

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke
Executive Director



DATE: April 18, 1990

SUBJECT: Bycatch Management

ACTION REQUIRED

Receive report of Ad Hoc Bycatch Committee and take further action as necessary. Consider the Alaska Board of Fisheries request for emergency action to control herring bycatch in 1990.

BACKGROUND

Bycatch Management

In January, the Council assigned high priority to developing bycatch measures to replace BSAI Amendment 12a which will expire on December 31, 1990. The Council reviewed staff workloads and directed the plan teams to analyze the status quo (no bycatch measures), an extension of Amendment 12a for one year, and an extension of Amendment 12a with incentives to reduce bycatch rates.

NMFS, industry, and various Council members have questioned whether extending Amendment 12a, even enhanced with incentives, will suffice for 1991. Flatfish fisheries in the entire BSAI were closed early this year because of bycatch, leaving substantial groundfish unharvested (D-3(a)(1)). The Bering Sea bottom trawl fishery for pollock and cod is currently projected to close in mid-June. There is a good possibility that the Secretary may not approve an extension of Amendment 12a if groundfish OYs cannot be more fully achieved.

In early March, Chairman Collinworth authorized an Ad Hoc Bycatch Committee to develop recommendations on bycatch management for 1991 and beyond. It is chaired by Larry Cotter, and includes Steve Pennoyer, Bob Alverson, Judy Merchant and Rick Lauber. They met on March 14-15 and March 28 in Seattle, and again on April 22-23. Chairman Cotter will present the committee's recommendations.

Here are the issues with which the Committee has struggled; all are critical and need Council attention at this meeting.

1. What measures should be included in a more comprehensive replacement for Amendment 12a? New caps, redefinition of closed areas, gear restrictions, in-season management authority, incentives, and other measures have all been discussed. Time and staff availability between the April and June Council meetings is very limited. This will limit the amount of analysis that can be done by June and the comprehensiveness of the immediate successor to 12a.

2. How should bycatch be managed in early 1991? The Council needs to make a final decision in June to have a plan amendment in place by January 1, 1991. Any measures beyond an extension of 12a (with or without incentives) could only be initially reviewed in June, decided upon in September, and implemented by April 1991. However, this would leave a regulatory gap in early 1991.

One way to fill the gap is to extend 12a for three-four months. However, the Secretary may be unwilling to approve an extension of 12a, especially if he knows that superseding measures will be on his desk within a few months.

Another approach would be to postpone the BSAI flatfish fisheries until the second or third quarter through a regulatory amendment. However, a valuable roe rock sole fishery takes place early in the year. Does the Council wish to make provision for such a fishery?

A third approach is to take final action on a comprehensive amendment in September and emergency action for early 1991. But will the Secretary accept an emergency rule?

3. Are any measures which would take effect in mid-1991 the final answer, or just an interim solution? If the latter, the Council should decide what types of ultimate solutions it wishes to consider to ensure the interim measures mesh as well as possible.
4. A great deal of interest has been shown in various types of incentive programs to decrease bycatch rates. However, the Council must consider NMFS' ability to implement an incentive program in 1991.

B. Herring Bycatch

At the January meeting, the Council heard from the Alaska Department of Fish and Game that subsistence fisheries for herring may be threatened as herring bycatch in Bering Sea trawl fisheries may be increasing as herring stocks decline. The Alaska Board of Fisheries requested that the Council take emergency action to limit herring bycatch in 1990 (item D-3(a)(2)). In January the Council directed that such emergency action be placed on the April agenda for consideration. ADFG will report on options available.

NMFS Bycatch-related Closures in BSAI in 1990

- March 19: Secondary halibut PSC reached for DAP flatfish fisheries, closing entire BSAI.
- March 15: Area 516 closed to trawling from March 15 to June 15. This is the seasonal westward extension of the 160-162 W closed area to 163 W to protect red king crab.
- March 14: Primary halibut quota (467 mt) for DAP flatfish fishery closes Zones 1 and 2H.
- March 5: Secondary halibut quota for JVP flatfish fishery closes entire BSA.
- March 1: Excess bairdi PSC from JVP flatfish fishery reapportioned to DAP bringing the DAP PSC for flatfish to 529,600 crabs and allowing it to resume March 1.
- February 27: Zone 1 closed to DAP flatfish fisheries because bairdi PSC of 339,600 crabs attained. Zone 2H closed to JVP flatfish fisheries because primary halibut quota of 660 mt attained.
- January 25: JVP flatfish fisheries closed in Zone 1 of BSA because of red king crab PSC.

Summary of BSAI Groundfish Harvests

<u>Species</u>	<u>Allocation (mt)</u>	<u>Catch (mt)</u>	<u>Remainder (mt)</u>	<u>% & Value Remaining</u>
JVP				
Yellowfin	163,752	65,489	98,263	60% \$14 million
Flounder	40,928	19,066	21,862	53% \$ 4 million
Rocksole	16,359	10,092	6,267	38% \$ 1 million
DAP				
Yellowfin	12,750	1,861 ¹	10,889	85% \$ 4 million
Flounder	10,200	5,784 ¹	4,416	43% \$ 2 million
Rocksole	51,000	17,819 ¹	33,181	65% \$ 12 million
Reserves				
Yellowfin			31,148	\$ 11 million
Flounder			9,023	\$ 3 million
Total Remaining			215,049	64% \$ 51 million

¹ DAP harvests through March 31. Directed fisheries closed on March 19.

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4110

December 18, 1989

DIVISION OF BOARDS

Mr. Don W. Collinsworth
Chairman
North Pacific Fishery Management Council
P.O. Box 3-2000
Juneau, AK 99802

COMPTROLLER'S OFFICE
RECEIVED
DEC 18 1989

DEPARTMENT OF FISH AND GAME

Dear Mr. Collinsworth:

The Alaska Board of Fisheries has identified a serious resource problem with western Alaska herring stocks. The board is very concerned about the impact that the bycatch of herring in Bering Sea groundfish trawl fisheries is having on these herring stocks and requests that the North Pacific Fishery Management Council (NPFMC) place limits on the trawl herring by catch during its 1990 regulatory cycle.

Bering Sea herring stocks are continuing to decline, and two of western Alaska commercial sac-roe fisheries, Nelson Island and Nunivak Island, are projected to be closed in 1990. Because commercial herring fisheries provide one of the few income generating opportunities for residents of these areas, closure of these fisheries will create an economic crisis in the local communities. Subsistence herring harvests are particularly important to the residents of Nelson Island villages. Continued declines of herring stocks will result in restrictions or closures of this important subsistence fishery.

In the Togiak area, the anticipated stock decline of 43 percent will reduce stock abundance to near threshold levels in 1990, below which a commercial fishery would not be allowed. Similar declines are occurring in other western Alaska herring stocks. During the November meeting, the Board of Fisheries removed provisions which would allow increase in the potential harvest in the Dutch Harbor food and bait fishery if the Togiak sac-roe fisheries harvest is below the allowable exploitation rate. The Board of Fisheries also delayed the opening of the fishery to further reduce its impact on Northern Bering Sea herring stocks. As required by State law and Federal law (ANILCA), which mandates subsistence as priority use, the board further directed the Department of Fish and Game to close the Dutch Harbor bait fishery if herring subsistence harvests are being impacted anywhere in western Alaska.

Board of Fisheries harvest policies allow a maximum exploitation rate of 20 percent on herring stocks. We have directed the Department of Fish and Game to take interception fisheries into account when establishing harvests for directed herring fisheries

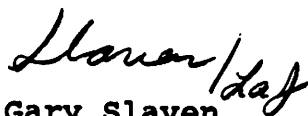
December 18, 1989

such that the total exploitation does not exceed 20 percent. This policy is clearly documented in the Board of Fisheries' management plan for Prince William Sound, Kamishak Bay, and Bristol Bay herring stocks.

Preliminary data prepared by the Alaska Department of Fish and Game demonstrate that the bycatch of herring by groundfish trawlers in the Bering Sea amounts to an exploitation rate of at least 5 percent. The board believes the bycatch data on which this figure is based account for only a small proportion of the actual herring bycatch. It is very important that the Council address the herring bycatch issue during the 1990 Council regulatory cycle. The Board of Fisheries has formed a committee to address the herring bycatch problem and would like to present testimony to the Council's PAAG committee in early January. Because plan amendments enacted during the 1990 regulatory cycle would not take effect until January 1991, the board further request's the Council to take emergency action next spring to implement the plan amendment's herring bycatch controls to cover the critical period between July and December 1990 when herring will be migrating through areas fished by the groundfish trawl fleet.

The board will be considering a proposal to close waters of the territorial sea to trawling, in the Bering Sea, during its January meeting as a means of protecting salmon and herring resources. Barring any action by the Council to address the bycatch of herring, the board may consider taking action in the territorial waters to compensate for the bycatch in the Bering Sea.

Sincerely,



Gary Slaven
Chairman
Board of Fisheries

STATE OF ALASKA

ALASKA DEPARTMENT OF FISH AND GAME

DIVISION OF BOARDS

P.O. BOX 689
KOTZEBUE, ALASKA 99752-0689
PHONE: (907) 442-3420

April 16, 1990

NPFMC Bycatch Committee
P.O. Box 103136
Anchorage, AK 99510

Dear Council Members:

The Alaska Board of Fisheries recently constituted its own bycatch committee to allow it to focus on this critical issue both within and outside state waters. In order that the board might achieve more comprehensive management of the states' fishery resources, our committee has been directed to increase communications with the North Pacific Fisheries Management Council (NPFMC) on these issues. We hope this dialogue will allow us to better understand the constraints placed on the council under federal management and better prepare the board to advise the council on joint management concerns and of management actions taken by the board. Our committee reports back to our full board so that we will might make more informed decisions.

Considering that both the council and the board are charged with the wise management of fishing resources off Alaska that overlap our jurisdictions, and that our agencies jointly manage crab, salmon and demersal shelf rockfish, the need for clear communication and understanding between our personnel becomes paramount.

In light of this, we have enclosed a list of recent actions taken by the State of Alaska Board of Fisheries relative to crab stocks in the Bering Sea/Aleutian Islands. Information presented to us by the State of Alaska Department of Fish and Game and by industry representatives was found by the board to warrant changes of time, area, and gear in our regulations so that we might significantly reduce bycatch mortality occurring in the crab fisheries. We attempt to construct these changes so that they not only maximize bycatch savings, but also increase fleet economic benefits where possible. Furthermore, we decreased the area open to scallop dredging to conform to the areas closed to non-pelagic trawling to protect crab and juvenile fish.

Our joint management relationship with the NPFMC as outlined in the Bering Sea/Aleutian Island King and Tanner crab FMP makes both bodies responsible for the long term health and sustainable harvest

level of these stocks. We hope the council will take management actions with respect to the operations of the trawl fisheries consistent with board actions and concerns relative to the crab saved by our actions.

Your council has already received expressions of our concern over increased trawl bycatch rates of herring and salmon. Recognizing that the council will move to revise Amendment 12-A, dealing with bycatch of all species associated with the groundfish fisheries, this year, we strongly urge you to work with industry to find solutions to reduce and stabilize the present bycatch levels.

We look forward to the development of this stronger working relationship with your council.

Sincerely,



Bud Hodson
Chairman

Enclosure

cc: Board of Fisheries

Please Note

[Crab Report placed in supplemental file
for crab agenda item D-2]



APR 20 1990

April 17, 1990

Mr. Don Collinsworth
Chairman, North Pacific Fishery Council
P. O. Box 103136
Anchorage, AK 99510

Dear Mr. Collinsworth:

Our company, Starboard Alaska Ltd., is an Alaskan corporation which is very concerned and is heavily involved in the production and marketing of wet salted Alaskan Cod. We currently have joint venture operations with Alyeska Seafoods and Universal Seafood in Unalaska, Peter Pan Seafood in King Cove, and Wards Cove Packing in Port Baily/Kodiak.

The purpose of this letter is to express my concern over the projected closure of all bottom trawling for Cod in the Aleutian Islands and in zone 1 and 2H of the Bering Sea. This closure which is expected to be in effect June 17, is the result of the Halibut by catch quotas being caught.

Our company has no problem with the by catch quota but it has come to our attention that the vast majority of the by catch caught to date is the result of a few very irresponsible Factory fishing vessels. It appears these vessels were intentionally fishing in areas where there were known high concentrations of Halibut. As a result, they caught approximately 35% of the yearly quota during three weeks in March. It is a fact, the boats fishing for our plants, and others as well, have caught only very small and normal percentages of Halibut by catch.

If these areas of the Bering Sea are closed for the year, our plants, who employ hundreds of workers and many fishing boats will suffer greatly due to the irresponsible act of a very few.

I would like to plead to the council to find a quick and equitable solution to this problem. Hopefully a solution that would allow bottom trawling for Pacific Cod during the fall, a time when we produce our highest quality product. We would like to suggest as an option to immediately close all trawling in these questioned areas and consider reopening them in the early fall. This would save the remaining by catch quota to be taken after the Halibut season and would also allow for the Cod stock to fully recover from their late spring spawning season.

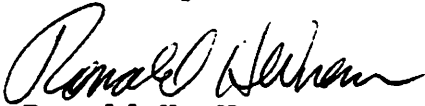
The Salt Cod business has been steadily developing in Alaska for the past ten years. This season which began in September, 1989, though mid April, 1990, our group has salted over 60 million round pounds of Cod. Our customers in Europe are counting on us for a continuing supply. The salt business will continue to provide opportunities and employment throughout the state of Alaska, but we must do everything possible to protect our market as well as protect our resources.

The solution we ask you to consider would to allow our plants and boats to continue working during the fall after completing their summer fisheries. It would also be an assurance in protecting the markets we have worked so hard to secure by allowing only a brief interruption in supply.

This is a very unfortunate situation, but I feel there is a more equitable solution than totally shut down of the fishing. I trust you will consider all the options and consequences available.

Thank you for your consideration.

Sincerely,



Ronald H. Wrenn
Starboard, Inc.

RECEIVED

APR 19 1990

AGENDA D-3(a)
APRIL 1990
SUPPLEMENTAL

CENTRAL BERING SEA FISHERMEN'S ASSOCIATION
PO BOX 88
ST. PAUL ISLAND, ALASKA 99660
APRIL 12, 1990

Larry Cotter,
North Pacific Fisheries Management Council
Ad Hoc Bycatch Committee
Juneau, Alaska

Dear Mr. Cotter,

As you know we have proposed a no (hard on) bottom trawl zone in the Pribilof area to protect a valuable halibut, BKC and KHC habitat. Whether or not the Council sees the wisdom and conservation value of this proposal, another issue has come to our attention in evaluating how the bycatch zones work.

This pertains to the line separating zones 521 from 513 and 517. Although these three zones together comprise the present Zone 2, we are requesting movement of the arbitrary separation between the zones to 172 degrees West. Our reasons are as follows:

1. The present 170 line bisects the Pribilof Islands, leaving St. George in one zone and St. Paul in another.
2. Trawl surveys conducted by NMFS indicate concentrations of bairdi and opilio extend as far as 172.
3. The areas encompassed in the new proposed zones include BKC, KHC, and sensitive marine environment, including concentrations of seabirds, sea lions, fur seals around all of the Pribilof Islands.
4. We have been informed by the Director of IPHC that there are substantial concentrations of juvenile halibut at the edge of the continental shelf, further warranting restrictive bycatch measures.

We are unaware of the origin of the 170 degree line, but it appears to be a remnant of the INPFC zones established for control of foreign fishing efforts.

We hope the bycatch committee will give some consideration to our concerns here, and will plan to attend the Sunday April 22, meeting to discuss further with you. In the meantime, please feel free to give us a call if you wish to discuss. (278-2312)

Sincerely,



Perfenia Pletnikoff Jr., President
Central Bering Sea Fishermen's Association

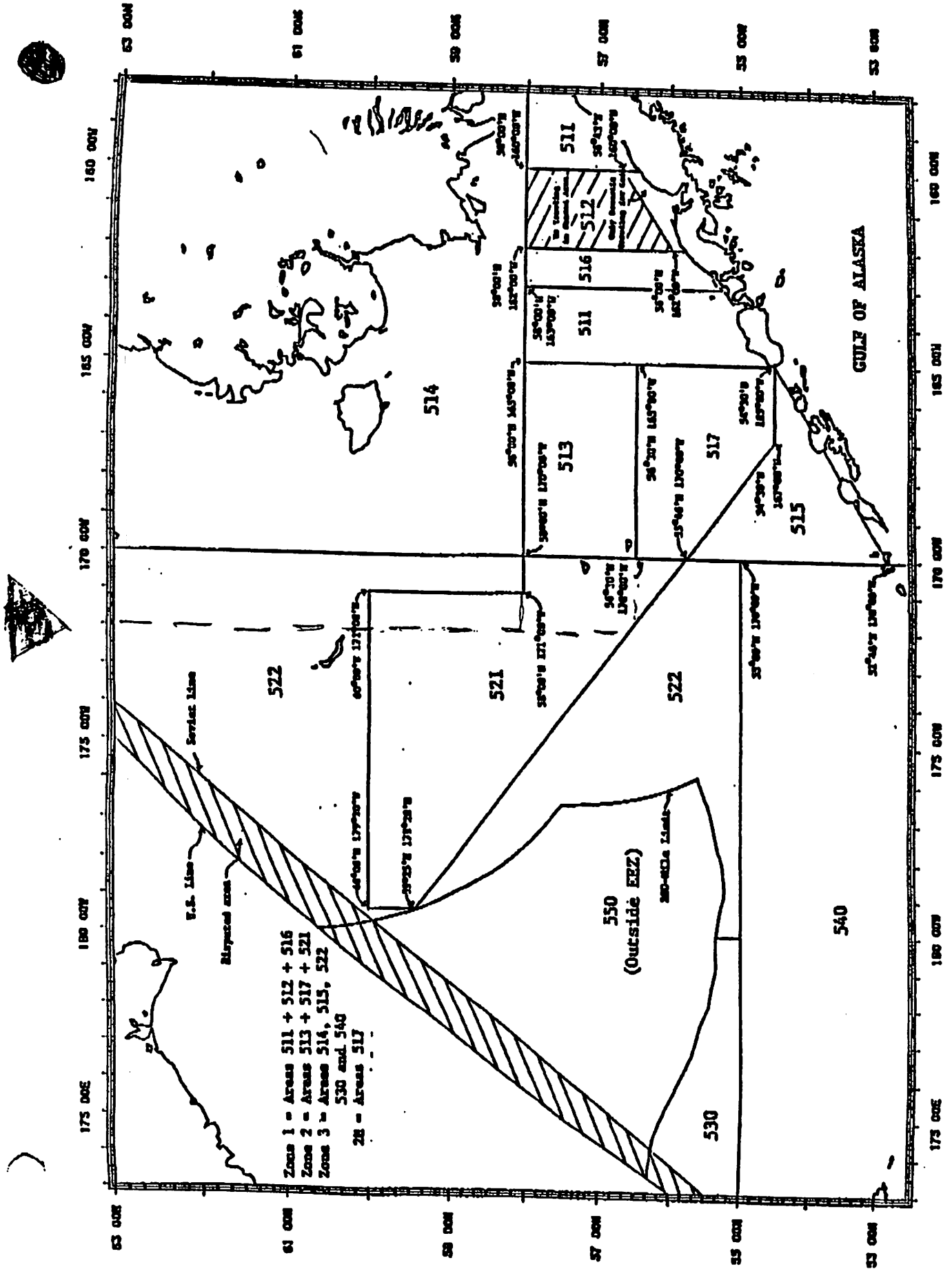
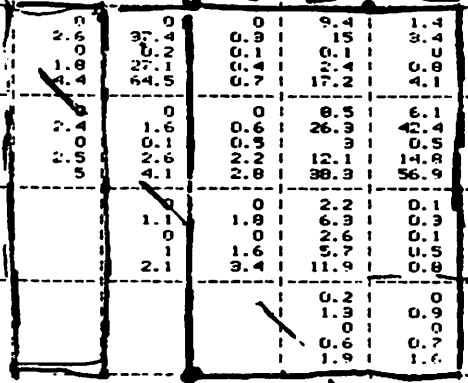
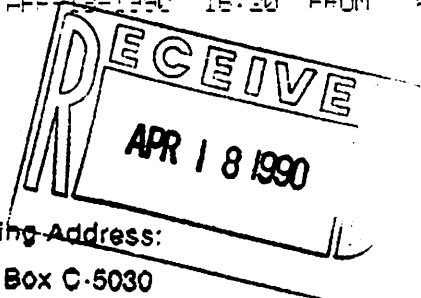


Figure 1.—Bering Sea zones by which the restrictions on the incidental catch of king and Tanner crab apply.

LAT	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170
0	0.1 0.2 0.2 0.4 0.7	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6100	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1	0.7 0.1 0.2 0.9	0.0 0.1 0.2	0	0	0	0	0	0	0	0	0	0	0	0	0
6030	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2	1.0 1.1 2.8	0.0 0.3 0.9	0	0	0	0	0	0	0	0	0	0	0	0	0
6000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5930	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4	0.6 1.2 3.8	0.5 0.1 0.9	0.1 0.6 5.5	0.3 2.5 4.1	0.2 1.9 3.9	0	0	0	0	0	0	0	0	0	0
5900	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5830	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5800	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5730	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5700	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5630	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5600	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5530	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5430	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0





ALYESKA SEAFOODS, INC.

AGENDA D-3(a)
APRIL 1990
SUPPLEMENTAL

Mailing Address:

P.O. Box C-5030
Seattle, WA 98105
(206) 323-3200

P.O. Box 275
Unalaska, AK 99685
(907) 581-1211

Street Address:

303 N.E. Northlake Way
Seattle, WA 98103
Telex # 328759

April 16, 1990

Mr. Don Collinsworth
Chairman, North Pacific Fisheries Management Council
P.O. Box 103136
Anchorage, Alaska 99510

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

Dear Sirs,

I'm writing to express my concern with the projected closure of all bottom trawling for Pacific Cod in the Bering Sea and Aleutian Island areas as a consequence of meeting the by-catch quota established for halibut. The Juneau office of NMFS has projected the total closure of this fishery for June 17, 1990.

I am the Seafood Plant Manager at Alyeska Seafoods in Unalaska. We maintain a small trawl fleet of six vessels that have been working the Cod grounds this past year. These vessels are basically a small-boat fleet, the largest is 110 feet and the smallest is 82 feet long. The maximum capacity of these vessels is 130 tons. With the advent of the observer program this year and the associated reporting requirements, it is evident to us that this fleet and other small trawl fleets that deliver shoreside in Unalaska, Dutch Harbor, and Akutan are responsible for a very small percentage of the total Halibut by-catch in the Bering Sea and Aleutian Island areas. A report from Juneau this week stated that seven factory trawlers are responsible for 53 percent of the Halibut by-catch! This indicates that fault where Halibut by-catch is concerned should focus on the off-shore factory trawl fleet. These are the people who should be shut down for fishing dirty, but when the closure comes they'll move over to the Western or Central Gulf and continue fishing for the rest of the year as the shoreside cod operations remain idle. I don't think this is equitable.

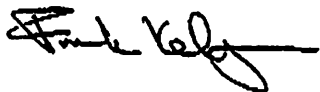
Mr. Don Collinsworth
Mr. Steven Pennoyer
April 16, 1990
Page Two

I would like the Council to consider establishing separate area closures or a separate by-catch quota for the shore-based bottom trawl fleet. A ban on night trawling would really help keep the by-catch down, but I don't know how this could be enforced.

As it appears now, about 50 percent of the Pacific Cod harvestable quota will remain when the total closure is announced in the Bering Sea and Aleutian area this June. This is a very objectionable situation for our operation in Unalaska. It has taken years for us to get a chance to participate in this fishery. We had to wait for stoppage of Joint Venture Fisheries before we could get a viable fleet of boats to start making shoreside deliveries. And with the declining stocks of Cod in the Atlantic, Cod products from Alaska are making a tremendous impact on the world market. This closure also has an impact on the economies of Unalaska, Dutch Harbor, and Akutan where local landing taxes are paid and the State taxes that all shoreside processors pay. Note, the offshore factory trawl fleet doesn't pay these taxes.

In closing, I would like to ask the Council and NMFS to address this issue. I believe with the advent of the observer program, NMFS has the information on who is catching the majority of the Halibut and I believe the shoreside fleet and others involved in the fishery that are trying to fish cleanly shouldn't be shut down by a few operators that are abusing a very valuable resource.

Sincerely,



Frank Kelty
Seafood Manager
Alyeska Seafoods, Inc.
P.O. Box 275
Unalaska, Alaska 99685

FILED

APR 10 1990

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

EMERALD SEAFOODS, INC., et al.,
Plaintiffs-Appellants,
vs.
ROBERT A. MOSBACHER, Secretary of
Commerce, et al.,
Defendants-Appellees.

No. 90-39230
DC# CV-90-224-R
Western Washington
(Seattle)
MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Barbara J. Rothstein, District Judge, Presiding
Submitted April 9, 1990**

Before: WALLACE, SNEED and LEAVY, Circuit Judges.

Emerald Seafoods appeals the district court's finding that the Secretary of Commerce did not violate any applicable laws or regulations in promulgating an inseason adjustment establishing quarterly allocations of the pollock fishery in the Gulf of Alaska. Emerald contends that the Secretary's inseason adjustment should be set aside as in excess of his authority and as issued without

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** Appellant has requested oral argument but the panel unanimously finds this case suitable for disposition without oral argument. Fed. R. App. P. 34(a); 9th Cir. R. 34-4.

observance of procedure required by law. We review the judgment of the district court de novo, and affirm.

As a preliminary matter, we find that the district court did not abuse its discretion in certifying this issue for immediate appeal pursuant to Fed. R. Civ. P. 54(b). See Continental Airlines v. Goodyear Tire & Rubber Co., 819 F.2d 1519 (9th Cir. 1987). Accordingly, this court has jurisdiction over this appeal. 28 U.S.C. § 1295.

We find that the Secretary has authority pursuant to 50 CFR § 672.22 (a)(1)(iii) & (a)(2)(iii) to make the inseason adjustment at issue. Quarterly allocations do constitute a finding that the specified TAC is incorrect in its temporal aspects. It follows that the Secretary must comply with 50 CFR § 672.22(b) (2), (3), (4) and (5). To the extent that this has not been done, it must be done as expeditiously as possible.

Finally, this court is concerned with the somewhat irregular fashion in which this inseason adjustment was accomplished. However, we rely on the Secretary's representation to the district court that this adjustment is a one time temporary measure designed to prevent the overfishing of pollock stocks, see District Court Order at 6 & n.3, and, because the record supports a finding of overfishing, the judgment of the district court is AFFIRMED.



April 18, 1990

VIA TELECOPY

North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510

Attn: Dr. Clarence G. Pautzke, Executive Director

Re: Comments regarding factory trawl by-catch concerns

Gentlemen:

Now that the observer program is in place and some initial data is available, it appears that there is a large discrepancy between the halibut bycatch rates attained by shore based trawlers in the 85 to 125 foot range and the larger factory trawlers. During early 1990 we have seen the shorebased fleet in the Gulf of Alaska maintain a bycatch rate in the 2% range, while the factory trawl fleet working Bering Sea flatfish has produced rates exceeding 11%. We have seen the entrance of just one factory trawler in the GOA raise the overall weekly rate for the entire GOA fleet from 2% to 6%, which suggests that this one factory trawler was incurring bycatch rates of 25% or more.

Eagle Fisheries and its fleet gave considerable attention to halibut bycatch minimization techniques during our pilot bycatch observer program last year, in which the Eagle fleet achieved an overall rate of about 2.5%. As I previously testified to the Council and NMFS, our fleet's principal bycatch avoidance methods involved good knowledge of local grounds and halibut concentrations, slow tows, short tows, and limited net spreads. Most of these methods are inherently more feasible for smaller shorebased trawlers and less feasible for larger, mobile factory trawlers.

It is apparent that the factory trawlers are likely to impact the Pacific cod and flatfish fishery in the Gulf of Alaska in 1990 in a similar manner as they impacted the pollock fishery in 1989: intensive and wasteful fishing by a small number of factory trawlers is likely to eliminate fishing opportunities for a much larger number of smaller boats and the shoreside communities which depend on them. This will block access to the GOA cod and flatfish resources before their TAC quotas are anywhere close to being taken. This is antithetical to the Magnuson Act goal of optimum utilization.

We believe that the Council and National Marine Fisheries Service have the responsibility to prevent dirty fishing by a small group of boats from putting a larger group of clean fishermen out of business. We believe there are two alternative approaches which could be pursued to achieve this:

PO. BOX 868 • KODIAK, AK 99615 • PH. (907) 486-5607 • FAX (907) 486-6977

2.

I. Individual boat bycatch monitoring.

In our view, individual boat bycatch monitoring and limitation is the fairest way to protect the clean fishermen, and the most effective way to incentivize clean fishing. Now that all bottom trawlers have observer coverage and are required to file frequent and comprehensive information reports with NMFS, it should be possible for NMFS to track the halibut bycatch of each boat on a weekly basis. For boats over 125 feet, NMFS has weekly observer reports of both total catch and halibut bycatch. For the under 125 foot class, NMFS has weekly data on direct catch, and sufficient weekly observer data on halibut bycatch to derive an accurate bycatch rate for this class as a whole, and apply it to individual direct catch volumes.

In the past, NMFS has indicated that it lacks the resources to accomplish this task. In our view, given that there are several hundred U.S. trawlers fishing in Alaskan waters, we believe that individual bycatch monitoring should not require more than the services of one clerical employee with adequate computer backup. Such a task is analogous to running a payroll for several hundred employees, requiring weekly inputs on regular hours, overtime hours, work station data, payroll deductions, etc. In many plants this is a part-time job for one person. For bycatch monitoring, the inputs would be bottom trawl direct catch and halibut bycatch for each boat. This is hardly an unreasonable effort to ask of NMFS to ensure optimum utilization of a multimillion dollar resource by an industry that is already self-funding an extensive observer program to provide NMFS with the necessary data.

Under an individual boat approach, we would suggest that any boat which failed to keep its halibut bycatch within at least 150% of the industry average, on a cumulative basis from the start of the year, be disqualified from fishing for the balance of the calendar year.

II. Class allocation approach.

If NMFS is unable to implement an individual boat monitoring approach, we believe it is imperative that separate bycatch allocations be established in the GOA for trawlers under 125 feet and over 125 feet. Since the available data shows that the larger boats tend to have a much higher bycatch rate, failure to create a class allocation is likely to result in a small number of larger boats using up the bycatch quota rapidly and inefficiently, preventing full utilization of the resource and causing great economic hardship to the smaller boats and the shoreside plants and communities which depend upon their deliveries.

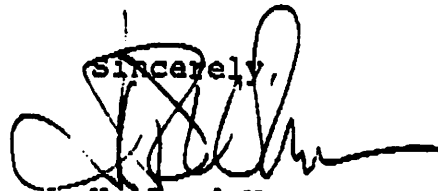
3.

In establishing an equitable ratio between larger and smaller trawlers, several considerations must be addressed. It is arguable that if the smaller boats are inherently much cleaner, the entire bycatch should be allocated to this group in order to optimize use of the fishery. What is the justification for allocating any bycatch to a dirty fishery at the expense of a clean fishery? On the other hand, there is probably a legitimate interest in allocating enough bycatch to the larger boat class to continue gathering data on bycatch rates and experiment in ways of reducing large trawler bycatch. But as long as the smaller boats are demonstrably cleaner, they should certainly be entitled to the lion's share of the bycatch allocation.

Such an allocation would also be consistent with the historic level of GOA fishing activity for cod and flatfish, where most of the activity to date has been by the shorebased fleet.

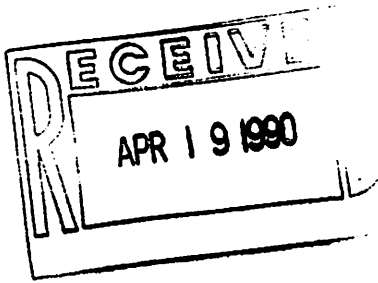
It seems clear that without some quick action by the Council and/or NMFS, a small group of factory trawlers will again create severe financial hardship for the fishermen, processing plants and communities in the Gulf of Alaska, through fishing practices which are inherently much more wasteful than those used by the smaller shorebased fleet. Our company is already facing great difficulties recovering from the impact of the bottom trawl closure in the fall of 1989, and many others in Kodiak have been hurt by this as well. We urge you to take emergency action now to prevent further hardship.

Sincerely,



H. Reed Wasson
President

cc: Ad Hoc Bycatch Committee Members



April 16, 1990

Mr. Collinsworth,

My name is Paul Schones, fisherman and owner of the fishing vessel Ms. Amy. I fish bottom trawls for Grey Cod, and deliver my catch to Alyeska Seafoods in Dutch Harbor, Alaska. I am writing you in regards to the upcoming closure of the bottom trawl fishery for 1990. This closure will effect me drastically as Grey Cod is my only source of income. I understand the reason for this closure is because of the bycatch of Halibut.

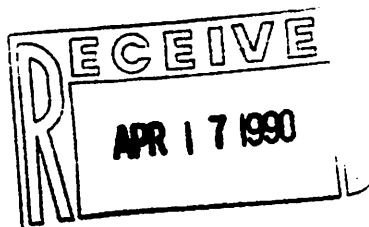
I feel I have come up with a solution to reduce the bycatch in a 24 hour period, while at the same time extend the fishing season an additional 3 months per year. From my experience, and the other bottom trawl fisherman I fish with, we catch 80% of the targeted species (Cod, Pollock, Mackerel and Sole) during daylight hours. I've also noticed this in the past when I've fished in the joint venture fishery. When we tow at night, we catch considerably more of the Halibut (at least twice the amount). I have also noticed that the targeted species disperse at night. Because of this, fisherman have to make a longer tow with their nets, (usually an all night tow.) I have observed the factory trawlers tow for 24 hours straight in order to keep their factories going.

My suggestion is that we tow our nets from twilight to twilight. This change would considerably reduce the bycatch amount caught per day and would extend the season. This would financially benefit the bottom trawl fisherman, utilizing more of the quota that is available to us and keep the fisherman busy more of the year. All the bottom trawl fisherman I have spoken with would rather sacrifice 4 to 5 months of nighttime fishing, to gain 3 additional months of daytime fishing. I really hope something can be worked out so we can harvest more of the fish available.

Sincerely,
Paul Schones

PAUL Schones
PO Box 1741
Newport ORE.
97365

A handwritten signature in cursive script that reads "Paul Schones". The signature is written in dark ink and is positioned to the right of the typed name.



AGENDA D-3(a)
APRIL 1990
SUPPLEMENTAL

April 13, 1990

Don Collingsworth, Chairman
North Pacific Fisheries Management Council

The rape and ruin continues....

The decimation of our resources by the offshore factory trawler fleet goes on and on. The trawl by-catch quota for halibut is now being plundered by the irresponsible actions of the offshore fleet. The by-catch rate for the Kodiak shore-based trawlers ran around 2% until March 10 of this year. On that date the first factory trawler registered for fishing in the Central Gulf of Alaska. During the following week the cumulative rate rose to 6.6%, while the locally monitored shore-based rate remained at about 2%. With 40 draggers delivering to the local plants, this reflects a by-catch rate for the ONE factory trawler in the range of 26% to 60% halibut!!! At the 2% rate, this leaves a foregone catch unavailable of at least 27,500,000 lbs. worth \$4.1 million at the local price of cod at \$.15 per lb. Is this reasonable management for our groundfish resource?

I'm certain that this is also an outrage to the managers and participants in the halibut fishery as well.

Emergency action needs to be taken by the NPFMC to isolate those in the industry with a pillage and plunder attitude from those making sincere attempts to minimize unnecessary by-catch of prohibited species.

Mark Chandler
F/V Topaz
P.O. Box 116
Kodiak, Ak. 99615

STATEMENT ON BEHALF OF THE FISHERIES CONSERVATION ACTION
GROUP TO THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL

ANCHORAGE, ALASKA, APRIL 22, 1990

The Fisheries Conservation Action Group is a coalition of organizations in the fishing industry which is committed to the effective conservation of the fishery resources of the Bering Sea and Gulf of Alaska.

The Action Group supports management measures which are designed to restore, maintain and enhance the health of the fishery resources, while minimizing conflicts.

The Action Group believes that conservation is the principal purpose of the Magnuson Fishery Conservation and Management Act, and that fisheries development is a secondary objective. Consequently, the Action Group maintains that fishery management measures should provide for development only to the extent consistent with effective conservation.

The decade of the 1980's in the Bering Sea was characterized by the promotion of domestic development of the bottom-fish fisheries. It is a matter of great concern to the Action Group that the implementation of this development policy included a drastic reduction of long established measures designed to ensure conservation. The levels of observer coverage designed to secure data essential to effective fishery management are below those maintained previously in the foreign fleets. Area closures aimed at protecting non-target crab and halibut stocks and the domestic traditional fisheries are less extensive, and thus less effective, than in the years that the foreign fleets dominated the groundfish fisheries. The system of prohibited species caps imposed on the domestic groundfish fisheries is also less effective than that which was imposed on the foreign fleets. Measures for the protection of salmon and herring are almost non-existent.

The Action Group notes that the rapid expansion of the factory trawl fleet is giving rise to increasing pressures for more relaxed approaches to fisheries management. Management and conservation challenges increase with high bycatches of non-targeted species and overcapitalization of the factory trawl fleet.

The Action Group is opposed to any increase in the optimum yield caps. Conservation principles and economic good sense demand that the long-term viability of the non-target fisheries not be sacrificed through ever growing bycatch levels.

The traditional salmon, crab, herring, halibut and groundfish fisheries are highly capitalized, account for substantial employment, tax revenues and other economic advantages. The resource base which supports the fisheries remains healthy only when prudent conservation measures are in place.

The Action Group believes that the conservation of fishery resources in the context of bycatch should be a shared responsibility among all affected industry interests. However, in sharing the burden of conservation measures, it should be recognized that the bycatch in the factory trawler and flatfish joint venture sectors of the groundfish fishery is especially costly to those engaged in the salmon, crab, halibut and herring fisheries, but the reverse seldom is true. The group believes that bycatch should be managed as a privilege, not a right.

The Action Group looks forward to working constructively with the Ad Hoc Bycatch Committee, the North Pacific Fishery Management Council, the State of Alaska Board of Fisheries, the Department of Fish and Game, the International Pacific Halibut Commission and the National Marine Fisheries Service in the development of bycatch limitation measures for 1991 and beyond. The main objective is to provide for effective conservation.

The Action Group will support measures that lead to reductions of bycatch through a system of accountability. The Action Group will oppose measures that serve to subsidize the economic interests of any fishery.

The Action Group has observed that trawl fishing operations can be conducted in a manner which is consistent with the principles of sound conservation. The Action Group believes that it is reasonable to ask for those standards to be applied uniformly across the EEZ fisheries.

April 25, 1990

FISHERIES CONSERVATION ACTION GROUP ECONOMIC PRESENTATION
TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

PRELIMINARY EX VESSEL VALUE FOR 1989 OF THE FISHERIES
REPRESENTED BY THE HARVESTING ASSOCIATIONS IN THE FISHERIES
CONSERVATION ACTION GROUP (EXCLUDES GROUND FISH)

COMBINED GROSS EX VESSEL REVENUE FOR THE FCAG GROUPS OF THE
BERING SEA/ALEUTIAN ISLANDS, BRISTOL BAY, GULF OF ALASKA,
SOUTHEAST ALASKA AND BRITISH COLUMBIA:

\$914,300,000 DOLLARS

BERING SEA/ALEUTIAN ISLANDS, BRISTOL BAY, N. PENINSULA,
ARCTIC, YUKON/KUSKOKWIM REGION:

SALMON: (MILLIONS OF DOLLARS)

Bristol Bay:	\$174.5
A-Y-K, Norton Sound	14.9
<u>Alaska Pen./Aleutians</u>	<u>51.0</u>
Sub Total:	\$240.4

CRAB:

BS/AI King Crab	91.1
<u>BS/AI Tanner Crab</u>	<u>132.3</u>
Sub Total:	\$223.3

HERRING: 13.5

SABLEFISH (LL): 8.2

HALIBUT: 7.3

REGION TOTAL:

\$492.7

GULF OF ALASKA, COOK INLET, PRINCE WILLIAM SOUND,
SOUTHEAST ALASKA REGION:

(MILLIONS OF DOLLARS)

SALMON:	\$264.6	
HALIBUT:	74.3	
SABLEFISH (LL):	38.0	
COD (LL):	1.1	
HERRING:	10.7	
BAIRDI CRAB	17.9	
REGION TOTAL:		\$406.60

BRITISH COLUMBIA REGION:

HALIBUT	\$15.0	
---------	--------	--

PRELIMINARY ESTIMATE OF INVESTMENT IN VESSELS AND PERMITS
REPRESENTED BY ASSOCIATIONS IN THE FISHERIES CONSERVATION
ACTION GROUP, ALASKA REGION: (B.C. NOT YET AVAILABLE)

VESSELS:	1.5 BILLION DOLLARS
PERMITS:	1.0 BILLION DOLLARS

References: State of Alaska Division of Commercial
Fisheries, and Alaska Seafood Industry Study, McDowell
Group, March, 1989.

Prepared By: Arni Thomson, Alaska Crab Coalition

April 25, 1990

FISHERIES CONSERVATION ACTION GROUP RECOMMENDATIONS ON
PROPOSALS TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

BERING SEA/ALEUTIAN ISLANDS AREA:

1. The Group is opposed to the proposed 450 ton increase in the halibut cap in 1990 in the Bering Sea.
2. The Group endorses the extension of Amendment 12A with the addition of an incentive program to minimize the bycatch of prohibited species while attempting to more fully utilize the total allowable catch.
3. The Group requests that the Council clarify the halibut bycatch mortality rate that is based on an assumed mortality of 4000 mt.
4. The Group requests that the Council take action to implement necessary conservation measures to address herring bycatch issues in the trawl fisheries of the Bering Sea.

April 25, 1990

LIST OF MEMBER ORGANIZATIONS AND COMPANIES OF THE FISHERIES
CONSERVATION ACTION GROUP

ALASKA CRAB COALITION
ALASKA DRAGGERS ASSOCIATION
ALASKA GROUND FISH DATA BANK
ALASKA LONGLINE FISHERMENS ASSOCIATION
ALASKA TROLLERS ASSOCIATION
BERING SEA FISHERMEN'S ASSOCIATION
BRISTOL BAY DRIFTNETTERS ASSOCIATION
BRISTOL BAY LONGLINE/GILLNET COOPERATIVE
CONCERNED AREA "M" FISHERMEN
COPPER RIVER FISHERMENS COOPERATIVE
CORDOVA DISTRICT FISHERMEN'S UNITED
DEEP SEA FISHERMEN'S UNION OF THE PACIFIC
FISHING VESSEL OWNER'S ASSOCIATION
FISHING VESSEL OWNER'S ASSOCIATION, B.C.
HALIBUT ASSOCIATION OF NORTH AMERICA
KENAI PENINSULA FISHERMEN'S ASSOCIATION
KODIAK LONGLINE VESSEL OWNERS ASSOCIATION
KODIAK SEINERS ASSOCIATION
NORTH PACIFIC FISHERIES ASSOCIATION
PENINSULA MARKETING ASSOCIATION
PETERSBURG VESSEL OWNERS ASSOCIATION
PRINCE WILLIAM SOUND SEINERS ASSOCIATION
SEAFOOD PRODUCERS COOP
SOUTHEAST ALASKA SEINERS
TRIDENT SEAFOODS
UNITED COOK INLET DRIFTNETTERS ASSOCIATION
UNITED FISHERMEN OF ALASKA
UNITED FISHERMEN'S MARKETING ASSOCIATION
UNITED SOUTHEAST ALASKA GILLNETTERS ASSOCIATION
WESTERN ALASKA COOPERATIVE MARKETING ASSOCIATION
YUKON/KUSKOKWIM FISHERIES TASK FORCE

SUPPORTING GROUPS ENDORSING THE ACTION GROUP AND POLICY
STATEMENT, BUT NOT YET ENROLLED IN THE GROUP:

PACIFIC COAST FISHING VESSELS OWNERS' GUILD (B.C.)
NORTHERN GILLNETTERS ASSOCIATION (B.C.)
PRINCE RUPERT FISHERMEN'S CO-OPERATIVE ASSOCIATION (B.C.)
UNITED FISHERMEN AND ALLIED WORKERS' UNION (B.C.)
ST. PAUL SEAFOODS
TDX CORPORATION (ST. PAUL ISLAND)