDQ applications, quarterly and annual reports, business plans, and employment data. Data will also be obtained from state and federal agency records, U.S. Census Bureau data, and published reports regarding community and regional socioeconomic and cultural data. Statistical data will be compiled from a variety of sources, including federal, state, and local agencies. Data will also be compiled from CDQ organizations and joint-venture partners, where available. These data will be analyzed and compared with comparable data sets from the period prior to CDQ program implementation. This baseline may well serve as a springboard for more in-depth analysis of community responses to the CDQ program

Formal and informal interviews will be conducted with federal, state, and regional policymakers and with appropriate CDQ corporate industry partners. For a regional overview, representatives of CDQ groups will be interviewed to gather qualitative data and perceptions of CDQ program significance.

At the community and regional levels, a telephone survey will be undertaken with selected community leaders in each of WAFDA's communities to gauge the general extent of community and region-wide awareness of CDQ programs, and local perceptions. This survey will likely include three to five community leaders (e.g. mayors, IRA or traditional council

leaders, ANCSA corporation leaders, school board chairs, etc.) in each community. Where appropriate, these surveys will be conducted in the Native language of the community. They will also be timed to avoid conflicts with the busy summer fishing season.

For the detailed community studies, the research team suggest a seven-community focus. Given the characteristics of the regions, the team suggests that a total of six communities (hereafter called the "study communities) be chosen in the NSEDC, CVFC and BBEDC regions (two in each region), and that one community each be chosen in the YDFDA region. WAFDA will be asked to nominate a number of communities that will be willing to cooperate with the project. The research team will then select appropriate communities for in-depth study.

In each of the seven study communities, a formal survey of households will be conducted. Households will be selected using a stratified random sample method. Initially, households will be selected at random to determine the extent to which they have been involved in the CDQ process. Households found to have been involved will then be interviewed further to determine the nature and extent of their involvement and their perceptions about the CDQ program. Community research will be conducted by research team members, assisted by a person hired locally (possibly a student in UAF's Rural Development Applied Field-Based Program).

The purpose of this detailed community baseline survey is to develop longitudinal data and to examine the flow of resources and opportunities arising from CDQ initiatives. Cooperation in this research effort is completely voluntary and formal permission will be sought from each community selected as a case study.

The final research element will be a detailed case study of selected individuals from the seven study communities who have been directly involved in CDQ-generated opportunities, either as employees, as trainees, or in CDQ-funded scholarship programs. This focus on individuals should enable the research team to illustrate the range of responses of individuals, families, and extended families to CDQ opportunities.

In all aspects of the research, the team will adhere to ethical principles for research as outlined in the Alaska Federation of Natives "Policy Guidelines for Research" and the U.S. Interagency Social Science Task Force's guidelines entitled "Principles for the Conduct of Research in the Arctic." Involvement in all aspects of the research is voluntary, and the research team will obtain informed consent from all participants.

RESEARCH TIMELINE

The entire research project will be conducted between May and September 1994. Some phases of the project will necessarily overlap to avoid conflicts with busy summer fishing

seasons and to coordinate efforts of different team members. The following is an outline of the research schedule and team assignments:

- May**
- Refine formal research design with WAFDA and regional CDQ organizations (Pete and Caulfield)
 - Select seven study communities and make initial contacts to secure permission for research participation (all team members)
 - Conduct literature review (all team members)
 - Initiate gathering statistical data from federal, state, regional, and local sources; begin analysis (Pete and Dubbs)
 - Design survey instruments for interviews with WAFDA community leaders, for households and individuals in study communities (all team members)
 - Identify local research assistant (UAF Rural Development student or other)
- June/July**
- Conduct interviews with statewide and regional policymakers (Anchorage, Juneau, and regional centers) and appropriate CDQ joint venture partners in Seattle (Pete, Schaeffer, and Stadem)
 - Conduct telephone survey of community officials and representatives (team member and research assistant)
 - Conduct surveys of households and individuals in seven study communities (Pete, Schaeffer, Stadem, and research assistants; timing dependent upon community)
 - Continue analysis of statistical data (Pete); enter data from surveys (all team members)
- August**
- Complete analysis of statistical data (Pete, research assistant)
 - Compile and analyze survey data (all team members)
 - Prepare draft report by August 31 (Pete); review by all team members
 - Submit draft report to WAFDA by September 10, 1994
- September**
- Incorporate WAFDA comments and submit final report to WAFDA by September 20 (Pete, assisted by all team members)

RESEARCH BUDGET

Salaries and Benefits

Research team salaries

Caulfield/Fairbanks	7 days
Dubbs/Fairbanks	5 days
Pete/Bethel	23 days
Schaeffer/Kotzebue	15 days
Stadem/Dillingham	15 days

subtotal	12,061
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Benefits @ 36.1%	4,354
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Local assistants (3 assts. @ \$11.50/hr. x 1200 hrs)	3220
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Total salaries and benefits	<hr/> 19,635
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Travel

Caulfield: Fairbanks/Anchorage RT x 2 @ \$267/trip	514
--	-----

Pete: Bethel/Anchorage RT ~ 2 @ \$349/trip	698
Bethel/Anch/Juneau/Seattle RT x 1 @ \$680	680

CVFC/YDFDA study communities 3 communities x 2 visits	1200
--	------

Schaeffer: NSEDC study communities 2 communities x 2 visits	800
Kotzebue/Anchorage RT x 1 @ \$464	464

Stadem: BBEDC study communities 2 communizes x 2 visits	800
Dillingham/Anchorage RT x 1 @ \$367	367

Student assistant travel	1600
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Total travel	<hr/> 7,113
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Per diem

Anchorage 8 days @ \$170	1,360
Juneau 2 days @ \$128	256
Seattle 3 days @ \$113	339
Study communities (8 days per community x 2 people x 7 communities x \$40/day)	4,480
Total per diem	6,435

Miscellaneous costs

Audioconferences/research training & coordination 3 hours @ \$200	600
Postage (survey mailouts; report distribution)	300
Computer charges	500
Telephone/fax charges	1,000
Report preparation/duplication	500
Supplies	100
Total miscellaneous costs	3,000

Subtotal/Direct costs **36,183**

UAF Indirect Costs (10%) **3,618**

TOTAL COST **\$39,801**

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- Bering Sea Fishermen's Association. 1992. The CDQ program: New economic potential for western Alaska
- Bristol Bay Economic Development Corporation 1993. Executive summary and summary of benefits, BBEDC community development plan and business plan.
- Central Bering Sea Fishermen's Association 1992. Community fishery development plan.
- Coastal Villages Fishing Cooperative. 1993. 1994-5 CDQ application and executive summary.
- National Marine Fisheries Service. 1992. Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis.
- National Oceanic and Atmospheric Administration and National Marine Fisheries Service. 1992. Groundfish fishery of the Bering Sea and Aleutian Islands Area: Final rule (50 CFR Part 675).
- Norton Sound Economic Development Corporation. 1992. Bering Strait region community development plan and application for community development quota program
- State of Alaska, Office of the Governor. 1993. Emergency regulations. Western Alaska community development quota program. Chapter 93 (6 AAC 93.010-900).

Introduction to survey of community officials over the phone:

I work for the Rural Development Department of UAF. The RD department has been employed by several CDQ groups to conduct this research project. The purpose of this project is to get a sense of the place and significance of the CDQ program in your community. As a community official or representative, we would like to ask you a few questions about your community. We would like to know if and how it has changed since the start of the CDQ program. These interviews are confidential; only research project staff know who is giving particular answers to the questions. Your community will be identified as participating in this project, but all responses from your community will be combined so that individual responses cannot be identified. It is your choice to participate. If you participate, you may skip any question you do not want to answer. Do you have any questions before we start?

Date: _____

Surveyor: _____

10-2-89

**SURVEY GUIDE FOR COMMUNITY OFFICIALS/REPRESENTATIVES: ALASKA'S CDQs
DEPARTMENT OF RURAL DEVELOPMENT, CRA, UAF, SUMMER 1994**

1. Community: _____ 2. Name: _____ 3. Position: _____
4. Tenure in position: _____ 5. Length of residence: _____ 6. Age category (*circle*): under 30 30 - 50 over 50
7. From most (1) to least (3) common, number in rank order, the best description of what adult men (ages 18-65+) do in your community:
- | | |
|-------|--|
| _____ | Primarily subsistence - limited or no wage employment |
| _____ | Part-time subsistence - part-time, year-round or seasonal employment |
| _____ | Occasional or limited subsistence - full-time wage employment |
8. From most (1) to least (3) common, number in rank order, the best description of what adult women (ages 18-65+) do in your community:
- | | |
|-------|---|
| _____ | Full-time home/subsistence - limited or no wage employment |
| _____ | Full-time home/subsistence - part-time, year-round or seasonal employment |
| _____ | Full-time home/subsistence - full-time wage employment |
9. Within the past two years, has the economy in your community changed (*circle*)?
Much better Better About the same Worse Much worse
Why do you think that? _____
10. How familiar are you with the CDQ program (*circle*)? Very Somewhat A little Not at all
(If not at all, identify four major goals and skip to Q. # 13)
11. Are you directly involved in the CDQ program? Yes No If yes, how? _____
12. What do you think are the major goals or reasons for the CDQ program? _____
13. Are any of these goals being achieved in your community? Yes No Somewhat Don't know
Why or why not? _____
14. What CDQ activities are taking place and what time of year do they happen? _____
15. Have businesses in your community been affected by CDQ activities? Yes / No How many & how so? _____
16. Have households and individuals from your community been involved in CDQ activities? Yes / No
Estimate # households (_____) and # individuals (_____) involved in each type of activity (list types).
17. What kinds of impacts do you think these CDQ activities are having on your community? _____
18. Do you think these CDQ activities will continue? Why or why not? _____
19. If there are new economic activities in the future in your community, what do you think they will be? _____
20. Do you think the CDQ program will be involved in these future activities? Yes / No If so, how? If not, why not? _____
21. Do you have other comments about the CDQ program or any other questions about this project? _____

THANK YOU VERY MUCH FOR YOUR TIME!

**SURVEY FOR HOUSEHOLDS: ALASKA CDQs
DEPARTMENT OF RURAL DEVELOPMENT, CRA, UAF, SUMMER 1994**

I work for the Rural Development Department of the UAF. The RD department has been employed by several CDQ groups to conduct this research project. The purpose of this project is to get a sense of the place and significance of the CDQ program in your community. We would like to ask you a few questions about your household and community. We would like to know if and how either has changed since the start of the CDQ program. These interviews are confidential; only research project staff know who is giving particular answers to the questions. Your community will be identified as participating in this project, but all responses from your community will be combined so that individual household responses cannot be identified. It is your choice to participate. If you participate, you may skip any question you do not want to answer. Do you have any questions before we start?

1. Community: 2. HH id #: 3. HH Size: 4. HH head: 5. Ethnicity:

6. Years of residence: 7. M / F 8. Age: 9. Last grade completed:

9. Complete the following for each household member with a job, income source, and participation in commercial fishing and subsistence production from January to December, 1993. (Note: This assumes all household members received the Permanent Fund Dividend, which will be calculated from HH size):

HH member	a. Job title (✓ if CDQ-related); b. transfers &/or c.f.; c. subsistence	Months worked; time (type) of subsistence; for commercial fishing: <i>est. net income in 'b.*' of next col.; skip to last col. for transfer income</i> J / F / M / A / M / J / J / A / S / O / N / D	Hours/ week	Hourly salary	Estimate monthly transfer income
	a. _____ b. _____ c. _____	a. _____ b. _____ c. _____	a. _____ b.* _____		
	a. _____ b. _____ c. _____	a. _____ b. _____ c. _____	a. _____ b.* _____		
	a. _____ b. _____ c. _____	a. _____ b. _____ c. _____	a. _____ b.* _____		
	a. _____ b. _____ c. _____	a. _____ b. _____ c. _____	a. _____ b.* _____		
	a. _____ b. _____ c. _____	a. _____ b. _____ c. _____	a. _____ b.* _____		

10. Estimate average monthly amounts this household spends on: Home (mortgage, rent) _____ Electricity _____ Heating fuel _____ Gasoline _____ Food _____ Subsistence equipment & supplies _____ Other: _____

11. How many of the following do members of this household own (and how often is each type replaced)?
Snow machine _____ (_____) Boat _____ (_____) 4-wheeler _____ (_____)
Truck/car _____ (_____) Fishing permits (types) _____ (_____) Other: _____ (_____)

12. Estimate the percentage of this household's food and materials that come from subsistence activities in a recent "typical" year (regardless of who produced them or gave them to this household):

13. Compared to five years ago, how are things, especially the local economy, in general today (circle)?
Much better Better About the Same Worse Much Worse
Why do you think that?

14. How familiar are you with the CDQ program (circle)? Very Somewhat A little Not at all
(If 'not at all,' briefly identify the four major goals and skip to Q. # 17).

DRAFT

15. Is anyone in this household directly involved (e.g. work, scholarships, training) in the CDQ program? Yes No
(If yes, ask if identified individual(s) would like to answer the individual participant survey later.)
16. What do you think are the major goals of or reasons for the CDQ program?
17. Are any of these goals being achieved in your community? Yes No Somewhat Don't know
Why or why not?
18. More specifically, based on your understanding and/or experience with the CDQ program in your community, do you think the program (circle choices):
- | | | | |
|--|--------------------|------------------|--------------------------|
| a. is providing more job opportunities for
Why? | <u>MOST PEOPLE</u> | <u>SOME</u> | <u>ONLY A SELECT FEW</u> |
| b. is increasing the level of income for
Why? | <u>MOST PEOPLE</u> | <u>SOME</u> | <u>ONLY A SELECT FEW</u> |
| c. has lead to an
Why? | <u>INCREASE</u> | <u>NO CHANGE</u> | <u>DECREASE</u> |
| d. has lead to an
Why? | <u>INCREASE</u> | <u>NO CHANGE</u> | <u>DECREASE</u> |
| e. has lead to an
Why and what type? | <u>INCREASE</u> | <u>NO CHANGE</u> | <u>DECREASE</u> |
| f. has lead to an
Why and what type? | <u>INCREASE</u> | <u>NO CHANGE</u> | <u>DECREASE</u> |
| g. has lead to an
Why? | <u>INCREASE</u> | <u>NO CHANGE</u> | <u>DECREASE</u> |
| h. has lead to an
in community activities. | <u>INCREASE</u> | <u>NO CHANGE</u> | <u>DECREASE</u> |
19. In general, do you think the CDQ program is a POSITIVE NEUTRAL NEGATIVE thing for your
community? Why?
20. If there are new economic activities in the future in your community, what do you think they will be?
21. Do you think the CDQ program will be involved in these future activities? If so, how? If not, why not?
22. If you could change anything about the CDQ program, what would you change? Why?
23. Is there anything else you would like to say about the CDQ program, or do you have any questions about this project?

THANK YOU VERY MUCH FOR YOUR TIME!

Date: _____

Surveyor: _____

SURVEY FOR INDIVIDUALS: ALASKA CDQs
DEPARTMENT OF RURAL DEVELOPMENT, CRA, UAF, SUMMER 1994

I work for the Rural Development Department of the UAF. The RD department has been employed by several CDQ groups to conduct this research project. The purpose of this project is to get a sense of the place and significance of the CDQ program in your community and your life. We would like to ask you a few questions about you and your community. We want to know if and how you and your community have changed since the start of the CDQ program. These interviews are confidential; only research project staff know who is giving particular answers to the questions. Your community will be identified as participating in this project, but all responses from your community will be combined so that particular household and individual responses cannot be identified. It is your choice to participate. If you participate, you may skip any question you do not want to answer. Do you have any questions before we start?

- 1. Community: 2. HH survey done? Y / N 3. Name: 4. M / F
- 5. Age (circle): <20 20-24 25-29 30-34 35-39 40-44 45-49 >50 6. Ethnicity:
- 7. Marital status (circle): Single Divorced/Separated/Widowed Married 8. Years of residence:
- 9. # Adults (>18) living in this house _____. # Children (<18) living in this house _____.
- 10. Within each age group, how many people depend on you for most of their cash-related needs?
None (just self) or # <18 ____ 18-64 ____ >64 ____ In how many households?
- 11. Within each age group, how many people depend on your for most of their subsistence-related needs?
None (just self) or # <18 ____ 18-64 ____ >64 ____ In how many households?
- 12. Last grade completed: ____ 13. Vocational training prior to CDQ: None Some/type:
- 14. Years of wage employment experience prior to CDQ (circle): <1 1-3 3-5 >5 Main work tasks:
- 15. Are you now getting wages or income/benefit (e.g. scholarship, training) from a CDQ-related activity? Yes
No, but have in the past If 'No', what was past activity/benefit?
- 16. How did you find out about the CDQ activity?
- 17. Who hired you for CDQ work? Relationship to hiring agent? None Yes (what?)
- 18. If employed in CDQ work, what is your present job title? What months do you work?
- 19. Was a level of schooling or vocational training required for your CDQ-related job? No If yes, what?
- 20. Did you get special training to be able to work in the CDQ-related job? Yes / No If yes, what?
Where? How long? Did training fit job requirements? If not, why not?
- 21. Within 1 year before & 1 year after you took CDQ work, estimate total income amount from & months employed in:

<u>Before CDQ:</u>		<u>After CDQ:</u>	
\$ _____	# months _____	private sector wage employment	\$ _____ # months _____
\$ _____	# months _____	public sector wage employment	\$ _____ # months _____
\$ _____	# months _____	self-employment (com. fish)	\$ _____ # months _____
\$ _____	# months _____	transfer payments	\$ _____ # months _____

22. Estimate average monthly amounts you spend on the following expenses, then consider whether *priorities, amounts, and sources*, for these items have *changed* since CDQ activities began in your community.

<u>Estimate monthly expenses:</u>	<u>Sources (local/non-local)</u>	<u>Changes in amount, priority or source?</u>
Home (mortgage, rent)	_____	_____
Utilities (elec., heating fuel)	_____	_____
Subsistence supplies & gear	_____	_____
Store-bought Food	_____	_____
Loan(s), payments	_____	_____
Other ()	_____	_____

23. Within 1 year before taking the CDQ job, estimate the number of months you were unemployed but willing to work if there was a job:
24. Within 1 year (or less, if CDQ work occurred more recently) since taking the CDQ job, estimate the number of months you were unemployed but willing to work if there was a job:
25. Compared to three years ago, is your economic situation/outlook in general (*circle*)?
Much better Better About the Same Worse Much Worse
Why do you think that?
26. Since you became involved in CDQ activity, is your economic situation/outlook in general (*circle*)?
Much better Better About the Same Worse Much Worse
Why do you think that?
27. One year from now, do you think your economic situation/outlook in general will be (*circle*)?
Much better Better About the Same Worse Much Worse
Why do you think that?
28. What do you think is the most pressing economic need in your community? Why?
29. What do you think is the most pressing social need in your community? Why?
30. Why and by whom do think the CDQ program was started in your community?
31. How long do you think the current CDQ activities may continue in you community? Why?
32. How long do you see yourself continuing to work in the activities supported by the CDQ program? Why?
33. In general, do you think the CDQ program is a POSITIVE NEUTRAL NEGATIVE thing for your
community? Why?
34. If generally positive, what do you think is the best thing the CDQ program has done for you, and then, for your community?
35. If generally negative, what do you think is the worst thing the CDQ program has done for you, and then, for your community?
36. If you could change anything about the CDQ activities in your community, what would you change? Why?
37. Is there anything else you would like to say about the CDQ program? Do you have any questions about this project?

THANK YOU FOR YOUR TIME!

June 10, 1994/NPFMC meeting
Tapes 36-37/3:30pm - 3:49pm

Bud Samuelson: Mr. Chairman, members of the Council. My name is Bud Samuelson, I was born in Alaska and fished commercially my entire working life, much of it longlining. My testimony today is as much a question to the Council as testimony. I was a 1/3 partner in a fishing vessel bought in 1985; we converted the vessel into a freezer longliner in the winter of '85 and started fishing for blackcod in January of '86. During the time of the partnership I was the owner/operator and caught a larger percentage of the fish landed on the vessel during those years. In fact, one of my partners didn't land one blackcod during the time we were together, the other partner only made one blackcod trip that I recall. I sold my 1/3 interest in 1989. Since then, IFQs have been implemented and I have applied for my 1/3 share of the quota landed on the vessel during the time I owned and operated it. I've been told that since the partnership is still alive, less me, that I don't deserve to be included in any quota shares allotted to the vessel, at least that is how my former partners perceive the ruling, and possibly National Marine Fisheries Service. When I sold my 1/3 interest in the vessel, IFQs were not yet in place, so I have a problem understanding how I sold my share of something that was not yet in effect. It looks to me like some of us have a chance of falling through the cracks if something isn't done to change this perception. I'm still fishing blackcod, but of course will have considerably less IFQs if my former partners are allowed to acquire 100% of the quota shares for that vessel, considering the years I was involved turned out to be the qualifying years for IFQs.

My question for the Council is, if when you were adopting the guidelines of who would become for IFQs, it was your intent for fishermen with my type of situation to be eliminated and, if not, is there anything that can be done to include those of us in this predicament. Again, I would like to stress I had a financial commitment, was actively fishing during the qualifying years, I was involved in this partnership, I'm still making my living fishing. Again, was it the Council intent to eliminate people in my situation? Thank you for your time.

Council member Linda Behnken: As I understand it, it's a pretty similar situation to Fred's [Fred File, immediately prior testimony] in that if the quota share. . . [tape changeover, rest of Ms. Behnken's comments lost]

Council member Bob Alverson: According to our regulations I interpret it significantly different because the regs identify corporation as a person, whereas a partnership, where in your case you have three different individuals in the partnership. I think technically they are significantly different issues because one is, you could have a hundred members in a corporation but the way we voted on it, it is one entity whereas you've got a different. . . at least the way I interpret the action we took.

Samuelson: Mr. Alverson, I did apply for my 1/3 of the quotas on that particular vessels, on the partnership, and when I got my packet back, the vessel I own now I had quota shares allotted to me, but not one share was allotted to me on the other vessel and the reason I got for that is because the partnership is still in existence and that I sold my share of that partnership when I sold the vessel in 1989, and so I guess the RAM Division perceives that the same as a corporation in that. . .

Alverson: If you sold out of the partnership, you heard the question I asked Phil Smith, about. . . I call it the Olson situation. . . but how is yours much different than that?

Samuelson: It's as far as I can tell, the same, it's just the situation I'm in.

Alverson: That's what I think.

Council Chairman Lauber: Sounds like they're treating you like a corporation, not a partnership.

[end of testimony]

Council Discussion/Motion

June 11, 1994

Tape 42

7:25am-7:45am

Council member Linda Behnken: Mr. Chairman. . .my sense is that the intent of the Council through this whole process of putting together this program was that the history for quota share would accrue to the vessel owner at the time landings were made during that qualifying period and if that intent is clear from this Council it may help in resolving some of the issues that have come up regarding partnerships. I don't know whether it can apply to the corporation problems that have come up or whether corporate law precedes our intent, but possibly it can help those people that I feel have been sort of left out of this process inappropriately if the Council clarifies that that's its intent, that the quota share go to the people who owned the vessel at the time landings were made.

Council member Bob Alverson: Mr. Chairman, there's a simplistic scenario I asked Phil (Smith, RAM Division) in regards to a three-way ownership and that's how most of the people I talked to are being told by his office how they're handling those concerns on partnerships and everybody I know of thinks that's the right way and that was the intent of the Council and I don't quite understand why Mr. Samuelson's having a problem even though his past partners claim they haven't changed the nature of their partnership, he's obviously out, I think that should be immaterial to his situation; he ought to be treated like the way other people are being treated down below and around on partnership issues. I think the corporate situation, you sell shares, you sell shares, it's a whole different ball game. I don't see how we can trace each shareholder around town, that was just a whole different. . .a corporation's a whole entity in itself, but I would agree with Linda on the partnership issue.

Chairman Rick Lauber: I'm glad you came up, Phil, . . .In listening to Mr. Samuelson yesterday, it appeared from his side that he had been almost like a corporate stockholder rather than a partnership and I thought maybe. . .some indication from you. . .have you had a chance to discuss this with him or do you have any comments you could give us on this as to how this is handled.

Phil Smith, RAM Division: Just a couple, Mr. Chairman, and thanks for asking. The answer to the first part of your question is yes, I've had a long conversation with both Mr. Samuelson and Mr. File and I think I understand the situations fairly clearly. I think I'd like to clarify for the record, however, that nobody has been denied anything at this point. Mr. Samuelson received an application in response to his request for application. On the face of that application it indicated that according to the recomputed data in the system he was not eligible, but he was also invited to make a claim which will be evaluated when it's submitted. The larger question of whether or not a partnership dissolves when one member leaves that partnership even though the partnership maintains its legal integrity with the partnership ID number as far as taxes are concerned and so forth, the remaining members, has been placed before General Counsel and there's two issues there. One of them is Mr. File's situation where the corporation continued on and the stock was sold, that issue also has been placed before General Counsel. The Division will, of course, perform according to the legal advice that we get as to what is most appropriate. I have a personal opinion, but I would prefer not to state that on the record pending clarification of some of the legal issues from General Counsel and no matter which way these come down, the aggrieved party I'm sure will be appealing within the RAM Division system and I would not be surprised if both of these issues at some point ended up before a District Court Judge. What we're trying to do is get the process started correctly and in order to do that, as I mentioned we've sought advice and pending that advice there's not too much more I can say except that I understand the issues.

Behnken: I guess I'm still a little unclear. In our regs a dissolved partnership is handled where all three, or all two, whatever, involved have claim to their percentage of that partnership in terms of history or translate into quota share history and is the fact that that's not the case, if the partnership still exists, you're

saying is something you think possibly stipulated by law the Council has no control over, or just that we didn't put it in our regs therefore that's the way it is.

Smith: The question centers. . .if you and I had a partnership and we split it up and took our different directions, then clearly that partnership would have been dissolved and clearly both of us would have been successors-in-interest to that partnership. The question I think raised by the situation that was presented to the Council yesterday is where you had a multiple-member partnership that was legally put together, has a partnership ID and filed partnership taxes on an annual basis, one member of the multiple-member partnership was bought out by the other members and the partnership's legal identity did not change as far as the documents are concerned except that one partner is no longer a partner and one argument that can be made is that it's no different than a stock buy-out if this were a corporation. And it's one of these things where, as I say, I have an opinion which is no more instructed than probably anybody else's around the table. I think I understand Council intent, but as I mentioned, this may well end up in front of a District Court judge and I would like the agency's position to be to the extent that initiate it by denying one or the other, I would like that to be as defensible as possible which is why I put the question to General Counsel for some guidance.

Behnken: I guess I would just restate and if I need to, in way of a motion, that if the Council can have any effect over the way this shakes out, I believe Council intent is that whether or not that partnership is changed or still in existence, corporations, individuals, that the person who owned the vessel when they were making those landings during that qualifying period is the person who should receive the quota share and I would move that.

Lauber: This is just to clarify the issue. . .any further discussion?

?: Repeat the motion:

Behnken: To clarify that Council intent is the quota share accrue to the person who owned the vessel, except where a qualified lease existed, during the qualifying period, whether it be a partnership, corporation or individual.

[The motion was seconded and subsequently carried without objection.]