

DEPARTMENT OF FISH AND GAME

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OFFICE OF THE COMMISSIONER

RECEIVED MAY 23 1984

May 22, 1984

Mr. Jim H. Branson
Executive Director
North Pacific Fishery
Management Council
P. O. Box 103166
Anchorage, AK 99510

| ACTION | ROUTE TO | INITIAL |
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| | Exec. Dir. | J |
| | Deputy Dir. | |
| | Asst. Dir. | |
| | Asst. Sec. | |
| | Asst. 1 | |
| | Asst. 2 | |
| | Asst. 3 | |
| | Ecologist | |
| | Lab. Tech. | |
| | Sec./Typist | |
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Dear Mr. Branson:

I was pleased to see in your April 17, 1984, letter that you have already begun to review the experiences of the other fishery management councils in joint venture development and transition.

As we have discussed, the window of opportunity for planning rational management of groundfish off Alaska is still open, but can close suddenly. I have felt for some time that it is quite important to draw attention to the need for timely identification of the relevant issues.

I continue to argue that one of the primary missions of the North Pacific Fishery Management Council, given its finite fiscal resources, is the comprehensive development of the domestic groundfish industry. Already established domestic fisheries can tolerate less attention from the council because of adequate state management.

I view the key tasks now facing the council in groundfish as:

1. preparing clear, measurable goals for the utilization of the resource;
2. planning for the transition from joint ventures to DAP;
3. clarifying agency roles in data collection of stock status and fishery performance information;
4. identifying data needed in support of socio-economic decisions;
5. identifying an "acceptable" level of capitalization in the harvesting sector;

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6. resolving prohibited /incidental species harvest conflicts;
7. providing support in the administrative and legislative arenas for the developing domestic processing sector.

Work such as you have just begun on joint ventures, as well as your efforts to get the recent NRC reports and better council goals are right on track.

I expect my Department's Extended Jurisdiction Section to assist in addressing the above tasks.

Sincerely,



Don W. Collinsworth
Commissioner

May 23, 1984

DRAFT COUNCIL POLICY ON JOINT VENTURES

The North Pacific Fishery Management Council has responsibility under the law for assuring the conservation and wise use of fishery stocks in its area of jurisdiction and to foster the development of the United States fishery for those stocks currently underutilized by this country, though they may be fully exploited by other nations. The equitable allocation of harvest privileges in accordance with the principles established by the Magnuson Fishery Conservation and Management Act is an element of the Council's management responsibility. The Council will use its ability to allocate harvest privileges to increase American participation in underutilized fisheries consonant with the wise use of the resource.

The Council believes that it is in the best interest of our nation for its fishery resources to be both harvested and processed by the U.S. Industry. As long as there is any surplus allocated to other nations the Council will encourage joint ventures between Americans and foreign partners that will increase U.S. participation in the utilization of these resources. Consistent with the MFCMA, in fisheries where domestic harvesting capability and intent exceeds domestic processing capability and intent, joint ventures will generally be allowed. Some fisheries for which the Council has jurisdiction are now or are expected soon to become fully utilized by the U.S. industry (salmon, crab, shrimp, halibut, cod, herring). For such fisheries joint venture operations in which these species are harvested should be permitted only under conditions of unusual or extenuating circumstances.

Joint ventures are generally considered to be operations in which U.S. fishermen deliver raw fish to foreign processing ships. Joint ventures should operate in the best interest of the U.S. fishing industry. Individual joint ventures are expected to make realistic requests that lie within their capability for harvesting and processing. The Council will scrutinize performance records of individual joint ventures in relation to their requests and will not approve any joint venture which appears significantly excessive to its capabilities. The Council will monitor the performance record of joint ventures and future approvals will depend upon the degree to which these operations demonstrate good faith satisfaction of commitments to U.S. fishermen and the U.S. fishing industry.

Preferences

Approval of joint ventures should be used to promote the domestic industry by encouraging greater participation in the fishery on the part of the whole industry. In the event that there are more joint venture applications for a particular species than there are fish available, those joint ventures are preferred which provide for the greatest involvement by the U.S. industry in the entire process of utilizing the fish, i.e., harvesting, processing and marketing.

Joint ventures can be categorized as follows:

Category A: The U.S. partner is the main participant in all phases of the operation: harvesting, processing and marketing.

Category B: The U.S. partner is the main participant in the harvesting and marketing of the product, with the foreign partner the main participant in the processing.

Category C: The U.S. partner is the main participant in the harvesting and processing of the product, with the foreign partner the main participant in the marketing.

Category D: The U.S. partner harvests and sells over the side, while the foreign partner is the main participant in the processing and marketing.

The above categories, which are intended to assist the Council in formulating its recommendations on joint venture applications, are stated in order of preference, with category A being the most preferred and category D the least.

Within each category the consideration of additional criteria will establish the relative strengths and/or weaknesses of individual joint ventures. The Councils exercise in grading each joint venture proposal will result in recommended approval, denial or modification for each request.

Such criteria shall include but not be limited to:

1. Purchase of additional underutilized species, finished or partially finished products from U.S. processors.
2. Trade barriers, both tariff and non-tariff, to U.S. fishery products by applicant country.
3. Fishing and processing technology exchanged with U.S. industry.
4. U.S. secondary processing of products produced in joint ventures.
5. Disposition of JV operation finished product. Does it return to U.S.A.? Does it compete directly or indirectly with U.S. fisheries products? (advantages and disadvantages)
6. Employment opportunities for U.S. labor.
7. Transferred capital and investment in U.S. industry infrastructure.
8. Record of dealing with U.S. fishermen or partners: dependability, competitiveness, market conditions, disputes, payment procedures, etc.
9. Degree to which past operations have attained their targets.

10. Contribution to competitive joint venture market environment for the betterment of the U.S. industry.
11. Species and volume purchased/processed in past.
12. Commitment by foreign partner to help train U.S. participants.
13. Compliance with U.S. laws, treaty agreements and market agreements.
14. Scientific assistance.
15. Cooperation in procuring and providing timely data.
16. Compatibility of JV fishing project with other U.S. fishing operations and fisheries (such as environmental impact, time, area, species, by-catch, etc.).

This Council recognizes that conditions are changing rapidly as U.S. participation and development of our underutilized fishery resources advances. Over time it is likely that certain criteria here discussed will either take on added emphasis, or diminish in importance and other criteria may be added. Standards which are appropriate today may well be inappropriate in the future. In this regard, a regular review of issues and situations will be performed by the Council to ensure its flexibility in meeting these changing conditions.

The Council will continue to encourage and give priority to fishery operations that are wholly American through whatever management measures are reasonable and equitable. Currently some joint venture operations target on or take as a desired bycatch certain non-prohibited species (such as cod, perch) which are rapidly becoming fully utilized by the wholly domestic fishing industry. When foreign target fishing on these species has been eliminated and any unavoidable foreign bycatch

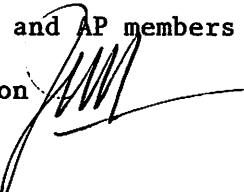
has been reduced to acceptable levels, the Council will implement measures to reduce the impact of joint venture operations which harvest these species.

A species which becomes wholly utilized or capable of being wholly utilized by the domestic industry will not automatically become a prohibited species which the foreign and joint venture fleets must discard unutilized. The Council will make allocation decisions based upon its best judgment of wise management and optimum utilization of the resource. Joint venture operations which are approvable based upon the prioritization and criteria for consideration previously outlined in this document may receive specific by-catch allowances for minimum quantities of unavoidable incidental species. The specific allowances will be determined based upon historically encountered or reasonable assumed by-catch levels in similar fisheries. Such levels may then be adjusted through mandated time or area restrictions, fishing techniques or gear modifications, consideration of direct/indirect impact on the target domestic fishery and other criteria which the Council may choose to consider. Due to variations in individual joint venture projects it is anticipated that such allocations will be made on a case by case basis.

In fisheries where a surplus for foreign allocations no longer exist, the Council intends to phase out joint ventures involving foreign processing as rapidly as is consonant with good management and the MFCMA. In this regard the Council will regularly update its appraisal of developments within the domestic processing

sector to utilize currently underutilized species and review market opportunities available to the U.S. harvesting fleet. The Councils' current prioritization scheme and the criteria for consideration will be regularly reviewed and further strengthened or prioritized as necessary to achieve the goals and objectives of this policy.

M E M O R A N D U M

TO: Council, SSC and AP members
FROM: Jim H. Branson 
DATE: May 18, 1984
SUBJECT: Council Policy on Review of Foreign Directed Fishing and Joint
Venture Vessel Permit Applications

ACTION REQUIRED

1. *Receive industry workgroup report on joint venture permit review policy.*
2. *Give further instructions to Permit Review Committee.*

BACKGROUND

Joint Venture Permit Review

Last December when reviewing permit applications for joint ventures, the Council's Permit Review Committee discussed the need to overhaul our criteria and policy for reviewing joint venture requests. One concern raised was that the fast pace at which joint ventures were proliferating soon could place the Council in the position of having to decide which joint ventures should operate in a given year. A second concern was the need to encourage the transition from joint ventures into totally-U.S. operations. Once foreign direct allocations have declined, there might be little leverage to continue down the road toward a groundfish fishery that is totally U.S. harvested and processed.

There has, of course, been a remarkable increase in joint venture activity over the past five years. In 1979, one joint venture company harvested 1,507 mt. Currently there are 19 companies either operating or planning to operate this year in the FCZ off Alaska. These companies will employ over 70 U.S. trawlers and may exceed a 600,000 mt harvest.

The Council's last policy statement on joint ventures came out in May 1982 and is under C-3(a). It has the following criteria:

- (1) Performance record in terms of mutual profitability to the partners;
- (2) history of participation in the fisheries off Alaska and U.S. including species and volume taken;
- (3) compliance with U.S. laws and treaty agreements;
- (4) cooperation in research;
- (5) technology transfer;
- (6) purchase of finished fishery products from the U.S.;
- (7) trade barriers to U.S. fishery products by the applicant country; and
- (8) history of participation in U.S. joint ventures.

At the December 1983 meeting, the Permit Review Committee was notified by Mick Stevens of Profish International that an industry workgroup would be meeting over the winter to lay out possible criteria for joint ventures that the Council could use when reviewing vessel permits. A report from that workgroup will be available under this agenda item.

The Council may wish to instruct the Permit Review Committee to analyze the industry report and propose a joint venture review policy for consideration at the September Council meeting.

Directed Fishing Permit Review

The Council may want to re-examine its review criteria for foreign directed fishing permits. Shortly after the Council was organized they delegated authority to the Executive Director to recommend approval of permit applications unless they:

- (1) applied for a joint venture;
- (2) were for ships with serious violations;
- (3) were for ships of countries which had never before fished in the FCZ off Alaska; or
- (4) in the Executive Director's opinion, the applications were in some way unusual, for example, a new fishery, unusual gear, etc.

Serious violations were defined as any with a fine of over \$3,000. In addition, the Council's current practice is to examine violations only for the previous year. (The fine limit was raised to \$10,000 by the Council in April 1980 but never put into practice.)

Using these guidelines, the Council has made recommendations on thousands of permit applications since 1976. For 1984 alone, we have reviewed around 580 applications including 486 from Japan, 42 from South Korea, 41 from the USSR and others from Spain, Taiwan, and West Germany. Of these, 6% had violations over \$3,000 in 1983.

In recommending sanctions on serious violators, the Council has never really established any firm guidelines for setting levels of sanctions commensurate with the seriousness of the crime. Is a permit revocation for a year or some longer period? Should the sanction be placed at the vessel or company level? Should a vessel be allowed to operate while the case is pending? Should the country's allocation be reduced? Should the definition of a serious violation be revised upward to \$10,000? Should the entire violations record for a vessel or company be examined rather than just for the previous year?

In addition, there are questions on procedures for reviewing permits arriving between the May and September Council meetings that fall outside the Executive Director delegated authority to approve. Do we need a small committee to convene for review purposes during the four-month summer hiatus?

The Council may want to instruct the Permit Review Committee to examine these questions along with joint venture criteria and report back in September.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Policy for Joint Venture Permit Review*

The North Pacific Council has responsibility under the Magnuson Fishery Conservation and Management Act for assuring the conservation and wise use of fishery stocks in its area of jurisdiction and to foster the development of the U.S. fishery for those stocks currently underutilized by this country, even though they may be fully exploited by other nations. The Council believes that it is in the greatest national interest for the resource to be both harvested and processed by U.S. industry. However, until the domestic industry can both harvest and process the Total Allowable Catch (TAC), the Council will encourage joint ventures between Americans and foreigners that will increase U.S. participation in the utilization of these resources, provided that such joint ventures will not adversely affect the development of totally domestic harvesting and processing operations focused upon the same species. Believing that the best foundation for a successful joint venture is mutual profitability to the partners, the Council will consider the performance record of joint ventures when reviewing project proposals and allocations. Future allocations will depend upon the degree to which those operations have demonstrated good faith satisfaction of commitments to U.S. fishermen and the U.S. fishing industry. Joint venture projects are expected to make realistic allocation requests which will be within their capability for harvesting and processing.

When reviewing permit applications from foreign processors asking to receive deliveries of raw or semi-processed fish from U.S. fishermen (and requesting the amount of fish they expect to receive), the Council will consider criteria such as the applicant's history of participation in fisheries off Alaska and the rest of the United States, including length of participation; species and volume taken; compliance with U.S. laws and treaty agreements; cooperation in scientific studies of the resource off Alaska; technology transfer; extent to which they purchase finished fishery products from the U.S.; and trade barriers to U.S. fishery products by the applicant country. The Council will also consider the applicant's history in joint ventures with U.S. fishermen or companies.

Joint ventures will only be considered for species and resources that are not being fully utilized by U.S. industry. The Council will continue to give priority to fishery operations that are wholly American through whatever management measures are reasonable and equitable. When a resource no longer has a surplus for foreign allocation, the Council intends to phase out joint ventures involving foreign processing as rapidly as is consistent with good management and the intent of the MFCMA.

*Adopted by the Council in May 1982.