

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: April 11, 1996

SUBJECT: Allocations of Pacific cod in the BSAI

ESTIMATED TIME
6 HOURS
(both C-1 items)

ACTION REQUIRED

Initial review of gear allocation analysis (proposed Amendment 46) - includes CV/CP split for trawl apportionment

BACKGROUND

Amendment 24, adopted by the Council in 1993, and implemented for the years 1994, 1995, and 1996, allocates the BSAI Pacific cod TAC between trawl gear (54%), fixed gear (44%), and jig gear (2%). Because this amendment sunsets at the end of this year, the Council initiated an analysis of a new plan amendment to continue these allocations for an additional three years, with potential changes in the percentages allocated to trawl gear and fixed gear (jig gear would remain at 2%). The amendment also includes a potential further split of the trawl gear apportionment between catcher vessels and catcher/processor vessels. More specifically, the following alternatives were identified:

1. No Action - the allocations would expire at the end of 1996.
2. The existing split of 54%/44%/2% (trawl/fixed gear/jig gear)
3. The reciprocal, or 44%/54%/2% (trawl/fixed gear/jig gear)
4. A 69%/29%/2% (trawl/fixed gear/jig gear) split
5. A 59%/39%/2% (trawl/fixed gear/jig gear) split
6. A 39%/59%/2% (trawl/fixed gear/jig gear) split
7. A 29%/69%/2% (trawl/fixed gear/jig gear) split

Re-ordered from original

The Council also identified the suboptions of further dividing the trawl apportionment 60%/40% (and the reciprocal 40/60) between catcher and catcher/processor vessels. In developing these alternatives the Council also articulated the following Problem Statement for Amendment 46:

The Bering Sea/Aleutian Islands Pacific cod fishery continues to manifest many of the problems that led the NPFMC to adopt Amendment 24 in 1993. These problems include compressed fishing seasons, periods of high bycatch, waste of resource, and new entrants competing for the resource due to crossovers allowed under the NPFMC's Moratorium Program. Since the apportionment of BSAI cod TAC between fixed gear, jig, and trawl gear was implemented on January 1, 1994, when Amendment 24 went into effect, the trawl, jig, and fixed gear components have harvested the TAC with demonstrably differing levels of PSC mortality, discards, and bycatch of non-target species. Management measures are needed

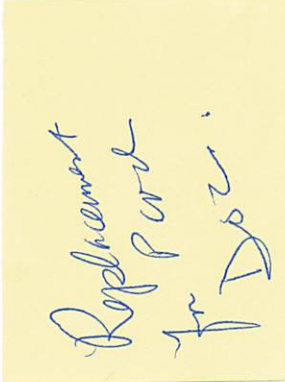
to ensure that the cod TAC is harvested in a manner which reduces discards in the target fisheries, reduces PSC mortality, reduces non-target bycatch of cod and other groundfish species, takes into account the social and economic aspects of variable allocations and addresses impacts of the fishery on habitat. In addition, the amendment will continue to promote stability in the fishery as the NPFMC continues on the path towards comprehensive rationalization.

The Draft EA/RIR/IRFA for this action was completed just prior to this meeting and will be presented by Council staff. The document will need to go out for public review by May 10 in order to allow a 30-day public comment period prior to a final decision by the Council at the June meeting. We will have a few weeks after this meeting to finalize the document in response to Council review.

Item C-1(a)(1) contains correspondence received on this issue.

analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems. The purpose of the analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that public welfare can be enhanced in the most efficient and cost-effective way. The RIR addresses many of the items in the regulatory philosophy and principle of E.O. 12866.

E.O. 12866 requires that the Office of Management and Budget (OMB) review proposed regulatory programs that are considered to be significant. A "significant" regulatory action is one that is likely to:

- 
- (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.
 - (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.
 - (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or
 - (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

A regulatory program is "economically significant" if it is likely to result in the effects described in item (1) above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be "economically significant."

This EA/RIR/IRFA addresses the allocations of Pacific cod by gear type (fixed gear including longline and pot gear, trawl gear, and jig gear) in the BSAI. This EA/RIR also addresses the further allocation of the trawl sector percentage between catcher vessels (CVs) and catcher/processor vessels (CPs).

1.1 Management Background and Purpose of and Need for the Action

In 1993, the Council and Secretary of Commerce (SOC) approved Amendment 24 to the BSAI FMP which established an explicit allocation of the Pacific cod Total Allowable Catch (TAC) between gear types. The percentage allocations for the 1994, 1995, and 1996 fishing seasons were: trawl gear - 54%, fixed gear - 44%, and jig gear - 2%. These percentages represented, roughly, the existing harvest percentages of the two major sectors, trawl and longline, while allocating 2% to jig gear specifically. The 2% allocation to jig gear was more than was being currently taken by that gear type, but was designed to allow for some growth in that sector. At that time, the Council was in the initial stages of developing its Comprehensive Rationalization Plan (CRP), and the allocations established were consistent with the 1993 Problem Statement shown below, which emphasized the allocation as a stabilizing mechanism and bridge to overall comprehensive rationalization:

The Bering Sea/Aleutian Islands Pacific cod fishery, through overcapitalized open access management exhibits numerous problems which include: compressed fishing seasons, periods of high bycatch, waste of resource, gear conflicts and an overall reduction in benefit from the fishery. The objective of this amendment is to provide a bridge to comprehensive rationalization. It should provide a measure of stability to the fishery while allowing various components of the industry to optimize their utilization of the resource.

Since 1993, the Council has either approved, or is developing, a number of major management programs as part of the overall CRP process. These include the License Limitation/CDQ program for groundfish and crab in the GOA and the BSAI; Improved Retention and Utilization requirements for the Pacific cod and other fisheries in the BSAI; and, a Vessel Bycatch Accounting (VBA) program. Each of these programs is in various stages of development, and none will be implemented prior to the 1998 fisheries.

With the existing Pacific cod allocations scheduled to expire at the end of 1996, the Council placed discussion of this issue on the December 1995 meeting agenda, with the intent that an amendment needed to be prepared to allow an allocation beyond 1996. At the December 1995 meeting, members of the Council identified significant changes which have taken place in the Pacific cod fishery since Amendment 24 went into effect on January 1, 1994. These changes were viewed as biological, economic, and regulatory in nature. In order to respond to these changes, staff was asked to incorporate these changes in the analysis, with specific focus on PSC mortality, impacts on habitat, and discards of Pacific cod by various industry sectors, under a range of possible percentage allocations to each gear type, which would be in place for another three years, through 1999. Though basic percentages were explicitly identified, the Council could choose an allocation percentage which is not explicitly identified, but is within that range. Further, the Council also requested that the analysis examine the sub-alternatives of further dividing the trawl sector allocation between catcher and catcher/processor vessels in the Pacific cod fisheries. The range of that allocation was 60/40 and 40/60. In developing these alternatives, the Council also developed the following Problem Statement in regards to the current allocation proposals:

The Bering Sea/Aleutian Islands Pacific cod fishery continues to manifest many of the problems that led the NPFMC to adopt Amendment 24 in 1993. These problems include compressed fishing seasons, periods of high bycatch, waste of resource, and new entrants competing for the resource due to crossovers allowed under the NPFMC's Moratorium Program. Since the apportionment of BSAI cod TAC between fixed gear, jig, and trawl gear was implemented on January 1, 1994, when Amendment 24 went into effect, the trawl, jig, and fixed gear components have harvested the TAC with demonstrably differing levels of PSC mortality, discards, and bycatch of non-target species. Management measures are needed to ensure that the cod TAC is harvested in a manner which reduces discards in the target fisheries, reduces PSC mortality, reduces non-target bycatch of cod and other groundfish species, takes into account the social and economic aspects of variable allocations and addresses impacts of the fishery on habitat. In addition, the amendment will continue to promote stability in the fishery as the NPFMC continues on the path towards comprehensive rationalization.

In order for an allocation to be in place at the beginning of 1997, the Council will need to take final action on this amendment at the June 1996 meeting.

1.2 Alternatives Considered

The Council identified the following basic alternatives to be considered for the Pacific cod gear allocations:

1. No Action - the allocations would expire at the end of 1996.
2. The existing split of 54%/44%/2% (trawl/fixed gear/jig gear)
3. The reciprocal, or 44%/54%/2% (trawl/fixed gear/jig gear)
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Replaced

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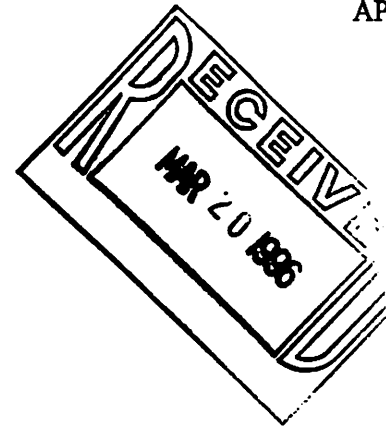
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Item C-1(a)(1) contains correspondence received on this issue.



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

March 20, 1996

Dear Mr. Lauber:

At the January 1996 NPFMC meeting, the undersigned organizations testified concerning the importance of a benefit/cost analysis for the Pacific cod allocation. We argued that it is imperative for the Council to understand the economic consequences of allocating cod between fixed and trawl gear and a legitimate benefit/cost analysis is the only way to ensure that this will occur. Despite the recognized need for a benefit/cost analysis, the Council staff reported recently that economic cost data for a benefit/cost analysis are not available and therefore a quantitative benefit/cost analysis for the cod allocation will not be prepared for the current revisit of the Pacific cod allocation.

At this stage, it is impossible for us to know how trawlers will fare if all the Council's criteria for the allocation except economic efficiency are considered. This is because the data on PSC bycatch and most of the other criteria outside of economic efficiency have not yet been presented to the public. In any case, leaving out economic efficiency is inherently unfair to trawlers and biases the analysis against the trawl sector. It is also flies in the face of the general interest of U.S. producers and consumers who benefit from high quality and affordably produced products from trawl-caught cod.

Only last year, the Council's scientific advisors strongly recommended that alternatives representing significant departures from the status quo not be considered in connection with the Inshore/Offshore rollover because economic data were not available to develop a quantitative benefit/cost analysis. In heeding the SSC's advice, the Council recognized the importance of net economic benefit criteria. Further, a full blown benefit/cost analysis was performed for the 1994 cod allocation and it was one of the most important determinants of the 1994 allocation the Council approved. The need for a benefit/cost analysis is just as pressing this time. Staff documents for the current allocation state that significant changes have occurred in some sectors of the cod fishery and this means that the findings of the benefit/cost analysis undertaken in 1992 and 1993 for the cod allocation may not be relevant to the industry today- even if it is the best evidence available on the net benefit issue.

Contributing to our frustration on this matter is the fact that in mid-February, we were asked by NMFS Alaska Region economists to complete two different benefit/cost questionnaires. One deals with variable costs incurred by fillet catcher processors fishing for cod and the other for the variable costs of "head and gut" boats that target cod. We set out immediately to provide the data requested and when we called NMFS to inform them that we had finished one of the two questionnaires, we were told that the data collection exercise had been terminated. The survey was apparently cancelled out of concern for the lack of OMB approval of the data collection. Now we are apparently back in the situation we were faced with in January, no benefit/cost analysis and the NPFMC continuing to view June 1996 as the decision point for the cod allocation. Needless to say, we are dismayed by this turn of events.

The cod allocation is extremely important to the 39 catcher processors and 57 catcher boats represented by the undersigned company and associations. We are prepared to do whatever is necessary to facilitate the development of a legitimate quantitative benefit/cost analysis. In our testimony to the Council and the Science and Statistical Committee (SSC) over the last two years, we have steadfastly offered to provide our economic data to NMFS for the cod allocation and other allocation decisions. We are not, however, prepared to accept an allocation decision without the benefit of a legitimate benefit/cost analysis.

It has been well known that the cod allocation would sunset in 1997. NMFS and the Council are aware that data collections take time. Furthermore, the Council's SSC has repeatedly pointed out that a high priority should be placed on developing an on-going data collection process to provide the economic data necessary for the required benefit/cost analyses that the Council needs. Failure to initiate a data collection process on a timely basis does not obviate the need for an economic analysis based on such data.

There is strong evidence that the Council's industry and scientific advisory bodies share our concern with moving forward with changes to the Pacific cod allocation based on the time schedule the Council has set out and the available data. The January, 1996 minutes of the Council's Advisory Panel state:

Due to time constraints and the need for the comprehensive analysis necessary to justify a change in the current P. cod allocation, the AP recommends simplifying the current analysis to include only the (1) status quo, and (2) rollover of the current allocation for one year. The AP further recommends that during the one-year period, staff undertake the comprehensive analysis necessary to make an informed decision with regard to the other alternatives identified. Motion passes 10/5.

The Council's Science and Statistical Committee voiced the same concern over moving forward without a benefit/cost analysis of the cod allocation in its January 1996 minutes:

Deviations from the current allocation are likely to generate significant economic and social impacts. Data limitations and analysis complexity would make it extremely difficult to characterize the nature and magnitude of the impacts given time constraints imposed on the analysis.

And then later in the SSC's minutes:

The SSC continues to believe that only a qualitative assessment of the net economic benefits of the alternatives is possible given the time constraints. The main limitation, adequacy of economic cost data, has not been addressed and cannot be addressed in the short term. The action memo dated 1/24/96 indicates concern about changes that have taken place in the Pacific cod fishery since January 1, 1994, while the most recent economic cost data are from the early 1990s.

Recognizing the value of the advice that the Council's advisors have provided and the importance of the cod analysis to the trawl sector, we ask the Council to immediately undertake a collection of the economic data that are needed for a legitimate benefit/cost allocation. If OMB approval is needed or other impediments exist that prevent the collection of such data and the development of a legitimate benefit/cost analysis in a time frame that allows for a decision in June 1996, we believe that the Council should roll over the existing allocation until the necessary data collection and analysis are prepared.

Thank you in advance for your consideration of our comments. Please let us know if you have questions.

Sincerely,



John Garvin
American Factory Trawler Association



Brent Paine
United Catcher Boats



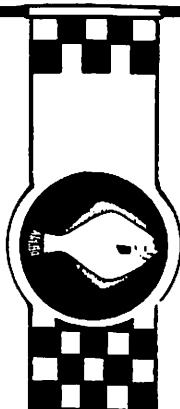
Dave Benson
Tyson Seafood Group

cc: Pennoyer, NMFS-AKR, Criddle, SSC chairman

F/V HAZEL LORRAINE

192 Nickerson Street
Suite 307
Seattle, WA 98109

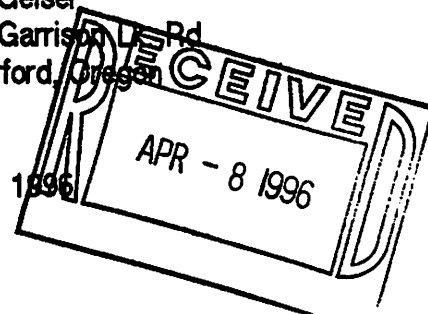
Mr. Richard B. Lauber
Chairman NPFMC
605 West 4th Ave. Suite 306
Anchorage, AK 99501-2252



Tel: (206) 285-6424
Telex: 277115 MRC UR
Fax: (206) 282-9414

Albert Geiser
42277 Garrison Ln Rd
Port Orford, Oregon
97465

April 3, 1996



Re: Pacific cod reallocation; CV/CP, Pot/FFLL, Jig

Dear Mr. Lauber,

Coming before you and the council is the question of relocation of BSAI Pacific cod with 19 proposed alternatives for 1997 management. I've read the problem statement, the alternatives and the related issue statement at the end of the listed alternatives. Pacific cod is a very important fishery for my vessel. The idea of considering reallocation of the resource among user groups before first addressing other measures that have been brought before the council to lower PSC mortality (ban night fishing) and full utilization by the factory trawl fleet of all cod, is putting the cart in front of the horse.

Shifting allocation towards "fixed gear" (late entrants) which for pot gear looks on the surface to be a cleaner method of targeting Pacific cod, albeit it has several unquantified potential down sides (see addendum). This would allow for more targeting by Factory Freezer Long liners (FFLL) of Pacific cod with higher PSC mortality and far less cod coming ashore to support the Alaska coastal communities, with a net loss to the nation. There is language in HR39, reauthorization of the Magnuson Act, that states that the the councils must support coastal communities and coastal fisherman.

In the list of alternatives there is a very clear division being presented between coastal trawlers delivering shore side and Catcher processors at sea. There is data available that shows just how each of these groups has utilized their catch of Pacific cod, i.e., delivered ashore, processed at sea or discard and from that, the net benefit to the nation can be calculated. In making up the list of alternatives for the fixed gear segment they have been lumped together. I feel very strongly that there should also be a split between the two user groups of fixed gear, Pot/FFLL, with percentages assigned on their record with regard to performance with PSC's and the net benefit to the nation standard applied.

I respectfully ask that the council table this matter, expend the energy necessary to stop night fishing and work towards full utilization of the cod in all fisheries. Shifting the effort around will not solve these two problems only postpone them.

Sincerely,


Albert Geiser

Page 2

Mr. Richard B. Lauber

Re: Pacific cod reallocation CV/CP, POT/FFLL

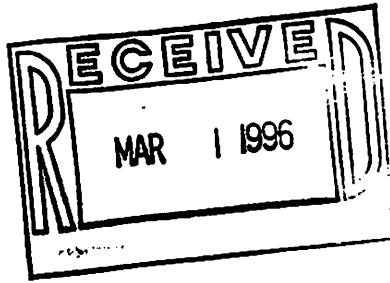
APRIL 3, 1996

Problems with pots fishing for cod

1. Pot lift mortality—There is no mesh size regulations to allow undersize fish to escape.
2. Biodegradable panel enforcement
3. Mortality for ghost fishing pots
4. Fishing inside closed to trawler crab nursery zones—Stomach samples of cod full of juvenile crab.....were the crab drawn to the crab pot and then devoured by captive cod?
5. Ghost loss of fish when the fleet is blown off the grounds for days(or break downs) and the sand fleas have done there work.
6. Lost pot due to gear conflicts with other gear types and within the same type.
7. Lost pots due to hundreds of pots being set in the shipping lanes at Unimak Pass.

CC: Capt. Barry Fisher President Midwater Trawlers Cooperative

Al Burch Director Alaska Druggers Association



February 26, 1996

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

Dear Chairman Lauber:

I am the fisherman who make the video on pot fishing for cod. Here are my ideas on the cod fishery, as a fisherman.

Technology - Does It Mean Progress?

Technology and progress should go hand in hand, when technology is managed right. But when it is let loose, it can be devastating to the human race and environment.

In the fishing industry technology and capacity to harvest the fish is so great that our economy is getting shaky. We need some good management decisions to overcome this.

We have quotas to protect the target species from overfishing. There are also caps on prohibited species, and when the quota or the cap is caught, the fishery is closed down. But the bycatch caps in some of the fisheries are still too high.

NMFS developed the Observer Program to monitor bycatch in the different fisheries, and they discovered that there are tremendous differences in the levels of bycatch and the survival of bycatch in fisheries prosecuted by different gear types.

In Europe and other parts of the world bottom trawling has become one of the most common methods of catching fish - but they have tremendous bycatch problems. The bycatch is used for fish meal, which has become an important factor in the economics of the fishing industry. We should stay away from this. We should minimize bycatch and leave small fish in the sea as food for the target species, as it was meant from the beginning of the world. In this way we will make progress.

Reasons

Fish act by instinct, feeding on each other and on scrap fish, as we call bycatch. Unfortunately we cannot teach them to be farmers, and tell them to eat something that is not in their natural food chain.

It is up to us to work with nature, or against it. I believe we will gain by working with it. We should support the fishing methods that almost eliminate bycatch. Then we won't have to explain to the fish that we need the scrap fish for our outdated fishing methods.

The North Pacific Fishery Management Council should consider better fishing methods, and reward them with bigger quotas. That will show concern for the future and the natural resources, and a willingness to help build a stronger nation. As President Clinton put it in his speech to the nation on January 23, 1996, there are other ways of doing business that take care of natural resources and the environment - let's do it. The NPFMC should back up the President and the people of the United States by giving larger quotas for the fixed gear industry. The fixed gear industry has the means to harvest the quota.

Bottom trawling is also a reason for the dwindling crab stocks in Alaska. Trawlers interfere with mating and kill softshell crab. Pots and longlines can be fished so they do not kill crab. We should use fixed gear to preserve crabs for future generations.

In aviation the U.S. was a leader in making a decision which placed progress above technology. Britain and France did not. They built the Concorde. The U.S. did not, because of bad environmental impacts.

Today we have a bigger issue. We have a food resource that is dwindling down to distinction. Now we are just developing technology to harvest it fast. Food is a basic thing for man - we have got to have it. Managers should consider if they are willing to waste 50% of the natural resources in order to preserve 50%. Or, should we waste 10% and save 90%?

We have the technology to do either option - use trawl gear, or use fixed gear. It is up to the NPFMC to decide what is progress.

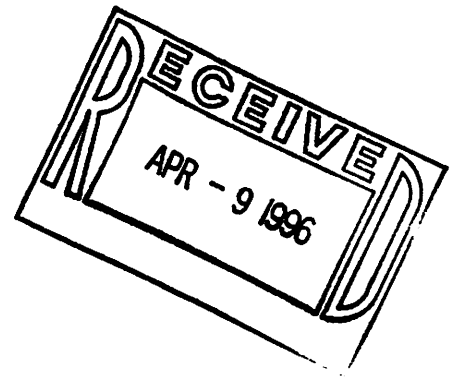
Sincerely,

F/V BLUE FIN

Oluf Vedoy

To: Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252
Fax: (907) 271-2817

April 8, 1996



Re: Reallocation of Pacific cod BSAI Trawl/Fixed

This open letter is to all the members of the NPFMC, signed by those working trawlers that cannot attend this meeting during open season for Pacific cod.

Dear Mr. Lauber,

The council has before it 19 proposals for the reallocation of BS/AI Pacific cod. The current allocation is split 54% for trawl, 44% for fixed gear and 2% for jig gear. NMFS records reveal that the coastal trawl fleet has the lowest discard rate of Pacific cod among all of the gear types. This is a vital fishery for approximately 75 coastal trawlers and the coastal communities of Dutch Harbor, Akutan, King Cove and shore side floating processors. In 1995 this amounted to 38,240 mt delivered ashore.

Before the council considers reallocation of Pacific cod between user groups there are three basic steps that should be taken first.

1. Try to reach full retention of cod in all fisheries, by all gear types
2. Trawl and pot mesh regulations to lower the number of juvenile cod discarded
3. Ban night trawling to lower the discard rate of prohibited species

Taking any, or all of these steps first would go a very long way to fuller utilization of the cod resource. Relocation "only" will leave these three simple steps to better utilization of the resource unresolved. These steps lower the number of discard/PSC mortality and further extend the cod fishery creating a net benefit to the vessels and to the coastal communities.

The majority of the proposals show a split of the percentage assigned to the trawl segment between the Catcher processors and the coastal trawlers, as two distinct user groups. There is no split of percentage shown between the two fixed gear types, pots and at sea Freezer long liners? If it is the intent of the council to assign percentages between gear and user groups then a fourth user group should be created for the Factory freezer long liners. Then the record of each group can be examined for utilization, discard, PSC mortality and the net benefit to the coastal communities and the nation under the Magnuson Act.

Mr. Richard B. Lauber/All NPFMC members

Re: Reallocation of Pacific cod BSAI Trawl/Fixed

April 8, 1996

It is our feeling that the allocation of the Pacific cod quota BSAI should remain status quo, with the council selecting alternative #1. Before the council takes any action to reallocate it should take the basic steps outlined to reduce PSC mortality and increase the retention of all cod. Finally if the council continues to consider reallocation, it must identify all user groups and make any allocation based on the records of each groups performance and the net benefit to the coastal communities.

Finest kind, Sincerely.....

| Vessel Name | Owner/Skipper | Signature |
|--------------|---------------|-------------|
| Cape Kiwanda | | Rick Willis |

| Vessel Name | Owner/Skipper | Signature |
|-------------------------------------|--------------------------|------------------|
| F/V American Eagle | John Wood Skipper | John Wood |
| F/V Seadawn | FIXED YACK OR SKIPPER | Indefinite |
| F/V LONE STAR COD BOAT ONLY HELP | Charles A. Burrer | Charles Burrer |
| F/V STARFISH | Ernie Swanson | Ernie Swanson |
| F/V DEFENDER | KENNETH LONGAKER | Kenneth Longaker |

| Vessel Name | Owner/Skipper | Signature |
|-------------|----------------------------------|---------------|
| Miss Leona | Omar Allinson Omar Skipper | Omar Allinson |

| Vessel Name | Owner/Skipper | Signature |
|-------------|---------------|-----------|
| PACIFIC RAM | Tom Keese | Tom Keese |

| | | |
|--------------|----------------|----------------|
| Excalibur II | Kevin Thurston | Kevin Thurston |
|--------------|----------------|----------------|

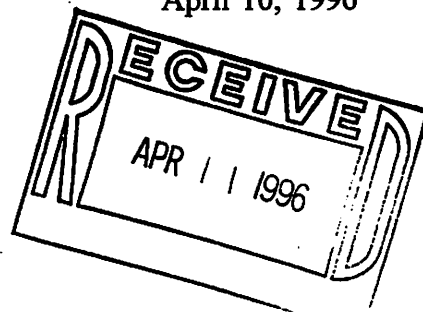
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| F/V Nordic Star | Bruce McPeak | Bruce McPeak |
|-----------------|--------------|--------------|

ALASKA MARINE CONSERVATION COUNCIL

Box 101145 Anchorage, Alaska 99510
(907) 277-5357; 277-5975 (fax); amcc@igc.apc.org

April 10, 1996

Rick Lauber, Chair
North Pacific Fishery Management Council
605 W. 4th Ave.
Anchorage, AK 99501



Dear Mr. Lauber,

At the January meeting of the North Pacific Fishery Management Council, the Alaska Marine Conservation Council (AMCC) testified before the Advisory Panel and the Council on cod reallocation between trawl and fixed gear. The Council will be conducting an initial review at the upcoming April meeting.

AMCC has advocated a harvest priority program for lowering bycatch where fishermen within gear groups are rewarded for demonstrated lowered bycatch. The National Marine Fisheries Service and sectors of industry have not yet supported this proposal. Therefore, the North Pacific Fishery Management Council is left with granting an allocation preference to gear groups with proven lower bycatch rates as the means to reduce total bycatch.

The NPFMC should determine the amount of cod that could be utilized by the cleanest gear types in a year round fishery and preferentially allocate that amount of the total allowable catch (TAC). The remainder could be allocated to the less selective gear types.

This allocation should be done on an annual basis increasing as the groundfish harvest potential of the selective gear types increases. This is not meant to allocate more fish to any particular fishermen but rather to encourage all fishermen to convert to selective gears.

This plan would result in immediate reduction of bycatch. Direct savings of halibut should not be reallocated within the cod fishery or to any other groundfish fishery. Nor should the savings be immediately reallocated to the directed halibut fishery. As a precautionary measure, halibut savings should be set aside for at least an additional year before making it available to the directed halibut fishery.

Thank you for the opportunity to convey our views for the Council's consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Dorothy Childers', written over a horizontal line.

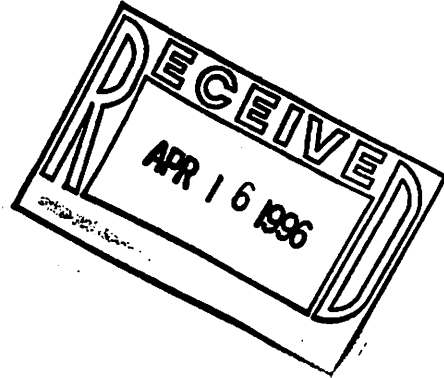
Dorothy Childers
Executive Director

C-1

F/V NORTHWESTERN

18361 Eighth NW
Seattle WA 98177
206-546-4397 fax: 542-5694

April 16, 1996



Mr. Rick Lauber, Chairman
NPFMC
605 West 4th Ave., #306
Anchorage, AK 99501-2252

Dear Mr. Lauber,

As I am unable to attend the current meetings in Anchorage but would like to stress the importance of P cod to the crab fleet. Please consider this my "vote" in support of the Alaska Crab Coalitions stand on the issue.

Sincerely,

Sverre Hansen

by KK

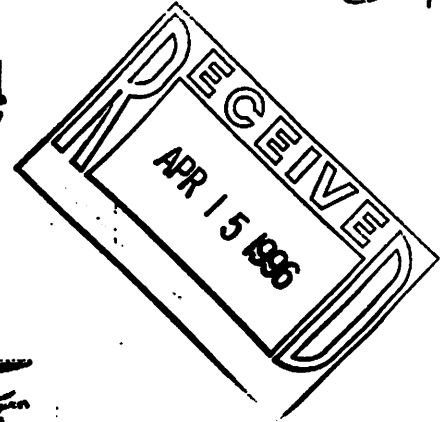
Sverre Hansen
President - Hansen Enterprises, Inc.
F/V Northwestern

C-1

F/V ALEUTIAN NO.1

New Era Fisheries • 10221 Belgrove Court NW • Seattle, WA 98177

Ron Peterson/Managing Owner
(206) 547-5639/(206) 783-5633
FAX: 206 545 0447



TELECOPIER COVER LETTER:

Please deliver the following pages:

Fax #

TO: Rick Lauber, Chairman, NPFMC 907 271 2817

FROM: Ron Peterson

DATE: 4/15/96

TOTAL NUMBER OF PAGES (including cover page): 1

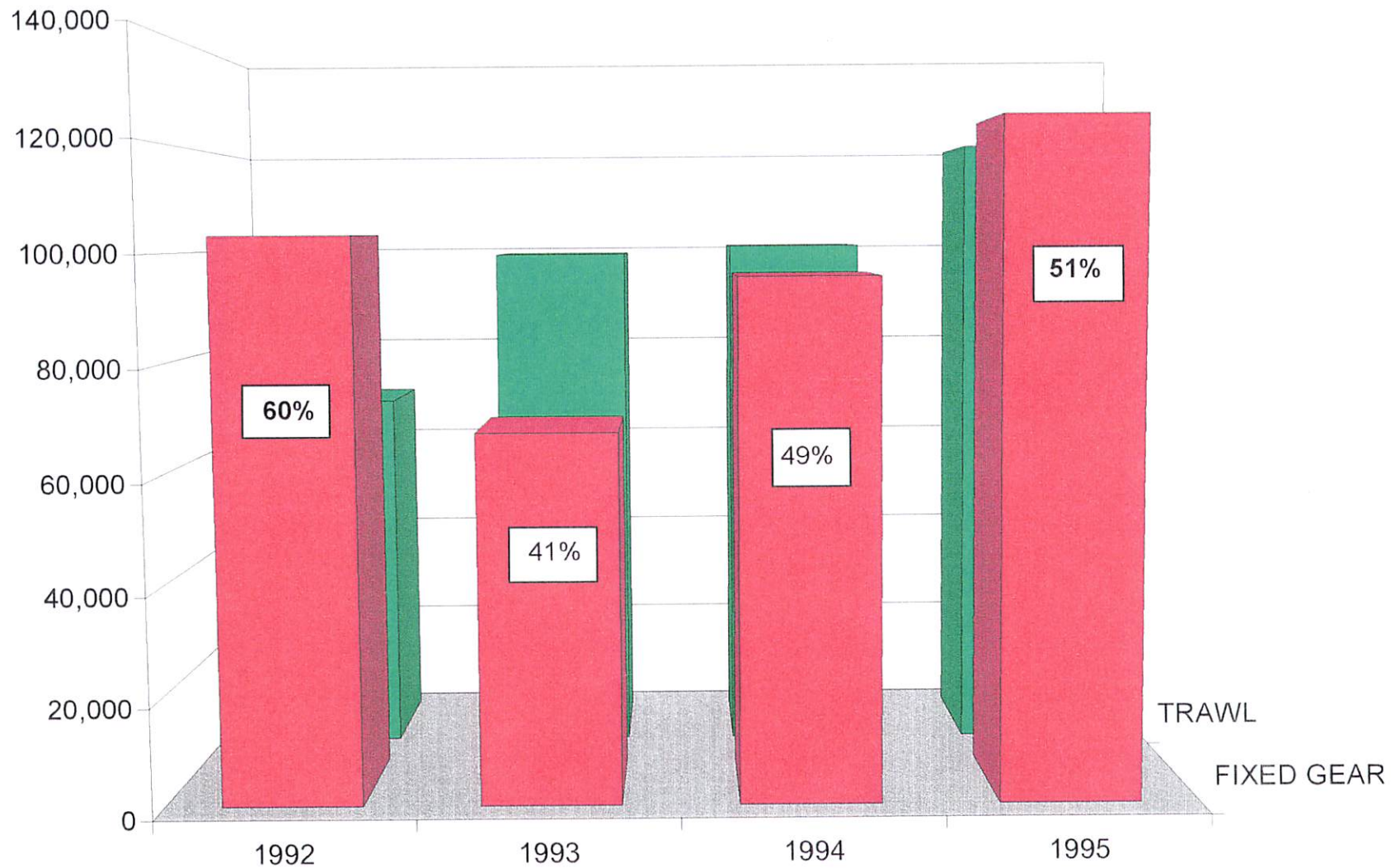
MESSAGE/COMMENTS: Rick, we have been involved in the Pot Cod fishery in Bering Sea. We intend to get more involved and would like to catch and process cod onboard the boat. We are moratorium qualified for this and can lengthen the boat to 150' to facilitate the equipment we would need. With crab fisheries on the decline this is a very valuable option for us.

Sincerely, Ron Peterson

Should you encounter any problems during this transmission, please contact the New Era Fisheries at the above numbers for assistance. Thank you.

OUR TELECOPIER DIRECT LINE IS: (206) 545 0447

BERING SEA/ALEUTIAN ISLAND COD HARVESTS



Bill Atkinson
C-1
4/96

Tom CASEY

C-1
4/96

Alaska Fisheries Conservation Group

P.O. Box 910 Woodinville, WA 98072 (206)488-7708 Fax 823-3964

Testimony on Allocation of P. Cod in the BSAI

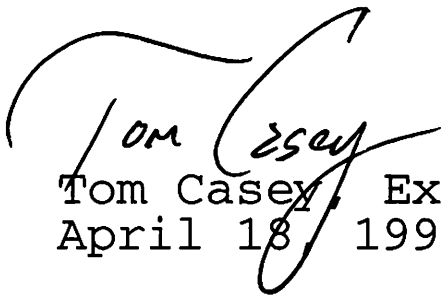
1. Please send out all 7-options for public review and comment.
2. In making your final decision in June please be guided by the AMCC letter of April 10, 1996.

"The NPFMC should determine the amount of cod that could be utilized by the cleanest gear types in a year-round fishery and preferentially allocate that amount of the TAC. The remainder could be allocated to the less selective gear types.

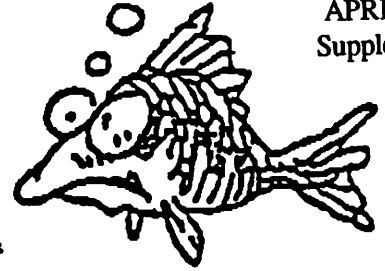
This allocation should be done on an annual basis increasing as the groundfish harvest potential of the selective gear types increases. This is not meant to allocate more fish to any particular fishermen but rather to encourage all fishermen to convert to selective gears."

3. Full-retention of large amounts of small, less valuable P. Cod by trawlers should not become a loop-hole in the Council's final allocation decision.

4. Please follow the AP's advice to form an industry negotiating committee made up of fishermen and processors to recommend a percentage-split before the Council's June meeting.

A handwritten signature in black ink that reads "Tom Casey". The signature is stylized with a large, sweeping flourish that loops around the name.

Tom Casey, Executive Director
April 18, 1996

**North
Pacific
Longline
Association****Agenda C-1**

April 11, 1996

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

RE: BSAI Pacific Cod Allocation

Dear Rick:

At its last meeting the Council adopted a problem statement for BSAI Pacific Cod Allocation which emphasizes reduction in PSC mortality, bycatch of cod and other species, and discards. A comparison of trawl and fixed gear performance in the BSAI directed cod fishery under the current allocation (1994 and 1995) is instructive in this regard.

Directed BSAI Pacific Cod Fisheries, 1994-1995

The attached table was prepared by Fisheries Information Services using data provided by NMFS. It shows that while the trawl fishery for cod was allocated 238,140 mt of cod in the two year period 1994-1995, only 109,299 mt, or 46%, was retained in the directed fishery. By contrast fixed gear operators were allocated 194,040 mt over the same period, and retained 208,423 mt, or 107% in their directed fishery. The latter was due to trawl closures by halibut caps, and transfers of trawl TAC to fixed gear.

Even more dramatic is a comparison of halibut mortality. During the two-year period trawlers retained 109,299 mt of cod in their directed fishery, killing 2,779 mt of halibut. In 1995 alone fixed gear operators retained 116,382 mt of cod - 7,000 mt more than the trawlers retained in two years - and killed only 795 mt of halibut. In the process fixed gear operators killed nearly 2,000 mt less halibut and retained more cod! On average for the two year period, fixed gear operators retained 146 mt of cod per ton of halibut mortality. Trawlers averaged 39 mt cod per ton of halibut mortality - killing 3.74 times as much halibut per unit of retained cod.

It is evident that if we are to meet our stated goal of reducing PSC mortality, fixed gear is the way to go.

Nontarget Bycatch of Cod

The problem statement also emphasizes the need to reduce the non-target bycatch of cod. The attached table by Council staff shows retention and discard of cod in all BSAI fisheries for 1994 and 1995. Fixed gear operators retained 208,423 mt of cod during the two year period and discarded 10,699 mt of cod, for an average of 19.5 mt retained for each ton discarded. Trawlers retained 152,792 mt while discarding 67,803 mt, averaging only 2.3 mt retained for each ton discarded - 8.5 times as much cod discard per unit of retained cod.

It is clear that the non-target bycatch of cod by trawlers was significant in this period - some 97,184 mt, of which 67,803 mt, or 70%, was discarded.

Just as striking is the fact that the de facto overall split of cod in the BSAI for 1994-1995 has been effectively 50-50; the trawl sector has harvested 220,532 mt, while fixed gear has harvested 219,110 mt.

Unnecessary Trawl Bycatch of Cod

At the recent meeting of the Improved Retention/Utilization Committee a trawl representative stated repeatedly that a large amount of the bycatch of cod in the non-target trawl fisheries is unnecessary. For example, there is no need for a 20% allowed bycatch and retention in the yellowfin sole fishery - the natural bycatch of cod is far less. Much of the trawl non-target cod bycatch could be made available for fixed gear harvest without affecting the trawl directed cod fishery, or other trawl fisheries.

Inequity in Halibut PSC's

Longliners are forced to work within a narrow range of allowable halibut PSC - 900 mt, which must serve both the cod and turbot fisheries. This year we have only 800 mt for the cod fishery. This arrangement has forced us to reduce our halibut bycatch mortality (to 11.5%) through a costly careful release program.

Trawlers, on the other hand, have been allowed to augment the halibut PSC in their cod fishery without apparent limit. They have progressed from a 1,200 mt halibut cap in 1994 to a 1,550 mt cap in 1995, to a 1,685 mt cap in 1996. This is a 40% increase in three years, and the 1996 cap is equal to 45% of the overall 3,775 mt cap. Trawlers have made no significant progress in reducing halibut bycatch mortality, which remains at 63%. The system simply encourages them to squander more and more halibut in their directed cod fishery, and gives them no incentive to reduce their halibut mortality rate - which is 5.5 times higher than the longliner rate.

Experience suggests that absent a gear allocation trawlers will pour more and more halibut into their cod fishery, take more and more of the quota in a pulse fishery on spawning stocks, and drive the rest of us out of business. This system is eminently unfair and does nothing to encourage the trawl fleet to meet the relevant goal of the problem statement - reduce PSC mortality.

Cost/Benefit Analysis/Paperwork Reduction Act

Three trawl groups have submitted a letter implying that because NMFS failed to get OMB permission to collect cost data for the cod allocation analysis, the action cannot go forward. We respectfully disagree with that position, for the following reasons:

1. A cost/benefit analysis is not necessary to support the action. The National Standard Guidelines, at 50 CFR 602.17, Costs and Benefits (attached), state clearly that the analysis supporting a fishery management measure need not include a formal cost/benefit analysis, that an evaluation of costs is adequate, and that if quantitative estimates are not possible, qualitative estimates will suffice. In AFTA v. Baldrige (relevant part attached) the Ninth Circuit Court of Appeals confirmed this guidance, citing the guidelines;

2. Fixed gear operators (longline and pot) have voluntarily submitted the requested current data. If the trawlers have not done so, perhaps they should;

3. For fixed gear operators the cost data has not changed significantly since the last analysis. Our members who operate both longliners and trawlers say that cost data for trawlers has not changed significantly, either. The prior data are just as valid today as they were three years ago;

4. The issues surrounding cod apportionment have been before the Council for five years. The initial petition by the Fixed Gear Coalition in 1991 contained synopses of all of the academic, scientific and descriptive papers in English which compare hook-and-line gear to trawl gear, raising all of the relevant issues and concluding that hook-and-line gear is superior from a conservation perspective. Since no countervailing document has appeared in the intervening period, it appears that no countervailing literature exists. The Council considered these issues in developing Amendment 24, and has reviewed the results of the respective fisheries in detail each year since. The Council is well-informed and well-prepared to make further policy decisions on BSAI Pacific cod allocations;

5. The Paperwork Reduction Act (PRA) gives rise to no third party cause of action for failure to obtain OMB permission to collect data - no one can sue to invalidate a regulation based on such data. The only substantive result if OMB discovers an unauthorized collection is that the agency's data collection

budget is debited the number of collection hours actually used - the same result as if permission had been obtained. OMB will not as a practical matter deny an agency the ability to collect data it actually needs. The only further possible problem for NMFS might be a bureaucratic slap on the wrist; and

6. Establishment of an annual data collection budget and permission to use that budget is a NMFS programmatic responsibility. Analysts have known for three years that Amendment 24 would sundown at the end of 1996. Why was collection of the required data not anticipated and put in the budget, why was permission to collect the data not sought in a timely manner? There was plenty of warning.

Regulatory Measures Requiring Reallocation

Regulatory measures recommended by the Council and adopted by the Secretary make a further allocation to fixed gear necessary.

The first action which negatively affected the freezer-longliner fleet was Inshore/Offshore I, which effectively denied vessels 125' and over 100% of their GOA cod fishery. That action was considerably more allocative than the one under consideration now - we lost our whole fishery. This meant significant economic harm to the vessels eliminated (please see affidavit of Garry Brown, attached). This harm was inflicted even though there was no consideration of the negative economic impacts on that fleet, which is still a part of the inshore sector in the Inshore/Offshore I analysis. There was no opportunity for compromise, no industry negotiation - we simply lost our entire GOA cod fishery. Inshore/Offshore II confirmed this result, again without opportunity for compromise or negotiation.

The Moratorium proved to be a non-moratorium where the BSAI fixed gear cod fishery was concerned. Some 200 vessels were allowed to cross over into the fixed gear cod fishery, even if they had not history in or dependence on the fishery. Likewise, License Limitation included a late cutoff date which allowed an unknown number of pot boats into the BSAI cod fishery. As conservation-oriented fishermen we have no problem with pot fishing for cod - but unless the fixed gear cod quota is augmented, these actions will effectively allocate significant amounts of cod away from freezer-longliners. Again there was no opportunity for compromise, no industry negotiation in the development of these measures.

The cumulative impacts of these measures threaten the future of the freezer-longliner fleet (Please see testimony of Dr. David Fluharty, attached).

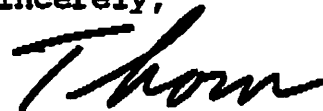
Magnuson Act Reauthorization

Bills now under consideration emphasize the need for bycatch and discard reduction - and propose a new National Standard. They also seem likely to curtail the use of ITQ's for the foreseeable future. This means that federal fishery managers will likely need to use traditional management tools - such as gear allocation - to meet the goals of the Act as well as the problem statement.

Conclusion

In terms of prohibited species and target species bycatch and discard, fixed gear operators in the BSAI cod fishery have outperformed trawlers by a wide margin under Amendment 24 - and should be rewarded for their efforts. Trawl bycatch and discard of cod in non-target fisheries is unnecessarily large. The amount of halibut killed in the directed trawl fishery is huge, and is both unnecessary and inequitable. The Council has been looking at all of the issues surrounding BSAI cod allocation since June of 1991, and has a wealth of information and experience upon which to make a further policy decision. Other Council actions affecting the fixed gear fleet make it imperative that the gear allocation of cod be reconsidered and altered appropriately for the 1997 season. We respectfully request that the Council release the analysis for public review in anticipation of a decision at its June meeting.

Sincerely,



Thorn Smith

12-Apr-96

| | | COD | COD TARGET | | | (MT) | COD |
|-------|-------|--------------|---------------|----------------|--------------|------------------|-------------------|
| | | TAC SHARE | COD RETAIN | COD DISCARD | COD TOTAL | HALIBUT MORT. | VALUE millions |
| FIXED | 1994 | 84,040 | 92,041 | 3,335 | 95,376 | 891 | \$41.7 |
| | 1995 | 110,000 | 116,382 | 7,335 | 123,717 | 795 | \$53.0 |
| | TOTAL | 194,040 | 208,423 | 10,670 | 219,093 | 1686 | \$94.7 |
| TRAWL | 1994 | 103,140 | 47,527 | 5,688 | 53,215 | 1254 | \$13.6 |
| | 1995 | 135,000 | 61,772 | 8,361 | 70,133 | 1525 | \$20.4 |
| | TOTAL | 238,140 | 109,299 | 14,049 | 123,348 | 2779 | \$34.0 |

sources: NPFMC document dated 3/7/96
 NMFS R.O. REPORTS
 PACFIN EXVESSEL PRICE DATA (SHORESIDE)

1994 and 1995 Combined Totals, BSAI Cod in All Fisheries

| | <u>Retained</u> | <u>Discarded</u> | <u>Total</u> |
|--------------|------------------------|-------------------------|---------------------|
| Trawl | 152,792 | 67,803 | 220,532 |
| Fixed | 208,423 | 10,699 | 219,110 |

51.1/48.5/0.4, and 50.6/49.1/0.2 in 1995. In both 1994 and 1995 the directed fisheries for Pacific cod with trawl gear were closed because of halibut bycatch before the total trawl apportionment was taken. In both years, portions of the trawl apportionment were reallocated to fixed gear. In 1995, part of the jig apportionment was also shifted to the other gear groups. In both 1994 and 1995, the fixed gear fishery was closed due to halibut bycatch, but this occurred after the remaining trawl apportionment was switched.

Table 1 1994 and 1995 Retained, Discarded and Total Catch by Gear Allocation Group.

Pacific cod.

| Gear | Information Reported | 1994 | | | 1995 | | |
|--------------|-----------------------------|-----------------|----------------|--------------|-----------------|----------------|--------------|
| | | Retained | Discard | Total | Retained | Discard | Total |
| Fixed | Metric Tons | 92,041 | 3,335 | 95,375 | 116,382 | 7,353 | 123,735 |
| | % Ret. / Dis. | 96.50% | 3.50% | 100.00% | 94.06% | 5.94% | 100.00% |
| | % by Gear | 56.46% | 9.94% | 48.52% | 58.35% | 16.36% | 50.63% |
| | % of Total | 46.82% | 1.70% | 48.52% | 47.63% | 3.01% | 50.63% |
| Jig | Metric Tons | 730 | 0 | 730 | 571 | 0 | 571 |
| | % Ret. / Dis. | 100.00% | 0.00% | 100.00% | 100.00% | 0.00% | 100.00% |
| | % by Gear | 0.45% | 0.00% | 0.37% | 0.29% | 0.00% | 0.23% |
| | % of Total | 0.37% | 0.00% | 0.37% | 0.23% | 0.00% | 0.23% |
| Trawl | Metric Tons | 70,243 | 30,224 | 100,467 | 82,486 | 37,579 | 120,065 |
| | % Ret. / Dis. | 69.92% | 30.08% | 100.00% | 68.70% | 31.30% | 100.00% |
| | % by Gear | 43.09% | 90.06% | 51.11% | 41.36% | 83.64% | 49.13% |
| | % of Total | 35.73% | 15.38% | 51.11% | 33.75% | 15.38% | 49.13% |
| Total | Metric Tons | 163,014 | 33,559 | 196,572 | 199,440 | 44,931 | 244,371 |
| | % Ret. / Dis. | 82.93% | 17.07% | 100.00% | 81.61% | 18.39% | 100.00% |
| | % by Gear | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% |
| | % of Total | 82.93% | 17.07% | 100.00% | 81.61% | 18.39% | 100.00% |

% Ret. / Dis. is the retained catch (or discarded catch) for the year by that gear as a percent of the total catch by that gear for the year (i.e. the row percent).

% by Gear is the retained, discarded, or total catch by that gear for the year as a percent of the total retained, discarded, or total catch of all gears in the table for the year (i.e. column percent).

% of Total is the retained, discarded, or total catch by that gear for the year as a percent of the total catch of all gears in the table for the year (i.e. total percent).

50 CFR Ch. VI (10-1-93 Edition)

Fishery Conservation and Management

§602.17 National Standard 7—Costs and Benefits.

(d) *Analysis.* The supporting analyses for FMPs should demonstrate that the benefits of fishery regulation are real and substantial relative to the added research, administrative, and enforcement costs, as well as costs to the industry of compliance. In determining the benefits and costs of management measures, each management strategy considered and its impacts on different user groups in the fishery should be evaluated. This requirement need not produce an elaborate, formalistic cost/benefit analysis. Rather, an evaluation of effects and costs, especially of differences among workable alternatives including the status quo, is adequate. If quantitative estimates are not possible, qualitative estimates will suffice.

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ALASKA FACTORY TRAWLER
ASSOCIATION, et al.,
Plaintiffs/Appellants,

v.

MALCOLM BALDRIDGE, Secretary of
Commerce,
Defendant/Appellee,

and

FISHING VESSEL OWNERS'
ASSOCIATION, et al.,
*Intervenor-Defendants/
Appellees.*

No. 86-4410

D.C. Civil No.
C85-2279V

OPINION

Argued and Submitted
September 10, 1987—Seattle, Washington

Filed November 6, 1987

Before: Anthony M. Kennedy and Robert R. Beezer, Circuit
Judges, and William P. Gray,* District Judge.

Per Curiam

Appeal from the United States District Court
for the Western District of Washington at Seattle
Donald S. Voorhees, District Judge, Presiding

***Honorable William P. Gray, Senior United States District Judge for the**
Central District of California, sitting by designation.

SUMMARY

Administrative Law/Environmental Law

Appeal from a grant of summary judgment. Affirmed.

Appellants sought to render null and void Amendment 14 of the Gulf of Alaska Groundfish Fishing Management Plan. Judge Voorhees granted summary judgment in favor of appellee Secretary of State.

[1] Amendment 14 does not violate National Standard 4 because it will benefit all longline fishermen, not just those that are residents of Alaska. Even though there may be some discriminatory impact, the regulations are tailored to solve the problem. [2] The Secretary considered non-economic objectives in promulgating the regulations and that the measure was not adopted solely for economic reasons. Thus, Amendment 14 does not violate National Standard 5. [3] The Secretary does not have to conduct a formal cost/benefit analysis of Amendment 14. He, therefore, does not need to demonstrate that it is the least restrictive alternative available for managing the resource. National Standard 7 is not violated. [4] No Environmental Impact Statement on the effects of the amendment on the human environment was required. An agency's decision not to prepare an EIS should be upheld if it is reasonable. The Secretary's decision was reasonable.

COUNSEL

Stephen B. Johnson, Seattle, Washington, for the appellants
Alaska Factory Trawler Association, et al.

William B. Lazarus, Washington, D.C., for the appellee Bal-
dridge.

may review regulations promulgated by the Secretary of Commerce, and the FCMA provides for the standard of judicial review in this case. 16 U.S.C. § 1855(d). However, unless the Secretary acts in an arbitrary and capricious manner in promulgating such regulations, they may not be declared invalid. Section 1855(d); 5 U.S.C. § 706(2)(A).

THE SECRETARY'S DECISION

In order for a court to overturn a Secretary's decision, it must be shown that alleged irregularities, such as closed meal-time meetings, affected such decision. The trial court found, and we agree, that the alleged irregularities did not result in any improper material being added to the administrative record. In this case the Secretary followed procedures correctly and established a rational basis for his decision.

[1] Amendment 14 of the Gulf of Alaska Groundfish Fishing Plan does not violate National Standard 4, 16 U.S.C. § 1851(a)(4), because it will benefit all longline fishermen, not just those that are residents of Alaska. Even though there may be some discriminatory impact from Amendment 14, the regulations satisfy the requirements of National Standard 4 in that they are tailored to solve a gear conflict problem and to promote the conservation of sablefish. Hence, the Secretary's decision to adopt Amendment 14 was not arbitrary and capricious.

[2] The record shows that the Secretary considered several non-economic objectives in promulgating the regulations and that the measure was not adopted solely for economic reasons. In consequence, the Secretary could reasonably conclude that Amendment 14 does not violate National Standard 5, 16 U.S.C. § 1851(a)(5).

[3] The Secretary does not have to conduct a formal cost/benefit analysis of Amendment 14. He, therefore, does not need to demonstrate that it is the least restrictive alterna-

tive available for managing the sablefish resource. The Secretary could reasonably have concluded from the record that pot and trawl fishing should be curtailed in Alaska for both sociological and environmental reasons, and that the amendment would be beneficial to the nation as a whole, even though some interest groups might be harmed. Thus, National Standard 7 has not been violated. 16 U.S.C. § 1851(a)(7); 50 C.F.R. § 602.17(d).

[4] Finally, the Secretary did not violate the National Environmental Policy Act by not requiring the filing of an Environmental Impact Statement (EIS) on the effects of Amendment 14 on the human environment. When substantial questions are raised as to whether a project may cause significant degradation of the environment, an EIS must be prepared, *Friends of Endangered Species, Inc. v. Jantzen*, 760 F.2d 976, 986 (9th Cir. 1985). However, an agency's decision not to prepare an EIS should be upheld if it is reasonable. *Foundation of North American Wild Sheep v. Department of Agriculture*, 681 F.2d 1172, 1177 (9th Cir. 1982). Since Amendment 14 does not close a highly-worked fishery to all fishermen, but rather allocates the already established optimum yield of sablefish among the existing gear fleets, the decision not to file an EIS was reasonable.

COPY RECEIVED

Hon. Barbara J. Rothstein

SEP 15 1994

**UNITED STATES ATTORNEY
Seattle, Washington**

**SEP 15 1994
BYRNES & KELLEY**

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

**AMERICAN FACTORY TRAWLER
ASSOCIATION,**

Plaintiff,

**and AMERICAN INDEPENDENT
FISHERMEN and NORTH PACIFIC
LONGLINE ASSOCIATION, and ROYAL
SEAFOODS, INC.,**

Intervenor-Plaintiffs,

vs.

**D. JAMES BAKER, Under Secretary
of Commerce for Oceans and
Atmosphere, United States
Department of Commerce, and
RONALD H. BROWN, Secretary,
United States Department of
Commerce,**

Defendants,

and

**PACIFIC SEAFOOD PROCESSORS
ASSOCIATION, et al.,**

Intervenor-Defendants.

NO. C92-870R

**DECLARATION OF GARRY BROWN
IN SUPPORT OF NPLA'S SUMMARY
JUDGMENT MOTION**

Garry Brown declares as follows:

**1. I have a B.A. in Economics from Bucknell University, and
an M.B.A. from and completed post graduate studies in Finance and**

1 allocations would have on the respective sectors.

2 7. The consequence of the Council's failure to modify the
3 SEIS/RIR to account for its decision to move the longliners into the
4 offshore category is that approximately twenty percent of the
5 current offshore sector was treated as though it was part of the
6 inshore sector in the GOA throughout the SEIS/RIR.

7 8. The Council is mistaken when it attempts to characterize
8 its switching the longline vessels to the offshore sector as a
9 definitional rather than as an allocative change. For the 10
10 longline vessels reported in the SEIS/RIR to have been active in the
11 GOA, the consequences of their switch into the offshore sector
12 resulted in their being removed from a sector with a guaranteed 90
13 percent of the GOA cod TAC, to having virtually no access to the
14 Pacific cod TAC. The remaining 10 percent will actually be consumed
15 in the "by-catch" of other species, the longliners will simply have
16 no access to Pacific cod in the GOA.

17 9. Finally, the SEIS/RIR does not attempt to quantify the
18 actual economic impact of Amendment 18/23 either in an overall sense
19 or with respect to the longliners. Instead, the SEIS/RIR assumes
20 that the overall economic impact of the regulations will lie
21 somewhere between the economic impacts derived from certain
22 Alternatives set out in the SEIS/RIR. However, any attempt to
23 derive the actual economic impact of the regulations from these
24 Alternatives, either on an overall basis or with respect to the
25 longliners, is pointless because the Alternatives are based on the
26 tainted profiles discussed above.

10. It is my expert opinion that the regulations will have

1 substantial impact on those longliners operating in the GOA. Over
2 the three and one-half year duration of the regulations, these
3 losses would total approximately \$7.2 million in lost Pacific cod
4 harvests. Based upon the Council's estimates of 10 affected
5 longline vessels, each longline operator could lose, on average, up
6 to approximately \$720,000 as a result of the regulations.

7 I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF
8 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

9 DATED at Seattle, Washington, this 15 day of September, 1994.

10
11 Garry I Brown
12 GARRY BROWN

13 s210\brown.doc:erv

Testimony of Dr. David Fluharty, NPFMC**June, 1995**

Chairman Lauber: Are there any other items under that...Dr. Fluharty.

David Fluharty: This is just to...along these same lines...just to raise a point. It's not a proposal...a proposed amendment, but just to draw the Council's attention to something that, through analysis, I think we ought to be aware of. And whether we can do anything about it at this time, I'm not sure. But I'd like to state for the record, my concerns about the cumulative impacts of Council actions on the freezer-longliner fleet and the BSAI fixed-gear cod fishery. First, under the moratorium, which was intended to stabilize fisheries, we allowed approximately 200 vessels to cross over into the groundfish fisheries. These are vessels, in many cases, with no catch history or no dependence on those fisheries. Second, under license limitation, we've allowed speculative entry into fixed gear fishing, by what is, I believe to be an unknown number of boats. It seems that we really don't know what the effect of this is. During public testimony we've heard, in the BSAI fixed gear fishery...that the BSAI fixed gear fishery barely supports 30 freezer-longliners and a handful of pot vessels. The addition of the new vessels into this fishery could at least double the fleet size, if not the effort, and thereby destabilize the fishery. Third, under the inshore-offshore

(Fluharty, continued) and license limitation programs, we have permanently excluded large freezer-longliners from the Gulf of Alaska. And I'm concerned about the stability of this fleet. I think that the cumulative actions have been major, and that we should be aware of that. Thank you.

Fax 907-271-2817

4/16/96

Attn. Rick Lauber - Chairman NPFMC
RE: P cod - Crab fleet

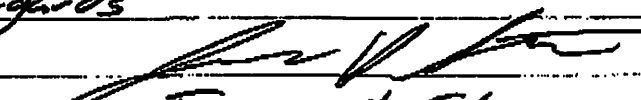
Dear Sir

As you are aware we are currently suffering through a period of low crab stocks. We are doubly hurt by reduced prices on the world market due to an abundance of crab from Russia and Canada. In order to help us get over this period of difficulty, we are in great need of access to the cod stocks.

I am involved in two boats. The Labrador which is currently fishing Cod near Unimak pass, and the Retriever which is enroute for Dutch Harbor with plans to join the Labrador.

We are desperately in need of this fishery to help make ends meet. Please help us help us by giving the fixed gear fisheries as large a share of the quota as possible. 60%-70% would be great.

Regards


James H. Stone

F/V Sea Star

1110 N.W. 50th
Seattle Washington 98107
(206) 286-9234 office
(206) 782-0408 facsimile

From: LARRY HENDRICKS
1110 N.W. 50th
SEATTLE WASHINGTON
98107

To: COUNCIL MEMBER
OR STAFF MEMBER



DEAR COUNCIL MEMBER,

I AM WRITING THIS LETTER OUT OF CONCERN TO PROTECT DIFFERENT USER GROUPS CHASING AFTER THE SAME OR DIFFERENT SPECIES OF FISH WITH DIFFERENT GEAR TYPES. I AS A CRAB AND GROUND FISH POT FISHING VESSEL HAVE BEEN LOSING GEAR TO THE TRAWL GROUP TO THE EXTENT THAT MY VESSELS INCOME AND LIVELIHOOD HAVE BEEN SERIOUSLY DAMAGED. I APPEAR TO HAVE NO RECOURSE YET KNOW WHICH VESSELS WERE IN THE AREA, AND ALL DENY TRAWLING THROUGH MY GEAR YET I END UP WITH NO WAY TO PLY MY TRADE WITH MY SIGNIFICANT GEAR LOSS.

FOR YOU TO UNDERSTAND WHERE THE PROBLEM LIES YOU NEED TO UNDERSTAND THE CONCEPTS OF HOW DIFFERENT GEAR GROUPS CATCH THERE FISH.

TRAWLER GROUPS; TO CATCH FISH, TRAWL GROUPS DEPEND UPON THE SCHOOLING EFFECT OF DIFFERENT SPECIES TO CATCH THERE FISH. THIS SCHOOLING EFFECT IS CREATED BY THE INNATE NATURE OF SCHOOLING FOR SPAWNING, SCHOOLING FOR PROTECTION FROM PREDATORS, AND SCHOOLING WHILE SEARCHING FOR A COMMON FOOD SOURCE. I ALSO SUSPECT A POSSIBLE SOCIAL EFFECT OF INTERMIXING BETWEEN CERTAIN SPECIES TO TRAVEL TOGETHER FOR PROTECTION FROM COMMON PREDATORS CREATES SCHOOLING. IN ESSENCE THE SUCCESS OF THE TRAWLER DEPENDS ON SPECIES BEING GROUPED TOGETHER TO MAKE THERE METHOD OF CATCHING EFFECTIVE AND BY-CATCH REDUCED WITH PROPER ELECTRONICS TO DIFFERENTIATE BETWEEN SPECIES.

CRAB AND BOTTOM FISH POT FISHING GROUPS; TO CATCH FISH OR CRAB, WE ENTICE VARIOUS ANIMALS WITH THE USE OF FOOD TO BE TRAPPED WITHIN THE CONFINES OF THE POT. WE RESTRICT ENTRY OF CERTAIN SPECIES, AND CULL SMALL OR JUVENILE SPECIES BACK OUT. OTHER METHODS TO RESTRICT BY-CATCH IS TO GRIND UP AN UNWANTED SPECIE FOR BAIT, WHICH WILL WORK FOR BAIT FOR TARGET SPECIE, YET KEEP OUT UNWANTED SPECIES SINCE MOST SPECIES ARE NOT CANNIBALISTIC OF THERE OWN. ESSENTIALLY WE ENTICE MOST OF THE CREATURES IN THE AREA WITH FOOD AND RESTRICT ENTRANCE DUE TO SIZE OR CHARACTERISTIC OF SPECIE, OR CULL OUT THE UNWANTED SPECIES OR JUVENILES BACK OUT WITH MESH REGULATION OR ESCAPEMENT RINGS.

HOOK AND LONGLINE USER GROUPS; AGAIN VARIOUS SPECIES OF FINFISH AND CRUSTACEANS ARE ENTICED TO THE HOOK WITH THE USE OF FOOD, THE SIZE OF HOOK AND BAIT DETERMINES SPECIE TO BE CAUGHT. BOTTOM CHARACTERISTICS, DEPTH, AND TIME OF DAY ALSO DETERMINES WHICH TYPE OF FISH WILL BE CAUGHT. HOOKS RARELY CATCH CRUSTACEANS YET ARE SUSCEPTIBLE TO LOSS OF PRODUCT TO MARINE MAMMALS DURING RETRIEVAL OF GEAR. ALL IN ALL THE FEEDING OF FISH ENTICES ALL OF THE MARINE CREATURES TO THE AREA WITH ONLY CREATURE CAPABLE OF BITING THE HOOK TO BE CAUGHT.

JIG GEAR; SMALLER VESSELS TEND TO JIG IN FRONT OF DEVELOPED COMMUNITIES OR VILLAGES. THERE METHOD OF FISHING USES DRIFT & CURRENT, DEPTH, HOOK SIZE AND AN INNATE CREATURE CURIOSITY TO FLASHY OBJECTS. DEPENDENT OF TARGET SPECIE, JIGGING DEPTHS FISHED RARELY EXCEEDS 50 FATHOMS IN DEPTH YET DRIFTS INCLUDE DEEPER WATERS WITH SCHOOLING FISH FOLLOWING JIG GEAR.

HEREIN LIES THE PROBLEM, WITH FUTURE COMPETITION TO HARVEST OUR VAST PROTEIN RESOURCES, GEAR ENTANGLEMENT BETWEEN USER GROUPS WILL CONTINUE TO ESCALATE WITH POSSIBLE HARD FEELINGS BETWEEN FIXED GEAR GROUPS, JIG VESSELS AND TRAWL GROUPS FISHING FOR ALL SPECIES OF FISH.

TRAWL GROUPS ARE FRACTURING SCHOOLS OF THERE TARGET FISH WHILE FISH ARE CONGREGATING IN AMONGST THE FIXED GEAR OR JIG FISHING VESSELS. WITHIN TIME WE AS FIXED GEAR FISHERMAN WILL ENCOUNTER TRAWL GROUPS TARGETING SCHOOLED FISH DANGEROUSLY CLOSE TO OUR GEAR AND LOSE OUR GEAR TO TRAWL GROUPS TRAWL WARPS. JIG VESSELS WILL ENCOUNTER FIXED GEAR GROUPS, TANGLE AND JIG GEAR HOOKED IN BUOY LINE OR POTS. WE AS FIXED GEAR POT FISHERMAN ARE LOSING OUR GEAR PRIMARILY AT NIGHT TO TRAWL GEAR GROUPS AND ARE HELPLESS AFTER THE GEAR IS LOST.

WE AS DIFFERENT GEAR TYPE USERS ALL HAVE OUR INDIVIDUAL GEAR / SPECIE INTERACTION PROBLEMS AND INTERRELATE WITH THE ENVIRONMENT IN DIFFERENT WAYS. EACH GEAR TYPE HAS A PRACTICAL AND PASSIVE MEANS OF HARVESTING CERTAIN TARGET SPECIES WITHOUT DISTURBING THE MARINE ENVIRONMENT. WITHOUT SOME TYPE OF SYSTEM OR PROTOCOL BETWEEN GEAR TYPES, WE WILL BE CREATING AN ENVIRONMENTAL DISASTER DUE TO GEAR CONFLICTS AND LOST GEAR.

I AM SURE THERE WILL BE MANY PROPOSED REMEDIES AND VIEWPOINTS BY DIFFERENT GEAR TYPES. LISTED BELOW ARE SOME CONCEPTS WHICH MIGHT WORK FOR THE POT GEAR IN COMBINATION OR INDIVIDUALITY.

PROPOSAL #1

IN THE MID-SEVENTIES WE AS AMERICAN FISHERMAN HAD A GOVERNMENTAL FUND FINANCED BY THE FOREIGN FLEETS TO REPLACE LOST GEAR WITH PROPER DOCUMENTATION. WITH A SYSTEM SIMILAR TO THIS, ALL GEAR GROUPS WILL HAVE ACCESS TO ALL FISHING GROUNDS. FUNDS CAN BE ESTABLISHED ACCORDING TO AREA FISHED AND TAX ADMINISTERED EQUALLY BY SEASON TO OFFENDING GEAR GROUPS TO REPLACE LOST GEAR AND REVENUE.

PROPOSAL # 2

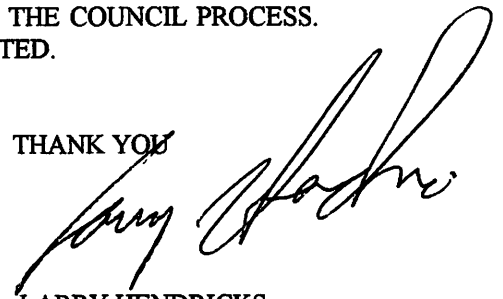
TIME OR AREA CLOSURES BETWEEN CONFLICTING GEAR TYPES. SUCH AS WHEN FIXED GEAR GROUPS ARE FISHING FOR COD OR CRAB THEN A MINIMUM DEPTH CANNOT BE BREACHED BY AN OFFENDING GEAR GROUP. SEPARATION OF DIFFERENT GEAR TYPES WILL SOLVE MUCH OF THE PROBLEMS OF GEAR LOSS AND POSSIBLY PROTECT SPECIES WHICH ARE NOT TARGET SPECIES CONGREGATING AMONGST FIXED GEAR. THE PROBLEM WITH THIS APPROACH WITH BOTTOM TRAWL GEAR, IS CAN WE DISRUPT PLANT AND BOTTOM LIFE ONE MONTH AND EXPECT SOME TYPE OF NORMALITY THE NEXT?

PROPOSAL #3

WHOLESALE CLOSURES OF AREAS TO DIFFERENT GEAR TYPES FOR PROTECTION OF HABITAT DEPENDENT OF SPECIES. MUCH OF THE MARINE PLANT LIFE AND ROCKS CREATE HABITAT FOR JUVENILE CREATURES AND FOOD FOR OTHER SPECIES. A PERFECT EXAMPLE IS THE PRIBLOF ISLAND AREA WHICH CRAB RESOURCES ARE STARTING TO BUILD DESPITE PREDATORY FISH MIGRATING IN AND OVER THE UNDISTURBED BOTTOM. THE LONG LINE VESSELS HAVE BY INTERNATIONAL TREATY A HALIBUT SAVINGS AREA IN THE BERING SEA WHICH LONGLINERS CANNOT BREACH WHEN TAKING HALIBUT QUOTA YET TRAWLERS ARE ALLOWED TO SCOUR THE BOTTOM DURING COD SEASON IN THE HALIBUT SAVINGS AREA. THIS ALSO HOLDS TRUE WHEREAS IN THIS SAME AREA, TRAWLERS BY-CATCH IN NUMBER OF BARIDI CRAB CAUGHT, ARE IN NUMBERS GREATER THEN POT GEAR FISHERIES DECLINING HARVEST NUMBERS. HABITAT PROTECTION SHOULD BE THE KEY TO ALL FISHERIES TO GUARANTEE FUTURE PROTECTION OF OUR RENEWABLE RESOURCES. IF A DOLLAR IS TO BE MADE, EMERGING HABITAT FRIENDLY TECHNOLOGY WILL SOON PREVAIL. THE NEXT 100 YEARS OF TECHNOLOGY WILL FAR EXCEED THE LAST 100 YEARS WORTH. DESPITE THE SHORT TERM CONSEQUENCES OF ECONOMIC SHOCK TO COMMUNITIES, LONG TERM PROSPERITY FOR MANY COMMUNITIES WILL BE DEPENDENT ON HABITAT PROTECTION. PROTECTION OF OUR RENEWABLE FOOD RESOURCES IN THE FUTURE WILL AGAIN PLAY A HAND IN WORLD POLITICS SUCH AS OUR GRAIN RESOURCES DID IN THE MID-SEVENTIES.

I AM SURE MY PROPOSED REMEDIES WILL BE CONTROVERSIAL AND BE FOUGHT BY DIFFERENT USER GROUPS YET SOMETHING WILL HAVE TO BE DONE. MANY OF THE FIXED GEAR AND JIG GEAR VESSELS ARE SMALL INDEPENDENT OWNERS WITHOUT THE FINANCIAL RESOURCES TO DEAL WITH ORGANIZED GROUPS OR THE COUNCIL PROCESS. ANY HELP YOU AS COUNCIL CAN GIVE WILL BE MUCH APPRECIATED.

THANK YOU



LARRY HENDRICKS

F/V SEA STAR GEAR LOSS RECORD FOR 1996

DURING THE 1996 OPEILIO SEASON GEAR LOSS WAS RECORDED AS FOLLOWS;

1. LOST POT IN STORAGE
2. B-9 LONGLINE TANGLE
3. 411 TANGLE IN WHEEL
4. E-22 PARTED HAULING GEAR BACKWARD
5. C-55 PARTED HAULING STRING BACKWARDS
6. COD POT PARTED ROUGH WEATHER
7. 36 POTS LOST TO TRAWLERS

COPIES OF F/V SEA STARS GEAR LOSS RECORDS ARE LOCATED IN BACK OF BOOKLET.

ADDITIONAL VESSELS WHICH LOST GEAR IN APPROXIMATE AREA OF F/V SEA STAR.

1. F/V ROSIE G 25+ POTS
2. F/V EARLY DAWN 18 POTS
3. F/V KETCHIMAK QUEEN 30 POTS HEARD ON RADIO
4. F/V GUIDING STAR UNKNOWN POT LOSS
5. F/V PACIFIC STAR UNKNOWN POT LOSS
6. F/V KETA UNKNOWN POT LOSS

COUNCIL OR STAFF SHOULD INQUIRE ABOUT POT LOSS OF THESE VESSELS AND OTHERS FISHING EASTERN SUB-DISTRICT FOR OPEILIO CRAB. I AM SURE MANY OTHER POT FISHING VESSELS HAVE HAD GEAR INTERACTION WITH OTHER GEAR TYPES.

REPLACEMENT COST OF POT GEAR AND APPROXIMATION OF LOST REVENUE BY F/V SEA STAR

| | | | |
|-------------------------------|-------------------------------------|---------------|--------------------|
| COST OF POT | | POT COST | \$335.00 |
| SINKING LINE | COIL COST \$351.12 | SHOT COST | \$ 58.52 |
| FLOATING LINE | COIL COST \$ 269.00 | SHOT COST | \$ 44.83 |
| TRAILER LINE | COIL COST \$160.00 | LINE COST | \$ 8.00 |
| BRIDLE LINE | COIL COST \$176.00 | BRIDLE COST | \$ 8.80 |
| BAIT JAR, GANGION, SNAP (2) | BAIT JAR COST EACH \$2.95 | BAIT JAR COST | \$ 5.90 |
| GROMMET | | GROMMET COST | \$.35 |
| BLACK TAPE | | TAPE COST | \$.50 |
| BUOY BAGS (2) | | BUOYS COST | \$ 39.00 |
| CHAFING HOSE | | CHAFING COST | \$ 1.20 |
| DOOR HOOKS | | HOOK COST | \$.90 |
| RUBBER STRAPS | | STRAP COST | \$.30 |
| DOOR STRAPS | | STRAP COST | \$ 1.26 |
| BAIT BAG | | BAIT BAG | \$.37 |
| TOTAL COST OF CRAB POT | | | \$504.93 |
| LOST GEAR TO TRAWLERS | | | \$18,177.48 |
| ESTIMATE LOST TO REVENUE | 3 PICKS, 125 LBS CPUE, \$1.45 PRICE | | \$19,575.00 |
| TOTAL COSTS LOST | | | \$37,752.48 |

***KNOWN FACTORY TRAWLERS & TRAWL CATCHER
VESSELS IN AREAS OF CRAB FISHING VESSELS
DURING THE 1996 OPEILIO SEASON IN EASTERN
SUB-DISTRICT***

- 1. F/V PACIFIC SCOUT***
- 2. F/V PACIFIC MONARCH***
- 3. F/T NORTHERN HAWK***
- 4. F/T NORTHERN EAGLE***
- 5. F/V DEFENDER***
- 6. F/V CLAYMORE SEA***
- 7. F/T HEATHER SEA***
- 8. F/V SHARON LORRAINE***
- 9. F/T ISLAND ENTERPRISE***
- 10. F/T SEATTLE ENTERPRISE***
- 11. OCEAN PHOENIX FLEET***
- 12. AMERICAN TRIUMPH FLEET***
- 13. F/V DESTINATION***

F/V Sea Star

*1110 N.W. 50th
Seattle Washington 98107
(206) 286-9234 office
(206) 782-0408 facsimile*

**From: LARRY HENDRICKS
1110 N.W. 50th
SEATTLE WASHINGTON
98107**

To: COUNCIL MEMBER OR STAFF MEMBER

DEAR COUNCIL MEMBER,

THE FOLLOWING PAGE INCLUDES ALASKA STATE STATUE FOR INTERFERENCE OF COMMERCIAL FISHING GEAR. THIS STATUE ONLY INCLUDES ALL FISHERIES AND ONLY PERTAINS TO STATE WATERS.

WE AS CRAB VESSELS ARE RESPONSIBLE TO STATE REGULATIONS UNDER THE FEDERAL MANAGEMENT PLAN. THIS LAW DOES NOT GIVE ME THE RIGHT TO PURSUE OTHER VESSELS IN THE EEZ.

(28) **seizure** means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 - AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(29) **sport fishing** means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(30) **subsistence fishing** means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(32) **subsistence uses** means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, **family** means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis;

(33) **take** means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(36) **vessel** means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

CHAPTER 10.

FISHERIES AND FISHING REGULATIONS.

SEC. 16.10.055. INTERFERENCE WITH COMMERCIAL FISHING GEAR. A person who willfully or with reckless disregard of the consequences, interferes with or damages the commercial fishing gear of another person is guilty of a misdemeanor, for the purposes of this section **interference** means the physical disturbance of gear which results in economic loss of fishing time, and **reckless disregard of the consequences** means a lack of consideration for the consequences of one's acts in a manner that is reasonably likely to damage the property of another.

SEC. 16.10.070. OPERATION OF FISH TRAPS. Fish traps, including but not limited to floating, pile-driven, or hand-driven fish traps, may not be operated in the state on or over state land, tideland, submerged land, or water. This section does not prevent the operation of small hand-driven fish traps of the type ordinarily used on rivers of the state that are otherwise legally operated in or above the mouth of a stream or river.

SEC. 16.10.100. ERECTION OF FISH TRAPS PROHIBITED ON LAND OR WATER OWNED BY STATE. Fish traps, including but not limited to floating, pile-driven, or hand-driven fish traps, may not be erected, moored, or maintained on or over land, tideland, submerged land, or water owned or otherwise acquired by the state. This section does not prevent the maintenance, use, or operation of small, hand-driven fish traps of the type ordinarily used on rivers of the state which are otherwise legally maintained and operated in or above the mouth of a stream or river.

SEC. 16.10.110. PENALTY FOR VIOLATION OF AS 16.10.100. A person who violates AS 16.10.100 is guilty of a misdemeanor and is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000, or by both.

SEC. 16.10.120. USE OF DRUM OR REEL IN OPERATION OF PURSE SEINE. A person may not use, employ, or operate a drum or reel around which a purse seine is coiled, rolled, or looped for purposes of taking or removing fish from a body of water located on or over land or tideland owned by the state or over which the state has jurisdiction. This section does not prevent the use of power blocks or the use of a reel mounted on a seine skiff to haul in or let out the separate purse seine lead which is temporarily connected to the purse seine proper, as these terms are generally employed or used in the fishing industry.

SEC. 16.10.125. USE OF TERMINATION DEVICE ON SHELLFISH AND BOTTOMFISH POT REQUIRED. The Board of Fisheries shall, by regulation, prescribe a termination device or devices for all shellfish and bottomfish pots. In this section **termination device** means a biodegradable seam or panel or other device that

renders the pot incapable of holding shellfish or bottomfish for more than six months when it is continuously immersed in sea water.

SEC. 16.10.130. PENALTY FOR VIOLATION OF AS 16.10.120 OR 16.10.125. A person who violates AS 16.10.120 or 16.10.125 is guilty of a misdemeanor, and upon conviction is punishable by imprisonment for not more than six months, or by a fine of not more than \$1,000, or by both.

SEC. 16.10.164. POLICY ON UTILIZATION OF POLLOCK. The legislature declares that stripping roe from pollock without utilizing the flesh is wasteful and does not constitute utilization of this resource for the maximum benefit of the people. Therefore, it is the policy of the state that

(1) roe stripping be eliminated to the fullest extent possible; and

(2) pollock taken in a commercial fishery should be utilized for human consumption to the fullest extent practicable.

SEC. 16.10.165. UTILIZATION OF POLLOCK TAKEN IN A COMMERCIAL FISHERY. (a) Unless otherwise provided by law, a person may not recklessly waste or cause to be wasted pollock taken in a commercial fishery.

(b) The Board of Fisheries may adopt regulations under AS 44.62 (Administrative Procedure Act) it considers necessary for implementation of this section. The board may delegate its authority under this section to the commissioner.

(c) A person who violates this section is guilty of a class A misdemeanor.

(d) Each day on which a violation of this section occurs is a separate violation.

(e) In this section

(1) **flesh** means all muscular body tissue surrounding the skeleton;

(2) **person** includes a joint venture;

(3) **waste** means the failure to use the flesh of pollock for human consumption, reduction to meal, production of food for domestic animals or fish, or scientific, display, or educational purposes; "waste" does not include normal, inadvertent loss of flesh associated with processing that cannot be prevented by practical means.

SEC. 16.10.180. LEGISLATIVE FINDINGS. The legislature finds and recognizes these facts:

(1) migratory fish and migratory shellfish are present in commercial quantities inside and outside the territorial waters of the state;

(2) migratory fish and migratory shellfish taken from the waters of the state are indistinguishable, in most cases, from those taken from the adjacent high seas;

(3) substantial quantities of migratory fish and migratory shellfish move inshore and offshore intermittently and at various times during a given year and in so doing often enter and leave territorial waters of the state;

(4) to conserve the migratory fish and migratory shellfish found inside the waters of the state it is necessary to strictly enforce local laws and regulations;

(5) by making certain laws and regulations enacted or adopted for the regulation of the coastal fishery applicable to the adjacent high sea areas, enforcement of these laws and regulations is facilitated;

(6) conservation regulations should not be adopted to impose economic sanctions.

SEC. 16.10.190. REGULATIONS. The Board of Fisheries may adopt regulations to carry out the purposes of AS 16.10.180 - 16.10.230 defining the adjacent high sea areas, migratory fish, and migratory shellfish and to make coastal fishery regulations governing the manner, means, conditions, and time for the taking of migratory fish and migratory shellfish applicable in designated adjacent high sea areas.

SEC. 16.10.200. UNLAWFUL TAKING PROHIBITED. A person taking migratory fish and migratory shellfish in high sea areas designated by the Board of Fisheries or in violation of the regulations adopted by the Board of Fisheries governing the taking of migratory fish and migratory shellfish in the designated areas may not possess, sell, offer to sell, barter, offer to barter, give, or transport in the state, including the waters of the state, migratory fish or migratory shellfish.

SEC. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. A person may not possess, purchase, offer to purchase, sell, or offer to sell in the state migratory fish or migratory shellfish taken on the high seas knowing that

F/V Sea Star

*1110 N.W. 50th
Seattle Washington 98107
(206) 286-9234 office
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**From: LARRY HENDRICKS
1110 N.W. 50th
SEATTLE WASHINGTON
98107**

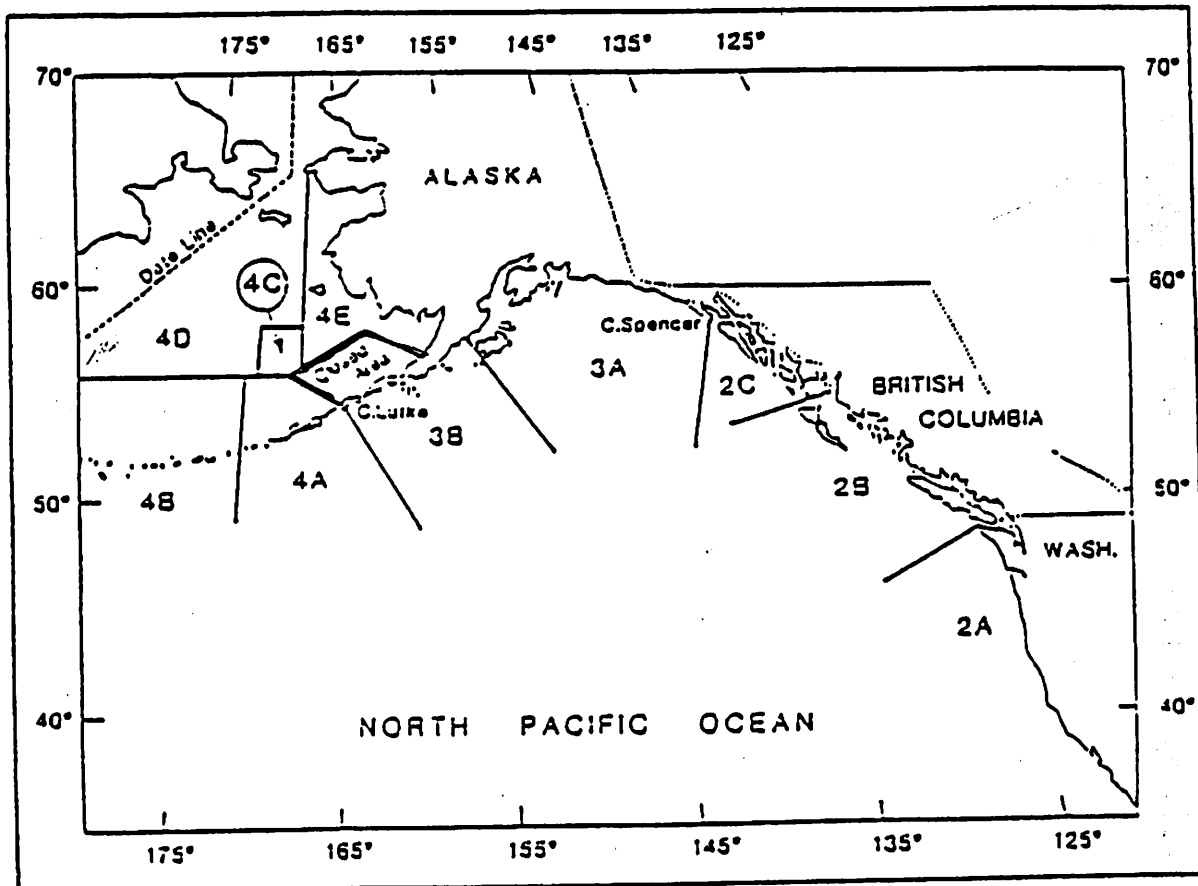
To: COUNCIL OR STAFF MEMBER

DEAR COUNCIL MEMBER,

THE FOLLOWING PAGE CONTAINS A COPY OF THE CLOSED AREA KNOWN AS THE HALIBUT SAVINGS AREA. THIS INTERNATIONAL TREATY IS STILL IN FORCE AND WAS PUT INTO EFFECT IN THE MID-SEVENTIES TO STOP FOREIGN TRAWLERS FROM ENTERING THIS AREA.

THIS AREA STAYED CLOSED TO ALL TRAWLING UNTIL WE HAD AMERICANIZATION OF THE AMERICAN TRAWL FLEET. THIS APPROXIMATE AREA WAS ALSO KNOWN AS THE AMERICAN CRAB FISHERY POT SANCTUARY DURING THE 1970'S.

PACIFIC HALIBUT FISHERY REGULATIONS 1995



Regulatory areas for the Pacific halibut fishery.

9. Closed Area

All waters in the Bering Sea north of $54^{\circ}49'00''$ N. latitude in Isanotski Strait that are enclosed by a line from Cape Sarichef Light ($54^{\circ}36'00''$ N. latitude, $164^{\circ}55'42''$ W. longitude) to a point at $56^{\circ}20'00''$ N. latitude, $168^{\circ}30'00''$ W. longitude; thence to a point at $58^{\circ}21'25''$ N. latitude, $163^{\circ}00'00''$ W. longitude; thence to Strogonof Point ($56^{\circ}53'18''$ N. latitude, $158^{\circ}50'37''$ W. longitude); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters.

| | | | |
|--------------|------|--------------|--------------|
| 56 42 43 691 | WIZ | CPD | 56 42 43 691 |
| 168 20 520 | B-4 | after (know) | 56 41 551 |
| 56 47 050 | 272 | after | 56 40 846 |
| 168 29 885 | E-70 | after | 168 23 528 |
| 56 46 225 | 252 | after | 56 40 473 |
| 168 18 227 | D-12 | after | 168 23 261 |
| 56 47 010 | F-22 | after | 56 42 141 |
| 168 19 485 | F-22 | after | 168 18 261 |
| 56 48 320 | F-22 | after | 56 43 260 |
| 168 16 735 | F-22 | after | 168 23 100 |
| 56 44 078 | 294 | after | 56 43 930 |
| 168 14 064 | 294 | after | 168 23 850 |
| 56 39 375 | 222 | after | 56 42 758 |
| 168 15 645 | 222 | after | 168 20 632 |
| 56 42 628 | (10) | | |
| 168 11 593 | | | |

| | | | |
|------------|------|-------|------------|
| 56 43 691 | F-11 | | 56 43 691 |
| 168 20 520 | N-38 | | 168 20 780 |
| 56 47 050 | K30 | | 56 47 050 |
| 168 29 885 | E-39 | | 168 29 885 |
| 56 46 225 | F-90 | found | 56 46 225 |
| 168 18 227 | F-5 | | 168 18 227 |
| 56 47 010 | C-59 | | 56 47 010 |
| 168 19 485 | L-10 | | 168 19 485 |
| 56 48 320 | E-94 | | 56 48 320 |
| 168 16 735 | C-12 | | 168 16 735 |
| 56 44 078 | N-15 | | 56 44 078 |
| 168 14 064 | L-11 | | 168 14 064 |
| 56 39 375 | | | 56 39 375 |
| 168 15 645 | | | 168 15 645 |
| 56 42 628 | | | 56 42 628 |
| 168 11 593 | | | 168 11 593 |

F-31) chaffed line part

E-32

56 31 70
168 13 820

C-27 chaffed line part

DIZ

3

END

POTS

56 36 520
164 13 940

N-36

56 38 492
168 18 642

N-18

(L-12)

NEW FACTORY T
SHOWS UP

FOUND SAME STRING
8 TO
west

F-80

56 38 674
168 16 801

N-29

56 39 387
168 16 249

1st COB POT

56 41 623
168 10 416

K-29

END

56 36 870
168 24 180

POT

KNEW WHERE IT WAS

N-2 DESTINATION

56 40 845
168 15 945

N-43 } 11
2 strings
1 each

56 40 380
168 15 990

(4)

~~36~~
36

B-1

56 42 070
168 15 807

JONO

56 37 930
168 13 800

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