

M E M O R A N D U M

TO: Council, AP and SSC Members

FROM: Jim H. Branson
Executive Director

DATE: September 18, 1984

SUBJECT: Joint Venture Permit Restrictions

ACTION REQUIRED

The Regional Director would like the Council's advice on two joint venture permit restrictions.

BACKGROUND

Bob McVey has asked for Council advice on two restrictions which apply to foreign vessels receiving fish from U.S. fishermen (joint venture permit restrictions): (1) all joint venture fishing in a management area must cease when the "JVP" for any species has been caught; (2) the amount of sablefish which may be retained by a foreign processing vessel may not exceed 1.5% of all fish received in the FCZ from U.S. vessels.

(1) NMFS will present an issues paper on the first permit restriction. Agenda item C-8(a) is the exact language as it appears on all joint venture permits, agenda item C-8(b) is a letter from Marine Resources Company, and agenda item C-8(c) is a letter from Profish International on this subject.

In late July this year the original joint venture allocation for Atka mackerel in the Bering Sea was harvested (19,430 mt). Rather than shut down the fishery, the Regional office raised the TAC from 23,130 mt to 37,470 mt and allocated most of the increase to JVP (an increase of 17,570 mt, up to 35,000 mt). The increase was harvested within two weeks. NMFS then prohibited directed fishing for Atka mackerel but retained small amounts for bycatch in the remaining joint venture and foreign fisheries.

The fishery for Atka mackerel occurs primarily in the Aleutian Islands, but because the Atka mackerel TAC applies to both the Bering Sea and the Aleutian Islands, if the entire JVP had been harvested, all joint ventures in the Bering Sea and Aleutians would have been required to cease operations.

This is the first year that this problem has surfaced and it will continue to grow as more species become completely utilized by U.S. fishermen. NMFS would like Council advice on this permit restriction so that they can make appropriate decisions on the 1985 joint venture permits.

(2) Agenda items C-8(d) and C-8(e) are letters from Marine Resources Company and item C-8(f) is a letter from the Fishing Vessel Owners Association on the 1.5% sablefish bycatch restriction on joint venture permits.

At the December 1983 meeting the Council was asked to raise the restriction from 1.5% to 5%. The issue was discussed by the Interim Action Committee (Crisis Committee) on May 4 which noted that NMFS can change permit restrictions without Council advice, pending Council review of its long- and short-term management goals. The Committee also recommended that this allocation issue should be considered in the annual groundfish amendment cycle.

The Gulf of Alaska Plan Team is preparing technical information on the general question of increasing trawl catches of sablefish. NMFS Regional economist, Jim Wilson, has prepared a study of U.S. trawl and longline caught sablefish in the Japanese market. Both of these studies will be ready for the start of the groundfish amendment cycle in December.

At the beginning of 1984 there was considerable sablefish TALFF available, 1,834 mt in the Gulf of Alaska, 900 mt in the Bering Sea and 1,210 mt in the Aleutians. To date, most of the sablefish OY in the Gulf of Alaska has been caught by domestic fishermen (the latest catch figures will be available at the Council meeting).

Because of the success of the domestic longline fishery in the Gulf of Alaska this year and the expectation that U.S. processors and fishermen will utilize all the available sablefish in the Gulf of Alaska and perhaps in the Aleutians in 1985, the question of increased joint venture harvests of sablefish in any areas except the Bering Sea may now be moot.

NMFS would like Council advice on whether to retain, modify, or drop the 1.5% sablefish bycatch restriction when new joint venture permits are issued for 1985.

C-8

National Marine Fisheries Service
Alaska Region, Juneau
Fisheries Management Division
September 20, 1984

DISCUSSION PAPER
JOINT VENTURE CLOSURES

Problem

If the JVP amount of any species in an area is reached or exceeded, all joint venture fisheries in that area must cease, regardless of whether JVP allocations of other species remain unfished or OY remains for the species in question.

This situation results from a restriction appearing on the permits of foreign processing vessels which receive fish from U.S. catcher vessels, which states:

"If the Assistant Administrator finds that the current amount specified for joint venture processing (JVP) for any fishing area or species has been received by foreign vessels from U.S. vessels, no further fish may be received in that fishery area from U.S. vessels."

Rather than disrupt other valuable U.S. JVP fisheries in an area after the JVP of a particular single species has been reached, the management policy has been to permit JVP fisheries which have minimal bycatches of the "closed" species to continue (if the OY of the "closed" species has not been reached). As this policy is not in accordance with the current permit restriction, that restriction must be examined for possible revision in 1985.

Options

Option I. Eliminate the restriction by deleting the subject paragraph on the permit.

The responsibility for maintaining orderly operations and remaining within the JVP or OY of each species would be shifted entirely from the foreign processing vessel to the U.S. fishermen catching and delivering the fish. Current domestic regulations regulating the Gulf of Alaska groundfish fishery require closure of an area to trawling when the combined foreign and domestic catches reach the OY of a species; the Bering Sea regulations permit further fishing in the area for other target species, as long as the "closed" species is not taken. Although no mention is made in the regulations of JVP as a quota which triggers a closure, this is implicit in the Magnuson Act. Therefore, the concern expressed by several joint venture companies, that a single operation could shut down a fishery through miscalculation or even maliciousness, still holds. In the Gulf the results of reaching OY would be particularly severe, since there is no simple inseason mechanism to

supplement OY. Ways of forestalling such a situation are addressed by the following suboptions.

Ia. Revise domestic regulations to specifically allow closure of a directed fishery on a single species in an area when its JVP has been reached or revise domestic permits to state that further targeting on a species in a joint venture fishery is illegal when its JVP is reached.

There are legal and technical problems with enforcing "single species" closures. From a legal perspective, the prosecution of an individual company or vessel for taking a closed species in unacceptable quantities raises procedural and evidentiary problems that could prevent prompt corrective action. It is even possible that the company/vessel could keep fishing until those problems had been resolved through administrative and judicial proceedings. From an enforcement perspective, it is very difficult to obtain evidence against a single domestic vessel; once a tow is delivered to a foreign processing vessel, it becomes mixed with fish from other deliveries.

Ib. Assign quotas for each species to each joint venture.

One alternative is that the companies could subdivide the quota among themselves in a pre-season agreement. This is analogous to foreign quotas: when Japan receives a national quota for each species (exceeding any one of which will shut down the entire Japanese fishery in an area) the various Japanese fishing associations negotiate among themselves and with the Japanese government for their share of the quotas. Should this fail to result in an orderly fishery, the Council may be forced to consider formally assigning quotas to each joint venture.

Option II. Condition the foreign vessels' permits.

IIa. Retain the status quo.

NMFS requires foreign processing vessels to discontinue joint ventures when the JVP of a species has been reached. Aside from the relative ease of enforcing such closures, it seems reasonable that the foreign side of the joint venture operations should retain responsibility for fishing operations; presumably the U.S. fishermen would not continue fishing if no market or processing capability were being offered. However, the problem of possible premature closure of an entire area remains.

IIb. Revise the language of the paragraph to state that: "...no further fish of that species may be received in that fishing area from U.S. vessels except in bycatch amounts, (those amounts to be specified by the Regional Director)."

This revision would allow increased management flexibility and could be monitored by the observer. Bycatch rates or amounts would be calculated taking into consideration historical bycatch rates in the fishery, and the remaining amount of OY for the species. An individual joint venture would be closed if that rate or amount--as determined by the U.S. observer--was exceeded. A total area closure would only be

implemented when the entire OY or TAC of a species was reached, consistent with domestic regulations.

One alternative under this option is that bycatch amounts could be retained, if the remaining reserve amount is a reliable and adequate "cushion" against encroachment into DAP, which has first priority under the Act, or against exceeding the OY. On the other hand, the argument has been made by NMFS Enforcement that the only effective way to enforce the avoidance of a species is to make it prohibited (require discarding). This issue should be resolved before changes to the permit language are made.

In order to ensure that the remaining amount of OY for a species is sufficient for bycatch in continuing joint ventures on other species, it has been suggested that a separate "cushion" reserve be indicated for each species for that purpose. This could be formalized, which would require plan amendments; or these could be operational reserves determined by the Regional Director as a subcategory of actual reserves. These amounts could be retained indefinitely or until clearly not needed by JVP, and not apportioned to DAH or TALFF on the scheduled reserve release dates. This is consistent with the intended use of reserves (to support domestic operations), but would not work if the entire reserve amount was needed by DAP operators, who have first entitlement.

Iic. Revise the permit language to state "...further fish of that species received from that fishing area from U.S. vessels must be returned to U.S. vessels."

As a result, bycatches would count as DAP rather than JVP; such bycatch would be either processed aboard the U.S. vessel or delivered to a shorebased processor and ADF&G fish tickets would be used to report catch amounts (as required by domestic regulations).

It has been previously assumed that the logistics and economics of this scenario would eliminate it as a possibility; however, if the alternative were closure of the fishery, the industry might well find ways to overcome those difficulties.

Prepared by: Janet Smoker, Resource Management Specialist

ADDITIONAL RESTRICTIONS ON PERMITS FOR CERTAIN VESSELS OF KOREA

VESSEL(s): DAE SUNG HO, NO. 1 HANSUNG

U.S. Partner: Alaska Contact, Ltd.
Anchorage, Alaska

SUPPORT ACTIVITIES AUTHORIZED

Operations by this vessel(s) in support of vessels of the United States are authorized in the Bering Sea and Aleutian Islands groundfish fishery. This vessel(s) is subject to these additional restrictions (which may be modified under 50 CFR 611.3).

(a) Restrictions on receipt of fish.

(1) If the Assistant Administrator finds that the current amount specified for "joint venture processing" (JVP) for any fishing area or species has been received by foreign vessels from U.S. vessels, no further fish may be received in that fishing area from U.S. vessels. The fishery closure procedures of 50 CFR 611.15(c) will apply.

(2) No sablefish may be received from a U.S. longline fishery. Retention of sablefish is limited to incidental amounts resulting from the U.S. trawl fishery. The amount of sablefish harvested by U.S. vessels in any fishing area which may be retained by the above vessel(s) cannot exceed 1.5 percent of all fish received by that vessel. This percentage limitation on retention applies to the initial 1,000 mt of fish received in the FCZ from U.S. vessels and each 5,000 mt increment thereafter. (For example, if the amount of sablefish harvested by U.S. vessels and delivered to and retained by a foreign vessel in the FCZ reaches 15 mt before receipt by that foreign vessel of the initial 1,000 mt of all fish, no further sablefish may be retained until the initial 1,000 mt of all fish is received. A 75 mt limitation on retention of sablefish applies to each succeeding 5,000 mt of all fish received.)

(3) Any "unallocated species" (as defined at 50 CFR 611.93 (b)(1)(ii)(A) or part of those species which is received must be treated under 50 CFR 611.13.

(b) Area restrictions.

Processing of U.S. harvested fish and other operations in support of U.S. vessels must be conducted in the FCZ of the Bering Sea and Aleutian Islands fishery in accordance with 50 CFR 611.93(c). Processing of foreign harvested fish and other operations in support of foreign vessels may be conducted only in accordance with 50 CFR 611.10(b) and in the areas and during the times specified in 50 CFR 611.90(c)(2).

(c) Reporting requirements.

Unless otherwise approved by the Regional Director, Alaska Region, NMFS, each vessel must report its projected times and positions for starting and ending operations in support of U.S. vessels, at least 7 days before the event. These reports must be submitted in the manner prescribed in 50 CFR 611.4(b). Use the action code "START JV OPS" or "END JV OPS".

(d) Fishery closures.

Operations in support of U.S. vessels are not subject to the fishery closure provisions of 50 CFR 611.15(a)(3) and (4).

ADDITIONAL RESTRICTIONS ON PERMITS FOR CERTAIN VESSELS OF KOREA

VESSEL(s): DAE SUNG HO, NO. 1 HANSUNG

AGENDA C-8(a)
SEPTEMBER 1984

U.S. Partner: Alaska Contact, Ltd.
Anchorage, Alaska

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August 20, 1984

Mr. Robert W. McVey
Director, Alaska Region
National Marine Fisheries Service
P. O. Box 1668
Juneau, AK 99802

Dear Bob:

During our recent phone conversation concerning the then soon to be filled JVP for Atka mackerel, I gathered that you shared our concern over the foreign permit condition that could, in effect, close for the rest of the year the entire BSA region to all j-v operations if any JVP in that region was reached. That condition, through a small timing miscalculation or even a purposeful effort by only one of the several j-v operations in order to get in one more day's catch to "top-off" could have a catastrophic impact on the others who had large fisheries planned for other species later in the year.

I would like to propose an alternative. At the beginning of the year, retain enough (perhaps 5 percent) of the EY or ABC for each JVP species in reserve specifically to allow for j-v incidental catches after the JVP is reached. Then, once the JVP is reached, institute by field order a j-v closure for that area/species element that would prohibit retention of that species in amounts larger than, say, two percent of the total daily landings on each processor for the remainder of the year. I mention instituting the j-v closure by field order rather than by foreign vessel permit restriction. We believe only the most general provisions should be encompassed in those permits, leaving specific management measures for each fishery to be carried out by regulations specifically tailored to the appropriate FMP.

With the number of individual and competitive joint ventures now in operation, too much is at risk to rely on voluntary cessation of fishing by all before the JVP is attained. Even though it may sound strange coming from the industry, I think in this situation

Mr. Robert W. McVey
August 20, 1984
Page 2.

it is necessary for NMFS to manage us for the sake of maintaining an orderly fishery.

There very likely are several other alternatives that could alleviate the problem at hand. I would welcome the opportunity to discuss them with you.

Best personal regards,

Bert

H. A. Larkins
General Manager

HAL:kb

Mr. Robert W. McVey
August 9, 1984
Page Two

allowed and monitored at 1000 metric ton or "whatever" ton increments of total catch would seem manageable. However, in the case of POP for example, if it was separated from other rockfish components which I understand is being considered, the by-catch could be substantial due to the mixing of species or close proximity to each other, or intentionally adjusted through fishing technique and therefore harder to manage. The by-catch allowance would have to be very carefully set and also very closely monitored, perhaps lower incremental harvest levels for smaller operations and larger incremental levels for larger operations.

I can foresee growing pressure for a carefully established JVP for cod fish for 1985 or 1986 and therefore pressure to closely control the target fisheries which take them. It gets complicated quickly. Cod may even start out in 1985 as a by-catch only allowed harvest in JV operations. In that case one would anticipate the need to shut down either all JVP operations or the individual "offending" operations when the total JVP or the "individual operation JVP by-catch allowance" was reached for the relevant regulatory area.

The format suggested then follows a species which is separately managed from: A) target operation to B) allowed but controlled by-catch to c) terminate operations. I don't see a place for "prohibited" in the sense of allowing a fishery to continue on, around the prohibited species, especially since the existing connotation of "prohibited species" is that which is fully and exclusively harvested by another segment of the industry. Some species such as atka mackerel would start at "A" while others, perhaps cod in 1985 and 1986 would begin the process at "B" in terms of joint venture operations.

This format is consistent with the approach that is evolving out of our industry work group for incidental catches of prohibited species in the Bering Sea. Halibut, crab, salmon, etc. are "prohibited" unlike what cod or atka mackerel or POP might become but even the "prohibiteds" are most likely going to be "allocated" by operation or nation. The question of retention is irrelevant at this point, rather the similarity that both "prohibited" and "allowed retained by-catch" are both allocated is the important point. This similarity and consistency is of course important for the industry to be able to understand and anticipate management. Likewise one would think the consistency in this allocation "approach" would make management easier as well.

Mr. Robert W. McVey
August 9, 1984
Page Three

On a related matter I'm a little confused about the apparent selective differentiation between the Bering Sea and the Aleutian Islands as separate management units. Why are the quotas for pollock in the Aleutians (area 54) separate from the Bering Sea yet atka mackerel quotas are not? I understand the Korean Deep Seas Fisheries Association is proposing the elimination of differentiation between the two areas for pollock quota. I can certainly understand the operational flexibility available to them if this was accomplished. It would seem at least superficially, that we should go one way or the other on this issue rather than straddling the middle.

These are some current thoughts, Bob. I would look forward to learning your feelings on these issues and how your office wants to see them managed.

Best regards,



Michael G. Stevens
Vice President Operations

MGS/lc

cc: Jim Branson, NPFMC



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June 13, 1984

Mr. Robert W. McVey
Director, Alaska Region
National Marine Fisheries Service
Box 1668
Juneau, AK 99802

Dear Bob,

The North Pacific Fishery Management Council's Crises Committee (now called Interim Action Committee) discussed the sablefish retention restriction in the foreign vessels' joint-venture permits in its May 4, 1984 telephone conference. According to the minutes of the conference, "the Committee noted that it is a relatively simple administrative action to change the retention restriction on joint-venture permits, that it can be accomplished by the National Marine Fisheries Service without any action on the part of the Council". The Committee recommended that Council action with respect to this matter wait until the start of the regular groundfish amendment cycle and that in the meantime those who want the restriction removed could petition the Regional Director. This letter is to request administrative action removing the sablefish retention restriction from all permits issued to Soviet vessels for the Bering Sea and the Aleutian Islands and to make the restriction non-applicable to Soviet vessels operating in the western Gulf of Alaska.

According to NMFS figures, sablefish allocations to foreign nations for direct fishing total over 1,400 MT in the Bering Sea and Aleutian Islands areas and nearly 1,000 MT in the western Gulf of Alaska. Foreign trawling for sablefish in the Bering Sea and Aleutian Islands is not restricted by U.S. regulations other than time and area closures applicable to all species and national allocations. U.S. regulations prohibit targeting on sablefish by foreign trawlers in the Gulf of Alaska west of 140 degrees W. longitude but do not restrict retention (by tonnage or percent) of incidentally trawl caught sablefish. Technically U.S. trawlers are not restricted in fishing for sablefish in the Bering Sea, Aleutian Islands, or the Gulf of Alaska but the sablefish retention restriction in the foreign vessels' joint-venture permits very drastically restricts U.S. joint-venture trawler markets for sablefish. The advantage foreign trawlers have over U.S. joint-venture trawlers with respect to sablefish is obvious - foreign trawlers can totally utilize their catches while U.S. joint-venture

trawlers can not.

Bob, there is absolutely no justification for the sablefish retention restriction in the Bering Sea, Aleutian Islands or western Gulf of Alaska. The Council's groundfish FMP's do not contain conservation, management or other rationale for the restriction. NMFS has not presented any solid evidence which has been fully and publicly reviewed justifying the restriction. The Council's declaration of a TALFF and the U.S. Government's allocation of that TALFF, with no harvest restriction in the Bering Sea and Aleutian Islands and with no by-catch limitation on foreign trawlers in the Gulf of Alaska, clearly render the restriction on joint-venture fisheries discriminatory and contrary to the MFCMA.

We are now conducting two joint-venture fisheries in the Bering Sea and Aleutian Island areas. Our Atka mackerel fishery extends from Attu Island to Seguam Pass and the yellowfin sole fishery extends from the Bristol Bay flats westward to south of the Fox Islands. The portion of the latter fishery south of the Fox Islands is in the western Gulf of Alaska. Both fisheries will at times take sablefish incidental to the target species in excess of the 1.5 percent retention limit. Thus we ask for removal of that restriction in order that our U.S. fishermen can have the same opportunity to market their catches as foreign trawlers do.

We have not asked that the sablefish retention restriction be removed for the eastern and central Gulf of Alaska. There is no doubt that the U.S. longline fleet will catch the total sablefish OY in southeastern Alaska and will also probably catch total sablefish OY in the Yakutat areas. Neither is there doubt about the desire of the U.S. longline fleet to take the entire sablefish OY in the central Gulf although considering intention versus performance in past years there is certainly room for speculation that such a harvest will occur. We certainly want to give the U.S. longline fleet the benefit of the doubt and therefore have no objection to leaving the sablefish retention restriction applicable to the eastern and central Gulf of Alaska.

We appreciate your consideration of this matter and timely action which would give U.S. trawlers the same opportunities their foreign competitors enjoy. We would be happy to answer any questions or provide any information you may need. The absence of conservation or management measures in the Council's FMP's and the continuing harvest of the majority of sablefish OY's by foreign fishing vessels are more than sufficient reasons for removal of the sablefish retention restriction as requested.

Sincerely,



H.A. Larkins
Vice President
and General Manager



AGENDA C-8(e)
SEPTEMBER 1984

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July 6, 1984

Mr. Robert W. McVey
Director, Alaska Region
National Marine Fisheries Service
Box 1668
Juneau, AK 99802

Dear Bob:

We are writing to seek clarification of your June 26, 1984 letter and to further pursue our request that the sablefish retention provision in Soviet vessel permits be removed for the Bering Sea/Aleutian Islands and Western Gulf of Alaska areas. By copy of this letter and our previous correspondence we are informing the NMFS central office of our request since it was involved in issuance of the restriction and must become involved in its removal.

You advised us your decision is to (1) await completion of ongoing studies concerning sablefish by staff at the Northwest and Alaska Fishery Center, the North Pacific Fishery Management Council, and the Alaska Department of Fish and Game; (2) carefully review these studies; and (3) seek advice from the Council to determine whether the restriction rate should be modified. We understand the Council has decided to consider the entire sablefish issue in accordance with its schedule for non-framework measures. That means the Council will not begin the process until December and will not make a decision until May 1985. How does this mesh with and influence the timing of your decision-making? Will there be extensive prolongation of the current situation in which foreign trawlers can fish for sablefish unrestricted other than by allocation in Bering Sea and Aleutians and with no incidental catch limit in the Gulf of Alaska while U.S. trawlers delivering to foreign processors are essentially prohibited from marketing their catch in quantities beyond 1.5 percent of their total groundfish catch?

We believe our letter requesting removal of the restriction clearly describes the advantages foreign trawlers have over U.S.

Robert W. McVey
July 6, 1984
Page 2.

trawlers fishing in joint ventures and justifies a positive response. Given the current nature of the sablefish catch in the areas for which we have asked the restriction be lifted, it would seem your concern for biological and economic impacts is being directed in the wrong direction. Foreign fishermen have taken 92.4 to 98.1 percent of the total Bering Sea/Aleutian sablefish catch and 90.9 to 100 percent of the total Western Gulf of Alaska sablefish catch in each of the last four years. The sablefish fishery in these areas has historically been predominately a foreign endeavor and there is no evidence it will substantially change in the near future. While we do not foresee removal of the restriction leading to a greatly increased total U.S. catch, it would give our U.S. trawlers the same privileges their foreign competitors enjoy - the ability to totally utilize their catches. To the extent the U.S. catch is increased, the TALFF will be reduced accordingly. It would seem allocation of the resource between U.S. user groups, as the restriction accomplishes, is not appropriate considering the vast majority of the catch is by foreign fishermen and will continue to be so for some time.

There is glaring inconsistency surrounding this restriction. While the Council was removing a retention restriction on foreign trawlers in the Gulf of Alaska, NMFS was imposing a retention restriction on U.S. joint venture trawlers. NMFS foreign fishing regulations implementing its PMP for the Gulf of Alaska groundfish fishery contained a 2 percent sablefish retention provision applicable to foreign trawlers. In 1978, the same year NMFS instituted the retention restriction on U.S. joint venture trawlers, the Secretary approved the Council's Gulf of Alaska groundfish FMP which eliminated the foreign trawler retention restriction contained in the PMP. This inequity has been maintained to date.

This issue was brought to the Council's attention last December. The Council, through its Interim Action Committee, identified this as a NMFS issue and placed it in your hands. Rather than referring the matter back to the Council as you indicated you will, we respectfully request you to reconsider your decision. From the viewpoint of our segment of the U.S. industry, there is no justification for continuation of the restriction in the areas for which we requested it be removed. We look forward to a positive response allowing U.S. trawlers to utilize their catches to at least the same extent foreign trawlers can.

Sincerely,



H.A. Larkins
General Manager

HAL:kb
cc: William G. Gordon
Jay Johnson

FISHING VESSEL OWNERS' ASSOCIATION

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Mr. James Campbell
North Pacific Fishery
Management Council
P.O. Box 103136
Anchorage, Alaska 99510

July 27, 1984

Dear Mr. Campbell:

The idea of removing the 1.5% restriction on blackcod on Joint Venture activity has been requested to be removed by Marine Resources. Bob McVey's office has indicated that a mid-August removal of the restriction may take place, because of their request.

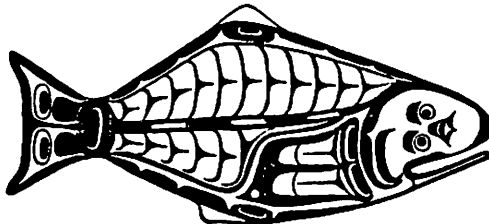
Mr. McVey has indicated that, based on legal opinions from Pat Travers and Thorn Smith, regarding the arguments set forth by Marine Resources Co. as listed below, may make it illegal to allow restrictions on foreign joint venture processing permits, such as the 1.5% restriction on blackcod if a TALFF exists.

The two basic arguments put forward by the joint venture operation are as follows:

1. If there is a TALFF, you can not restrict the market being offered by a foreign bottom to U.S. vessels.
2. Since there is no 1.5% restriction on foreign trawling it is not reasonable to impose such a restriction on the market provided to U.S. fishermen.

Before I attempt to present my arguments to these two positions, I would like to provide an update on this year's blackcod season by U.S. vessels delivering to U.S. processors.

At the beginning of 1984 the North Pacific Council made a decision to give the U.S. blackcod industry until October 7th, 1984 to prove that they could fill a market void if the foreign supply of blackcod produced by foreign vessels were eliminated from operations from the Semidi Islands eastward. The market being sold into by U.S. processors and, in turn, being offered to



U.S. vessels is for an older age blackcod destined about 75 percent to foreign markets and 25 percent to U.S. markets. The U.S. fishermen's deliveries to U.S. processors exhausted the S.E. Alaska and Eastern Yakutat quotas by June 29th, 1984. At the current rate of harvest, the West Yakutat area should be closed by September 1st and because of vessels moving from S.E. Alaska westward, due to the closures in the Eastern Gulf, Western closures could be sooner than expected. There is no reason to believe that the Central quota will not be taken by late October. There are, additionally, four freezer longliners - the Kamishak Queen, Zenith, Salty II, and the Echo Bell that will put additional effort in the Western and Aleutian areas late this fall and early winter, before the end of the fiscal year on December 31, 1984.

The harvest of blackcod could well reach close to 17,000,000 pounds by U.S. vessels landing to U.S. processors, representing an ex-vessel price of \$10,000,000.00. According to Sea Grant studies, this means an immediate threefold effect on local employment. The impact will be nearly \$27,000,000 to the Alaskan and Washington economies. This represents a fourfold increase in production and economic impact over last year. This can leave no doubt to those on the Council who had questions, whether the blackcod fleet and U.S. processors would produce this year.

This year has gone well for those vessels that have chosen to make deliveries to U.S. processors and the arguments below should be sufficient to deny the request from the joint venture operations with Marine Resources to remove the 1.5% restriction of blackcod. The Processor Preference Amendment to the MFCMA, Section 204 (b) (6) provides three cases where allocation can be restricted to joint venture activities. The third section states:

- iii In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.

We feel the following arguments are deemed appropriate to maintain the current restriction despite the two arguments presented by Marine Resources.

1. The request by Marine Resources to allow a targeted fishery on blackcod in the Aleutians is not well thought out. First, there is only a quota of 1,600 metric tons in the Aleutians, of which 1,069 metric tons has already been allocated to TALFF and can not be retrieved. An additional 25 tons will go to the Soviets for reentry into the area. The amount left for joint venture under the 1.5% restriction and for direct shoreside delivery is only 150 and 50 metric tons respectively. This leaves nothing for the additional freezer longliners that may go to the Aleutians in late October on through December.

2. Argument No. 1 ignores any consideration that in order for U.S. processors to enter the Asian export market, they must sell a larger sized fish, generally not smaller than three pounds dressed weight or about 22" long. U.S. processors can not offer a market to U.S. fishermen for a fish less than this for either domestic consumption or for the Asian export market and still provide the earnings for all to make a return on investment and time.
3. The market is for large fish, primarily those caught by pots or longlines in 300 to 600 fathoms. The incidental catch in the proposed Atka mackerel fishery of Marine Resources, which will take place in about 90 fathoms, will result in catches of blackcod of an average size less than that of a spawning-sized blackcod. This could have a deleterious effect on market preemption with inferior product as well as grounds for preemption by removing fish that would otherwise recruit into the sizes that U.S. processors could offer a price for in less than one-two years.
4. By eliminating the current 1.5% restriction on the Soviet joint venture in the Aleutians, there is then no argument for such a restriction on joint venture activity in the Western or Central areas of the Gulf of Alaska. This would mean that Japanese, Taiwanese and Korean joint venture operations will have increased retention and targeting of blackcod operations, which could significantly encumber U.S. exporters.
5. There is a conservational issue also. The weakest components of the blackcod resource are the Aleutians and Western Gulf of Alaska areas. To allow a targeted harvest on prespawner blackcod would be contrary to any conservation action taken by the council in the past for these areas. The current OY is less than half of what 1970 MSY levels were once considered to be. NMFS would assume all responsibility for further downturns in this resource in these areas by taking unilateral action to remove the 1.5% restriction and allowing increased effort on prespawner fish.
6. As Argument 1 applies to Pacific cod, yellow fin sole and whiting, where there is as yet no domestic processor demand for regulations that compliment certain markets, such as, management regulations that favor filleting size fish vs. surimi sized fish, I would agree that a restriction would be inappropriate. The issue of blackcod, we contend, is a different case. For thirty-five years a market has been created and supplied by harvesting the older age classes of this resource. This harvesting practice has been the basis for MSY, OY, and EY considerations in the North Pacific Council processes and in INPFC for many years. The Japanese, Taiwanese and Korean governments have all allocated any blackcod TALFF in the past to vessels that would harvest without targeting on the smaller blackcod. Only a trace amount has been allocated by

the foreign governments to their trawling operations. The foreign trawling operations have had less than 1.5% incidental catch as observed by NMFS enforcement.

7. Argument No. 2 is tantamount to managing a resource by observations through the rear view mirror. The argument ignores the fact that the actual foreign trawling incidental catch of blackcod is well below the 1.5% restriction applied to the joint venture operations.

8. The Japanese, Koreans and Taiwanese governments have all restricted their allocation to maximize employment and return by targeting on older and larger sized blackcod for more than 35 years. Lifting the restriction based on MRC's argument would ignore 35 years of reality in harvesting practices.


9. How many times have we heard Marine Resources say, "Don't put regulations on us, if we can it voluntarily." Now Marine Resources is saying that because the foreigners have their act together in a voluntary program within the respective foreign governments in methods to harvest blackcod, that should be ignored and used against vessels delivering to shore-based plants to the benefit of joint venture deliveries.

These arguments we consider to be appropriate to keep the current 1.5% restriction on joint venture activity, as they relate to blackcod.

If Bob McVey's office eliminates the 1.5% restriction prior to the September council meeting, NMFS will have usurped a privilege of the Council to comment and may have encumbered conservation efforts and U.S. export markets' opportunities. There is also the question of whether removal of the 1.5% restriction on blackcod should result in a new permit being filed by the joint venture participants. I urge the individual council members to request Mr. McVey to not take action until the September Council meeting. Pat Travers does not believe he can defend the 1.5% restriction on foreign fishing platforms. The Juneau office of NMFS has apparently been threatened by a lawsuit if they keep the restriction.

I do not think the Council or NMFS should be intimidated by this. The original conservational issues, as well as the fast development of the domestic deliveries shoreside are strong, defensible positions. We request that you contact Bob McVey and ask him not to make a mid-August decision, but rather wait until the September Council meeting.

Very truly yours,



Robert D. Alverson, Mgr.

FISHING VESSEL OWNERS ASSOCIATION