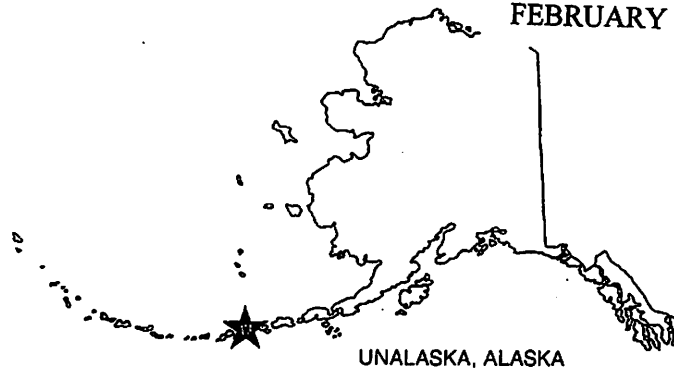


CITY OF UNALASKA

P.O. BOX 610
UNALASKA, ALASKA 99685-0610
(907) 581-1251 FAX (907) 581-1417



January 29, 2013

Eric A Olson, Chairman
North Pacific Fishery Management Council
605 W 4th Avenue, Suite 306
Anchorage, AK 99501

**Subject: C-4 BSAI Crab Issues Item (a) Final Action on BSAI Crab
Rights of First Refusal (ROFR)**

Dear Chairman Olson:

Unalaska is the largest crab-dependent processing community in the state of Alaska. We process approximately 55% of the Bristol Red King crab, 38% of the Opilio Snow crab and a majority of the Aleutian Island Golden King Crab, which are the three species of crab that make up most of the crab harvested and processed in Alaska.

As a major supporter of the crab rationalization plan since its inception in 2000, the City of Unalaska believes the plan, which was adopted by the North Pacific Council in June of 2002, is working. Having said that, we need to finish work on the Rights of First Refusal, which are a critical component of the plan as they pertain to Community Protection Measures. The City of Unalaska has had representation in and participated in negotiations through various working groups for more than ten years. Complete consensus between all groups has not yet been achieved, but we are close on most issues.

Listed below are the City of Unalaska's comments on the Rights of First Refusal provisions up for final action. The City of Unalaska would also like the Council to consider two minor changes, which are included in our comments on Action Items 3 and 4.

Purpose and Need Statement: We have no proposed changes to the Purpose and Need Statement.

Eric A Olson, Chairman
North Pacific Fishery Management Council
January 29, 2013
Page 2

Action Item 1: Increase a right holder entity's time to exercise the right and perform as required.

Position: Support Alternative 2 to increase to 90 days the time to exercise the right, and increase to 150 days the time to perform under the contract.

Action Item 2: Increase community protections by removing or modifying the ROFR lapse provisions.

Position:

Provision 1: Support Alternative 2, which removes the provision that the rights lapse if the IPQ are used outside the community for a period of three straight years.

Provision 2: Support Alternative 3, which states if the right is triggered by a sale subject to the right, and the community entity chooses not to exercise the right, a new ROFR contract would be signed at the time of transfer in which the PQS buyer names the community that receives the ROFR right. The right holder must be an existing entity eligible for ROFR at the time of the implementation of the program.

Action Item 3: Apply the right to only PQS, or PQS and assets, in the subject community.

Position: Support Alternative 2, which applies the right to only the PQS subject to the right of first refusal. Unalaska Crab, Inc. (i.e., the City of Unalaska) is not interested in crab plant physical assets as they have no value to the City. Crab processing assets in Unalaska are, on average, thirty years old and were paid off years ago. In addition, in most cases the processors did not purchase the PQS; the government gave it to them. We do not believe there is any benefit to the City of Unalaska in buying crab processing equipment in addition to the PQS. As this is a community protection program, the only realistic value to a community is the actual PQS. Therefore, we strongly encourage the Council to delete language in Alternative 2 which would allow the appraiser to increase the value of the PQS based on any diminished value of other assets included in the PQS transaction.

Action Item 4: Require community consent for IPQ to be processed outside the subject community.

Position: Support Alternative 2 with the following language: "A PQS holder may not have IPQ custom processed outside the community of origin without the permission of the ROFR holding community entity. Custom processing is defined as processing of the IPQ by an entity other than the PQS holder."

Eric A Olson, Chairman
North Pacific Fishery Management Council
January 29, 2013
Page 3

The issue of custom processing is a loophole that has just come to our attention and luckily hasn't impacted us yet. Custom processing of crab whose origin is Unalaska can move without the ROFR holder having any say in the issue. I've checked the ROFR agreements that Unalaska Crab, Inc., has on file and we have agreements with 20 PQS holders and only four of those entities have crab processing facilities, so there is no doubt that a large portion of crab PQS is being custom processed. There is no language in the ROFR that allows the community to weigh in on a PQS holder that wants to have their PQS custom processed in another community in the Southern Region. This could have a real impact on local processors, community revenues and local support sector businesses if a major PQS holder takes the PQS that was earned in Unalaska and has it processed outside the community. It makes sense that the ROFR holding community should be notified and be able to weigh in on a transaction before the PQS leaves the community.

Action Item 5: Require additional notices to right holders and NMFS.

Position: Support notices to numbers 1-5.

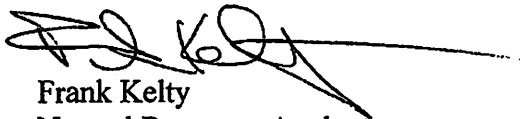
Action Item 6: Issuance of newly created PQS to Aleutia Corporation.

Position: No comment on Action Item 6.

This concludes our comments on C-4 (a) Final Action on ROFR.

We would like to thank the Council and Council Staff for their years of work on this issue. It's been a long and difficult road to finally arrive at Final Action. Once again, thank you for your consideration of our comments as they pertain to issues which are very important to the City of Unalaska and Unalaska Crab, Inc.

CITY OF UNALASKA


Frank Kelty
Natural Resource Analyst

cc: Mayor Shirley Marquardt
Unalaska City Council
City Manager Chris Hladick

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-4(a) ROFR BSAI CRAB

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Frank Kelly	City of UAA Alaska
2	Karen Moxtoya Duane Ica PP	Aleutian
3	Erinette Anderson	APICDA
4	Pat Harding	Trident
5	Shirley Blank / Eric Wine	ASB
6	Steve Minor	NACA
7	Heather McCurdy	CBSFA
8	Simeon Sretzof / Mateo Jr. Soldan	City of St. Paul
9	JOE / LESHA	TRIDENT
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.



APICDA Joint Ventures, Inc.

234 Gold Street • Juneau, Alaska 99801 • (907) 586-0161 • Fax (907) 586-0165

717 K Street, Suite 100 • Anchorage, AK 99501 • (907) 929-5273 • Fax (907) 929-5275

February 1, 2013

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. Fourth Ave.
Anchorage, Alaska

Re: Modifications to Community Provisions, Action 6

Dear Chairman Olson:

APICDA opposes the Aleutia request for the reasons outlined in this letter.

The first sentence of the analysis on page 51 reads: *“Under this action, newly-created PQS would be issued to Aleutia Corporation to redress that right holding entity’s grievance that a transfer of PQS subject to the right took place without providing that entity with the opportunity to exercise that right.”* This sentence assumes, or at the very least insinuates, that a right of first refusal was actually triggered and that Aleutia was deprived of its right to purchase the subject PQS. The analysis is fundamentally flawed because it relies upon that premise.

No one – neither Aleutia, the Aleutians East Borough, the National Marine Fisheries Service, nor Council staff – has ever established that a ROFR was triggered. We have repeatedly asked Aleutia to prove that a ROFR was triggered. They have never offered that evidence. In the absence of establishing that a ROFR was triggered one can only proceed based upon the presumption that one was not triggered. If that is the case, there is no rational reason to provide relief to Aleutia when no harm occurred.

What we know is that APICDA Joint Ventures, Inc. (AJV) purchased opilio, BBRKC, St. Matthew’s BKC, and bairdi PQS from Snopac Products in October, 2008. We know that the BBRKC was PQS based upon earnings history in Port Moller and that Aleutia held the ROFR. We know that AJV failed to check the appropriate box on the NMFS transfer sheet, and that NMFS failed to notice that. We also know that AJV issued a press release stating, in effect, that the entire PQS was going to be based out of St. George. Lastly, we know that the BBRKC was south crab which could never be processed in St. George due to regulations.

We do not believe that Snopac Products processed its BBRKC PQS at Port Moller or in the Aleutians East Borough in any of the years 2005, 2006, or 2007. If it did not, the ROFR had expired by the time of the purchase because the quota had been processed outside the jurisdiction of the ROFR holder for three consecutive years.

Port Moller is not a city. Arguably, as a result, the ROFR region could be viewed as the Aleutians East Borough. With the exception of 2008 – when Snopac had already arranged to have its BBRKC processed un Dutch Harbor – the subject crab has been processed in Akutan, one of the cities within the Aleutians East Borough. There is no foul by AJV.

We have tried to discuss this with Aleutia to no avail. Attached are two letters that address this subject. One is from Aleutia's attorney and the other is our response. As our letter notes, we have offered many times to establish a ROFR relationship with Aleutia but have received no response.

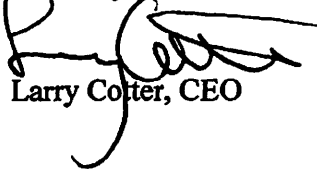
APICDA is the ROFR holder for the City of False Pass, also located in the Aleutians East Borough. Similar to how Snopac earned PQS for BBRKC by processing at Port Moller Peter Pan Seafoods also earned nearly the exact same amount of BBRKC PQS by processing within the boundary of False Pass. We did have a ROFR agreement with Peter Pan for that PQS. Ironically, False Pass lost its ROFR rights to that PQS when it was moved to King Cove through an inner-company transfer. That ROFR no longer exists. Perhaps Aleutia has it now.

It is also interesting that the analysis points out that the AJV/Snopac purchase was a package deal – a single dollar value for all of the PQS from all of the respective species. Given the existing rules, Aleutia would have had the right of first refusal to purchase the entire package even though APICDA held the ROFR for the overwhelming amount of the PQS involved.

We admit we failed to check the box and we admit the press release claimed we were going to do something we didn't know we couldn't do anyway. This acquisition was about opilio and St. George, and that was our overwhelming focus. We have found no evidence that any harm was caused to Aleutia.

Given the facts as we know them, there is no justification to reduce all southern BBRKC PQS owners' quotas to fix a problem that does not and never did exist.

Sincerely,



Larry Colter, CEO

WALKER & LEVESQUE, LLC

ATTORNEYS AT LAW
731 N Street
Anchorage, AK 99501
(907) 278-7000 | Fax (907) 278-7001

E-mail: joe-wwa@ak.net

January 11, 2012

Aleutian Pribilof Island Community Development Association
Attn: Larry Cotter, Chief Executive Officer
234 Gold Street
Juneau, Alaska 99801

RE: WRITTEN DEMAND OF PORT MOLLER QUOTA SHARE
Our File No. 200-2800

Dear Mr. Cotter:

ALEUTIA, as ECCO for Port Moller an Eligible Crab Community (ECC), hereby renews its demand for the Port Moller crab quota share that the Aleutian Pribilof Island Community Development Association ("APICDA") purchased from SnoPac in 2008. As you are aware, neither ALEUTIA nor the respective communities were aware that the Port Moller crab quota share was included in the 2008 sale. [See: Copy of APICDA Press Release dated October 7, 2008]. Additionally, no notice was given, as required under law, that the Port Moller crab quota share was processed in Unalaska during 2008, outside the community boundaries.

When ALEUTIA recently became aware that the Port Moller crab share was included in the above referenced sale and that Port Moller crab share was processed in Unalaska in 2008, it immediately requested that APICDA offer the quota shares to ALEUTIA pursuant to the Right of First Refusal Rules (ROFR).

ALEUTIA believes that it, as ECCO, should have been notified under the ROFR Rules of both transactions at the time they were consummated. First, when SnoPac processed the Port Moller crab share in Unalaska in 2008, the ROFR was triggered. The Rules expressly provide that a "Transfer" means any transaction where quota shares are passed either permanently or for a fixed period. [See: Sec. 680.41]. Therefore, under the Rules, ALEUTIA should have been notified and allowed to exercise its right of first refusal option.

Second, when SnoPac sold the Port Moller quota shares to APICDA, ALEUTIA should have again been notified and allowed to exercise its option of right of first refusal. The Rules are clear that in the event of a transfer of quota share for use outside an ECC ROFR is triggered.

Moreover, if an application for transfer of quota shares within an ECC is made then the Regional Administrator "will not approve the application" unless the ECC

January 11, 2012
Page 2

waives its ROFR by Affidavit or "the proposed recipient" in this case APICDA provides an affidavit "affirming the completion of a ROFR contract with the ECC".

Many times during our meetings on this issue, you as APICDA's Chief Executive Officer, have stated that if ALEUTIA could show you that the ROFR was triggered then APICDA would offer to sell the Port Moller crab quota share to ALEUTIA. Therefore, having presented the evidence that you requested, ALEUTIA now demands that APICDA offer the Port Moller crab quota shares to ALEUTIA as promised.

Please give me your response.

Very truly yours,

WALKER & LEVESQUE, LLC

Joseph N. Levesque

Joseph N. Levesque

Attachment included

cc: Leslie Longenbaugh
Mayor Stanley Mack
Karen Montoya

LONGENBAUGH LAW FIRM, LLC

624 MAIN STREET · JUNEAU, ALASKA 99801
TELEPHONE: 907-321-3402 · FACSIMILE: 907-586-3950
WRITER'S EMAIL: lesliel@longenbaughlawfirm.com

February 1, 2012

Via Facsimile: 907-278-7001

Joseph N. Levesque
Walker and Levesque, LLC
731 N Street
Anchorage, Alaska 99501

Re: Demand for Quota Share
Your File No. 200-2800
Our File No. 1000.7

Dear Joe:

Larry Cotter has asked me to respond to your letter of January 11, 2012, which you have characterized as a written demand for APICDA's Port Moller quota share.

As you know, we have discussed this issue at some length over the past couple of months. The foundation in law of Aleutia's position, that it had the right to exercise a ROFR if the shares were processed outside the Aleutians East Borough, is not clear. Can you point out a statute or regulation that supports that contention? As I read the federal regulations (50 CFR 680), a ROFR is implicated only upon transfer of quota shares permanently outside the region. One year's processing elsewhere does not trigger the ROFR.

Your letter maintains that Aleutia did not receive required notice of certain transactions. If NMFS erred, that error is regrettable but surely is not attributable to APICDA.

Mr. Cotter is willing to enter into a ROFR agreement with Aleutia at any time. If Aleutia would like a ROFR, please send a draft.

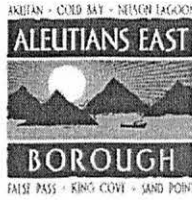
Kindly communicate with me, rather than directly with Mr. Cotter, if you wish to discuss this matter further. I look forward to it.

Sincerely,

LONGENBAUGH LAW FIRM, LLC

Leslie Longenbaugh

cc: Larry Cotter, APICDA



February 6, 2013

Eric A. Olsen, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Olsen,

The Aleutians East Borough has been actively involved in the committee process to strengthen the community provisions of the crab rationalization program for several years. We believe crab community protections have been inadequate since inception of the program. However, we are confident that this package is now ready and we urge you to adopt agenda item C-4(a), BSAI Crab Community Provisions as final action, selecting the following alternatives:

Action 1 - Alternative 2 - Increase an entity's time to exercise the right and perform as required.

Action 2 - Provision 1, Alternative 2 - Remove the provision under which ROFR lapses if IPQ are used outside the community.

Provision 2, Alternative 3 - If a community entity fails to exercise the right on a transfer of PQS, the buyer may name a new eligible community as ROFR holder.

Action 3 - Alternative 2 - Apply the right to only the PQS.

Action 4 - Alternative 2 - Require community consent to move IPQ outside the community.


Action 5 - Require the 5 additional notices to right holders and to NMFS.

Action 6 - Alternative 2 - Issuance of newly created PQS to Aleutia

We believe Action 6 is an important part of this package to acknowledge the significance of the Right of First Refusal to communities. In this case, it is clear that the ROFR was triggered and Port Moller PQS was moved out of the community without notice to the ECCO, depriving Aleutia the opportunity to purchase the PQS. Action 6 is a simple solution that proves that the BSAI Crab Community Provisions are not just an empty promise to the eligible BSAI crab communities.

Thank you for the opportunity to comment on this agenda item.

Sincerely,


Stanley Mack, Mayor
Aleutians East Borough

**The Annual "Penalty" Imposed on Industry by the Aleutia Proposal
(ROFR Action 6)**

Scenario 1: the 2010/11 Season

Total IFQ not including CDQ: 13,355,100 pounds
A Shares/PQS (approximate): 12,019,590 pounds
Aleutia Share (0.550%): 66,107.75 pounds
Assumed Recovery Rate: 64%
Total Finished Pounds: 42,308.96
Avg FOB Alaska Value: \$13.82 per pound
Gross FOB Revenue: \$584,709.87

Scenario 2: 2011/12 Season (The TAC dropped significantly but FOB prices increased).

Total IFQ not including CDQ: 7,050,600
A Shares/PQS (approximate): 6,345,540
Aleutia Share (0.550%): 34,900
Assumed Recovery Rate: 64%
Total Finished Pounds: 22,336
Avg FOB Alaska Value: \$19.56 per pound
Gross FOB Revenue: \$ 436,892.16

Scenario 3: 2012/13 Season. (My FOB data here is less reliable because the season is just over. But the FOB number I am using is generally referred to by ICE members)

Total IFQ not including CDQ: 7,067,700
A Shares/PQS (approximate): 6,360,960
Aleutia Share (0.550%): 34,985
Assumed Recovery Rate: 64%
Total Finished Pounds: 22,390.40
Avg FOB Alaska Value: \$15.00 per pound
Gross FOB Revenue: \$ 335,856.00



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www.snopac.net

August 15, 2012

Ms. Jessica Gharrett
National Marine Fisheries Service
Alaska Region
Restricted Access Management
PO Box 21668
Juneau, AK 99802-1668

Re: Your letter dated July 20, 2012

Dear Ms. Gharrett:

We are in receipt of your letter as referenced above, regarding the 2008 sale of our Crab Processor Quota Shares (PQS) to APICDA Joint Ventures Inc. That entity did in fact purchase all of our PQS.

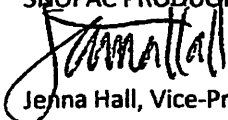
We are in the final stages of a sale of our assets to another seafood company and Snopac Products will no longer exist once the sale is complete. As of the end of September, we will no longer be occupying office space and have already destroyed many files in the process of shutting down the company.

It is our firm understanding that all rules pertaining to the transfer of PQS from Snopac to APICDA were followed, including those rules involving ROFR and providing proper notices of such a transfer to Aleutia Inc. We firmly believe such documentation existed and was destroyed in the process of our shutting down the company.

Please accept this response as an affidavit in lieu of the original document.

Best regards,

SNOPAC PRODUCTS INC.


Jenna Hall, Vice-President





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

July 20, 2012

Snopac Products, Inc.
6118 12th Avenue South
Seattle, WA 98108-2768
Attn: Mr. Greg Blakey

Dear Mr. Blakey:

On December 3, 2008, the National Marine Fisheries Service, Alaska Region, Restricted Access Management Program (RAM) approved the transfer of 2,147,761 units of Processor Quota Shares (PQS) for Bristol Bay red king crab (PRO-BBR-S-500929692 through 503077452) from Snopac Products, Inc., (Snopac) to APICDA Joint Ventures, Inc. (AJV). Under the Crab Rationalization Program, this PQS was issued with a Right of First Refusal (ROFR) held by the Aleutians East Borough (AEB), within which Port Moller is located. The Eligible Crab Community Entity (ECCE) with the right to exercise ROFR for the AEB is Aleutia, Inc. (Aleutia).

Snopac's original application for this PQS included affidavits affirming completion of a contract for ROFR, including the terms enacted under section 313(j) of the Magnuson Stevens Act. These affidavits were signed by representatives of Snopac and Aleutia on October 19, 2005. Aleutia has brought it to our attention that Snopac's application to transfer this PQS to AJV did not include an affidavit stating that Snopac had provided notice of the desired transfer to Aleutia. A regulation at the time of transfer, 50 C.F.R. § 680.41(h)(2)(i)(C)(2008), provided as follows:

If requesting transfer of PQS/IPQ for use outside an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (1), the application must include an affidavit signed by the applicant stating that notice of the desired transfer has been provided to the ECC entity under civil contract terms referenced under § 680.40(f)(3) for the transfer of any PQS or IPQ subject to ROFR.





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

July 20, 2012

Certified Return Receipt: 7007 0710 0003 2979 2244

Michael A. D. Stanley
Attorney at Law
P.O. Box 020449
Juneau, Alaska 99802

Dear Mr. Stanley:

On March 13, 2012, the Restricted Access Management Program of the National Marine Fisheries Service, Alaska Region (RAM) received your letter dated March 12, 2012. In your letter, you stated that the transfer of 2,147,761 units of Processor Quota Shares (PQS) for Bristol Bay red king crab (PRO-BBR-S-500929692 through 503077452) from Snopac Products, Inc., (Snopac) to APICDA Joint Ventures, Inc. (AJV) was improper. RAM approved the transfer in December 2008.

On behalf of your client, you claim that the transfer should not have been approved because Snopac did not submit an affidavit stating that notice of the transfer had been provided to Aleutia, Inc., (Aleutia). Aleutia is the Eligible Crab Community Entity (ECCE) for Port Moller and held the Right of First Refusal (ROFR) for Port Moller.

A regulation at the time of transfer, 50 C.F.R. § 680.41(h)(2)(i)(C)(2008), provided:

If requesting transfer of PQS/IPQ for use outside an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (I), the application must include an affidavit signed by the applicant stating that notice of the desired transfer has been provided to the ECC entity *under civil contract terms referenced under §680.40(f)(3)* for the transfer of any PQS or IPQ subject to ROFR.
[emphasis added]

NMFS revised its regulations governing transfers of crab PQS, and eliminated this provision, in November 2009.¹

RAM will not rescind its approval of this transfer. If Snopac violated the terms of its civil contract with Aleutia, Aleutia's remedy lies with Snopac. Snopac entered into a contract with Aleutia and agreed to provide Aleutia with notice of the transfer of the PQS that was subject

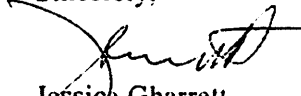
¹ Final Rule, 74 FR 51515, 51520 (Oct. 7, 2009) *revising* 50 C.F.R. § 680.41(h). This regulation became effective on Nov. 6, 2009.



to Port Moller's ROFR. As required by 50 C.F.R. § 680.40(f)(3), when Snopac initially applied for PQS, Snopac submitted affidavits affirming completion of a contract for ROFR with the terms required by section 303(j) of the Magnuson-Stevens Act.² These terms include a provision that "[a]ll terms of any right of first refusal and contract entered into related to the right of first refusal will be enforced through civil contract law."³ The statute and regulations contemplate that an aggrieved signatory to a ROFR contract who claims its terms were unfulfilled will pursue a civil remedy. *See, e.g.*, NMFS Response to Comment 123, 70 FR 10174, 10206 (March 2, 2005) ("NMFS will not be involved in the completion of these civil contracts.")⁴

Since Snopac should have provided an affidavit of notification with its application for transfer in 2008, by separate letter, I am asking that Snopac provide this affidavit now. If you have any questions regarding this letter, please contact me at (907) 586-7461.

Sincerely,



Jessica Gharrett
Program Administrator
Restricted Access Management

² Application by Snopac for Crab Processor Quota Share (received by RAM May 25, 2005); Affidavits Concerning Execution of ROFR Agreement by George Blakey on behalf of Snopac and by Bob Barnett on behalf of Aleutia (signed Oct. 19, 2005, received by RAM, Oct. 21, 2005).

³ Paragraph E, Contract Terms for Right of first Refusal based on Public Law 108-199, available at NMFS Alaska Region website: <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/posters/firstrefusal.pdf>.

⁴ NMFS's Response to Comment 119 also states that a community would seek fulfillment of the ROFR contract terms through civil court proceedings. Final Rule, 70 FR at 10206.

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rationalization\correspondence\2012\Aleutia_BBR_ROFR_Transfer_Stanley.docx

Prep: KyleM, McKeen,M: 7/16/12
Rev: MMcKeen: 7/18/12
Rev: jgharrett 7/17/12, 7/19

bcc: Crab file: Snopac Products, Inc.
Crab file: APICDA Joint Ventures, Inc.
Crab file: Aleutia, Inc.
GCAK: Mary Alice McKeen
RAM reading file

March 12, 2012

Jessica Gharrett, Program Administrator
Restricted Access Management Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
P.O. Box 21668
Juneau, Alaska 99802-1668

Re: Aleutia, Inc. – Right of First Refusal

Dear Ms. ~~Gharrett~~ ^{JESSIE}

I am writing on behalf of Aleutia, Inc., an eligible crab community organization (ECCO) for the eligible crab community (ECC) of Port Moller.

In December 2008, the Restricted Access Management Division (RAM) approved the transfer of various blocks of crab processor quota share (PQS) from Snopac Products, Inc., to APICDA Joint Ventures, Inc. (AJV). At the time, the common understanding in the industry was that this transfer involved crab PQS that was earned based on processing that had taken place at St. George. Aleutia has recently learned, however, that the transfer also included PQS for Bristol Bay red king crab that were issued on the basis of processing that was done in Port Moller. As reflected on RAM's website, APICDA received 2,147,761 units of PQS for Bristol Bay red king crab (PRO-BBR-S-500929692 through 503077452) that were earned due to processing in Port Moller.

As you know from prior communications you have had with Karen Montoya, Executive Director of Aleutia, Aleutia claims that as the ECCO for Port Moller, it should have had the right of first refusal (ROFR) for this PQS earned from processing at Port Moller. Because this PQS is being processed outside the EEC of Port Moller – Aleutia understands the crab is now being processed in Akutan – the application to transfer the PQS should have contained an affidavit stating that notice of the transfer had been provided to Aleutia as the ECCO. *See* 50 C.F.R. § 680.41(h)(2)(C). In reviewing the redacted version of that application provided to Aleutia by the National Marine Fisheries Service (obtained pursuant to a FOIA request), it does not appear that the application contained such an affidavit. Had Aleutia been notified of the impending transfer of this Port Moller-derived PQS, as it should have been, it very likely would have taken steps to assert its ROFR rights to this PQS.

Jessica Gharrett, RAM
March 12, 2012
Page Two

Aleutia has corresponded with AJV, requesting that AJV offer this Port Moller-derived PQS to Aleutia. AJV responded by offering to enter into a ROFR agreement with Aleutia that would apply to future transfers – *i.e.*, if AJV were to seek to transfer the PQS outside the Aleutians East Borough – but it is not willing to offer Aleutia the opportunity to purchase this PQS, as it could have through the exercise of a ROFR when the PQS was initially transferred to AJV. This is unacceptable. In Aleutia's view, the transfer of this PQS to APICDA has harmed Aleutia and was improper. Accordingly, Aleutia requests that RAM rescind its approval of this block of PQS from Snopac to AJV, so that Aleutia can exercise its ROFR and thereby protect the interests of the ECC which it represents.

Thank you for considering this request. Should you need any additional information from Aleutia regarding this matter, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "M.A.D. Stanley", written in a cursive style.

Michael A. D. Stanley

cc: Aleutia, Inc.



APICDA Joint Ventures, Inc.

234 Gold Street • Juneau, Alaska 99801 • (907) 586-0161 • Fax (907) 586-0165

509 West 3rd Avenue, Suite 101 • Anchorage, AK. 99501 • (907) 929-5273 • Fax (907) 929-5275

**APICDA Acquires Crab Processor Quota Shares
Tuesday - October 7, 2008**

The Aleutian Pribilof Island Community Development Association (APICDA) announced today that its' wholly owned for-profit subsidiary, APICDA Joint Ventures, Inc., (AJV), has reached agreement with Snopac Products., Inc. to purchase all of Snopac's crab processor quota shares (PQS) and their crab processing line and equipment.

AJV will acquire from Snopac approximately 5.7% of the Bering Sea opilio PQS, 1.6% of Bristol Bay red king crab PQS, 3.6% of Bering Sea bairdi PQS, 2.5% of the Pribilof Islands red and blue king crab PQS, and 4.3% of the St. Matthew's king crab PQS. At today's crab quotas, the PQS represents approximately 3 million pounds of opilio, 290,000 pounds of Bristol Bay red king crab, and 141,000 pounds of bairdi.

The PQS held by Snopac was earned during their many years of processing crab in St. George. "All of this crab should be viewed as a St. George community asset," said APICDA CEO Larry Cotter. "This acquisition serves as a foundation upon which the City of St. George and its residents can begin to develop a stable and reliable economy based upon resources located adjacent to the island."

Max Malavansky, St. George City Administrator, said, "We have prayed for this day for many years. St. George has suffered through a severe economic slump since crab processing ended on the island in the year 2000. Now we have the chance to bring it home and rebuild our economy. This is truly a great day for our community."

For more information contact Larry Cotter at 907-586-0161 or lcotter@apicda.com

**Aleutia
408 Main Street
Sand Point, AK 99661**

February 8, 2013

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. Fourth Avenue
Anchorage, Alaska

RE: APICDA's letter to the Council dated Feb. 1, 2013

Dear Chairman Olson:

Aleutia has provided the following information as a response to the letter submitted to the AP Thursday. The Aleutia Board of Directors believes the Council deserves access to accurate information to assist it in its decision making.

You will find excerpts from the APICDA letter in bold print followed by corrections to the information contained in that letter.

We have also included the Feb. 1 letter in its entirety.

Sincerely,



Karen Montoya

1. "No one neither Aleutia, the Aleutians East Borough, the National Marine Fisheries Service, nor the Council staff has ever established that a ROFR was triggered."

The letter itself concedes that Aleutia held the right of first refusal for the community of Port Moller (paragraph 3, in the APICDA letter) "We know that... Aleutia held the ROFR" Further in paragraph 5 the APICDA letter states: ".. in 2008.. Snopac had already arranged to have its BBRKC processed un (sic) Dutch Harbor- (since then) the subject crab has been processed in Akutan..."

This in itself offers the "evidence" that ROFR triggered that Mr. Cotter is requesting.

2. "We repeatedly asked Aleutia to prove that a ROFR was triggered"

Since Aleutia discovered that Port Moller-based quota transferred between Snopac and APICDA, Aleutia has met with APICDA on many occasions. Meeting dates offering "evidence" include:

- a. November 11, 2011
- b. November 15, 2011
- c. December 2, 2011
- d. December 9, 2011

The most recent of these face-to-face meetings took place on Dec. 9, 2011 at the Captain Cook Hotel in Anchorage between Aleutians East Borough attorney Joe Levesque, Karen Montoya of Aleutia and Larry Cotter of APICDA.

During that meeting, according to contemporaneous notes, Mr. Cotter himself conceded that ROFR was, in fact, triggered. Also during that meeting Mr. Cotter promised litigation if Aleutia continued to press the issue (see point 6)

Additionally, Aleutia has testified on numerous occasions in front of the Council on this action with Mr. Cotter in the audience. There are many sources of written communication regarding this issue that Mr. Cotter has either seen or received, for example:

In a March letter to Jessica Gharrett of Restricted Access Management Attorney Mike Stanley wrote:

"Because this PQS is being processed outside the EEC of Port Moller ...the application to transfer the PQS should have contained an affidavit stating that notice of the transfer had been provided to Aleutia as the ECCO."

Additionally in a written communication dated July 20, 2012 APICDA was sent a copy of a letter from NOAA to Attorney Michael Stanley representing APICDA. The letter affirmed ROFR triggered:

If requesting transfer of PQS/IPQ for use outside an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (l), the application must include an affidavit signed by the applicant stating that notice of the desired transfer has been provided to the ECC entity under civil contract terms referenced under 680.40 (f)3 for the transfer of any PQS or IPQ subject to ROFR.

3 "AJV (simply) failed to check the appropriate box on the NMFS transfer sheet, and... NMFS failed to notice that"

AJV actually did more than fail to check the appropriate box on a transfer sheet. It proactively checked a box affirming that the quota would be used outside the area (meaning ROFR triggered). It took the additional step of writing in by hand that the quota would be used outside the area (see copy of application).

4 "We do not believe that Snopac Products processed its BBRKC PQS at Port Moller or in the Aleutians East Borough in 2005, 2006, or 2007."

Please see attached documents regarding processing at Port Moller during the years in question. This affirms that Snopac did process. This information has been previously presented to Larry Cotter of APICDA on numerous occasions.

5 "Port Moller is not a city. Arguably, as a result, the ROFR region could be viewed as the Aleutians East Borough."

Port Moller is a federally designated crab community under crab rationalization. The Aleutians East Borough is the governing body, as designated by regulations. The Aleutians East Borough by unanimous vote of the Aleutians East Borough Assembly in 2005 named Aleutia the eligible crab community organization pursuant to federal regulation for crab quota earned in Port Moller. The

Aleutians East Borough assembly could have named APICDA the ECCO of this community but did not because it was not the wish of the people. This information has been communicated to Mr. Cotter on numerous occasions.

6 “We have tried to discuss this with Aleutia to no avail.”

Please see discussion dates and comments above. The last formal verbal communication with APICDA CEO Larry Cotter regarding this issue was on Dec. 9, 2011. At that time, Mr. Cotter, after conceding that ROFR triggered, promised Aleutia a “protracted lawsuit” in which APICDA will bring to bear all its “vast resources” to win in court if Aleutia continued to press the issue.

7 “It is interesting to note that the analysis points out that the AJV/Snopac purchase was a package deal—a single dollar value for all the PQS

The dollar amount for the Port Moller portion of this block of quota is available.—although redacted—on the attached application copy.

8 “The ROFR (derived from the APICDA crab community of False Pass) no longer exists. Perhaps Aleutia has it now.

We are not sure what this refers to. Perhaps an APICDA representative can explain its meaning.

MICHAEL A. D. STANLEY

P.O. BOX 020449, JUNEAU, ALASKA 99802

TELEPHONE: (907) 586-6077

ATTORNEY AT LAW

FACSIMILE: (907) 463-2511

2

March 12, 2012

Jessica Gharrett, Program Administrator
Restricted Access Management Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
P.O. Box 21668
Juneau, Alaska 99802-1668

Re: Aleutia, Inc. – Right of First Refusal

Dear Ms. ~~Gharrett~~ ^{JESSIE}:

I am writing on behalf of Aleutia, Inc., an eligible crab community organization (ECCO) for the eligible crab community (ECC) of Port Moller.

In December 2008, the Restricted Access Management Division (RAM) approved the transfer of various blocks of crab processor quota share (PQS) from Snopac Products, Inc., to APICDA Joint Ventures, Inc. (AJV). At the time, the common understanding in the industry was that this transfer involved crab PQS that was earned based on processing that had taken place at St. George. Aleutia has recently learned, however, that the transfer also included PQS for Bristol Bay red king crab that were issued on the basis of processing that was done in Port Moller. As reflected on RAM's website, APICDA received 2,147,761 units of PQS for Bristol Bay red king crab (PRO-BBR-S-500929692 through 503077452) that were earned due to processing in Port Moller.

As you know from prior communications you have had with Karen Montoya, Executive Director of Aleutia, Aleutia claims that as the ECCO for Port Moller, it should have had the right of first refusal (ROFR) for this PQS earned from processing at Port Moller. Because this PQS is being processed outside the EEC of Port Moller – Aleutia understands the crab is now being processed in Akutan – the application to transfer the PQS should have contained an affidavit stating that notice of the transfer had been provided to Aleutia as the ECCO. *See* 50 C.F.R. § 680.41(h)(2)(C). In reviewing the redacted version of that application provided to Aleutia by the National Marine Fisheries Service (obtained pursuant to a FOIA request), it does not appear that the application contained such an affidavit. Had Aleutia been notified of the impending transfer of this Port Moller-derived PQS, as it should have been, it very likely would have taken steps to assert its ROFR rights to this PQS.

Jessica Gharrett, RAM
March 12, 2012
Page Two

Aleutia has corresponded with AJV, requesting that AJV offer this Port Moller-derived PQS to Aleutia. AJV responded by offering to enter into a ROFR agreement with Aleutia that would apply to future transfers – *i.e.*, if AJV were to seek to transfer the PQS outside the Aleutians East Borough – but it is not willing to offer Aleutia the opportunity to purchase this PQS, as it could have through the exercise of a ROFR when the PQS was initially transferred to AJV. This is unacceptable. In Aleutia's view, the transfer of this PQS to APICDA has harmed Aleutia and was improper. Accordingly, Aleutia requests that RAM rescind its approval of this block of PQS from Snopac to AJV, so that Aleutia can exercise its ROFR and thereby protect the interests of the ECC which it represents.

Thank you for considering this request. Should you need any additional information from Aleutia regarding this matter, please let me know.

Sincerely,



Michael A. D. Stanley

cc: Aleutia, Inc.



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

July 20, 2012

Certified Return Receipt: 7007 0710 0003 2979 2244

Michael A. D. Stanley
Attorney at Law
P.O. Box 020449
Juneau, Alaska 99802

Dear Mr. Stanley:

On March 13, 2012, the Restricted Access Management Program of the National Marine Fisheries Service, Alaska Region (RAM) received your letter dated March 12, 2012. In your letter, you stated that the transfer of 2,147,761 units of Processor Quota Shares (PQS) for Bristol Bay red king crab (PRO-BBR-S-500929692 through 503077452) from Snopac Products, Inc., (Snopac) to APICDA Joint Ventures, Inc. (AJV) was improper. RAM approved the transfer in December 2008.

On behalf of your client, you claim that the transfer should not have been approved because Snopac did not submit an affidavit stating that notice of the transfer had been provided to Aleutia, Inc., (Aleutia). Aleutia is the Eligible Crab Community Entity (ECCE) for Port Moller and held the Right of First Refusal (ROFR) for Port Moller.

A regulation at the time of transfer, 50 C.F.R. § 680.41(h)(2)(i)(C)(2008), provided:

If requesting transfer of PQS/IPQ for use outside an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (I), the application must include an affidavit signed by the applicant stating that notice of the desired transfer has been provided to the ECC entity *under civil contract terms referenced under §680.40(f)(3)* for the transfer of any PQS or IPQ subject to ROFR.
[emphasis added]

NMFS revised its regulations governing transfers of crab PQS, and eliminated this provision, in November 2009.¹

RAM will not rescind its approval of this transfer. If Snopac violated the terms of its civil contract with Aleutia, Aleutia's remedy lies with Snopac. Snopac entered into a contract with Aleutia and agreed to provide Aleutia with notice of the transfer of the PQS that was subject

¹ Final Rule, 74 FR 51515, 51520 (Oct. 7, 2009) *revising* 50 C.F.R. § 680.41(h). This regulation became effective on Nov. 6, 2009.

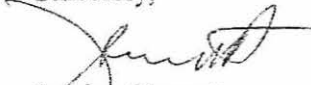


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to Port Moller's ROFR. As required by 50 C.F.R. § 680.40(f)(3), when Snopac initially applied for PQS, Snopac submitted affidavits affirming completion of a contract for ROFR with the terms required by section 303(j) of the Magnuson-Stevens Act.² These terms include a provision that "[a]ll terms of any right of first refusal and contract entered into related to the right of first refusal will be enforced through civil contract law."³ The statute and regulations contemplate that an aggrieved signatory to a ROFR contract who claims its terms were unfulfilled will pursue a civil remedy. *See, e.g.*, NMFS Response to Comment 123, 70 FR 10174, 10206 (March 2, 2005) ("NMFS will not be involved in the completion of these civil contracts.")⁴

Since Snopac should have provided an affidavit of notification with its application for transfer in 2008, by separate letter, I am asking that Snopac provide this affidavit now. If you have any questions regarding this letter, please contact me at (907) 586-7461.

Sincerely,

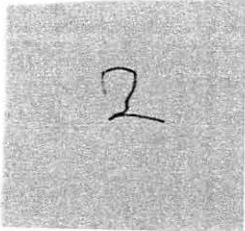


Jessica Gharrett
Program Administrator
Restricted Access Management

² Application by Snopac for Crab Processor Quota Share (received by RAM May 25, 2005); Affidavits Concerning Execution of ROFR Agreement by George Blakey on behalf of Snopac and by Bob Barnett on behalf of Aleutia (signed Oct. 19, 2005, received by RAM, Oct. 21, 2005).

³ Paragraph E, Contract Terms for Right of first Refusal based on Public Law 108-199, available at NMFS Alaska Region website: <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/posters/firstrefusal.pdf>.

⁴ NMFS's Response to Comment 119 also states that a community would seek fulfillment of the ROFR contract terms through civil court proceedings. Final Rule, 70 FR at 10206.



G:\ramgroup\crab
rationalization\correspondence\2012\Aleutia_BBR_ROFR_Transfer_Stanley.docx

Prep: KyleM, McKeen,M: 7/16/12

Rev: MMcKeen: 7/18/12

Rev: jgharrett 7/17/12, 7/19

bcc: Crab file: Snopac Products, Inc.
Crab file: APICDA Joint Ventures, Inc.
Crab file: Aleutia, Inc.
GCAK: Mary Alice McKeen
RAM reading file

Revised: 9/12/08

OMB Control No. 0648-0514
Expiration Date: 07-31-2011

APPLICATION FOR TRANSFER OF CRAB QS/IFQ or PQS/IPQ

U.S. Dept. of Commerce/NOAA
National Marine Fisheries Service (NMFS)
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668



Notes:

- Applications to transfer Quota Share (QS), Individual Fishing Quota (IFQ), Processing Quota Share (PQS), or Individual Processing Quota (IPQ) will not be processed between August 1 of any year and the date of issuance of the IFQ or IPQ in any given Bering Sea or Aleutian Island Crab Rationalization Fishery.
- This form should not be used to apply for a transfer of QS/IFQ to, or from, an Eligible Crab Community Organization (ECCO) or to, or from, a Crab Harvesting Cooperative.

BLOCK A - TYPE OF TRANSFER

1. Indicate the type(s) of Quota for which a transfer is being sought:

CPO QS/IFQ CVO QS/IFQ CPC QS/IFQ CVC QS/IFQ PQS/IPQ
 CVO/CPO IFQ Lease CVC/CPC IFQ lease IPQ lease

2. If this is a transfer of PQS or IPQ, will the PQS or IPQ be used within the ROFR community with which the PQS is currently associated? YES NO

If YES, indicate which community _____ *we outside*

and provide an affidavit stating that the ECC wishes to permanently waive ROFR for the PQS or that the proposed recipient of the PQS has completed a ROFR contract with the ECC for the PQS.

BLOCK B - TRANSFEROR (SELLER)

(The transferor is the person currently holding the QS, PQS, IFQ, or IPQ)

1. Name:

SNOPAC Products, Inc.

2. NMFS Person ID:

572

3. Permanent Business Mailing Address:

6118 12th Ave. South, Seattle, WA 98108

4. Temporary Business Mailing Address:

N/A

5. Business Telephone No.:

206-764-9230

6. Business Fax No.:

206-764-5540

7. E-mail address (if available)

sterry@snopac.net

BLOCK C ₁ - IDENTIFICATION OF PROPOSED TRANSFEREE (BUYER)		
1. Name: APILDA JOINT VENTURES Inc	2. NMFS Person ID: 61	
3. Permanent Business Mailing Address: 234 GOLD STREET JUNEAU, AK 99835	4. Temporary Business Mailing Address (see instructions):	
5. Business Telephone No.: 907-586-0161	6. Business Fax No.: 907-586-0165	7. E-mail address (if available): LETTAR@APILDA.COM

BLOCK C₂ - ELIGIBILITY OF PROPOSED TRANSFEREE
(Does not pertain to those seeking to receive Processing Quota Share)

Depending on the type of harvesting QS that is being transferred, different eligibility standards pertain to a transferee. These requirements are explained in detail in the Instructions to this form. Please read the Instructions and, having done so, complete the following:

1. The proposed transferee is applying to receive CVO or CPO QS (and/or IFQ): YES NO
 If YES, is the proposed transferee an eligible recipient of QS or IFQ as explained in the Instructions?
 YES NO*

2. The proposed transferee is applying to receive CVC or CPC QS (and/or IFQ): YES NO
 If YES, is the proposed transferee an eligible recipient of QS or IFQ as explained in the Instructions?
 YES NO*

***If NO, a completed Application for BSAI Crab Eligibility to Receive QS/POS or IFQ/IPQ by Transfer form must be completed, submitted, and approved by NMFS before this Application for Transfer can be approved.**



BUYER

APICDA Joint Ventures, Inc.

By: [Signature]
Lawrence P. Cotter
Its: Chief Executive Officer

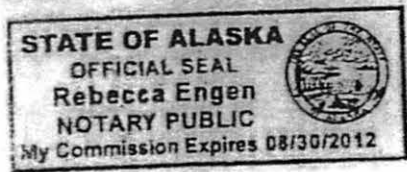
Dated this 16 day of October, 2008

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

On this 16th day of October, 2008, before me, a Notary Public in and for the State of Alaska, personally appeared Lawrence P. Cotter, and acknowledged the execution of this Processor Quota Shares Purchase and Sale Agreement to be his free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument by APICDA Joint Ventures, LLC.

WITNESS my hand and official seal hereto affixed the day and year first as above written.

[Signature]
NOTARY PUBLIC for the State of Alaska
My appointment expires: 08-30-2012



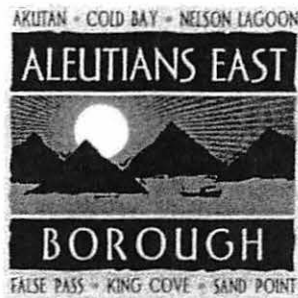
STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

On this 30th day of September, 2008, before me, a Notary Public in and for the State of Alaska, personally appeared Gregory Blakey and acknowledged the execution of this Processor Quota Shares Purchase and Sale Agreement to be his free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument, as President of SNO PAL PRODUCTS INC.

WITNESS my hand and official seal hereto affixed the day and year first as above written.

[Signature]
NOTARY PUBLIC for the State of Alaska
My appointment expires: 02-03-12





4

December 8, 2011

Ms. Karen Montoya
Aleutia
Sent by e-mail: karenmontoya@att.net

RE: PUBLIC RECORDS REQUEST

Dear Ms. Montoya:

This letter is regarding your record requests received by e-mail December 7. My e-mail shows AEB code section 60.20.120 saying fish tax records are not a matter of public record, except for purposes of borough, state or United States investigation and law enforcement. I can however, tell you that we do show taxes having been paid to AEB.

Following is your request and the results of my search:

- Bristol Bay Red King Crab fish tax information received by AEB from Snopac in the years 2005 to 2009. *Search results, show Snopac did pay taxes in 2006 to AEB for Bristol Bay Red King Crab, however, I'm not able to provide any more information beyond that, except for purposes of borough, state or United States investigation and law enforcement.*

If you have any questions regarding my letter, please call me at 907-383-2699 or e-mail tanderson@aeboro.org.

Sincerely,

Tina Anderson
Clerk

LEVESQUE LAW GROUP, LLC

3380 C Street, Suite 202
Anchorage, Alaska 99503

Phone: (907) 261-8935
Fax: (206) 309-0667
Email: joe@levesquelawgroup.com

SENT VIA EMAIL

February 8, 2013

Karen Montoya, Executive Director
ALEUTIA
P.O. Box 148
Sand Point, Alaska 99661

RE: SNOPAC ROFRS
Our File No. 200-2800

Dear Ms. Montoya:

This letter is written in response to APICDA Joint Ventures, Inc. ("AJV") letter to the North Pacific Fishery Management Council dated February 1, 2013. AJV asserts in the letter that:

We do not believe that Snopac Products processed it BBRKC PQS at Port Moller or in the Aleutians East Borough in any of the years 2005, 2006, or 2007. If it did not, the ROFR had expired by the time of the purchase because the quota had been processed outside the jurisdiction of the ROFR holder for three consecutive years.¹

The Aleutians East Borough's records reflect that Snopac had a ROFR with Aleutia for the years referred by Mr. Cotter of AJV. Furthermore, records maintained by

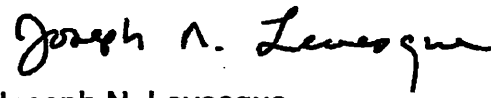
¹See: February 1, 2013 letter from AJV at page 1.

Karen Montoya, Executive Director of Aleutia
February 8, 2013
Page | 2

the Borough confirm that Snopac's Port Moller PQS were processed within the Borough for some, if not all, of the period in question.

Sincerely,

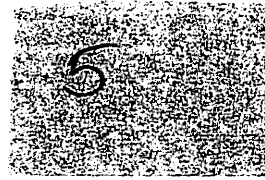
LEVESQUE LAW GROUP LLC



Joseph N. Levesque

cc: Mayor Stanley Mack,
Aleutians East Borough

Ernie Weiss, Natural Resources Director
Aleutians East Borough



The governing body of the ECC must designate the non-profit organization, which then must be approved by NMFS as an Eligible Crab Community Organization (ECCO). The nine ECCs and their governing bodies are:

Adak – City of Adak

Akutan – Aleutian Pribilof Island Community Development Association

Unalaska/Dutch Harbor – City of Unalaska

False Pass– Aleutian Pribilof Island Community Development Association

King Cove – City of King Cove and Aleutians East Borough

Kodiak – City of Kodiak and Kodiak Island Borough

Port Moller – Aleutians East Borough

Saint George– Aleutian Pribilof Island Community Development Association

Saint Paul – Central Bering Sea Fishermen's Association

7

BLOCK D₁ - IDENTIFICATION AND COST OF QUOTA TO BE TRANSFERRED

If Transfer Application is for more QS/IFQ or PQS/IPQ than the space provided on this form allows, duplicate this page as necessary to include all intended transfers with one application.

1. Identification of Quota Share or Processor Quota Share (QS/PQS) Quota (from Report of Quota Holdings):

Fishery	Sector*	Region	Beginning Serial Number	Ending Serial Number	QS
BBR	PQS	South	500,929,692	503,077,452	2,147,761

*Note: If transfer of CPO Quota, complete Questions 3 and 4 below

2. Are any current year IFQ/IPQ Pounds to transfer with the QS/PQS?

YES NO

If YES, complete the following:

Permit Number: _____ Class (A or B): A Pounds: 98,367

3. How is the CPO QS to be designated after the transfer?

CPO QS Only CVO QS and PQS

*Note: If CPO QS is transferred as both CPO QS and PQS, the resulting ratio of CVO shares to PQS shares will be 1:0.9 (i.e., 1 CVO share to 0.9 PQS shares)

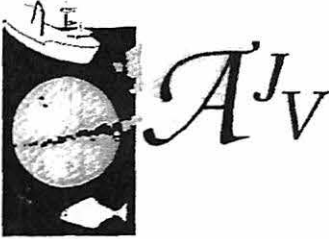
4. If intended to be designated as CVO QS and PQS, indicate the region (as appropriate for the fishery):

North South West Undesignated

Complete the following for the Quota Share identified above. If the transfer is part of a group of transfers for one consolidated price, determine the value of each segment and report it below. This information is being collected to facilitate analysis of the performance of the Crab Rationalization Program and will be held in strictest confidence.

5. What is the total price of the Quota, including all fees and other transaction costs? [REDACTED] Excluded Commercial Information

6. What is the price per Unit of QS? [REDACTED] What is the price per pound of crab? [REDACTED]
Excluded Commercial Information (Price divided by Units) Excluded Commercial Information (Price divided by Pounds)



APICDA Joint Ventures, Inc.

234 Gold Street • Juneau, Alaska 99801 • (907) 586-0161 • Fax (907) 586-0165

717 K Street, Suite 100 • Anchorage, AK 99501 • (907) 929-5273 • Fax (907) 929-5275

February 1, 2013

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. Fourth Ave.
Anchorage, Alaska

Re: Modifications to Community Provisions, Action 6

Dear Chairman Olson:

APICDA opposes the Aleutia request for the reasons outlined in this letter.

The first sentence of the analysis on page 51 reads: *“Under this action, newly-created PQS would be issued to Aleutia Corporation to redress that right holding entity’s grievance that a transfer of PQS subject to the right took place without providing that entity with the opportunity to exercise that right.”* This sentence assumes, or at the very least insinuates, that a right of first refusal was actually triggered and that Aleutia was deprived of its right to purchase the subject PQS. The analysis is fundamentally flawed because it relies upon that premise.

No one – neither Aleutia, the Aleutians East Borough, the National Marine Fisheries Service, nor Council staff – has ever established that a ROFR was triggered. We have repeatedly asked Aleutia to prove that a ROFR was triggered. They have never offered that evidence. In the absence of establishing that a ROFR was triggered one can only proceed based upon the presumption that one was not triggered. If that is the case, there is no rational reason to provide relief to Aleutia when no harm occurred.

What we know is that APICDA Joint Ventures, Inc. (AJV) purchased opilio, BBRKC, St. Matthew’s BKC, and bairdi PQS from Snopac Products in October, 2008. We know that the BBRKC was PQS based upon earnings history in Port Moller and that Aleutia held the ROFR. We know that AJV failed to check the appropriate box on the NMFS transfer sheet, and that NMFS failed to notice that. We also know that AJV issued a press release stating, in effect, that the entire PQS was going to be based out of St. George. Lastly, we know that the BBRKC was south crab which could never be processed in St. George due to regulations.

We do not believe that Snopac Products processed its BBRKC PQS at Port Moller or in the Aleutians East Borough in any of the years 2005, 2006, or 2007. If it did not, the ROFR had expired by the time of the purchase because the quota had been processed outside the jurisdiction of the ROFR holder for three consecutive years.

Port Moller is not a city. Arguably, as a result, the ROFR region could be viewed as the Aleutians East Borough. With the exception of 2008 – when Snopac had already arranged to have its BBRKC processed un Dutch Harbor – the subject crab has been processed in Akutan, one of the cities within the Aleutians East Borough. There is no foul by AJV.

We have tried to discuss this with Aleutia to no avail. Attached are two letters that address this subject. One is from Aleutia's attorney and the other is our response. As our letter notes, we have offered many times to establish a ROFR relationship with Aleutia but have received no response.

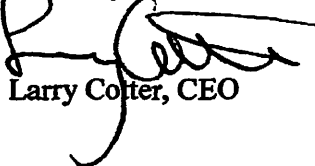
APICDA is the ROFR holder for the City of False Pass, also located in the Aleutians East Borough. Similar to how Snopac earned PQS for BBRKC by processing at Port Moller Peter Pan Seafoods also earned nearly the exact same amount of BBRKC PQS by processing within the boundary of False Pass. We did have a ROFR agreement with Peter Pan for that PQS. Ironically, False Pass lost its ROFR rights to that PQS when it was moved to King Cove through an inner-company transfer. That ROFR no longer exists. Perhaps Aleutia has it now.

It is also interesting that the analysis points out that the AJV/Snopac purchase was a package deal – a single dollar value for all of the PQS from all of the respective species. Given the existing rules, Aleutia would have had the right of first refusal to purchase the entire package even though APICDA held the ROFR for the overwhelming amount of the PQS involved.

We admit we failed to check the box and we admit the press release claimed we were going to do something we didn't know we couldn't do anyway. This acquisition was about opilio and St. George, and that was our overwhelming focus. We have found no evidence that any harm was caused to Aleutia.

Given the facts as we know them, there is no justification to reduce all southern BBRKC PQS owners' quotas to fix a problem that does not and never did exist.

Sincerely,



Larry Colter, CEO

WALKER & LEVESQUE, LLC

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E-mail: joe-wwa@ak.net

January 11, 2012

Aleutian Pribilof Island Community Development Association
Attn: Larry Cotter, Chief Executive Officer
234 Gold Street
Juneau, Alaska 99801

RE: WRITTEN DEMAND OF PORT MOLLER QUOTA SHARE
Our File No. 200-2800

Dear Mr. Cotter:

ALEUTIA, as ECCO for Port Moller an Eligible Crab Community (ECC), hereby renews its demand for the Port Moller crab quota share that the Aleutian Pribilof Island Community Development Association ("APICDA") purchased from SnoPac in 2008. As you are aware, neither ALEUTIA nor the respective communities were aware that the Port Moller crab quota share was included in the 2008 sale. [See: Copy of APICDA Press Release dated October 7, 2008]. Additionally, no notice was given, as required under law, that the Port Moller crab quota share was processed in Unalaska during 2008, outside the community boundaries.

When ALEUTIA recently became aware that the Port Moller crab share was included in the above referenced sale and that Port Moller crab share was processed in Unalaska in 2008, it immediately requested that APICDA offer the quota shares to ALEUTIA pursuant to the Right of First Refusal Rules (ROFR).

ALEUTIA believes that it, as ECCO, should have been notified under the ROFR Rules of both transactions at the time they were consummated. First, when SnoPac processed the Port Moller crab share in Unalaska in 2008, the ROFR was triggered. The Rules expressly provide that a "Transfer" means any transaction where quota shares are passed either permanently or for a fixed period. [See: Sec. 680.41]. Therefore, under the Rules, ALEUTIA should have been notified and allowed to exercise its right of first refusal option.

Second, when SnoPac sold the Port Moller quota shares to APICDA, ALEUTIA should have again been notified and allowed to exercise its option of right of first refusal. The Rules are clear that in the event of a transfer of quota share for use outside an ECC ROFR is triggered.

Moreover, if an application for transfer of quota shares within an ECC is made then the Regional Administrator "will not approve the application" unless the ECC

January 11, 2012
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waives its ROFR by Affidavit or "the proposed recipient" in this case APICDA provides an affidavit "affirming the completion of a ROFR contract with the ECC".

Many times during our meetings on this issue, you as APICDA's Chief Executive Officer, have stated that if ALEUTIA could show you that the ROFR was triggered then APICDA would offer to sell the Port Moller crab quota share to ALEUTIA. Therefore, having presented the evidence that you requested, ALEUTIA now demands that APICDA offer the Port Moller crab quota shares to ALEUTIA as promised.

Please give me your response.

Very truly yours,

WALKER & LEVESQUE, LLC

Joseph N. Levesque
Joseph N. Levesque

Attachment included

cc: Leslie Longenbaugh
Mayor Stanley Mack
Karen Montoya

LONGENBAUGH LAW FIRM, LLC

624 MAIN STREET · JUNEAU, ALASKA 99801
TELEPHONE: 907-321-3402 · FACSIMILE: 907-586-3950
WRITER'S EMAIL: leslie@longenbaughlawfirm.com

February 1, 2012

Via Facsimile: 907-278-7001

Joseph N. Levesque
Walker and Levesque, LLC
731 N Street
Anchorage, Alaska 99501

Re: Demand for Quota Share
Your File No. 200-2800
Our File No. 1000.7

Dear Joe:

Larry Cotter has asked me to respond to your letter of January 11, 2012, which you have characterized as a written demand for APICDA's Port Moller quota share.

As you know, we have discussed this issue at some length over the past couple of months. The foundation in law of Aleutia's position, that it had the right to exercise a ROFR if the shares were processed outside the Aleutians East Borough, is not clear. Can you point out a statute or regulation that supports that contention? As I read the federal regulations (50 CFR 680), a ROFR is implicated only upon transfer of quota shares permanently outside the region. One year's processing elsewhere does not trigger the ROFR.

Your letter maintains that Aleutia did not receive required notice of certain transactions. If NMFS erred, that error is regrettable but surely is not attributable to APICDA.

Mr. Cotter is willing to enter into a ROFR agreement with Aleutia at any time. If Aleutia would like a ROFR, please send a draft.

Kindly communicate with me, rather than directly with Mr. Cotter, if you wish to discuss this matter further. I look forward to it.

Sincerely,

LONGENBAUGH LAW FIRM, LLC

Leslie Longenbaugh

cc: Larry Cotter, APICDA