

November 2-3, 1978

AGENDA ITEM: 12

ACTION REQUIRED: Approve all troll salmon FMP management options and measures.

SUBJECT: "Troll Salmon" FMP

SUMMARY: Three documents have been prepared:

- ✓(a) Troll Salmon Plan decisions to be made
- ✓(b) Comments on the Troll Salmon Plan
- ✓(c) Summary of comments from public hearings, testimony and written material.

The decisions made at this meeting will constitute the first rewrite of the plan following public comment. The rewritten plan will be presented at the November 30, December 1 meeting for final approval before submission to the Secretary of Commerce (60-day) review.

COMMENTS: The plan was reviewed by the SSC in Seattle and their comments are contained in the SSC report, Agenda Item #7.

# North Pacific Fishery Management Council

Clement V. Tillion, Chairman  
Jim H. Branson, Executive Director

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Agenda Item #12  
November 2-3, 1978

## TROLL SALMON PLAN

### DECISIONS TO BE MADE

#### 1. MANAGEMENT MEASURES

##### A. Size Limit

- |              |             |               |
|--------------|-------------|---------------|
| 1. Chinook   | (28 inches) | Retain/Change |
| 2. All other | (none)      | "             |

##### B. Sex

- |                    |  |               |
|--------------------|--|---------------|
| 1. No Restrictions |  | Retain/Change |
|--------------------|--|---------------|

##### C. Landing Requirements

- |  |  |               |
|--|--|---------------|
| 1. Fin-clipped salmon must be landed head-on |  | Retain/Change |
|--|--|---------------|

##### D. Sport Bag Limit

- |   |  |               |
|---|--|---------------|
| 1. 6 salmon total, only 3 of which may be chinook |  | Retain/Change |
|---|--|---------------|

##### E. Seasons

- |              |                  |               |
|--------------|------------------|---------------|
| 1. Chinook   | April 15-Oct. 31 | Retain/Change |
| 2. Coho      | June 15-Sept. 20 | "             |
| 3. All other | April 15-Oct. 31 | "             |

##### F. Area

- |                                |  |               |
|--------------------------------|--|---------------|
| 1. Close west of Cape Suckling |  | Retain/Change |
|--------------------------------|--|---------------|

##### G. Gear

- |                         |  |               |
|-------------------------|--|---------------|
| 1. Power troll Only     |  | Retain/Change |
| 2. Prohibit net fishing |  | "             |
| 3. No-line limit        |  | "             |

H. Sportfishing

1. Allow year around Retain/Change

2. QUOTAS

A. OY figures stand as quotas for Retain/Change  
chinook and coho (offshore portion of OY east  
of Cape Suckling).

1. Chinook (fish=38,000-52,400)
2. Coho (fish=20,600-34,900)

3. AREA/TRIP REGISTRATION

1. Hold inspection and registration Implement/no implement  
permit issued to fish in the FCZ prior  
to fishing.

- (a. No fishing without a valid  
registration permit.
- (b. No fishing in state waters while  
under permit to fish FCZ.

4. FEDERAL LIMITED ENTRY

1. A federal limited entry system Implement/no implement  
for the power troll fishery is  
proposed. (Per the FMP)

5. MANAGEMENT OBJECTIVES

1. Control expansion in the FCZ. Retain/change
2. Allocate the resource among user groups w/o  
disrupting socio/economic structure.
3. Regulate catch for escapement.
4. Reduce catch of salmon with potential remaining  
growth to increase poundage yield from fishery.
5. Make public investment cost effective.
6. Promote development of coastwide plan.

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*Motion  
by Lokken  
Sec: SKoog*  
*To approve plan  
with exceptions.*

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## TROLL SALMON PLAN

### DECISIONS TO BE MADE

#### 1. MANAGEMENT MEASURES

##### A. Size Limit

- 1. Chinook (28 inches)
- 2. All other (none)

Retain/Change  
"

##### B. Sex

- 1. No Restrictions

Retain/Change

##### C. Landing Requirements

- 1. Fin-clipped salmon must be landed head-on

Retain/Change

##### D. Sport Bag Limit

- 1. 6 salmon total, only 3 of which may be chinook

Retain/Change

##### E. Seasons

- 1. Chinook April 15-Oct. 31
- 2. Coho June 15-Sept. 20
- 3. All other April 15-Oct. 31

Retain/Change  
"  
"

##### F. Area

- 1. Close west of Cape Suckling

Retain/Change

##### G. Gear

- 1. Power troll Only ok
- 2. Prohibit net fishing ok
- 3. No-line limit ok

Retain/Change  
"  
"

H. Sportfishing

1. Allow year around

Retain/Change

2. QUOTAS

A. OY figures stand as quotas for chinook and coho (offshore portion of OY east of Cape Suckling).

Retain/Change

- 1. Chinook (fish=38,000-52,400)
- 2. Coho (fish=20,600-34,900)

*no quotas*

3. AREA/TRIP REGISTRATION

1. Hold inspection and registration permit issued to fish in the FCZ prior to fishing.<sup>7</sup>

Implement/no implement

- (a) No fishing without a valid registration permit.
- (b) No fishing in state waters while under permit to fish FCZ.

4. FEDERAL LIMITED ENTRY

1. A federal limited entry system for the power troll fishery is proposed. (Per the FMP)

Implement/no implement

*as we discussed  
950 plus grandfather  
3 yrs. 5, 6, 7.  
not transferable license  
for wash + Oregon?*

5. MANAGEMENT OBJECTIVES

- 1. Control expansion in the FCZ. *yes*
- 2. Allocate the resource among user groups w/o disrupting socio/economic structure.
- 3. Regulate catch for escapement.
- 4. Reduce catch of salmon with potential remaining growth to increase poundage yield from fishery.
- 5. Make public investment cost effective.
- 6. Promote development of coastwide plan.

Retain/change

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Agenda Item #12  
November 2-3, 1978

## TROLL SALMON

Decisions are required of the Council during the meeting of Nov. 2-3 in order to proceed with the re-draft of the salmon troll plan.

In addition to other considerations which bear on the plan, public comment has been received (attached and summarized) and is to be considered during the re-write process.

The following narrative presents the plan proposals and the comment/arguments received during the public hearings and lists the decisions that have to be made.

\*\*\*\*\*

The troll salmon plan approved by the Council and distributed for public comment offered three major options:

1. Management measures for the troll fishery complementary with regulations promulgated by the State of Alaska.
2. A quota based on MSY/OY/ABC determinations for stocks in the fishery, and area/trip registration for the FCZ.
3. Possible combinations for consideration of a limited entry program for the FCZ which differed from the State of Alaska limited entry program.

Listed below in sequence is the predominant and official Alaska Trollers Association position on each of the above-listed three options plus views expressed in opposition to the ATA stand:

(The Alaska Trollers Association (ATA) has presented a position paper concerning the Salmon Troll FMP. While the ATA does not formally represent all the trollers, no troller who testified during the course of the public comment sessions expressed a view which differed materially from that of the ATA. Seventy-Five fishermen, processors, industry representatives and in some cases friends and cannery workers testified. Handtrollers were unanimous in that they did not want excluded from the troll fishery offshore; opinion was divided among power trollers but weighted heavily toward excluding the handtrollers.)

1. MANAGEMENT MEASURES

A. Size Limit

1. Chinook salmon - 28-inch total length limit (with head on), 23-inch total length limit from the mid-point of the cleithral (gill) arch to the tip of the tail (with head off).

2. All other species - None

OPPOSE

FAVOR

One handtroller  
ATA

B. Sex

1. None

OPPOSE

FAVOR

This is not an issue and was not brought up during hearings.

C. Landing requirements

&

D. Sport bag limit

No comments received

No comments received

E. Seasons

1. All waters east of the longitude of Cape Suckling are open to power troll fishing for chinook, chum, sockeye and pink salmon between April 15 and October 31.

OPPOSE

FAVOR

No comments received

No comments received

2. All waters east of the longitude of Cape Suckling are open to power troll fishing for coho between June 15 and September 20.

OPPOSE

FAVOR

No comments received

No comments received

3. All waters are open to sport fishing year around.

OPPOSE

FAVOR

No comments received

No comments received

F. All waters west of the longitude of Cape Suckling have no open season.

OPPOSE

ATA

FAVOR

One handtroller

Both ATA and other trollers seemed unanimous on the point that the area west of Cape Suckling should be opened to trolling. One of the arguments is that such an opening will disperse the troll fleet and unclog the present fishery. Another argument was the statement by several fishermen that they have fished there and want to continue fishing there. (We have a report from Ralph Pirtle, ComFishADF&G, Cordova, indicating that since 1963, only 2 years has seen a catch of 10,000 salmon or more in the Middleton Island area of Prince William Sound.)

The position of the PDT and most observers is that the existing fishery is fully utilized by the inshore net fisheries.

Comments received during the hearings indicate that some trollers do occasionally range to the west of Cape Suckling. The number may not exceed a half-dozen.

This can be viewed as follows:

OPENING the area west of Suckling would probably not increase the amount of boat traffic beyond what is already there. Boat size, location of ports, running time, concentrations of fish and weather in the PWS area probably are limiting factors which combine to keep troll effort to a minimum compared with other areas. Comments indicate that trips to the west are largely in the nature of exploratory excursions.

CLOSING the area west of Suckling as proposed in the plan probably would not interfere with the activity of more than the half-dozen boats estimated to be interested in fishing there. A closure would make a more manageable fishery area-wise. Cape Suckling is geographically expedient as a dividing line site and may be biologically the northern extreme of the migratory range of fish stocks known to be in the troll fishery and the southern extreme of stocks which originate to the west.



Miscellaneous catch figures for west of Suckling

The total catch of king salmon for the period 1963-1972 = 13,243

The total catch of coho salmon for the period 1973-1972 = 55,978

High year on kings (1967) = 3,138

High year on cohos (1967) = 22,122 (1967 was a record year with a total of 26,735 fish taken (5 species). Other year totals indicate catches of 6-3-5-4-2-2 (thousand). 1967 really skews the totals for the 1963-72 totals.

Bear in mind that these records are no more accurate than other total catch records from the troll fishery in general.

G. Gear

1. Fishing with nets is not permitted in the area covered by this plan except as discussed under Sec. 8.2.

OPPOSE

FAVOR

No comment received

ATA

2. Commercial troll fishing is allowed only by power troll gear in the FCZ east of Cape Suckling.

OPPOSE

FAVOR

Handtrollers in general

ATA

More handtrollers were heard from this time during the public hearings than in 1977. A reason is the exclusion proposed in the FMP and action by the Alaska Board of Fisheries to restrict handtrollers to inside the surfline.

3. Sport fishing to be done only with a single line held in the hand or closely attended rod. This line may not have more than one artificial lure or two flies or two single hooks attached.

OPPOSE

FAVOR

No comment received

No comment received

- 3 (A) No-Line Limit in FCZ for trollers

OPPOSE

FAVOR

Jamie Chevalier  
Eric Jordan

ATA

## 2. QUOTAS

(Sec. 8.3.1.3) -- That portion of the OY traditionally taken in the offshore troll fishery, expressed in terms of pounds of fish, is interpreted under this section as a range quota. This guarantees that no single-species OY is exceeded.

### OPPOSE

ATA

ATA opposes any form of quota for the FCZ. The argument is a quota on kings which would close down the outside fishery would force troll effort to inside waters and large numbers of native Alaskan chinook would be taken. Also, it would keep trollers from the benefits of future enhancement of kings and cohos.

The quota under debate is the average figure for the years 1971-77, a figure which (1) trollers do not accept as accurate and (2) which would, if employed, have shut down in the fishery in three out of seven years (4 of 8 if 1978 is included) when the OY for kings was reached. A secondary argument is that a quota will not allow the fishermen to benefit from record years when fish above escapement needs are present in the fishery after quotas are reached.

### AREA/TRIP REGISTRATION

(Sec. 8.3.1.3) -- Prior to fishing for salmon in the FCZ, each vessel shall have its hold inspected and receive a registration permit which allows it to fish in the FCZ. The registration permit and hold inspection must be obtained prior to each trip into the FCZ. The vessel operator shall submit his registration permit at the time and place of landing upon completion of each trip.

-- At no time shall a vessel fish in the FCZ without a valid registration permit.

-- At no time shall a vessel fish in state waters while it is registered to fish in the FCZ.

### OPPOSE

ATA

Opposition to the area/trip registration proposal was 100 percent. Refer to FMP for 4 good reasons why area/trip registration cannot be implemented.

### FAVOR

One handtroller

### FAVOR

One handtroller

3. LIMITED ENTRY

(P.47, FMP, -- A Federal limited entry system for the power troll fishery in the FCZ is proposed.

OPPOSE

ATA

FAVOR

One handtroller

In addition to the decisions which must be made by the Council, consideration will have to be made on the FMP Plan Objectives. Those objectives are:

- (1) Control expansion of the salmon troll fishery in the FCZ.
- (2) Allocate the salmon resource among user groups without disrupting present social and economic structures.
- (3) Regulate the catch of salmon to assure adequate escapement.
- (4) Reduce the catch of salmon with potential growth remaining to increase the poundage yield from the troll fishery.
- (5) Make cost effective the public investment in the high seas salmon fishery.
- (6) Promote the eventual development of a Pacific Coast salmon FMP.

Certain objections have been made to FMP objectives #3,4 and 5:

OPPOSE

- #1 - None
- #2 - None
- #3 - Aven Andersen (NMFS - F-36)
- #4 - Aven Andersen - ATA
- #5 - Aven Andersen
- #6 - None

FAVOR

No comments received

Objections to the objectives are made in written material submitted by Andersen and ATA. This material is appended to Agenda Item # 12 (c).

SUMMARY OF COMMENTS BY SUBJECT MATTER

Those of you who attended the public comment hearings are aware of the individuals who testified, their general comments and the several presentations of Scott Stafne on behalf of the Alaska Trollers Association.

The following listed topics are taken from all testimony offered and grouped according to the frequency of which they were offered. Despite the wide variety of statements, most contained one or two which formed the basis of the criticism. The broad topics can be reasonably covered by reference to the Outline of A.T.A. Policy on Ocean Salmon Troll Plan, a document given to the Council during the hearings by Scott Stafne, counsel for the ATA. It represents the official position of the Alaska Trollers Association.

This round of hearings differed from 1977 by the fact that more hand troll topics were made a point of. This was no doubt spurred by the action of the Alaska Board of Fisheries in restricting handtrolling from inside the surfline and the proposal of the NPFMC to restrict the FCZ to power troll only.

Broad general topics included:

1. Poor data base
2. Open west of Cape Suckling
3. Keep hand trollers out of the FCZ. (Trollers' argument)
4. Allow hand trolling in the FCZ. (Handtrollers' argument)
5. Keep the net fishery closed in the FCZ.

6. More utilization of the troll logbook program.
7. Adopt State of Alaska Limited Entry.
8. (By inference from above, do not impose federal limited entry scheme.)
9. Manage fishery from 0-200 miles.
10. All comments which in one form or another objected to the FMP objective #4 regarding increasing the poundage yield. Quite a bit of testimony indicated not all consumers want large king salmon and that the market for the large kings is not all that good.

Other topics mentioned one or more times included the following:

1. Oppose area registration
2. Oppose quota
3. Oppose line limit
4. Favor line limit (most frequently mentioned was 4 lines)
5. Upgrade fish ticket information
6. No shaker problem
7. Shaker problem
8. New boats (larger) no more effective than old (smaller) boats
9. Handtrolling more effective than in past years
10. More fishing "outside" than the plan indicates.
11. Plan is biologically unsound (general "poor data" argument)
12. Oppose OY on coho
13. Oppose split season (in-season adjustment proposal in the FMP)
14. Economics in general
15. Limit handtrollers
16. Do not limit handtrollers
17. Want no closures

18. Need a 10-year management plan
19. Ask Canadians to document stocks being intercepted in the troll fishery.
20. Expand the observer program
21. Making a 2-part fishery is not good.
22. Go back to 1974 to implement limited entry for hand trolling
23. None of the plan is any good
24. Need a 3% assessment on all fish
25. Make fishery a 12-200-mile fishery

One person supported the plan by commenting he liked the split-season idea, liked the individual stock quota, etc. (His comments in 1977 indicate he wanted to control sportfishermen and make all sport-caught fishing a catch-and-release fishery.)

The following may be assumed to be some lines of argument that either have majority support, offer a line of compromise or least resistance or are mandated by either common sense or legal restraints:

1. Close west of Cape Suckling - restrict troll fishery to power troll
2. Keep 28-inch size limit - no line limit
3. Keep State of Alaska Limited Entry for FCZ
4. Adopt complementary regulations with the State of Alaska as possible
5. Predicate OY on stocks east of Cape Suckling from 0-200 miles

The following topics are either generally opposed or sensitive at this time:

1. Imposition of Federal Limited Entry system in addition to State L.E.
2. Limited entry scheme for handtrollers
3. Restriction of handtrolling in the FCZ
4. Area registration - Quota - split season -

The additional argument in 1978 which was nearly absent in 1977 concerns both the numbers of handtrollers who testified and their apparent level of organization. We may reasonably have to deal with handtrolling as a major topic which would involve arguments as follows:

- (1) Limited Entry for handtrollers
- (2) Restricting handtrollers from the FCZ.
- (3) Defining the term "handtrolling".

NOTE

The written material presented to the Council has been culled for comments as those comments relate to particular aspects of the troll salmon FMP. With the following exceptions, none of the written material bears comment which differs in substance from the range of oral comments:

Gordon Sandison	Washington Dept. of Fisheries
John R. Donaldson	Oregon Dept. of Fish & Wildlife
Aven Anderson	NMFS (F-36)
Scott Stafne	Alaska Trollers Association
John Harville	Pacific Marine Fisheries Commission

Those statements are included in the comment packet attached to Agenda Item #12 (c) and are considered the official response to the troll salmon FMP from the agency or organization concerned.

TROLL SALMON HEARINGS

SUMMARY OF ORAL COMMENTS

JUNEAU

<u>NAME</u>	<u>COMMENT</u>
Dennis Austin	(Submitted a written statement included) This is the official statement from the Washington Dept. of Fisheries.
Ed Bergeron	Open west of Cape Suckling to relieve crowding on the Fairweather Grounds.
Jack Boddy	Fish ticket information is no better now than before.
Judy Braecle	Employee of the Alaska Commercial Fisheries Limited Entry Commission; offered statement after meeting supporting incidence of net-marked fish and corroborated figures from LEC on landings from offshore fishery.
Jamie Chevalier	Wants 4-line limit in FCZ. Wants hand trolling left in (FCZ). Opposes LE for hand trollers.
Chris Christensen	Asked the question: "Does the Secretary of Commerce authorize a clandestine net fishery in the trolling area?" Wanted to know the disposition of trawl-caught salmon.
Al Davis	PDT member (Alaska ADF&G). (Submitted a written statement included.) Subject is coded wire tagging program.
Richard Davis	Wants west of Cape Spencer left open. He supports ATA position.
Ward Eldredge	Do not restrict handtrollers from FCZ. Favors original LE program.
Dick Hand	Favors State of Alaska LE program, open west of Cape Suckling, no area registration, no quota.



NAMECOMMENT

Earl Johnson Information on fish tickets is erroneous.

Tom Kelley Three-mile limit is different in different places. Shakers are the trollers' problem.

Ed Linkous PDT meeting held without notifying trollers. (This statement is in error.) This is not a plan, there are no objectives, no results. New Boats are no better than old boats. What effect will quota have on Canadians? Area registration will not work. CFEC information is wrong. Fish tickets not accurate this year.

Bob Mace (Submitted a written statement included)  
This is the official statement of the Oregon Department of Fish and Wildlife.

Dorothy Osborne Does not want area registration, does not want fish derbies because of mortality rate, there is no data on freezer boats (they now number 31), shakers survive better than we think they do.

Chuck Porter Wants "Use it or lose it" provision for LE. Opposes LE. (He is a hand troller). Federal permit should be issued in conjunction with state permit. Limit boats to 950.

Don Power Present statistics are inadequate. Number of those fishing offshore is not known, present information is wrong. Weather is a limiting factor.

Hjalmer Savikko Hand troll gear is superior today over past years. Fish ticket information is in error. I landed 90 fish, ticket says 150.

Scott Stafne ATA legal counsel. We have material on file. ATA endorses season, gear, size, state LE. ATA opposes quota, Federal LE system, in-season adjustments.

KETCHIKAN

Mark Bamber Many trollers fish "outside." Three-mile line is an artificial barrier. Keep handtrollers out of the FCZ.

NAMECOMMENT

Jim Bray Favours State L.E. system. Opposes area registration. Caught NO net-marked fish this year.

A.G. Burno Plan has poor data base. Is against registration, quota, favors state L.E. system. Many trollers fish "outside."

Jack Cotant Plan has biologically unsound basis. Plan is hypothetical at best. This fishery should be left to the State with your blessing. Hand trolling is not an innocent thing. I will endorse a coast-wide plan AFTER the data base is set.

J. N. Milnes Plan does not address rehabilitation. Data base is weak. Natural stocks can be supplemented by hatchery fish. (He is Southern S.E. Aquaculture Ass'n.)

Sharon Newsome Secretary for ATA. Rejects quotas because of poor data base. Same argument as Cotant above.

Scott Stafne Opposed Federal L.E. system on basis that "super troller" status would allow only small percentage of fishermen to participate. Keep hand trollers out of the FCZ.

PETERSBURG

John DeBoer Fish in the FWG come from west of Suckling.

Leonard Engle Remarked that "Tony" (Guggenbickler, below) "spoke for me."

Ralph Guthrie Use State L.E. system. Exercise the buy-back clause in L.E. legislation. Hold down hand trolling in the FCZ.

Tony Guggenbickler Opposes quota. Favours State L.E. system. Open west of Suckling. No handtrolling.

Carl Guggenbickler Lots of net-marked fish on the high seas. There are no Taku fish, no Stikine fish in the offshore fishery. Opposes Federal L.E. offshore.

Ralph Hanson Comments same as Guthrie above.

NAMECOMMENT

John Robbins Defended hand trollers as part-timers only.  
Why have an OY on coho?  
Volney Smith Wants L.E. in FCZ, wants L.E. for hand trollers  
and suggests going back to 1974 for cut-off  
date.  
Grant Trask Expand the observer program. (Trollers are not  
the culprits in this fishery.)

PELICAN

John Clausen Coastal and offshore waters are one fishery. No  
special L.E. needed for offshore. Use the State  
L.E. system.  
Steve Fried (Biologist for ATA) Objects to quota. Making  
a 2-part fishery (inside-outside) does not make  
sense. Wants L.E. considered for hand trollers.  
Gordon Isaacson Combined testimony with Don Kenney below.  
Don Kenney (Submitted a written statement included)  
Richard Lundahl Plan has poor data base. There are no Washin<sup>on</sup>,  
Oregon or California salmon west of Suckling.  
Wants L.E. on hand trollers. Pelican Advisory  
Board (to ADF&G) wanted 26-inch limit on kings.  
Jerene Museth (Submitted a written statement included)  
Brad Padon Need to open west of Suckling to relieve pressure  
on FWG. Stocks up there are not utilized.  
Scott Stafne Wants State of Washington to document the stocks  
they feel belong to them and are being intercepted  
by the Alaska troll fishery.

SITKA

Allen Anderson Open west of Suckling. Favors State L.E. system  
Dennis Beam Hand troller who opposes area registration.  
David Brittel Favors L.E. for hand trollers. Wants combined  
management of the fishery, which he considers a  
single fishery.  
Carol Craig Wants 4-line limit, fishes with Jim Greenhough.  
Adopts his argument.

<u>NAME</u>	<u>COMMENT</u>
Willis Donnelly	Adopted ATA program.
Ward Eldredge	(Second appearance) Open west of Suckling. (Submitted a written statement)
Jim Greenhough	Adopt State L.E. out to 12 miles, make the fishery a 12-200 mile fishery. Poor data base.
Richard Guhl	Poor data base. Volume II shortchanged us in its descriptions. (?) FWG effort is more than you think.
Mike Hurst	Wants separate L.E. system for FCZ.
Ed Jones	Wants L.E. for hand trollers.
Eric Jordan	Supports quota on individual stocks (coho-kings). Does not like 1st objective. Likes the split season (in-season adjustment) and supports the plan.
Bert Laws	Adopt State L.E. system for outside.
Steve Laposki	Will send a letter.
Henry Moy	None of the plan is any good.
John Polifka	Opposes entire plan, wants 3% assessment for all fish caught.

SEATTLE

Robert Alverson	(Written statement included)
Ingvold Ask	(Written statement included)
Charles Barker	Estimated number of Washington boats at 50. No Canadian participation in the fishery of any consequence since 1950. Cape Cross fishery is the biggest fishery offshore. Endorses State L.E. Opposes quota. Wants L.E. for handtrollers.
Clint Buckmaster	Poor data base. General dissatisfaction with plan
Dick Carlton	Hand troller rep. Presented written material.

<u>NAME</u>	<u>COMMENT</u>
John Clausen	(2nd appearance) Oppose closing west of Suckling.
John Dower	Oppose quota - oppose area registration.
Lee Krause	Wants fishery open west of Suckling. Opposes quota. Cited poor data base.
Ed Manary	(Exec. Dir., Washington Charter Boat Ass'n.) Sees 2 problems, (1) is Indian allotments (2) is conservation problems which presumably means closures, increasing size limit and threat to call Snake River fall chinook "endangered" species. SAid "Future of salmon tied to NPFMC actions." Favors one single plan for all salmon throughout their range on the Pacific coast. Wants joint NPFMC-PFMC plan.
Bob Shotwell	Favores State of Alaska L.E. system. Does not want creation of "super troller" status by having Federal L.E. system in the FCZ.

#### COMMENTS ON COAST GUARD

There were a number of comments asked for by the chairman on the topic of "Coast Guard activities in general." Comments ranged from appreciation for the rescue and assistance capability through a request to station a cutter in Yakutat, improved communications and boarding methods.

Jim Ellis responded, again generally, to the fact that the USCG probably could not station a cutter in Yakutat as this was not reflected in the planning document for the foreseeable future, that VHF communications specifically were being upgraded in the entire Pacific area off our coast, and that cutters would, when intercepting fishermen, try to observe procedures which would not interrupt fishermen at work.

Biggest incidence of comments seemed to center around the "blowdown" the CG helicopters provided when checking out vessels from the air. Buscich indicated there would be an attempt to keep that particular action to a minimum and suggested there might be an identification scheme worked out to distinguish between American and Canadian fishing boats.

#### KODIAK - Oct. 9

Dave Woodruff	Favors trolling around Kodiak. Opposes hand trolling outside surfline. Kings in the Karluk, silvers at Afognak will support a troll effort.
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*Memorandum*

## PACIFIC MARINE FISHERIES COMMISSION

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TO : Clem Tillion, Chairman  
North Pacific Fishery Management Council

DATE: October 24, 1978

FROM : John P. Harville, Member (non-voting) *John P. Harville*

SUBJECT: An analysis of Southeastern Alaska troll salmon fishery problems and a suggestion for Council action as a step toward their resolution.

Since it will not be possible for me to attend the November 1-2 meeting of the North Pacific Fishery Management Council, I think it desirable to lay out for you in writing certain conclusions I have reached concerning management of Southeastern Alaska troll fisheries, based upon my information concerning that fishery and its target stocks, and in consideration of the very considerable and consistent advice we received from the hearings throughout Southeast Alaska. First I should like to indicate my perception of certain salient facts relevant to our decisions; and then to propose alternatives for Council action. Where pertinent (in italics) I have added comments and explained my preferences among alternatives.

Since I am hopeful that this analysis may be helpful to you and my fellow Council members in your important deliberations November 2 and 3, I am sending you enough copies of this review for distribution as you see fit. Also because certain elements of my recommendations were discussed during the hearing process with then-Chairman Harold Lokken and others, I am mailing them information copies.

## I. PERTINENT FACTS (my perceptions)

1. From tag return information and other sources, it appears that chinook stocks targetted by the Southeastern Alaska troll salmon fishery are mixed throughout the area outside the surflines, with no significant difference in composition of that mixture inside and out of the three-mile line (p. 130-133).
2. Chinook stocks available to the Southeastern Alaska troll fishery beyond the surflines are a mixture of a) Alaska stocks, most of them in seriously depressed state, b) Canadian stocks, and c) stocks originating in Washington, Oregon, Idaho and California waters (p. 130). The North Pacific Fishery Management Council, working in cooperation with the Alaska Board of Fisheries, has a continuing obligation to assure that harvest pressures upon these mixed stocks are not increased.

*(I believe the long run goal should be reduction in pressure to assist rebuilding of the depressed Alaskan stocks and to assure equitable returns to Canada and the lower States. Without those adequate returns, habitat protection and enhancement and increased production goals may not be economically and politically defensible in those production areas.)*



3. From all testimony from the five hearings I attended, Alaska power trollers target upon concentrations of salmon inside and out the three-mile line, with choice of fishing area determined by concentrations of fish, economic and and convenience factors of travel, etc. Their fishing methods cause them to transit the line frequently, and their actual position often is hard to determine (see also p. 39).
4. From the hearing testimony, we have no accurate record of the fraction of total catch harvested outside the three-mile limit. However, it certainly is considerably smaller than that harvested inside three miles (cf. tables 1 and 2, p. 15 and discussion of data base, p. 26). (*I believe ADF&G personnel concur fully in this inadequacy of firm data on source of landings.*)
5. Power trollers and their representatives strongly endorse projection of current Alaska management and effort controls into the Fishery Conservation Zone. They are equally united in opposition to management plan proposals for quota systems, special limited entry provisions for the Fishery Conservation Zone, and attendant need for hold inspections.

*(I support these views, and I believe most other Council members do also, for practical as well as philosophical reasons.)*

6. The hand-troll problem is serious, and must be effectively addressed in the future in the interest of orderly management of the salmon fisheries throughout Alaska. Its growth has been enormous since the advent of Alaskan limited entry; hand trollers are capable of fishing effectively alongside power trollers, but do not now have access to fisheries outside of the surfline.

*(I also infer that they appear to have no historic right to fish beyond three miles in the FCZ.)*

## II. PROPOSED ALTERNATIVES FOR COUNCIL ACTION

*Following are my suggestions for action in light of these perceptions of fact, and with particular concern toward building in the direction of rational management of Alaska's ocean fishery for chinook and coho salmon. I believe that in addition to that primary goal, the following actions would facilitate later integration of North Pacific and Pacific Fishery Management Council plans for comprehensive management of our salmon resources. Also these actions are a step in the right direction toward salmon conservation and management objectives we hold in common with Canada. I see them as explicit implementation of our Plan Objective 6 (8.1.(6), p. 30).*

### A. Concerning Harvest Regulations

Extend present State of Alaska harvest regulations into the Fishery Conservation Zone as proposed in the draft management plan. These include:

1. Season, Gear, and Area Restrictions (8.3.2.2., p. 40-42)
2. Size and Sex Restrictions and Landing Requirements (8.3.1.2, p. 43-45)



*(In addition to the above, I believe it desirable to extend Alaska's four lines per vessel limitation into the Fishery Conservation Zone as a means to standardize units of effort (vessel days). I believe this is consistent with the general views expressed in our hearings recommending extension of Alaska's provisions into the Fishery Conservation Zone).*

B. CONCERNING EFFORT MANAGEMENT IN THE SOUTHEASTERN ALASKA TROLL FISHERY OUTSIDE THE SURF ZONE:

1. Alternative 1 (conservative) Defer action for 1979 on limited entry and quota provisions in the draft management plan, subject to the following declarations of intention:
  - a. Affirmation of baseline years already established for eligibility to fish in the Fishery Conservation Zone (qualification cutoff date of December 31, 1977, per p. 47 for any vessels not holding valid Alaska power-troll permits).
  - b. Request the Commercial Fisheries Entry Commission to seek speedy resolution of the hand-troller problem, with particular reference to eligibility above.
  - c. Request the Alaska Board of Fisheries and Alaska Department of Fish and Game to implement comprehensive management planning as outlined in Section C, p. 4 of these recommendations.
  
2. Alternative 2 (accelerated action if feasible) Defer action on quota system and hold inspection program outlined in the draft management plan as operationally infeasible; and defer action on limited entry provisions, or modify as feasible to accomplish the following:
  - a. Confirm access to fishing in the Fishery Conservation Zone east of Cape Suckling to persons holding valid Alaska power troll permits (approximately 950). *The object of this provision would be to apply a single unified set of limited access and harvest regulations for Alaska power troll permit holders outside the surf zone and inside and beyond the three-mile limit.*
  - b. Arrange by contract or other procedures for technical evaluation by the Alaska Limited Entry Commission or other entity of claims of individuals not now holding Alaska power troll permits of the historic right to fish in the Fishery Conservation Zone. These might include a very limited number of Washington or Oregon-based freezer boats which can document the landing of salmon from the fishery conservation zone during the base period established by the Council (e.g. prior to the December 31, 1977 cutoff date).
  - c. Establish a Council entity consisting of staff and an appropriate Council subcommittee to make necessary value judgments concerning eligibility of individuals reviewed under b.



- d. As soon as feasible, provide eligible individuals with interim permits either specifically for fishing in the Fishery Conservation Zone alone, or, subject to Alaska concurrence, within the terms of reference of the Alaska Limited Entry program. *(Note that from State of Washington information, it appears that the potential number of applicants is of the order of a half dozen to a dozen.)*

C. INITIATION OF A COMPREHENSIVE SALMON MANAGEMENT PLAN

In cooperation with the Alaska Board of Fisheries, instruct the Alaska Department of Fish and Game to undertake a comprehensive salmon management plan for chinook and coho salmon harvested off Southeastern Alaska, the Alaska Department of Fish and Game to serve as lead agency for this plan development, with continued input from other team representatives (representing NMFS and the other Pacific States). This Comprehensive Salmon Management Plan should be presented at the earliest possible date to the Alaska Board of Fisheries and the North Pacific Fishery Management Council for simultaneous implementation by the Board of Fisheries inside the three-mile limit and by the North Pacific Fishery Management Council in the Fishery Conservation Zone. That Comprehensive Salmon Management Plan can be expected to address a broad array of problems and issues, but particularly in the context of North Pacific Fishery Management Council concerns, should emphasize the following:

1. Alternatives for controlling absolute levels of effort upon mixed salmon stocks beyond the surfline, including but certainly not limited to control on vessel days permitted *(in the same manner that the United States sought to put a lid on Canadian effort through a limitation on vessel days to be permitted in waters off Washington.)*
2. A suitably designed research and management program designed to monitor the proportional mixture of stocks targeted by these fisheries and to the extent possible, to develop selective measures for differential control of fishing pressure on these stocks. (time-area closures, etc.)
3. Analysis of alternatives available for protecting and rebuilding depressed Alaskan stocks, and for controlling pressure on stocks originating in Canada and the Pacific States.
4. Analysis of technical alternatives for resolving problems concerning power-troll, hand-troll, and recreational fisherman interactions.

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Rep'd fax: 8-399-4304

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Agenda #12, Nov. 2-3, '78

MEMO

To: FRANK FUKUHARA (F11, RFFM)

From: Aven Andersen (F36) FTs 634-7432

SUBJECT: WASHINGTON OFFICE REVIEW

OF DEIS/FMP FOR THE

HIGH SEAS SALMON FISHERY

OFF THE COAST OF ALASKA

Phil Chertwood (PAK) suggested

that we send you THIS DRAFT

of the W.O. Comments so that

the Sec. + STAT. Comm. could

consider them at its current

meeting in Seattle.

Twelve pages follow



1 room - Owen Anderson, F 36

2 - Phil Chitwood, FAK

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REPRODUCTION 25 OCT 78 (pm)

~~(something)~~

WASHINGTON OFFICE REVIEW OF THE DEIS/FMP

FOR THE HIGH SEAS SALMON FISHERY

OFF THE COAST OF ALASKA

I. INTRODUCTION

Although some parts of the Draft EIS/FMP for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude are well done, it does contain several deficiencies that need to be addressed in the Final EIS/FMP. For the most part, these deficiencies <sup>are</sup> (a) the lack of discussion of alternatives and (b) <sup>an</sup> inadequate explanation or justification why certain decisions were <sup>made</sup> made. ~~Unless the decisions are adequately justified in the FEIS-FMP, the Secretary may disapprove or partially disapprove the plan.~~

For example, the most difficult problem addressed by the plan seems to be the <sup>of</sup> trade-off between protecting the wild <sup>d</sup> chinook stocks from overfishing and avoiding disruption of the present social and economic structures. The proposed <sup>of</sup> management measures comprise one alternative way of attaining a compromise between the two objectives. ~~Other alternatives~~ might have reduced the offshore fishing season <sup>or</sup> the quota to protect the native stocks without <sup>perhaps</sup> seriously disrupting the present fishing regime. ~~perhaps~~ perhaps the area open to fishing could have excluded known nursery areas. The alternative strategies, then, could have been examined in light of the

Objectives of the plan and National Standards, and the social, economic, and biological consequences.

II. ~~THE PLAN FAILS TO MEET 3 OF ITS 6 OBJECTIVES~~  
 RELATIONSHIP OF THE PLAN TO ITS STATED OBJECTIVES

Objective 3: "Regulate the catch of salmon to assure adequate escapement for spawning."

We find it difficult to reconcile the proposed management measures with the biological consequences stated in the plan, especially with respect to National Standard <sup>4</sup> of the FCMA.

The DEIS/FMP repeatedly states that native Southeastern Alaska runs of chinook salmon are seriously depressed and that continued fishing is considered detrimental. Refer to pages 1, 11, iv, 21, 27, 28, 32, 84, 121, 124, 126, 133, 134, 136, 137, and 138. Nevertheless, the plan proposes that the level of salmon trolling in offshore waters (i.e., the FCZ) remain at the recent level.

The plan attempts to justify this continued fishing in the offshore waters by stating that "not conducting the fishery would result in unacceptable social and economic consequences." The plan fails to specify what these consequences are.

The plan does, however, analyze what the biological consequences are. First, it states that "nearly 99 percent of the chinook troll landings from the offshore area come from the Fairweather Grounds" (p.24, paragraph 3). Second, the plan states that "the Fairweather Grounds are a primary ocean

nursery area for many chinook stocks" (p. 133, paragraph 1). Third, the plan states that harvesting immature salmon is a waste of the resource through (a) <sup>s</sup>sharker mortality and (b) loss of potential growth (p. 133, paragraph 3). These last points are amplified on p. 136. Finally, the whole issue is summarized nicely on p. 84 where the plan states "The additional pressure of any off-shore troll fishery . . . would be contrary to rational management practices" <sup>^</sup> [emphasis supplied]

The justification for a commercial troll salmon fishery in the FCZ appears to be entirely economical, but even <sup>that</sup> justification falls sadly short on two counts. First, National Standard 5 states that no conservation and management measure "shall have economic allocation as its sole purpose." Second, the plan states that, on an average (1971-1976), only about 16 percent of the total Alaskan troll chinook landings and about six percent of the coho were caught in the offshore fishery. These fish, according to the plan, would quite likely be caught later in coastal or inshore waters. On page 130, in an underlined passage, the plan states that "all groups of marked chinook caught over the Fairweather Grounds are also caught in coastal and inshore waters." Further, on page 142, the plan notes that the ability of the vessels to fish offshore "also means that they are quite capable of fishing the coastal and inshore waters, which in fact, 94 percent of them do." <sup>g/</sup>When this analysis is combined with the <sup>racticality</sup> ~~impossibility~~ of enforcing the offshore-only fishing regulations and the costs of writing trip permits and inspecting holds, the economic and social justification for retaining the offshore troll fishery evaporates.

Objective 4: "Reduce the catch of salmon with potential growth to increase the poundage yield from the troll fishery."

The DEIS/FMP argues that continued salmon fishing in the offshore waters results in a "major loss of salmon production in poundage yields" (p.28, paragraph 4). The only attempt to reduce this loss is adoption of a 28-inch<sup>15</sup> size limit. The DEIS/FMP, however, notes that "the increased effort in the oceans where small fish predominate has reduced the intended benefits of the minimum size limit because of the release and subsequent mortality of undersized chinook (shakers)." Also see p. 133, 136. In view of the discussion, the plan needs to explain why no other measures are proposed to meet Objective 4. For example, close the season after July 1 to protect immature salmon (p. 134, paragraph 1)

Objective 5: "Make cost effective the public investment in the high seas salmon fishing".

The DEIS/FMP fails to meet Objective 5 on two counts. First, it proposed<sup>5</sup> to let the high seas salmon fishery harvest salmon while they have considerable potential for growth remaining, not to mention losses from shaker mortality (see our discussion of Objective 4). Thus, the plan lessens the potential benefits from hatchery production and management aimed at conserving the wild stocks.

Second, the plan proposed trip registrations and hold inspections for salmon troll<sup>22</sup>ers intending to fish in the PCZ. With the abundance of ports and anchorages in S.E. Alaska, the cost of having personnel available to inspect holds and write permits will be high. Moreover, the costs of

attempting to enforce the requirement that a salmon troller registered to fish in the FCZ is prohibited from fishing in coastal and inshore waters would also be high.

The plan makes no special analysis comparing of the costs of the area/trip registration provision versus <sup>the</sup> costs of no special requirement for vessels intending to troll in the FCZ. Such an analysis we feel would show the special area/trip registration provision to be economically unsound. The quota could ~~still~~ <sup>more efficiently</sup> be monitored by checking log books and landing reports.

III. THE PLAN FAILS TO (COMPLETELY) SATISFY <sup>3</sup>THREE  
OF THE NATIONAL STANDARDS

National Standard 1: "Conservation and management measures shall prevent overfishing <sup>.....</sup>"

The plan proposes that the offshore troll fishery remain at its recent level. On page 138, however, it states "Present indications suggest that any level of harvest on depressed Alaskan stocks would push these same stocks to even lower levels of <sup>(2)</sup>abundance . . . ." Also see our discussion of the plan's Objective 3. How can the plans justify this conflict between National Standard 1 and the plan's intention to maintain the offshore fishery?

National Standard 3: "To the extent practicable, an individual stock of fish shall be managed as a unit throughout

its range . . . ."

The plan states, as Objective 6, that it intends to promote the eventual development of a Pacific Coast salmon fishery management plan. Adoption of a 28-inch size limit for chinook salmon is a start towards this goal. But the plan then ignores this goal as it sets up regulations for the FCZ separate from those governing the troll fishery in Alaskan waters. Granted, in section 8.3.1.7, the plan mentions the alternative that both FCZ and Alaskan waters could be managed jointly, but it dismisses this alternative without explanation or discussion.

The DEIS/FMP also notes that non-Alaskan stocks contribute heavily to the Alaskan offshore fishery (P.126), but it inadequately assesses the impact of this fishery on those stocks and the other fisheries dependent upon them.

The plan should also make explicit how the FMP might need to be modified by a new bilateral agreement with Canada.

National Standard 7: "Conservation and management measures shall where practicable, minimize costs . . . ."

By proposing specific<sup>a</sup> trip registrations and hold inspections for salmon<sup>b</sup> trollers intending to fish in the FCZ, the management costs will greatly exceed those that would occur if the FCZ and state waters were governed by the same set of regulations. The plan gives neither justification for hold inspection nor an estimate of the costs<sup>c</sup>. The provision<sup>d</sup> that a salmon troller is prohibited from fishing in coastal and inshore waters while it is registered to fish in the FCZ will also greatly increase enforcement



costs in spite of the provision's impracticality. The plan, itself, notes (p. 39-40) that separating the FCZ from Alaskan waters "artificially divides the historical fishing pattern and management of the power troll fishery . . . and fails to recognize practical problems of enforcement and monitoring."

#### IV. OTHER DIFFICULTIES

##### Deriving Values for ABC and OY

Although the plan discusses well the theory of deriving ABC and OY from MSY, it fails to explain how the specific values given in the tables were obtained. The procedures used to derive the specific values for ABC and OY's need to be explained. Also, the plan fails to state options and analyze their potential impacts.

MSY values, the plan states, are based on catch records for the last 25 years. That seems to be a reasonable and defensible approach. In fact, the plan justifies this choice on pages 28 and 29.

When the plan moves on to deriving the values for ABC, however, it shifts--for no apparent reason--from the past 25-year period to the past seven years (1971-1977). The reason for this shift needs to be explained. The shift in time frames probably accounts for the decrease in calculated average chinook size east of Cape Suckling from 17.3 pounds during 1953-1975 to 15.5 pounds during 1971-1977, as well as the lower total pounds of and number of chinook and coho. Apparently, the ranges of either number of pounds or numbers of fish in the ABC's and OY's for coho east of Cape

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Suckling (Tables 5 and 6) contains an error, because a calculated average weight per fish at the lower end of the ranges comes out to be 8.82 pounds, whereas that for the high end is 8.23. The plan gives no reason for this difference in average weight.

The <sup>DEIS/FMP</sup>~~DEIS~~ sets the OY equal to the ABC "because of convincing social and economic considerations (p.35), but neither present what those considerations are nor discusses why they are convincing.

The plan also fails to explain what effects a high or lower OY would have on these convincing social and economic considerations. The plan should include a justification why the OY is set equal to ABC. The plan presents no estimates of what economic and social impacts would arise from stopping the troll fishery in the FCZ. What would be the loss of income, increase in unemployment, impacts on local communities, decrease in ~~shaker~~ mortality, increase in average salmon size, decrease in energy consumption, or increase in protection of the wild stocks from closing the fishery in the FCZ? Without such an evaluation, we and the public find it difficult to comment on the plan, or its alternatives.

The discussion, on page 140, of income earned from salmon trolling north of Cape Spencer is unclear. The plan states that the 99 vessels that fish waters north of Cape Spencer earned a total income from all fisheries (salmon, etc.) of \$2,858,000, of which 45 percent (\$969,000) came from the offshore areas north of Cape Spencer. The next paragraph states that the average income from<sup>m</sup> these 99 vessels from troll salmon fishing was \$22,000, with "46 % (\$9,900) attributed to the offshore waters north of Cape Spencer." But 99 x \$9,900 equals \$980,100, an amount exceeding the

trollers earnings from all fisheries in the offshore waters north of Cape Spencer (\$980,100 is greater than \$969,000). In addition, 46% of \$22,000 is \$10,120, not \$9,900 (45% equals \$9,900, perhaps this 46% figure is a typographic error). Nevertheless, 45% of <sup>1</sup>2,152,000 is \$968,000, not \$969,000. If the percentages presented in the plan are correct, then the discrepancy between the earnings from all fish and troll salmon alone become ever greater, i.e., \$968,400 for all fish and ~~\$10,120~~ <sup>\$1,001,880</sup> for troll salmon.

The plan allocates a part of the total OY to the offshore troll fishery. It gives the numbers of fish and the numbers of pounds of chinook and coho, but it fails to explain how these values were derived from Table 6.

We uncovered three other minor fuzzy points when we tried to determine how the OY allocations to the offshore fishery were derived. First, Table 12 includes all of statistical areas 116 and 181 under the "Coastal" subheadings, where, in fact, the parts of these areas from 3 miles offshore to 12 miles offshore should be included in the "Offshore" subheading, according to the definition of "offshore" on page 10.

Second, the map on pages 62 and 63 show the old statistical areas not the new ones, even though both the map and table on page 61 are dated 1978. The redesignation on page 61 gives only the northern boundary for Area 157 and the text fails to clarify whether the southern boundary is meant to be Column Point or Cape Spencer. Area 116, which is inshore from Area 157, has Cape Spencer as its southern boundary; Area 154, the offshore area south of Area 157, has Column Point for its northern boundary, according to

the table on pages 64 and 65. If those statements are all correct then there appears to be a gap between Areas 116.00 and 154 (between Cape Spencer and Column Point <sup>from the surfline</sup> offshore to the 12-mile demarcation line). The Plan would have been more understandable if the tables and maps were up-to-date and consistent with each other. Also, the table on pages 64 and 65 lack description for areas 184, and 191-199. We presume that with the revised area designations, one or more include the area north of Ocean Cape which has been taken away from Area 181.

Third, Tables 4, 5, and 6, would be more meaningful if they were plainly designated as containing data for all waters (Federal and Alaskan) for all salmon fishing gear.

Limited Entry Option

The options laid out in the DEIS/FMP are excellent, as are the examples of alternative criteria for issuing permits. We are sending this section to the other Councils for their information.

But because the DEIS/FMP proposes no specific choice of the alternatives, we are unable to determine if the provision for limited entry will meet the requirements of applicable law.

We are curious about the statement that limited entry is necessary to maintain the present levels of harvest. An enforced quota would suffice. If increased economic efficiency, or longer fishing period, or some other result is the goal of limited entry, then the plan should specify it.

Sport Fishing Regulations

The management measures proposed in the DEIS/FMP require us to promulgate sport fishing regulations for salmon in the FCZ even though the plan states that there is no sport fishing there. Without an active sport fishery, why are regulations necessary?

Processing Capacity

The recent amendment to FCMA (P.L. 95-354) require<sup>s</sup> an estimate of domestic processing capacity. Although I realize, as a practical matter, that processing capacity for salmon is almost unlimited there should be a short section in the plan that addresses the requirement of the amendment.

Prohibition of Hand Trolling

The prohibition of hand~~t~~rolling in the FCZ is inadequately justified. This prohibition raises the questions of equal protection under the law.

Inconsistencies

(1) The summary sheet contains an inconsistency. On page 1, 3(b), the plan states "No significant adverse effects are anticipated as a result of the proposed action." On page ii, however, under 4(2), the plan states "An objective evaluation of alternatives shows no reasonable course of action which would avoid adverse effects."

(2) This plan differs from the FMP for managing the salmon fisheries off Washington, Oregon, and California in the minimum length for heads-off chinook. This plan proposes that heads-off chinook<sup>o</sup>/<sub>2</sub> measure at least 23 inches from the midpoint of the cleithral arch to the tip of the tail, the

Pacific Council requires 21.5 inches. Both are supposed to be equivalent to a total heads-on length of 28 inches. How do you justify this difference?

(3) The explanation of why barbed hooks are not detrimental to the fishery should be reconciled with the requirements in the Pacific Councils' salmon plan for <sup>barbed</sup> hooks. The <sup>re</sup> <sub>an</sub> may well be a valid reason for different requirements in the two plans, but without a good explanation the Secretary could be accused of being arbitrary.

4 lines vs 6 lines

Chairman - Council members:

On behalf of the Washington Department of Fisheries, I wish to make the following statement:

The professional management staff of the Washington Department of Fisheries has carefully reviewed the "Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude" which you are now considering for adoption. We have many serious concerns with this document and the management regime it proposes.

In May 1978, the Department responded to an early draft of this FMP by stating:

"Our primary problem lies with the paradox created by an FMP which states that no allowable harvest can occur for conservation reasons and then attempts to justify a major fishery solely on 'socio-economic' grounds. We do not advocate elimination or even serious reduction of the commercial troll fishery off Alaska, but firmly believe that its continuance as a major, viable fishery must be based upon grounds other than those currently expressed in the plan. Specific management principles must be developed for guidance when a historical but mixed stock fishery exceeds the harvest rate which is appropriate for one or more of the stocks present in the fishery. In turn, management principles must be developed which acknowledge the historical presence of other fisheries which rely on the specific stocks which are harvested by the mixed stock fishery."

Since May, this proposed FMP has been revised several times. The end results are that allowable biological catch now equals optimum yield despite declining escapements of Alaskan native chinook and coho stocks, and management of the total fishery has been subdivided such that "status quo" will now apply to only small fractions of catches made by the Alaska troll fishery. To supposedly accomplish these goals, extremely complicated area registration and limited entry schemes are proposed which may well cost more than can be reasonably justified by the economic value of the fishery.

The plan states that upper limits of ranges of optimum yield are catch quotas which should not be exceeded if status quo of this fishery is to be maintained. With any significant increase in fishing effort, adoption of these quotas will not maintain status quo but will result in higher fishing rates on Washington, Oregon, British Columbia and Alaska chinook stocks and on Canadian and Alaskan coho. If upper ranges of optimum yields are used, a new mean after a period of years would approach or equal these numbers. Thus, potential increases of 16% and 26% above 1971-77 chinook and coho base period means, respectively, could in fact be allowed.

Worse yet, these catch quotas apparently apply only to the FCZ where 15% of the troll chinook catch and less than 7% of the troll coho are taken. A high proportion of the catch of both species has been documented as occurring within State waters. Thus, for chinook, we have a proposed "status quo" which allows a 16% increase in catch but really only applies to 15% of a total fishery. In actual fact, if optimum yield were reached for the FCZ and it was necessary to close this fishery, boats operating in FCZ waters would simply move into State waters and continue fishing on the same stocks. The net effect would be no limitation at all. Fish available in the FCZ are essentially the same stocks present in State waters.

~~In addition, the 1971-77 base period catch for chinook reflects a smaller size limit (20 inches) than the 20" minimum presently proposed. Those fish which were caught and landed with a smaller size limit would now be released. Given no increase in fishing effort, you would certainly expect less fish to be caught not the same amount. Thus, the proposed catch quota for chinook becomes even less meaningful and would allow an additional opportunity for expansion.~~

As stated in our May 1978 response to a draft FMP, the Department again recommends that the real harvest rate of the Alaska troll fishery not be



allowed to increase to the detriment of other user groups and/or needed native chinook and coho salmon spawning escapements. We believe that true "status quo" of this fishery should be maintained until such time as more refined data are available to facilitate specific time/area regulations. Further, we recommend that "status quo" should be maintained through a fishery-wide effort limitation, not specific catch quotas. Although effort limitation has some inherent drawbacks, it would result in much more even fishing rates from year to year and in catches at least roughly proportional to fish abundance. Effort limitations would not require area registration, and that fact alone makes it a more viable option than catch quotas for this interim management period. With effort limitation, the controlling mechanism would be total days fished. Random aerial surveys could be utilized to develop this statistic on a real time basis during the season, making it unnecessary to rely upon processed "fish tickets" for inseason management decisions.

We understand that a "days fished" statistic is not directly available for any base period from State of Alaska catch data. However, we feel usable standards can be developed from other sources. For example, "catch per days fished" statistics can be derived from Washington landings of fish caught off Alaska, from two years of Washington logbook data documenting troll effort off Alaska and from Canadian landings of salmon caught in Alaskan waters. Better sources for this type of statistic may well be available from certain ADFG sources such as their troll logbook program records. These various data need to be closely examined by the appropriate fishery managers before a specific effort limitation can be proposed.

In summary, we wish to reiterate the following points:

(1) Until such time as more specific management data are available, regulations must be adopted which do not allow this fishery to expand at the expense of other user groups or the resource's reproductive capabilities;

(2) The proposed catch quota system will not maintain status quo but instead will allow the fishery to expand;

(3) Effective management for the Alaskan troll fishery must be developed, not just management for an FCZ area which represents a small fraction of the total fishery.

## Department of Fish and Wildlife

Agenda #12, Nov.2-3,'78

## OFFICE OF THE DIRECTOR

506 S.W. MILL STREET, P.O. BOX 3503, PORTLAND, OREGON 97208

September 20, 1978

Mr. Harold E. Lokken, Chairman  
North Pacific Fishery Management Council  
PO Box 3136 DT  
Anchorage, AK 99510

Dear Harold:

Our Department has reviewed the "Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude." We have the following concerns and comments about the plan:

1. The plan does not indicate the stocks of salmon involved in the catch, even though information on this point is available. We feel that this is an important element in developing a rational basis for the plan. It has been said many times that a comprehensive plan covering all aspects of harvest and reproduction is necessary to develop a meaningful management program. Since the Alaskan troll catch consists of a large number of Oregon and Washington chinook, it has a strong influence on the harvest by fisheries in and off these states.

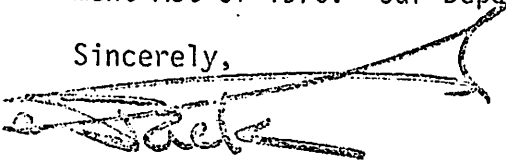
We are presently restricting our sport, commercial, and Indian fisheries to a greater degree than ever before in order to provide for adequate escapements. For some fisheries on the Columbia River, even with complete curtailment of harvest, escapements are not adequate. We feel the North Pacific Plan should recognize these stock interceptions and take note of the need for a reduced harvest. In the final analysis, those who share in the harvest of a stock should also share in the conservation of it.

2. The proposed plan is inadequate because it fails to address management of stocks for the entire fishery area. The plan only addresses the FCZ which includes but 18% of the total chinook catch in SE Alaskan waters. The plan must be broadened to include state waters in an integrated management scheme since fish available in the FCZ are essentially the same stocks present in state waters.
3. The plan also purports to be a "status quo" plan; however, it leaves opportunity for continued expansion of the fishery. The FCZ quota allows for a 16% increase and, since the plan fails to address state waters where 82% of the total chinook catch occurs, further opportunities for increasing harvest rates are not precluded.

4. The Fishery Management Plan states that wild chinook are in a depressed condition and that the conduct of the offshore troll fishery is likely to be detrimental to remaining Alaska wild chinook stocks. The FMP equates Optimum Yield to past average catch levels but, given that many wild stocks are in trouble, it is inconceivable that Optimum Yield equals Allowable Biological Catch! It appears necessary to manage the fishery at harvest levels that can be sustained by the wild fish in order to allow recovery of these important stocks. This will require some reduction in the ocean harvest rate, but does not require elimination of the troll fishery. Again, this management strategy must be applied to Alaskan as well as FCZ waters.

In summary, we urge that our concerns, which parallel those of the State of Washington, be addressed before the plan is finalized for submission to the Secretary of Commerce. It is becoming increasingly apparent that closer coordination between the salmon management teams of the Pacific and North Pacific councils is essential if the migratory stocks of salmon are to be managed in compliance with the intent of the Fishery Conservation and Management Act of 1976. Our Department pledges its support toward that end.

Sincerely,



John R. Donaldson, PhD  
Director

JRD:ew

~~bc: Donaldson~~

~~Mace~~

~~Thompson~~

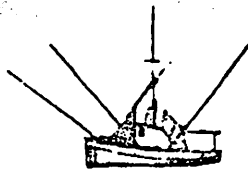
~~Benjamin~~

~~Gunsalus~~

~~Low~~

~~Zirges~~

~~Dennis Austin, WDF~~



## ALASKA TROLLERS ASSOCIATION

P.O. BOX 5825  
KETCHIKAN, ALASKA 99901

### OUTLINE OF A.T.A. POLICY ON OCEAN SALMON TROLL PLAN

This is A.T.A. policy as decided by the Board of Directors. You might wish to use it in preparing your own testimony.

#### I. A.T.A. endorses

- A. an extension of the Alaska Limited Entry system into the Fishery Conservation Zone.
- B. extending state regulations regarding size limits and seasons into the F.C.Z.
- C. the opening west of Cape Suckling to disperse troll effort. (Why was there no consideration of the three net Cape fisheries in previous Plan?)

#### II. A.T.A. opposes

- A. any form of quotas for the F.C.Z.
- B. any limited entry system which will discriminate between Alaska permit holders.
- C. in season management at this time. The standards furnished in the North Pacific Council's Plan are vague.

#### III. A.T.A. objects to

- A. the Plan's suggestion that a troll fishery should not exist in the F.C.Z. (p.i & ii in Summary)
- B. the Plan's statement that the Fairweather Grounds should be closed.
- C. proposed management objective #4 "Reduce the catch of salmon with potential growth to increase the poundage yield from the troll fishery". Not all consumers want large chinook salmon.

#### IV. The reasons for A.T.A.'s position

- A. need Limited Entry in F.C.Z. to prevent overfishing.
- B. the F.C.Z. and state waters constitute one fishery and should be managed as one fishery.
- C. the Alaska Limited Entry system will work because
  1. increased vessel size does not necessarily mean increased efficiency in terms of catching fish.
    - a. same amount of gear per vessel
    - b. larger vessel not as maneuverable along shore areas (could benefit Alaskan king salmon in some years).
    - c. NPFMC own records show that increased vessel size does not result in increased effort in F.C.Z.

2. if increased effort does become a problem in F.C.Z., Alaska Limited Entry law provides for buy back of permits.
3. Alaska Limited Entry has proven legal validity and we need to make sure we get a system. Another system may get thrown out of court.
4. we do not want discrimination among Alaska power trollers.

D. quotas

1. will probably hurt Alaska chinook. If outside water is closed, all fishing effort would be forced to inside where Alaska chinook concentrate.
2. are not good because they shut off all fishing when one species quotas has been reached.
3. precludes trollers from enhancement benefits on coho and future chinook.
4. would entail area registration.
  - a. which won't work because 3 mile limit does not necessarily conform drag lanes and fish abundance.
  - b. won't work because of weather. Trollers need the option of anchoring in harbor at night and in bad weather.
  - c. unnecessary danger when not having option of changing fishing areas on short notice.
  - d. costly in time and fuel to fishermen.
  - e. costly for taxpayers for added enforcement personnel.
  - f. weakens Alaska's bargaining position at Bilaterals because Canada wants us on quotas.

Chairman - Council members:

On behalf of the Washington Department of Fisheries, I wish to make the following statement:

The professional management staff of the Washington Department of Fisheries has carefully reviewed the "Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude" which you are now considering for adoption. We have many serious concerns with this document and the management regime it proposes.

In May 1978, the Department responded to an early draft of this FMP by stating:

"Our primary problem lies with the paradox created by an FMP which states that no allowable harvest can occur for conservation reasons and then attempts to justify a major fishery solely on 'socio-economic' grounds. We do not advocate elimination or even serious reduction of the commercial troll fishery off Alaska, but firmly believe that its continuance as a major, viable fishery must be based upon grounds other than those currently expressed in the plan. Specific management principles must be developed for guidance when a historical but mixed stock fishery exceeds the harvest rate which is appropriate for one or more of the stocks present in the fishery. In turn, management principles must be developed which acknowledge the historical presence of other fisheries which rely on the specific stocks which are harvested by the mixed stock fishery."

Since May, this proposed FMP has been revised several times. The end results are that allowable biological catch now equals optimum yield despite declining escapements of Alaskan native chinook and coho stocks, and management of the total fishery has been subdivided such that "status quo" will now apply to only small fractions of catches made by the Alaska troll fishery. To supposedly accomplish these goals, extremely complicated area registration and limited entry schemes are proposed which may well cost more than can be reasonably justified by the economic value of the fishery.

The plan states that upper limits of ranges of optimum yield are catch quotas which should not be exceeded if status quo of this fishery is to be maintained. With any significant increase in fishing effort, adoption of these quotas will not maintain status quo but will result in higher fishing rates on Washington, Oregon, British Columbia and Alaska chinook stocks and on Canadian and Alaskan coho. If upper ranges of optimum yields are used, a new mean after a period of years would approach or equal these numbers. Thus, potential increases of 16% and 26% above 1971-77 chinook and coho base period means, respectively, could in fact be allowed.

Worse yet, these catch quotas apparently apply only to the FCZ where 15% of the troll chinook catch and less than 7% of the troll coho are taken. A high proportion of the catch of both species has been documented as occurring within State waters. Thus, for chinook, we have a proposed "status quo" which allows a 16% increase in catch but really only applies to 15% of a total fishery. In actual fact, if optimum yield were reached for the FCZ and it was necessary to close this fishery, boats operating in FCZ waters would simply move into State waters and continue fishing on the same stocks. The net effect would be no limitation at all. Fish available in the FCZ are essentially the same stocks present in State waters.

~~In addition, the 1971-77 base period catch for chinook reflects a number of years when the catch was unusually high. This catch which was caught in State waters would be equally available to boats operating in the FCZ. The proposed catch quota for chinook would be less than the amount available in State waters and would not provide any additional opportunity for expansion.~~

As stated in our May 1978 response to a draft FMP, the Department again recommends that the real harvest rate of the Alaska troll fishery not be



allowed to increase to the detriment of other user groups and/or needed native chinook and coho salmon spawning escapements. We believe that true "status quo" of this fishery should be maintained until such time as more refined data are available to facilitate specific time/area regulations. Further, we recommend that "status quo" should be maintained through a fishery-wide effort limitation, not specific catch quotas. Although effort limitation has some inherent drawbacks, it would result in much more even fishing rates from year to year and in catches at least roughly proportional to fish abundance. Effort limitations would not require area registration, and that fact alone makes it a more viable option than catch quotas for this interim management period. With effort limitation, the controlling mechanism would be total days fished. Random aerial surveys could be utilized to develop this statistic on a real time basis during the season, making it unnecessary to rely upon processed "fish tickets" for inseason management decisions.

We understand that a "days fished" statistic is not directly available for any base period from State of Alaska catch data. However, we feel usable standards can be developed from other sources. For example, "catch per days fished" statistics can be derived from Washington landings of fish caught off Alaska, from two years of Washington logbook data documenting troll effort off Alaska and from Canadian landings of salmon caught in Alaskan waters. Better sources for this type of statistic may well be available from certain ADFG sources such as their troll logbook program records. These various data need to be closely examined by the appropriate fishery managers before a specific effort limitation can be proposed.

In summary, we wish to reiterate the following points:

- (1) Until such time as more specific management data are available, regulations must be adopted which do not allow this fishery to expand at the expense of other user groups or the resource's reproductive capabilities;

(2) The proposed catch quota system will not maintain status quo but instead will allow the fishery to expand;

(3) Effective management for the Alaskan troll fishery must be developed, not just management for an FCZ area which represents a small fraction of the total fishery.



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
OFFICE OF GENERAL COUNSEL

P.O. Box 1668, Juneau, Alaska 99802

October 30, 1978

CONFIDENTIAL MEMORANDUM For members of the North Pacific  
Fishery Management Council

From: James K. White  
Alaska Regional Counsel

Subj: Legal Analysis of High Seas Salmon FMP

This memorandum sets forth my analysis of the legal issues involved in the draft fishery management plan and environmental impact statement for the High Seas Salmon Fishery off the Coast of Alaska East of 175° E. Longitude. This analysis relates primarily to the July 27, 1978 draft of the plan but does incorporate, where relevant, later indications of Council intent as expressed at public hearings held September 22 - 27 and at the Council meeting on September 28 and 29. The discussion and analysis herein should be considered confidential pursuant to our attorney/client relationship and treated accordingly.

Set forth below is an analysis of the FMP's compliance with: (A) the National Standards; (B) Section 303 of the Act; (C) 50 C.F.R. section 602.3; and (D) NEPA.

A. THE NATIONAL STANDARDS

The FCMA specifies seven National Standards for fishery conservation and management with which an FMP must be consistent. This section analyzes the extent to which this plan complies with the National Standards.

1. National Standard No. 1:

"Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery."



The legislative history\* indicates the special significance of this Standard, stating that it:

". . . is regarded by the conferees as being of particular importance. It declares that conservation and management measures shall be designed, implemented, and enforced to prevent overfishing while achieving, on a continuing basis, the optimum yield . . . Undoubtedly this is the most basic goal of fishery management, but still deserves clear recognition. There should be no uncertainty that the basic goal of management is to protect the productivity of the stocks." (pp. 86 & 685)

a. Do the Plan's Management Measures Prevent Overfishing?

Assuming, for the sake of this analysis, that OY is a "management measure", it appears that the OY's and other management measures do allow native Alaskan chinook stocks to be overfished, in that continued fishing at past levels will result in a reduction in the capacity of these stocks to produce maximum biological yield on a sustained basis. However, this alone may not be inconsistent with Standard No. 1, since the regulatory definition of "overfishing"\*\* refers to a reduction in the capacity of a "management unit" to produce MSY, and the two management units defined in the plan are: (1) all salmon in the FCZ off Alaska (east of 175° East longitude) west of Cape Suckling; and (2) all salmon in the FCZ (east of 175°) east of Cape Suckling. Therefore, the primary question is whether the capacity of the overall management unit (not just a relatively small part of it) to produce MSY is reduced as a result of the plan's management measures.

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\* All references to legislative history are to "A Legislative History of the Fishery Conservation and Management Act of 1976", 94th Cong., 2d Sess.

\*\* 50 C.F.R. section 602.2(b)(1) defines "overfishing" as:

". . . a level of fishing that results in a reduction in the capacity of a management unit to produce maximum biological yield on a sustained basis for specified habitat and environmental conditions."

Since the MSY's and OY's in this plan are, of necessity, based on average recent years' catches in the inshore and offshore waters of Alaska only, and since the equilibrium yield (EY) cannot be specified for the management units, it cannot be determined from the plan whether or not achieving the OY's will prevent overfishing from occurring. The fact that MSY's and OY's both approximate average recent years' catches suggests that, as far as the plan is concerned, this fishery management unit is not depleted, and is currently at a level capable of producing the MSY.

b. Do the Management Measures Help to Achieve the OY?

The plan asserts that closure west of Cape Suckling helps to achieve OY's in that area, by preventing any increased effort in a fishery which is, according to the plan, already fully utilized inshore. It is unclear whether this is true, or that preventing effort offshore is offset by additional effort inshore. East of Cape Suckling, the measures are erratic in their affect on achieving the OY's. The seasons are unrestrictive, and therefore do not appear to have an impact one way or the other on the overall OY. The long season does have both beneficial and adverse impacts on individual stocks:

"The relatively long season allows distribution of catch during the entire migration of the many stocks and does not key fishing by time to specific stocks. It does, however, allow some chinook stocks to be fished during more than one year." (section 8.3.1.1(a)).

Limited entry appears to have little to do with the OY in this plan\*. Even if one assumes that limiting entry in a fishery helps to achieve the OY by preventing new vessels from entering and bringing increased fishing effort to bear on the fishery, neither the separate Federal entry system proposed in the plan or adoption of the State system, alone, would affect the total number of vessels operating in the entire (inshore and offshore) fishery. Any vessels (except those from Washington and Oregon which do not have State entry permits) excluded from the FCZ by a separate Federal entry permit would simply fish inshore,

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\* "OY" refers to the overall OY, and not the separate FCZ quota, which is the portion of the OY expected to be taken in the FCZ.

thereby exerting equal pressure in the fishery. And adopting the State system would effectively be no change from the current status of these vessels. It appears that preventing the entry of additional persons from Washington and Oregon who do not have State permits would be the only additional limitation of effort in the fishery achieved by a limited entry provision in this plan. To that extent, limited entry would help to achieve the OY, but this effect is, to some extent, offset by the freedom to upgrade vessels under either entry scheme.

The size limit does help to achieve the OY, by maximizing the poundage of harvested fish and limiting the fishing pressure on each year-class.

CONCLUSION: It is difficult to determine whether the plan complies with Standard No. 1. Overall, the best rough estimate would be a moderate to slight risk of the plan being judged inconsistent. Evaluating the plan in the context of Standards No. 3 (a fishery should be managed as a unit) and No. 2 (best information available) would appear to strengthen the argument for general consistency.

2. National Standard No. 2:

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

The plan (section 4.6) indicates that its primary sources of data are fish tickets and troll log book programs, and that, "In general, the quality of catch data by gear, time, and area is good in the aggregate". Testimony at the public hearings challenged this assertion. The Council received numerous comments, largely from power trollers, that the fish tickets were a poor data base. The major complaint was that prior to 1978, trollers were not made aware of separate statistical reporting areas for the FCZ. However, there was some reporting for FCZ statistical areas, which fact tends to contradict the testimony that trollers did not know these areas existed.

Even if prior fish tickets are judged inaccurate, however, the discrepancy relates to where the fish were caught and not how many were taken. Therefore, to the extent the plan attempts to treat the FCZ as a separate management unit, based on where fish were caught prior to 1978, its reliance upon the questionable reporting of statistical areas increases. To the extent the plan treats the entire (inshore and offshore) fishery as a single management unit, reliance upon the questionable portion of the data decreases. In this regard, establishment of a separate Federal limited entry system for the FCZ, designation of a separate quota for the FCZ fishery, and requiring area/trip registration to enforce an offshore quota, are all based primarily upon the questionable pre-1978 reporting of catch by statistical areas.

It is true that this Standard is not intended to prevent Council action until complete scientific information is available. As the Secretarial guidelines recognize: "The lack of complete scientific information concerning a fishery shall not prevent the preparation and implementation of a fishery management plan." (50 C.F.R. § 602(c)(3)). It is for this reason that the plan's MSY and OY determinations, based only on past annual catches, are sufficient, since "MSY, as it applies to salmon management, is difficult, if not impossible, to evaluate in terms of any measurement of data other than past catches."\* However, once information is called into question, the Council must reconsider the justification of management action based on such data.

CONCLUSION: In light of testimony at the hearings held on this plan, adoption of either:  
(1) a separate Federal entry system for the FCZ; or (2) a separate FCZ quota, would present a moderate legal risk of being judged inconsistent with National Standard No. 2, since such measures would be based in substantial part upon questionable pre-1978 fish ticket reporting of catch by statistical area. The plan's MSY and OY determinations present only slight legal risk.

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\* Section 4.7.1 of the plan.

3. National Standard No. 3:

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

The legislative history refers to this Standard as follows:

". . . unity of management, or at least close cooperation, is vital to prevent jurisdictional differences from adversely affecting conservation practices. The Committee recognizes the need to have close cooperation between the Federal and State governments because of the separation of jurisdiction inherent in this Act." (p. 686)

The salmon plan covers all salmon found in waters off Alaska, and divides them into two management units: one east of Cape Suckling and one west of Suckling. As the plan recognizes, the major portions of these fisheries occur in State waters.

The plan implies that stocks of chinook west of Cape Suckling are separate from stocks east of Cape Suckling; the former are said to be fully harvested inshore. No rationale is given for the use of Suckling as a dividing line, except that it has been used by the State as a boundary. Uniformity with the State is a sufficient justification for using Cape Suckling as the boundary, assuming the "geographical, scientific, technical, recreational and economic characteristics"\* of the fishery justify establishing two separate management units. The plan should elaborate further on this point. Also, coho should be included in the discussion, since it is unclear whether they are currently fully harvested west of Cape Suckling.

To the extent possible, this plan does generally manage the fishery as a unit throughout its range. For example, the MSY's and OY's are based on the entire resource adjacent to Alaska, both inside and outside the three-mile line, and the season, size, gear and area restrictions are compatible with existing State management measures. Certain of the proposed management measures (i.e., separate Federal entry system, and separate FCZ quota) may not be entirely consistent with the concept of manage-

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\* The term "fishery" is defined in section 3(7) as "one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; . . . "



ment as a unit. The qualifying language "to the extent practicable" in Standard No. 3 would indicate that such measures could be adopted consistent with this Standard, but that it would have to be based upon a finding that alternatives are unacceptable.

CONCLUSION: The plan substantially complies with National Standard No. 3. However, those management measures that treat the FCZ as a separate unit could be adopted only if the plan determines that alternative measures, which would be more consistent with Standard No. 3, are unacceptable.

4. National Standard No. 4:

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

In reviewing the plan for consistency with this Standard, it is necessary to take into account the testimony at the recent hearings and the indications of Council position at its September meeting, so as to limit this analysis to those management measures which it appears the Council is most likely to adopt, and not devote time to measures that have little chance of adoption for practical, political, or other reasons. It appears that the Council will, among other things, seek to: (1) adopt the State limited entry system; (2) exclude hand trollers from the FCZ; (3) prohibit net fishing (except for those few locations where traditional net fisheries already exist); and (4) allow recreational fishing.

The exclusion of hand trollers appears to be inconsistent with this Standard's requirement that fishing privileges be fairly and equitably allocated among fishermen. If the State entry system is adopted because of acceptance of power trollers' testimony that they all fish outside three miles, then there

is no basis for not accepting the hand trollers' testimony that they too fish in the FCZ. And once the hand trollers' presence in the offshore fishery is accepted, there is no rational basis expressed in the plan for excluding from the FCZ those individuals who have fished there in the past, while allowing all power trollers and net fishermen who have fished in the FCZ to continue to do so. Furthermore, recreational fishermen who have never fished there in the past would be permitted to enter the offshore fishery. Such discriminatory action would, in the absence of any rational justification, be an arbitrary and capricious exercise of Council authority.

The emphasis on present participation in the FCZ salmon troll fishery, reflected in adoption of the State's limited entry system, would also require that permits for the FCZ be issued to those few fishermen, mostly Washington and perhaps some Oregon residents, who, though not holders of Alaska power troll entry permits, nevertheless legally fished in the FCZ in the recent past by landing their catch outside the State. One question that arises in this regard is whether such permits would have to be transferable, like the State permits, or could be non-transferable.

At first glance, it would seem that these fishermen would be treated unfairly if their permits were non-transferable. Upon closer inspection, however, it is seen that these fishermen occupy a position which may be a basis for distinguishing them from the other 950 entrants. They did not qualify for an Alaska limited entry permit when that system went into effect in 1973, and were thus prevented from trolling in Alaska waters. In this respect, they are similar to Alaskans who did not qualify for power troll permits in 1973. But by virtue of the fortuitous circumstance that they were not residents of Alaska and do not land their catch there, they were able to establish a fishing presence in the FCZ, something which the similarly situated Alaskans were unable to do because of State landing laws. Also, while adopting the State entry system would leave the rights of Alaska permit holders unchanged (they would, after adoption, still have a transferable permit to fish inshore and in the FCZ), giving the non-Alaskans transferable permits would bestow a new benefit upon them. Since they now have only a non-proprietary right to fish in the Alaskan FCZ, their current status is maintained by giving them non-transferable permits to fish there in the future. Giving them transferable permits, on the other hand, would grant them a greater privilege than they now possess. Of course, the fact that all members of this group are non-Alaskan residents would give the appearance of discrimination between residents of different states.

CONCLUSION: (1) Exclusion of all hand trollers from the FCZ, when combined with adoption of the State limited entry system and certain other management measures, is inconsistent with National Standard No. 4. Inclusion of such a provision would present a serious (unacceptable) legal risk.

(2) If the State entry system is adopted, a substantial argument can be made in defense of issuing non-transferable permits to those non-Alaska residents who fish in the FCZ but do not possess Alaska entry permits.

5. National Standard No. 5:

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

The thrust of this Standard is that economic efficiency in the utilization of the resource is desirable, but only if such efficiency is compatible with the biological, ecological and social objectives for the particular fishery involved. (50 C.F.R. § 620.2(f)). Assuming that economic allocation is not the sole basis for limiting entry in this fishery (and this appears to be a reasonable assumption), the question is whether any of the proposed measures are unacceptably inefficient, or, do any of the economically "inefficient" measures lack sufficient biological, ecological or social justification? The area/trip registration requirement presents the most concern in this regard, particularly in light of the problems discussed above as to the separate FCZ quota. The justification and need for the separate quota would have to be particularly strong to justify the obviously inefficient area/trip registration system.

Utilization of the Alaska limited entry scheme is more efficient than the system proposed in the plan, since it would allow power trollers to freely cross the three-mile line in pursuit of the resource.

CONCLUSION: Adoption of the area/trip registration requirement would present a moderate to slight legal risk of non-consistency with National Standard No. 5.

6. National Standard No. 6:

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

This requires that an FMP be sufficiently flexible to allow for timely response to unforeseen changes in the condition of the resource. The salmon plan's provision for inseason adjustment of seasons or areas for conservation purposes is designed to provide the flexibility envisioned by this Standard. However, it must be kept in mind that such actions are subject to the Administrative Procedures Act, which allows waiver of the public comment period only upon a showing that such a comment period would be "impracticable, unnecessary, or not in the best interest of the United States."

CONCLUSION: The plan substantially complies with National Standard No. 6.

7. National Standard No. 7:

"Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication."

This Standard seeks to assure that management measures are cost effective, much like the efficiency goal in Standard No. 5. However, similar to that Standard, "cost effectiveness should be sought through the process of optimizing existing capabilities, rather than at the expense of program objectives or program effectiveness." (50 C.F.R. § 602.2(h)). The plan's reliance on many of the ADF&G data gathering operations is a good example of the avoidance of unnecessary duplication contemplated by this Standard.

CONCLUSION: The plan substantially complies with National Standard No. 7.

B. SECTION 303(a)

Section 303(a) of the FCMA (16 U.S.C. § 1853) specifies required provisions for FMPs. Described below are two areas in which the plan fails to comply with section 303(a).

1. Management Costs:

Section 303(a)(2) of the Act requires that an FMP indicate the costs likely to be incurred in implementation of the proposed management measures. The salmon plan fails to do this. Estimates of costs are significant for assessing compliance with National Standards 5 and 7, which mandate economic efficiency and minimization of costs.

2. Reporting Requirement:

Section 303(a)(5) of the Act requires that a plan specify the data that is to be submitted to the Secretary. It says such data shall include ". . . the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls." The plan relies on Alaska Department of Fish and Game fish tickets for this information, however, these tickets do not include information on the quantity of gear, time of fishing, or number of hauls. For the Gulf of Alaska Groundfish and Tanner Crab FMP's this deficiency is cured in the regulations with a requirement that additional information be written on the ticket. However, failure to include such a requirement in the plan itself is contrary to the Act.

CONCLUSION: These deficiencies present a moderate legal risk. However, they appear to be rather easily correctible, and therefore should not be considered major obstacles to completion of the plan.

C. 50 C.F.R. SECTION 602.3

These regulations amplify the requirements of section 303 of the Act. Described below are areas in which the plan fails to comply with these regulations.

1. Ecological Relationships:

The plan's description of the biological condition and geographic distribution of the salmon stocks is generally good (§ 4.1-4.2, 4.7). There is, however, a lack of any discussion of the ecological relationships of the resource as contemplated by § 602.3(b)(5)(iii). There is no discussion of the relevant food chain, which would be particularly appropriate in light of public testimony regarding herring stocks, nor is there any mention of predator-prey relationships, which also would be relevant since there was concerned testimony on the proliferation of sea lions and the resultant impact on salmon stocks.

2. Habitat:

The plan gives only a cursory description of salmon habitat (§ 4.5). Passing mention is made of the general causes for the decline in quality of spawning and rearing habitat, but there is no attempt to evaluate any specific existing or potential habitat problems, such as logging practices in southeast Alaska. The plan also neglects to mention any on-going or proposed habitat protection programs. There may be none, but if so, this should be stated.

To be sure, the all important stream and river habitats are not within the jurisdiction of the Council. This fact, however, is no excuse for the failure of the plan to survey this aspect of salmon management that surely has an impact on stocks in the FCZ. The regulation at 602.3(b)(13)(vii) presumes that in some instances the Council or Secretary will have no authority to implement particular habitat protection measures but provides that the appropriate entity, in this case the State of Alaska, should be informed of the plan's findings and proposals regarding habitat. If more information is needed the plan should so specify, and, to the extent possible, describe particular programs for research.

3. Effect of International Agreements:

Various sections of the plan (§§ 3.2.2, 3.3.3, 7.0, 8.3.2) indicate that domestic fishermen will harvest all available salmon and that, except as provided by any bilateral agreement with Canada, there will be no allowable foreign catch. However, section 1(d) of the Annex to Article I of the Protocol amending the International North Pacific Fisheries Convention, signed on April 25, 1978, provides:

"Except for the areas described in (A) above, there shall be no salmon fishery operations east of 175° E. Longitude unless such fishery operations are agreed to for a temporary period among the three Contracting Parties."

Thus, there is a possibility, subject to agreement by all parties to the Convention, that a temporary Japanese salmon fishery could occur in the FCZ east of 175° E. Longitude. As required by 50 C.F.R. 602.3(b)(14)(ii), the salmon plan should mention the possibility of foreign fishing pursuant to this international agreement.

4. Alternative OY's and Management Measures:

50 C.F.R. 602.3(b)(12) requires that a plan describe the alternative OY's considered, and their advantages and disadvantages. There is mention of possible alternatives in the EIS (§ 12.5), but an expanded discussion of these should also be in the plan itself.

This section of the regulations also requires that a plan analyze the adverse and beneficial impacts of both the management measures adopted and the measures considered and rejected. The salmon plan appears to be adequate in this regard. However, the regulation suggests that, to the extent possible, these impacts should be identified in summary form. This does not seem particularly burdensome and would be of considerable assistance to reviewers of the plan.

CONCLUSION: The cumulative effect of these deficiencies is a slight to moderate legal risk.

D. NEPA:

Section 102(c) of the National Environmental Policy Act (42 U.S.C. § 4332) requires the appropriate decision-maker to prepare an environmental impact statement (EIS) for "major Federal actions significantly affecting the quality of the human environment." An FMP fits this description and requires an EIS. The regulations at 50 C.F.R. § 602.6 set out Secretarial guidelines for compliance with NEPA when an FMP is developed.

The regulation at § 602.6(d) states that an FMP EIS can be abbreviated, implicitly recognizing that much of the analysis in the FMP is the same required in an EIS. The regulation suggests, however, that the EIS reference pertinent portions of the FMP. This is designed so that a person reviewing the EIS, either at an agency level or in court, can assess whether all appropriate environmental factors have been fully considered.

The brief salmon plan EIS does make one cross-reference to the FMP in § 12.3.3, but would benefit from many more: Section 12.1.1 (statement of purpose) should refer to the sections that state the management objectives of the FMP, §§ 2.1 and 8.2. Section 12.1.2 (description of the affected environment) should cite various provisions in the FMP, among them §§ 3.1, 3.2.1, 4.0 and portions of the appendices. These examples are by no means exhaustive, but give an idea of what is needed. Essentially, whenever the EIS touches upon some environmental factor more fully discussed in the plan, which is the case with virtually all of the salmon plan EIS, there should be a cross-reference to the appropriate section(s) of the FMP.