


MEMORANDUM

TO: Council, AP, and SSC Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: June 16, 1993

SUBJECT: Management of the Scallop Fishery

ESTIMATED TIME

2.5 HOURS

ACTION REQUIRED

Initial review of draft scallop management plan.

BACKGROUND

In January the Council instructed staff to develop a draft management plan for the scallop fishery, with an emphasis on protecting the fishery from overcapitalization. The Council also established a control date of January 20, 1993 to notice industry that a moratorium for this fishery may be implemented. Fishermen and/or vessels that had not participated in the fishery by that date may not be guaranteed future access to the fishery. The control date has not been published yet, but effort in the fishery has continued to increase. Twenty vessels were licensed to fish scallops as of May 28, 1993, up from seven in 1992.

The requested draft plan and analysis were available to the Council in April, but we ran out of time to review them. A revised draft plan was express mailed to you on June 15, and an Executive Summary is attached here as Item C-1(a). The Council needs to determine whether to send the draft plan to public review. If so, then a final decision could be made in September.

Since the January meeting, ADF&G has adopted several interim management measures for the scallop fishery. New measures adopted were: (1) area-specific catch limits, allocated seasonally; (2) restricting scallop dredges to a maximum width of 15 feet, and (3) a limit of two dredges fished at a time. These measures will be reviewed, along with a possible moratorium, at the Board of Fisheries spring 1994 meeting. Regulations that require a maximum crew size of 12, and require that scallops be shucked only by hand were approved at the Board's March 1993 meeting. Item C-1(b) contains recent ADF&G news releases on scallop management and correspondence received on the subject.

EXECUTIVE SUMMARY

Management of scallops has been under the jurisdiction of the State of Alaska since the fishery began in 1968. No federal Fishery Management Plan (FMP) has been implemented for this fishery. Traditionally the scallop fishery had been prosecuted by a small number of vessels. However, information indicated that the stocks of weathervane scallops were fully exploited by seven vessels in 1992 and that an increase in effort was likely. At the January 1993 meeting, the Council determined that the scallop fishery met the national standards for federal management, and that such management was necessary to protect the fishery from overcapitalization. A control date of January 20, 1993 was set to notice the industry that a moratorium for this fishery may be implemented. As anticipated, effort in this fishery apparently increased in 1993; 20 vessels were licensed to fish scallops as of May 28, 1993.

This document analyzes a proposed amendment that would incorporate Alaskan scallops into the Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI) groundfish FMPs, as well as a proposal to develop a separate FMP for the Alaskan scallop fishery. All fisheries for weathervane scallops (*Patinopecten caurinus*), Icelandic scallops (*Chlamys islandica*), and all other scallop species in the EEZ waters off Alaska would be federally managed under the proposed alternatives.

Three main alternatives are considered:

Alternative 1: Status quo. The State of Alaska retains all management authority over scallops, and may use any management deemed necessary to meet the State's management objectives.

Alternative 2: Amend the GOA and BSAI groundfish FMPs to incorporate scallops in the 'other species' category.

Alternative 3: Create a separate FMP for Alaskan scallops.

Under both Alternatives 2 and 3, management authority for scallops would be distributed between Federal and State agencies. Two categories of management measures proposed are: (1) those that are specifically fixed in the proposed FMP, and require an FMP amendment to change, (2) those measures that are neither rigidly specified nor frameworked in the FMP. Category 1 measures are legal gear, permit requirements, Federal observer requirements, and limited access. Category 2 measures are minimum size limits, reporting requirements, guideline harvest levels, in-season adjustments, districts and sections, seasons, State observer requirements, registration areas, closed waters, and other necessary measures consistent with the FMP.

The biological and environmental impacts on the scallop resource will depend on the alternative chosen. Both Alternatives 2 and 3 include a vessel moratorium, which will help maintain catch per unit of effort (CPUE) for participating vessels. Combined with guideline harvest levels (GHL), an orderly fishery will be conducted and fishermen will target the larger, premium size scallops, which have spawned at least once. However, moratorium options that allow for an increase in vessels, vessel size, and effort over the 1992 level may reduce the long term viability of the scallop fishery. Alternative 1, with no vessel moratorium and a harvest limited by GHLs, creates a potential for a derby-style fishery. In a derby fishery, each vessel harvests as quickly as possible. More scallops, smaller in size, would likely be harvested prior to reaching the GHL.

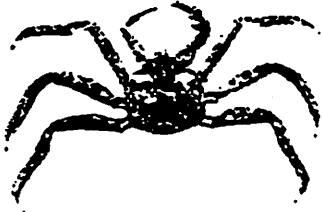
Options chosen for the moratorium will have economic impacts on both owners of vessels that qualify and those that do not. In addition to the qualifying criteria, the other elements are: duration, crossovers,

reconstruction, replacement, exemptions for small vessels, and appeals. Any crossovers of vessels between fisheries, if allowed, will amplify any economic and biological impacts associated with the increased capacity of the fleet. Reconstruction, replacement, and exemptions for small vessels, if allowed, will also increase the capacity of the fleet. Such an increase in capacity will directly depend on the extent of these options.

The alternatives to the status quo would limit any potential impacts of scallop dredging on benthic communities and habitat by limiting the number scallop dredges used in Alaska. Observer data will provide information on bycatch rates of crabs, halibut, and other groundfish. Either of the proposed actions may provide some benefit for marine mammals, especially sea otters. Alternatives 2 and 3 are expected to result in reduced catches of juvenile scallops, which will result in more small scallops available for forage. None of the alternatives is expected to have impacts on seabirds or Pacific salmon listed under the Endangered Species Act.

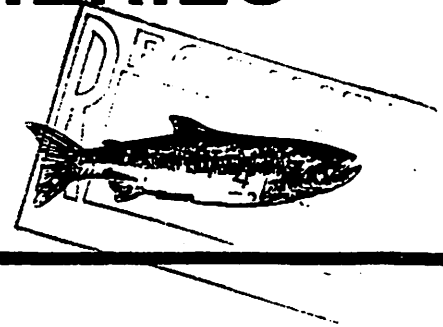
JUNE 1993

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Westward Region

211 Mission Road
Kodiak, AK 99615

Contact: William E. Nippes
Westward Region Shellfish/
Groundfish Management Biologist
Kodiak, Alaska

IMMEDIATE RELEASE

Date: June 10, 1993

ATTENTION SCALLOP FISHERMEN

New regulations for scallop fishing will become effective on June 27. These new regulations change many aspects of the Westward Scallop Fishery. The major change is that observers are required. For the Westward Area all vessels in all areas while fishing scallops will be required to have observers. These observers must be obtained through a Department certified observer contractor. Prior to fishing the Westward Area the observer must be briefed by Department staff in either Kodiak or Dutch Harbor. Debriefings are to occur only in Kodiak and Dutch Harbor. There are other regulations pertaining to the observer segment of these regulations which will be available at the Kodiak or Dutch Harbor office.

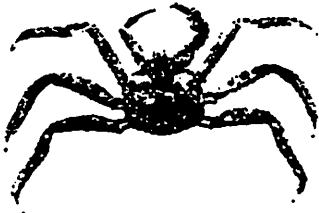
The Westward statistical area is now divided into four registration areas. A vessel can not be registered for more than one area at a time. Registrations must be done in person by operator at the Kodiak or Dutch Harbor office.

Additionally, an opening of July 1 was set for Shelikof Area which in the old regulations opened June 1 (5AAC 38.420 (1)). Guidelines of 0-400,000 pounds for Kodiak and 0-170,000, pounds for Dutch Harbor were established. Fishing in these areas may close at any time prior to the upper end of the guideline if in the Department's opinion a closure is warranted. In other areas of the Region no guideline has been set. This is not to be interpreted that no closures will result. The Department will monitor scallop removals and may close areas if "dirty" fishing occurs. By-catch limits will be set for all areas as was done in May for the Bering Sea.

Scallop fishermen are urged to come into the Kodiak or Dutch Harbor office to obtain addition detailed information on regulations or how to obtain an observer. This will assist both the industry and Department in making this new program function smoothly with no delays to fishing.

END

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Westward Region

211 Mission Road
Kodiak, AK 99615

Contact: William E. Nippes
Westward Region
Shellfish/Groundfish
Management Biologist

IMMEDIATE RELEASE

Date: May 28, 1993

ATTENTION BERING SEA SCALLOP FISHERMEN

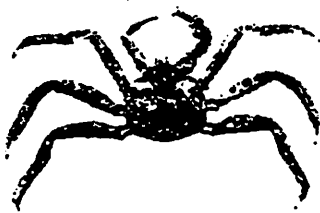
The Department of Fish and Game has been considering standards for setting by-catch limits on crab during the Bering Sea scallop fishery.

It has been determined that average by-catch rates in excess on one (1) king crab per tow will not be acceptable.

The department will set an initial average by-catch rate of fifteen (15) *C. bairdi* Tanner Crab per tow as unacceptable. The fishery will be examined inseason to determine the suitability of this rate. Rates of *C. opilio* Tanner crab by-catch will also be assessed inseason if encountered.

These by-catch standards will be used to monitor and manage the Bering Sea scallop fishery. They are not applicable in other registration areas.

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Westward Region

211 Mission Road
Kodiak, AK 99615

Contact: William E. Nippes
Westward Region Shellfish/
Groundfish Management Biologist
Kodiak, Alaska

IMMEDIATE RELEASE

Date: May 25, 1993

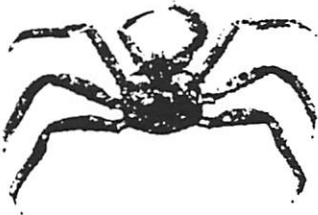
ATTENTION SCALLOP FISHERMEN

On May 24, 1993, the Department closed the Westward Statistical Area J to scallop fishing until such time as an observer program is in place. The scallop fishery will open in the Bering Sea (as defined in 5 AAC 34.700, 5 AAC 34.800 and 5 AAC 34.900) on June 1 at 12:00 noon, with the following restrictions:

1. All vessels will be required to carry onboard observers. Vessel owners will be required to hire a certified shellfish observer from Department certified contractors.
2. By-catch limits will be established by the Department prior to the fishery opening. Once these limits are exceeded the statistical reporting area in which they occurred will be closed. These by-catch limits will be announced by news release once established.
3. The permits for this fishery will expire June 30, 1993 at midnight
4. Observer briefings will take place in Dutch Harbor at 9:00 am May 31, 1993.

If you have further questions, contact the Dutch Harbor or Kodiak Fish and Game office.

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Westward Region

Department of Fish and Game
Carl L. Rosier, Commissioner

MAY 26 1993
211 Mission Road
Kodiak, Alaska 99615

Jeffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Contact: William E. Nippes
Westward Region
Shellfish/Groundfish
Management Biologist

IMMEDIATE RELEASE

Date: May 21, 1993

ATTENTION WESTWARD REGION SCALLOP FISHERMEN

The Department of Fish and Game has issued an emergency order closing the Westward Region to scallop fishing effective at 8:00 AM on Monday, May 24th. This closure applies to vessels currently operating in the Bering Sea.

An observer program is being developed. Once this program is in place, permits will be issued to continue fishing.

COMMERCIAL FISHING

Alaska Department of Fish & Game

emergency order

under authority
of AS 16.05.060

EMERGENCY ORDER NO.
4-S-8-93

RECEIVED

Issued at: Kodiak, Alaska
May 21, 1993

EFFECTIVE DATE:
May 24, 1993
8:00AM

MAY 26

Expiration Date:
December 31, 1993

EXPLANATION:

This emergency order closes statistical Area J (Westward) to scallop fishing at 8:00AM, May 24, 1993

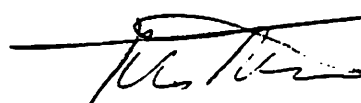
REGULATION:

5 AAC 38.420 (3) is amended to read:

5 AAC 38.420. FISHING SEASONS FOR SCALLOPS. Scallops may be taken:

(3) scallops may be taken in the remainder of statistical Area J from January 1 through 8:00AM, May 24, 1993 except as provided in Section 425 of this chapter.

Carl L. Rosier
Commissioner



by delegation to: William E. Nippes
Westward Region Shellfish/Groundfish
Management Biologist

COMMERCIAL FISHING

Alaska Department of Fish & Game

emergency order

under authority
of AS 16.05.060

EMERGENCY ORDER NO. 4-S-9-93

Issued at: Kodiak, Alaska
May 28, 1993

EFFECTIVE DATE:
June 1, 1993
12:00 Noon

Expiration Date:
June 30, 1993
12:00 Midnight

EXPLANATION:

This emergency order opens the Bering Sea Area of Statistical Area J (Westward) to scallop fishing at 12:00 noon, June 1, 1993. This emergency order also delays the opening of the Kodiak area to scallop fishing to July 1, 1993.

REGULATION:

Emergency Order 4-S-8-93 is rescinded.

5 AAC 38.420. is amended to read:

5 AAC 38.420. FISHING SEASONS FOR SCALLOPS. Scallops may be taken:

- (1) from July 1 through March 31 in the Pacific Ocean waters north of 57°37'07"N.lat., and east of 152°09'01"W.long., (Cape Chiniak Light) and the waters of Shelikof Strait north of 57°17'20"N.lat. (the latitude of Cape Ikolik);
- (2) from July 15 through March 31 in the Pacific Ocean waters south of the latitude of Cape Chiniak Light and waters east of the longitude of Cape Barnabas, excluding those waters northwest of a line from Cape Barnabas to Narrow Cape;
- (3) there is no open season for scallops in the remainder of Statistical Area J except the Bering Sea as defined in 5 AAC 34.700, 5 AAC 34.800 and 5 AAC 34.900 is open at 12:00 noon, June 1, 1993 through 12:00 midnight, June 30, 1993 under conditions of a permit.

May 28, 1993

Carl L. Rosier
Commissioner



by delegation to: William E. Nippes
Westward Region
Shellfish / Groundfish
Management Biologist

JUSTIFICATION:

On May 24, 1993 at 8:00 am the Department closed the Westward Statistical Area scallop fishery until such time as an observer program is in place. On May 25, 1993, a news release was issued indicating the basis of such an observer program. The conditions of the program are:

1. All vessels will be required to carry onboard observers. Vessels owners will be required to hire a certified shellfish observer from Department certified contractors.
2. By-catch limits will be established by the Department prior to the fishery opening. Once these limits are exceeded the statistical reporting area in which they occurred will be closed. These by-catch limits will be announced by news release once established.
3. The permits for this fishery will expire June 30, 1993 at midnight.
4. Observer briefings will take place in Dutch Harbor at 9:00 am, May 31, 1993.

This observer coverage will provide for the collection of by-catch information needed to responsibly manage all species. Therefore, the Bering Sea will reopen on June 1, 1993 at 12:00 noon to scallop fishing under the presently stated restrictions.

A scallop fishing observer program is currently being developed that will apply statewide. The season opening in Kodiak was delayed until July 1 to allow for implementation of the full program.

**NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE ALASKA DEPARTMENT OF FISH AND GAME**

Notice is given that the Alaska Department of Fish and Game under authority of AS 16.05.050, AS 16.05.251, and AS 16.05.270, proposes to adopt regulations in Title 5, of the Alaska Administrative Code, Chapter 38, Miscellaneous Shellfish Fishery.

At its March 16-23, 1993 meeting in Anchorage, the Board of Fisheries considered a petition requesting adoption of regulations for the scallop fisheries to restrict crew size on scallop vessels and to prohibit the use of machines for shucking weathervane scallops. The board authorized the Commissioner of Fish and Game, under AS 16.05.270, Delegation of Authority to Commissioner, to adopt these regulations after taking additional public comment.

Notice is given that anyone interested may present written comments relevant to these regulations.

Written comments must be received by the Division of Boards, P.O. Box 25526, Juneau, Alaska 99802-5526, no later than 5:00 p.m. June 7, 1993.

Anyone interested in or affected by these proposed changes is hereby informed that, by publishing this legal notice, the commissioner may consider all of the subjects covered by the proposed changes contained in this notice. The commissioner is not limited by the specific language of the proposed regulations. The commissioner's actions are limited to the subject matter given in this legal notice, but pursuant to AS 44.62.200(b), the full range of activities appropriate to any of the subjects listed may be reviewed.

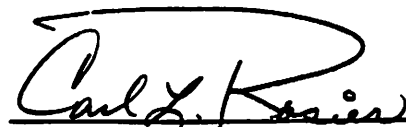
The commissioner may adopt regulations that fall within the range of subjects and topic areas identified in this legal notice. Unless otherwise specified, references to such topics as areas, seasons, species, gear, and harvest levels apply to all or portions of the specific topic. The commissioner may adopt regulations that apply to all gear types used in a fishery or to selected gear types. After considering all relevant matter presented by the public, the commissioner may adopt, amend, reject, supplement, or take no action on these matters. In addition, the commissioner may adopt other regulations necessary to implement, administer, or enforce the regulations adopted. Anyone interested in or affected by the subject matter contained in this legal notice should make written comments if they wish to have their views considered by the commissioner.

This action is not expected to require an increased appropriation.

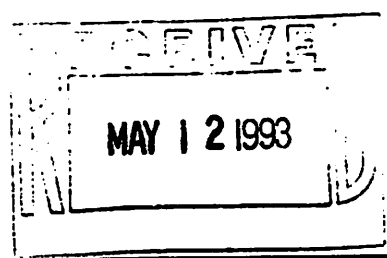
Copies of the regulations may be obtained from the Alaska Department of Fish and Game, Division of Commercial Fisheries, P.O. Box 25526, Juneau, Alaska, 99802-5526. (907) 465-4210.

If you are a person with a disability who may need a special modification in order to comment on the proposed regulations, please contact Bev Reaume at 465-4110 no later than two weeks before the comment deadline. To correspond by text telephone (TDD), call 1-800-478-2028.

Date: 5/4/93
Juneau, Alaska



Carl L. Rosier, Commissioner
Alaska Department of Fish and Game



Kodiak Fish Company

F/V Alliance F/V Provider
P.O. Box 469, Kodiak, Alaska 99615
907-486-6002
Fax 907-486-2617

May 9, 1993

Mr. Richard B. Lauber
Chairman
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Mr. Lauber:

We urge the Council to move forward in sending a draft scallop plan out for public review as soon as possible. As you know from our testimony before the Council during the past 18 months, the scallop resource has been under heavy pressure during the past two years with harvest levels approaching those achieved during the virgin years of the fishery in 1968 - 1970. The increased efficiency of the fleet made it possible to achieve that harvest level from an already fully utilized resource by harvesting and retaining smaller scallops than had previously been the practice.

Though approximately the same poundage was harvested in 1968 as in 1992, the number of animals represented by those pounds was far higher in 1992 than in 1968. Using the most conservative estimate of average size for both years, the number of animals taken in 1992 was 50% higher than those taken in 1968. The actual increase in numbers harvested is probably far higher. Given that the scallop resource is small and year class success is unpredictable, we believe the long term health of the weathervane scallop population is in jeopardy.

Further, the New England sea scallop fishery is experiencing the year class failure predicted by NMFS. Excerpted from the May/June 1993 issue of Seafood Leader, *"Fishing for sea scallops on the U.S. portion of Georges Bank is the slowest it's been in years, report boats out of New Bedford. While bad weather is partly to blame, scallopers acknowledge the resource is in trouble. With no quota and no limit on the number of boats that can fish, it's easy to see why. ...Canadian scallopers, who have limited entry, a quota and a healthy resource, are having their best season in a long time."* Approximately 56 vessels fish for scallops in Canadian waters of the North Atlantic (producing 24 million lbs of meats in 1989) while about 500 vessels fish for scallops in U.S. Atlantic waters. A dozen or more U.S. vessels have been charged with fishing in Canadian waters in spite of \$100,000 fines, loss of fishing rights and forfeiture of catch. The contrast of the success of the tightly controlled resource on the Canadian side versus the uncontrolled, overcapitalized fishery in U.S. waters is even more compelling when you realize that the stocks are separated only by a line on a map.

The Canadian system is explained in brief by K.S. Naidu of the Science Branch, Department of Fisheries and Oceans, St. John's, Newfoundland in Scallops: Biology, Ecology and Aquaculture,

"Reductions in the number of active offshore vessels and the adoption by Canada of new management regimes that prescribe maximum levels of removals permissible from a stock in a given year and enterprise allocations are expected not only to assist in the conservation and restoration of the resource, but also to stabilize medium-to-long-term production."

The failure of the U.S. Atlantic sea scallop fishery (which produced 32 million pounds of meats in 1991) has made Alaska's fishery attractive even before the proposed Atlantic sea scallop moratorium is finalized. This in spite of the fact that the weathervane fishery Pacific Coastwide has sustained at its peak year a total harvest of only 2.9 million lbs (compared to the Atlantic Coastwide sea scallop fishery where peak production years exceed 55 million lbs). With the Alaska guideline harvest level in 1993 set at 890,000 lbs Statewide, it is obvious that the resource here cannot sustain additional effort - particularly given the intensity of the effort in Alaska in the past two years and the focus of that effort on smaller, possibly immature animals.

There is some speculation that these caps alone will discourage new entrants to the fishery. However, there are questions as to the legality of State control of a sedentary species such as scallops in Federal waters in the absence of any Federal management program. To illustrate, the Washington Department of Fisheries recently closed scallop fishing off the Washington coast due to unprecedented harvests by three vessels which came from the East Coast last year. However, though the closure was effective in mid March, at least two of the vessels continue to fish outside three miles contending that the State has no legal jurisdiction beyond that boundary.

This issue of jurisdiction has been brought up many times to the ADF&G and NMFS as well as to members of the Alaska congressional delegation. When we became aware of this possibility, we were assured first that the State did have jurisdiction and, later, that any vessel who tried it would have a long and difficult court battle to save the vessel from seizure. That threat, in Washington State at least, seems to be without teeth so far. Our primary concern should this situation materialize in Alaska is that the resource could be pounded into the ground before a judicial resolution could be achieved. We believe this issue alone makes a federal plan for scallops essential.

These are the reasons it is imperative for the Council to move ahead as quickly as possible on a management plan which incorporates the moratorium control date you adopted unanimously in January and which will provide the State of Alaska with undebatable authority over all scallops within the EEZ.

As to the plan's format, we support the incorporation of scallops into the existing Groundfish FMP's for the BSAI and the GOA. Scallops would be added to the 'other species' category of the FMPs with much of the management deferred to the State. This would eliminate the necessity of producing a separate SAFE document annually; and makes a great deal of sense given the extremely limited size of the resource and the fishery.

The scallop plan would include a moratorium to further entry to the fishery with a control date of January 20, 1993. The qualifying years would be 1980 to January 20, 1993. Qualifying participation would include EITHER making landings in the one year period from January 20, 1992 to January 20, 1993 OR having made landings in any four calendar years between January 1, 1980 and January 20, 1993. This qualification requirement would take into account both present

participation in the fishery as well as historical fishing practices and dependence on the fishery. It would allow those presently participating to continue as well as allow those vessels who in the past had been economically dependent and full participants but who had to leave the fishery during one of its historic "bottoming out" periods.

We believe this is an appropriate measure of dependence due to the nature of the scallop fishery. Traditionally, it is not a fishery in which a season can be made in a short period of time. Instead, it requires a steady investment of time and effort in order to make a living. Many vessels have tried scalloping but found it more financially rewarding to switch to other fisheries. Those who continued to scallop often did so because they were unsuited to pursue other options. All of these qualifiers fulfill criteria listed in Section 303(b)(6) of the Magnuson Act.

Council staff analysis illustrates that other year combinations allow relatively large numbers of vessels access to the fishery. Total vessels participating since 1980 are 53. The average number of vessels participating annually since 1967 are 7 - the most in any one year was 19. As limited access is a management technique that is directed at economic as well as biological objectives, limiting moratorium participants in the manner we suggest will reduce economic waste, maximize return to the nation from the common property resource, and, along with the guideline harvest levels recommended by the State, level off harvests and insure the longterm health of both the resource and the fishery.

We believe the moratorium should continue until the Council rescinds or replaces it but should not exceed four years from date of implementation. The Council may extend it for two years if a permanent limited access program is imminent. The moratorium should permit no crossovers to other fisheries (i.e. crab, groundfish, halibut).

Reconstruction of vessels during the moratorium should be limited to allowing unrestricted size increases if physical reconstruction was started before January 20, 1993. Vessel replacement during the moratorium should be unlimited as long as the replaced vessel leaves the fishery. Several replacements may be allowed but vessel length may only be increased once to a maximum of a 20% increase. Vessels lost or destroyed during the moratorium may be replaced subject to a 20% maximum increase in vessel length but lost or destroyed vessels may not be salvaged and returned to the fishery once they are replaced. Vessels lost or destroyed prior to the moratorium control date cannot be replaced.

In the Gulf of Alaska, vessels 26 feet or less are exempted from the moratorium. In the BS/AI, vessels 32 feet or less are exempted from the moratorium. The appeals procedure will consist of an adjudication board of government persons and non-voting industry representatives.

We believe that the following should be fixed in the FMP: legal gear; permit requirements; federal observer requirements; limited access (preferably an ITQ system); and federal closed areas initially fixed in conjunction with closures to non pelagic trawls and later modified as observer data warrants. The State of Alaska should establish: minimum size limits; reporting requirements; state observer requirements; registration areas; districts, subdistricts, and sections; fishing seasons; guideline harvest levels; inseason adjustments; closed waters and efficiency limits.

Previously, we questioned the State's decisions regarding guideline harvest levels. However, last month we attended the International Pectinid Workshop and had an opportunity to discuss the weathervane scallop resource with scallop researchers from around the world. We learned that due to the extremely cyclical nature of successful scallop recruitment events (particularly in long lived species such as the weathervane), if a scallop fishery wishes to stabilize, an annual quota is essential. Setting annual quotas based on an average of historical catches seemed poor science; however, the more we look into it, we find that to be a feasible manner in which to spread out the harvests from successful years of spat settlement. It is likely that if this "poor science" had been applied to the New England fishery, their very successful year classes throughout the 80's would still be sustaining a very healthy fishery. (Though without a limited access system of some kind, it would still have been overcapitalized.)

In conclusion, we urge you to keep the scallop plan on the fast track. We realize, in the grand scheme of the North Pacific (or any other ocean, for that matter), that it is a very small fishery. However, it has provided year round employment for 80 or so fishers for many years. The product has developed a reputation and occupies a high value, high quality niche in the marketplace. With appropriate management, the scallop fishery can continue to be conducted and years of low abundance can be leveled out with the good years. It can be a success story.

Thank you for the opportunity to comment.

Sincerely,

Teressa Kandianis
Mark Kandianis

MARK P. KANDIANIS

TERESSA M. KANDIANIS

Kodiak Fish Company

F/V Alliance F/V Provider
P.O. Box 469, Kodiak, Alaska 99615
907-486-6002
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April 9, 1993

Mr. Laird Jones
Director
Division of Boards of Fisheries and Game
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, AK 99802-5526

VIA FAX: 465-6094

Dear Mr. Jones:

Following are our proposed changes to regulations governing the statewide fishery for weathervane scallops (*Patinopecten caurimus*):

ITEM #1. Alaska Administrative Code Number 5 ACC XX.XXX. STATEWIDE WEATHERVANE SCALLOP MANAGEMENT PLAN

ITEM #2. What is the problem you would like the Board to address?

Currently, and since the weathervane scallop fishery began in Alaska, the fishery has been largely managed in response to perceived or actual impacts on other fisheries with only a 4" ringsize as a tool to control the taking of small scallops. With technological advances that enable mechanical shucking devices to be used on weathervanes and with the entry into the fishery of larger and more efficient vessels, participants in the fishery are capable of taking small scallops. This, as well as the likelihood of the entry into the fishery by new vessels, has exponentially increased the fleet's capability to harvest more and smaller animals. Further, the radical changes in management for Alaska's other big boat fisheries as well as those in other regions of the U.S. and the lack of regulation of the Alaskan weathervane scallop fishery make this fishery a last option for vessels seeking vesting. These circumstances combine to create the necessity for a comprehensive management plan for weathervane scallops which will address the fishery as a whole.

ITEM #3. What will happen if this problem is not solved?

The fishery will continue to expand in terms of numbers of entrants and the scallop resource will be threatened. Current and past participants will be economically unable to continue in this fishery and will also be unable to switch to other fisheries in the State. The scallop resource may be in jeopardy biologically due to the taking of immature scallops - an issue which has never

existed prior to the past two years. As vessels seek to remain solvent, exploration by new entrants may create conflicts with other existing user groups. Finally, the overall value of the resource to the State of Alaska will be reduced due to the taking of small scallops.

ITEM #4. What solution do you prefer?

The new regulations should be in the form of a management plan for the statewide weathervane scallop fishery. The solutions we propose are listed without elaboration in the interest of brevity.

1. The plan should establish an onboard observer program financed by industry based on a percentage of each vessel's exvessel harvest value. Time and place of observer coverage would be directed by the Department based on the following priorities:

- A. Gathering of data identifying age structure and biomass of statewide populations of weathervane scallops.
- B. Gathering of data which will identify specific species which occur in proximity to commercial concentrations of scallops and which will assist the Department in establishing bycatch parameters for this fishery in line with those accepted in other fisheries.
- C. Gathering of data identifying impact of scallop fishing activities on the benthic community favored by weathervane scallops.
- D. Determination of vessel compliance with recordkeeping and reporting requirements.

The establishment of a fee based on a percentage of value would equalize the conservation burden among all participants in the fishery regardless of size or harvest capability.

2. The plan should recognize a moratorium on the future entry by new vessels to the weathervane scallop fishery. As the fishery presently takes place 85% in federal waters, and as some participants have indicated that since no current federal management plan exists, that it is legal for them to fish outside State waters without concern or compliance with State regulations. This can be alleviated by the establishment of a federal management plan which will pass authority over to the State for all grounds out to the 200 mile limit. Included in this will be a vessel moratorium proposed by the NPFMC with a control date of January 20, 1993. The moratorium should affect all vessels 40' and longer.

3. The plan should include the following efficiency limits:

- A. A limit of 15' on each dredge and a maximum total dredge width of 30' per vessel.
- B. A minimum ringsize of 4" statewide.
- C. A maximum crew size of 12 including all personnel considered employees or crewmembers.
- D. A requirement that weathervane scallops may only be shucked manually.

4. The plan should set a minimum retention size for scallops. Based on current information, only scallops 4" in or greater in shell height may be retained.

5. The plan should stipulate that a thorough assessment of weathervane populations in the Gulf of Alaska and Bering Sea should be accomplished utilizing research and exploratory permits issued by the Department.

6. The plan should initially standardize closures for hard on the bottom gear. Currently, areas open to bottom trawling are closed to scalloping though evidence exists which indicate that significant scallop beds in commercial densities may be present in those areas and that little or no bycatch of other species would be encountered. After assessment of weathervane populations and associated species, modifications of closures should be established which will accomodate harvest of commercial beds of scallops and protect sensitive benthic communities. Bycatch should be managed as in other fisheries.

7. The plan should eliminate the regulation which specifies gear limits for the Cook Inlet Registration Area and all areas open to scallop fishing statewide should be open to all participants.

8. The plan should specify that guideline harvest ranges contained in the Department's interim management plan should be abandoned in favor of size and efficiency regulations which will effectively limit the taking of scallops to those mature animals which have already spawned. Scallop beds frequently show a regional separation of year classes which is probably largely a consequence of spatial differences in settlement from year to year so a size dependent harvest could be prosecuted without excessive discard.

9. The plan should establish a vessel logbook program patterned after the groundfish logbooks in which total catch is tallied and retained and discarded species - both target and non target - are logged. In addition, scallop vessels should be required to record the sizes of shucked meats by percentage of each size category. Those vessels without scales can use volumetric measures to determine average size. Scallop meat size graders are relatively inexpensive and could be phased in as a requirement in order to accurately measure the size distribution of the catch. The fleet would derive a benefit from the size grader as well as most markets pay a premium for already sorted scallops. Sorted scallops will allow all vessels to maximize return on larger animals thereby encouraging effort on the less dense beds of larger scallops.

10. The plan should establish registration areas within the State which are capable of being independently managed if necessary. Vessel registration and permitting should be required for commencement of fishing activities in each area. Check out of areas should be required allowing a vessel or vessel representative to fax check out and catch information to the Department.

11. The plan should establish the need to initiate mitochondrial DNA studies which will identify stocks which are related. This study would be a cost effective means of determining source of spat for scallop beds and determining if the geographically isolated beds in Alaska are related due to the nature of the dispersal of scallop larvae by the Alaska Coastal Current. This information will assist the Department in establishing logical registration areas as well as assisting managers in a more clear understanding of the biology of the species.

ITEM #5 .

A. Who is likely to benefit if this solution is adopted?

All current participants in the fishery will benefit from a controlled harvest which emphasizes maximizing yield per recruit. Scallop pricing is very size dependent - a larger, older scallop will take less labor to produce and the vessel will derive a higher price per pound for it. Controlled harvests will allow the historical boom and bust cycle of scallop fishing and scallop stocks to be leveled out over time- thus providing stability for vessel owners and crewmembers. The scallop resource itself will be harmed if effort continues to be directed against the dense beds of smaller and possibly immature scallops which have been targeted in the past two years.

B. Who is likely to suffer if your solution is adopted?

Those vessel owners who may have planned to bring their vessels to the Alaskan fishery and who have no vested interest in the fishery as yet may suffer from enactment of these regulations. Current participants will be subjected to higher operating costs by institution of a "tax" funding an observer program; however, the use of a percentage of exvessel value will spread the cost burden in proportion to the vessel's harvest.

This proposal submitted for the Board's consideration.

Sincerely,

Mark Kandianis

Teressa Kandianis

MARK KANDIANIS
TERESSA KANDIANIS
FV PROVIDER

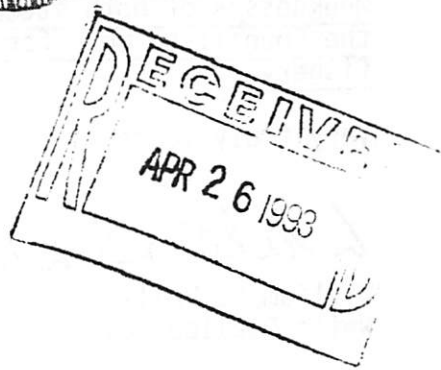
cc: Dwl ✓
cm ✓



Bill Wells, Jr.
Bill Wells III

April 21, 1993

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
P. O. Box 103136
Anchorage, AK 99510



RE: Agenda Item C-4; Scallop Management

Dear Rick:

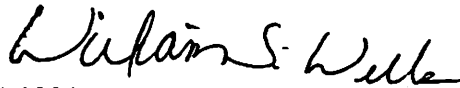
I wish to inform you and the other members of the Council of our company's views on the further development of a federal scallop FMP. We support development and implementation of a federal FMP. Alaska Department of Fish and Game staff have informed us that more than half of the weathervane scallop resource is found outside state waters and in the EEZ. Similarly, a significant portion of the current scallop fleet are made up of vessels owned by non-Alaskan companies. While we support, in concept, continued management by the State of Alaska EEZ scallop fisheries, we strongly recommend that the Council approve an FMP modeled after the Council's Bering Sea/Aleutian Islands King and Tanner FMP. This FMP would defer much of the management responsibility to the State of Alaska, while providing the Council and the Secretary of Commerce with oversight authority. Only in this way will the Board of Fisheries be obligated to justify their decisions under the Magnuson Act National Standards and other applicable federal laws. Only in this way will non-Alaskan scallop fishermen be assured that state management measures are fair, equitable, and in conformance with the Council's guidelines and criteria.

For example, last month the Board of Fisheries took "emergency action" and adopted an Alaskan fisherman's proposal to limit the crew size on scallop vessels and prohibiting automated shucking machines. Both proposals were put forward as methods of decreasing the efficiency of the larger scallop boats; yet the Board approved the measures citing undocumented "conservation concerns". While our company generally supported both proposals, there was little opportunity for public review and no biological and economic analysis. A federal FMP, similar to the crab plan, would have required the ADF&G and Board to more fully evaluate the intent of the proposals and present the public with their findings of the biological, economic, and social impacts. We are concerned that as this fishery develops further, the state will continue to utilize this laissez faire approach to management.

Mr. Richard B. Lauber, Chairman
April 21, 1993
Page 2

We support a framework-style FMP which is built upon the strengths and weaknesses of both state and federal management agencies, and encourage the Council to move forward in developing an FMP for the Alaskan scallop fishery.

Very truly yours,



William S. Wells
Wells Scallop Co.

WSW/s



ALASKA CRAB COALITION

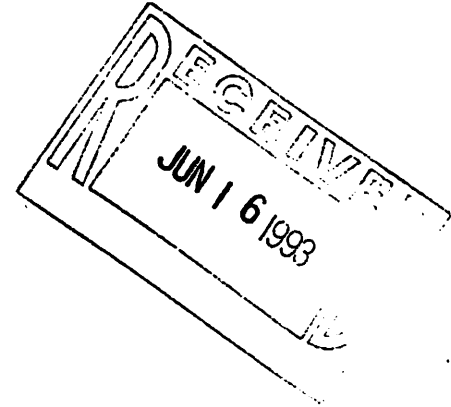
3901 Leary Way (Bldg.) N.W., Suite #6 • Seattle, WA 98107 • (206) 547-7560 • FAX (206) 547-0130

May 21, 1993

TO: Mr. Carl Rosier, Commissioner
Alaska Dept. of Fish and Game
P.O. Box 3-2000
Juneau, Alaska

FROM: Arni Thomson, Executive Director
Alaska Crab Coalition

RE: ADF&G PERMITS AUTHORIZED FOR SCALLOP DREDGING IN
THE BERING SEA



Fishermen have recently reported to the ACC office that five scallop boats are currently fishing in the Bering Sea with unconditional permits, meaning no observer requirements and no time and area restrictions.

These permits have been authorized by the Kodiak Westward Regional Office, apparently without review by interjurisdictional staff members stationed in Juneau.

Given the recent extensive review and development of a scallop management plan by the Department and the Board of Fisheries and designation of this fishery as a "high impact emerging fishery," this management action is totally inconsistent with present day national and international standards of wise fisheries conservation and management.

Scallop dredging is a controversial fishing technique in not only the United States, but Canada, Norway and other countries around the world. Gear damage to the benthic substrate and benthic organisms are a matter of scientific record presented at international fisheries symposiums. The international record on scallop fisheries management reveals very few instances of sustained yields, but it is replete with examples of stock depletion and there is recent evidence of this fishing technique changing benthic community structure and diversity.

The ACC office is acquainted with some of the Kodiak scallop fishermen and recognizes they have been working to develop a moratorium on new entrants and a sustained yield management plan. The office is also aware that some of these vessel

2

owners are willing to accept exclusion from dragging in the Bristol Bay Zone (NPFMC Zone 1, see attached Bycatch Control Chart), and Petrel Bank, recognized habitats for king and bairdi crabs. It is also a matter of record that they are willing to accept similar levels of observer coverage in place for the federal groundfish fisheries.

ADF&G should also be aware that the bottom trawl king crab bycatch cap in the Zone 1 area (east of 165 degrees W. longitude) of 200,000 animals could be hit soon. The 1993 catch is at 178,132 animals at this time. See the attached Bycatch Newsheet dated May 18, 1993.

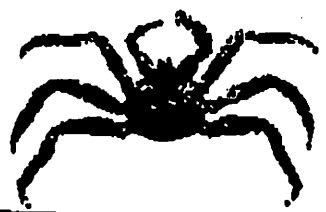
Given the range of precautionary management measures available to the Westward managers on scallop permits, new regulations that have been approved by the Board of Fisheries, and the apparent willingness of some of the Kodiak based scallop fishermen to accept observers and area restrictions, this permitting authorization is irresponsible.

In conclusion, the ACC wishes to refer your staff to its letter for record of August 27, 1992 on the Scallop Management Plan in which the ACC made specific recommendations to exclude the Petrel Bank and Bristol Bay areas from scallop dredging to protect king and bairdi crab and the benthic habitat. The ACC requests that these areas be exclusion areas for all Bering Sea scallop permits. This comment also includes recommendations for observers which we also request become a condition of the permits.

In addition the ACC requests that the Westward Office relinquish permitting authority for the high impact scallop fishery and that management authority be transferred to the Juneau office under the supervision of the interjurisdiction specialists, Ken Griffin, Earl Krygier and Dr. Gordon Kruse. This fishery has and will continue to have interaction with other EEZ fisheries managed by the NPFMC and this requires the expertise these specialists have of federal regulations and issues.

cc: Steve Pennoyer, RD, NMFS, AKR
Representative Carl Moses,
Beth Stewart, Director, Aleutians East Borough, Natural
Resources Department
Bruce Weyhrauch, Faulkner, Banfield, Doogan & Holmes

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffrey P. Koanings, Director
Commercial Fisheries Management
and Development Division

IMMEDIATE RELEASE

Westward Region

211 Mission Road
Kodiak, Alaska 99615

Contact: William E. Nippes
Westward Region
Shellfish/Groundfish
Management Biologist

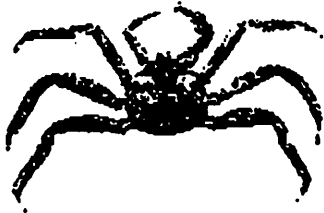
Date: May 21, 1993

All Procedures
FAXED
18:10
5/21/93

ATTENTION WESTWARD REGION SCALLOP FISHERMEN

The Department of Fish and Game has issued an emergency order closing the Westward Region to scallop fishing effective at 8:00 AM on Monday, May 24th. This closure applies to vessels currently operating in the Bering Sea.
An observer program is being developed. Once this program is in place, permits will be issued to continue fishing.

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Westward Region

211 Mission Road
Kodiak, Alaska 99615

Contact: William E. Nippes ✓
Westward Region
Shellfish/Groundfish
Management Biologist

IMMEDIATE RELEASE

Date: April 9, 1993

ATTENTION WESTWARD SCALLOP VESSELS

District registration for scallop fishing vessels operating in the Westward Region is now in effect. All scallop vessels must be registered for a single district within the Region prior to fishing. A vessel can be registered for only one district at a time. The districts are as follows:

- (A) Area K, Kodiak Area, as described in 5 AAC 34.400;
- (B) Area M, Alaska Peninsula, as described in 5 AAC 34.500;
- (C) Area O, Dutch Harbor, as described in 5 AAC 34.600;
- (D) Area Q, Adak-Bristol Bay-Bering Sea, is the combined Adak, Bristol Bay, and Bering Sea Statistical Areas as described in 5 AAC 34.700, 5 AAC 34.800, and 5 AAC 3.900.

Registrations can be obtained in Dutch Harbor or Kodiak. At the time of registration scallops from another district may be aboard. A completed fish ticket must be received by the department prior to the issuance of a new district registration for scallops aboard at time of registration.

These changes have become necessary due to concerns about the scallop stocks expressed by fishermen and the department. District registration will enable ADF&G to monitor fleet movement and harvest. The department does intend to make appropriate closures of areas which have received adequate harvest.

NO
OBSERVER
REQUIRE-
MENTS

NOTICE OF ADOPTION OF REGULATIONS

As required by AS 44.62.250, notice is given that, under authority vested by AS 16.05.251, AS 16.05.270, and 5 AAC 39.210, the Department of Fish and Game adopted on this day a scallop fisheries management plan and associated regulations that allow the department to manage the scallop fisheries of the state for conservation, development and sustained yield. These are interim regulations that will be in effect until the Board of Fisheries has the opportunity to review them, at a meeting scheduled for March, 1994, and adopt permanent regulations.

These regulations take effect on the 30th day after filing with the lieutenant governor, as provided in AS 44.62.180.

This action is not expected to require an increased appropriation.

NOT
FINAL
YET

For information of the public, copies of the regulations may be obtained by writing to the Department of Fish and Game, Division of Commercial Fisheries, P.O. Box 25526, Juneau, Alaska, 99802-5526, or requesting copies by calling (907) 465-4210.

DATE: 3/11/93
Juneau, Alaska


Carl L. Rosier, Commissioner
Alaska Department of Fish & Game



APRIL 20, 1993

VIA AIR COURIER

MR. CLARENCE PAUTSKE
EXECUTIVE DIRECTOR
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
605 WEST FOURTH AVENUE
P.O. BOX 103136
ANCHORAGE, AK 99501

SCALLOP MANAGEMENT

DEAR MR. PAUTSKE:

I AM WRITING ON BEHALF OF WANCHESE FISH COMPANY, INC., A FISHING COMPANY BASED IN SEWARD, ALASKA, IN CONNECTION WITH THE COUNCIL'S PRELIMINARY REVIEW AT ITS APRIL 21-23 MEETING OF DRAFT SCALLOP PROCEED IN THE DIRECTION OF STRONG FEDERAL MANAGEMENT, FULLY DISPLACING CURRENT STATE MEASURES APPLICABLE TO FISHING IN THE EEZ.

WANCHESE FISH COMPANY CURRENTLY OPERATES TWO SCALLOP VESSELS, BOTH OF WHICH ARE REGISTERED IN THE STATE OF ALASKA, IN THE NORTH PACIFIC SCALLOP FISHERY, AND ARE OUTFITTING A THIRD VESSEL TO BEGIN FISHING THIS SUMMER. WE HAVE BEEN PARTICIPATION IN THE SCALLOP FISHERY SINCE 1991 AND EMPLOY APPROXIMATELY 35 PERSONS FROM THE SEWARD AREA. IN 1992, WE LANDED OVER 500,000 POUNDS OF SCALLOPS FROM THE NORTH PACIFIC.

AS YOU KNOW, CURRENT ALASKAN STATE REGULATION EXTENDS TO FISHING OPERATIONS OF STATE-REGISTERED VESSELS IN THE EEZ BEYOND THE STATE'S TERRITORIAL WATERS. IN FEBRUARY OF 1993, THE ALASKA DEPARTMENT OF FISH AND GAME ADOPTED AN INTERIM MANAGEMENT PLAN, HARVEST LIMITS, FISHING SEASONS AND OBSERVER REQUIREMENTS. RECENTLY, JUST AT THE END OF MARCH, THE BOARD OF FISHERIES ADOPTED A PROHIBITION ON MECHANICAL SHUCKING AND A LIMITATION ON CREW SIZE TO NO MORE THAN 12 PERSONS.

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473-5001

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473-5004
FAX

MR. CLARENCE PAUTSKE
APRIL 20, 1993
PAGE 2



IN THE FACE OF SUCH REGULATION, WE CAN SEE THAT THE COUNCIL MIGHT AT FIRST BLUSH BE ATTRACTED TO AN OPTION OF SIMPLY DEFERRING TO STATE MANAGEMENT MEASURES, AND WE UNDERSTAND THAT SUCH AN APPROACH REPRESENTS AN OPTION CURRENTLY UNDER CONSIDERATION. IN OUR JUDGEMENT, LEAVING MANAGEMENT UP TO THE STATE WOULD BE A SERIOUS MISTAKE. 61% OF THE RESOURCE IS HARVESTED OUTSIDE STATE TERRITORIAL WATERS. WE STRONGLY BELIEVE THAT A NUMBER OF ALASKAN MEASURES ARE PAROCHIAL IN NATURE, WITHOUT ADEQUATE SCIENTIFIC SUPPORT AND BASICALLY DESIGNED TO PROVIDE ECONOMIC BENEFITS TO A SMALL NUMBER OF LOCAL VESSELS. WE DO NOT BELIEVE THESE MEASURES COULD BE JUSTIFIED UNDER THE NATIONAL STANDARD OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT. IT IS THEREFORE IMPERATIVE THAT A FEDERAL PLAN BE ADOPTED AND PUT IN PLACE, ESTABLISHING A REASONABLE CONSERVATION REGIME FOR THE EEZ AND OUSTING INCONSISTENT AND CONFLICTING STATE REGULATIONS.

THE MAJOR PROBLEM IN THE ALASKAN SCALLOP MEASURES ARE FOUND IN THE MARCH BOARD EMERGENCY ACTION TO LIMIT THE SIZE OF TOTAL CREW TO 12 INDIVIDUALS AND TO BAN MECHANICAL SHUCKING. THERE ARE SERIOUS QUESTIONS CONCERNING THE PROCEDURE BY WHICH SUCH RESTRICTIONS WERE ADOPTED--THE REQUIRED ADVANCE LEGAL NOTICE DOES NOT APPEAR TO HAVE BEEN GIVEN--AND THE VERY AUTHORITY OF THE BOARD TO DELVE INTO AREAS RELATED TO PROCESSING AND MANNING. WE TESTIFIED IN OPPOSITION TO THIS ACTION ON MARCH 16 BEFORE THE BOARD, AND A COPY OF OUR TESTIMONY IS ENCLOSED. AS WE EXPLAINED TO NO AVAIL TO THE BOARD, THIS ACTION HAS NO MEANINGFUL CONSERVATION EFFECT; MAKES A FEW VESSELS LESS ECONOMIC AND EFFICIENT AND EXCLUDED ONE OR TWO COMPLETELY; AND, IN THE CASE OF THE CREW SIZE LIMIT, RAISES SIGNIFICANT SAFETY CONCERNS. ALTHOUGH THERE ARE ONLY EIGHT VESSELS IN THE WEATHERVANE SCALLOP FISHERY, THE ULTIMATE IMPACT OF THE BOARD'S ACTION IS ESSENTIALLY TO IMPACT ADVERSELY THE OPERATION OF LARGER VESSELS, INCLUDING OURS, AND TO PROVIDE INAPPROPRIATE AND UNNECESSARY PROTECTION FROM LEGITIMATE COMPETITION TO SEVERAL SMALLER VESSELS.

IN LIGHT OF SUCH ACTION BY THE BOARD, WE HOPE THAT THE COUNCIL WILL MOVE VIGOROUSLY TO APPROVE AND IMPLEMENT ITS OWN MEASURES FOR SCALLOPS IN THE EEZ. SUCH MEASURES SHOULD NOT INVOLVE MERE ADOPTION OF WHAT THE STATE HAS DONE. RATHER, THE COUNCIL'S OWN MEASURES SHOULD BE APPROPRIATELY TAILORED TO THE REAL NEEDS OF THE RESOURCE IN ACCORDANCE WITH THE NATIONAL STANDARDS. IN PARTICULAR, THE COUNCIL SHOULD EXPRESSLY REJECT A PROHIBITION ON MECHANICAL SHUCKING AND CREW SIZE LIMITATIONS, WHICH SHARPLY LIMIT EFFICIENCY SO THAT THESE STATE RULES CANNOT BE APPLIED AGAINST VESSELS LAWFULLY FISHING IN THE EEZ. ONLY IN THIS WAY WILL THERE BE ANY ASSURANCE THAT THE FISHERY WILL BE MANAGED FOR THE BENEFIT OF THE NATION, AS REQUIRED BY THE MAGNUSON ACT.

BOX 369
WANCHESE
NORTH
CAROLINA
27981

919
473-5001

MR. CLARENCE PAUTSKE
APRIL 20, 1993
PAGE 3



THANK YOU VERY MUCH FOR YOUR CONSIDERATION OF THESE COMMENTS. WE LOOK FORWARD TO WORKING WITH YOU AS THE COUNCIL PROCEEDS TO CONSIDER A SCALLOP MANAGEMENT PLAN, AND WE WOULD BE HAPPY TO PROVIDE ADDITIONAL INFORMATION CONCERNING THE SCALLOP FISHERY TO ASSIST THE COUNCIL IN ITS DELIBERATIONS.

SINCERELY,

Michael Daniels

MICHAEL DANIELS
DIRECTOR

ENCLOSURE

CC: MEMBERS OF THE COUNCIL
RICHARD B. LAUBER, CHAIRMAN

MD/MH

PO
BOX 369

WANCHEESE
NORTH
CAROLINA
27981

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473-5001

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473-5004
FAX

NE council passes scallop Amendment 4

MYSTIC, CT - On May 13, the New England Fishery Management Council took what could easily be called the most monumental action of its 16-year existence. It approved Amendment 4 of the Atlantic Sea Scallop Fishery Management Plan, thereby casting its first vote for limited entry.

If Amendment 4 is approved in Washington, DC by the secretary of commerce, the scallop industry could be rid of the meat count by the start of the new year. It will then be regulated by allocations of days-at-sea, increases in ring size, gear limitations, and a cap on new entrants into the fishery.

In early May, the council held six public hearings on the amendment, ranging from Maine to North Carolina. At scallop

committee meetings in East Boston on April 28-29 and here in Mystic May 11, close to 40 motions were approved that modified the council's "preferred alternative."

But, details aside, from the very start of April 28, it was clear that the preferred alternative was the committee's choice, and the direction of scallop management had been determined.

Though some in the audience still hoped to fight the moratorium and general direction of the plan, Phil Coates, chairman of the scallop committee, made his position clear.



"We're not here to re-invent the wheel," he said. "There has been a lot of work to get us to this point. We've got to draw from the elements in the public hearing document, with maybe some changes or modifications."

Though Jake Dykstra of the Point Judith Fishermen's Cooperative Association pushed hard to have both the committee and the full council thoroughly assess comments from the public hearings before steaming forward to "tinker" with the preferred alternative, Coates responded by saying, "I asked the committee if there were any comments. They were apparently satisfied with the public hearing record."

Coates added, "This is our first limited entry plan. I understand completely the

horror that some of these people who traditionally have gone in and out of fisheries are feeling. But I think right now, it's needed."

In the end, only two council members voted against Amendment 4: Jim McCauley and David Borden, both of Rhode Island. McCauley said he did so strictly because of his opposition to the moratorium. Dick Roe, regional director of the National Marine Fisheries Service (NMFS), abstained on the vote.

According to Chris Kellogg of the council staff, the amendment should be out of the council office and into the hands of NMFS by June 11. NMFS will review the amendment for the secretary of commerce.

Changes

Some of the more significant changes and clarifications to what went out to public hearing include:

- Elimination of the 12-hour landing windows, with the proviso that the measure be frameworked, so that in the event of rampant noncompliance, the windows can be reinstated;
- Imposition of 3-1/4" rings for years one and two of the plan, with 3-1/2" rings being mandatory in year three;
- Inclusion of a half-dozen framework measures to make adjustments to the plan without a full amendment for items such as: modifying the 400-pound possession limit for fishermen not in the limited entry program; adjusting the number of days-at-sea because of changes in the fishing mortality rate or for age-at-entry reasons; and adjusting measures that, for unforeseen events, subvert the intent of the plan. And,
- Changes to the criteria for the moratorium and days-at-sea programs (see related story page 16A).

Janice M. Plante



UNITED STATES DEPARTMENT OF
National Oceanic and Atmospheric
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

JUN 17 1993

MEMORANDUM FOR: Regional Directors
Regional Fishery Management Councils

FROM: Nancy Foster
(Acting)

SUBJECT: Control Date Notices

Regional Fishery Management Councils (Councils) establish control dates to discourage speculative entry into fisheries while alternative management measures are developed and analyzed. Control date announcements inform the public through the Federal Register that a Council has begun deliberations that may affect investments in the fisheries and that landings made after a date certain may not count toward allocations of catch under potential future Federal management programs. Establishment of a control date does not prevent a Council from proposing or implementing any other date for eligibility in these fisheries or another method of controlling fishing effort. A Council may recommend additional criteria for qualifying fishermen or vessels as participants in these fisheries. The control date announcement does not commit a Council to any particular management regime or priority criteria for access to the fisheries. A Council may choose to take no action to control entry or access to these fisheries or select another date.

The Office of Management and Budget (OMB) reviews NMFS control date notices as part of the normal review cycle for fishery management actions. Recently, OMB reviewed several control date actions where time (e.g., over 3 months) had elapsed between the effective date of the action (control date) and submission of the action to OMB for review. Although adoption of control dates is frequently well publicized by a Council, OMB has expressed its concern over the delay between a Council's approval of a control date and publication of a control date notice in the Federal Register. Prompt issuance of a control date is necessary so that the affected public will have the opportunity to include this information in its business plans.

NMFS has been informed that OMB's guidance related to control date notices is as follows: (1) a control date should be the date of publication of the notice in the Federal Register, or (2) if a date certain has been approved by a Council, a control date action should be received by OMB within 30 days of the Council's control date. In order to ensure that control date



notices are announced in a more timely and consistent manner, NMFS is adopting OMB's guidance related to control date notices. This policy is effective immediately. The preferred alternative is to make the control date the date of publication in the Federal Register; however, NMFS recognizes a Council's prerogative to select a date certain. Once an action is received in Headquarters, NMFS will expedite its review and clearance to conform to OMB's guidance. Please provide Headquarters with a minimum of 2 weeks processing time to ensure submission of the action to OMB on a timely basis.

Please share this information with your staff and others responsible for preparing or processing control date actions.

m Daniels

Mr. Tom Minio
Captain
FV Pursuit
P.O. Box 992
Kodiak, AK 99615

March 9, 1992

Board of Fish
Division of Boards
ADF&G
P.O. Box 25526
Juneau, AK 99802-5526

Dear Board of Fish:

I am the Captain of the FV Pursuit, a 98' vessel which fishes for scallops in Alaska. I urge you to pass the petition presented to you by the Commissioner of the Alaska Department of Fish and Game in regard to a moratorium on scallop fishing in Alaska.

I have been scalloping in Alaska for 14 years, the last 7 years as skipper of the Pursuit. This past year a boat called the Mr. Big came to Alaska from the East Coast to fish scallops. This boat is a completely different type of scalloper than the traditional boats like the Pursuit. Its a converted mud boat which carries a crew of over 20 men. Over the years, I've seen ~~boats~~ boats enter the fishery and then leave again. Some boats go bankrupt, some go back where they came from, and some convert to other Alaskan fisheries. And even though these boats may have impacted the fishery so that fishing was very poor for a few years, we always saw it recover. But the Mr. Big has decimated the scallop beds it has been fishing on. This kind of impact from the Mr. Big's increased efficiency is the equivalent of having a dozen traditional scallopers. Further, the Mr. Big is owned by a fishing company headquartered in North Carolina which also owns another dozen or so scallop boats. We understand that some of these are already being prepared to fish in Alaska.

The moratorium proposed by the New England Fishery Management Council on entry into scallop fishing there has already placed 40 scallopers out of their fishery if that amendment is finalized. The increasing number of fisheries that have had moratoriums placed on them throughout the country will target our scallop fishery here in Alaska as being the last one without any management scheme and without any moratorium. A moratorium will protect our resource while allowing us time to develop a rational management scheme and gather resource information.

I hope you will pass this petition on to the CFEC. Thank you.

Sincerely, *Tom Minio*

Tom Minio

M. DANIEL

Mark P. Kandianis
Teresa M. Kandianis
FV Provider
P.O. Box 469
Kodiak, Alaska 99615

March 12, 1992

Board of Fish
Division of Boards
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99802-5526

Re: Scallop Moratorium Petition

Dear Board of Fish:

We have participated in the scallop fishery in Alaska since 1979 and own one of the five or six vessels which are currently licensed for the Weathervane scallop fishery in Alaska. The fishery here is unique to other Alaskan fisheries. It requires a vessel that can fish offshore yearround and requires a large crew of experienced scallopers. It is conducted entirely in Federal waters yet is managed by the Alaska Department of Fish and Game. Further, no management plan, either Federal or State, exists for this fishery.

This fishery has never been managed by ADF&G in the sense of any limits on entry into it. Yet even in the years when many boats suitably sized for the fishery were out of work when crab stocks plummeted, the few who elected to try scalloping soon gave it up.

Over the past decade, we have seen many vessels try the fishery and fail. Some were converted from other Alaskan fisheries and found that scalloping doesn't offer the dollar return these vessels have come to require. Some came to Alaska from traditional scallop fleets located on the East Coast. Many left bankrupt, some returned to the East Coast and some decided to stay and enter one of the other Alaskan fisheries.

In 1991, we saw a vessel unique to scalloping come to Alaska. This is a factory scallop vessel converted from an oil supply boat. And though this boat prosecutes the fishery in a similar manner to those other Alaskan scallop boats, its size makes it more efficient. This new vessel has in two months decimated productive scallop beds that have supported several Kodiak scallopers since 1985. The owner of this boat owns over 20 other scallopers and trawlers. It is our understanding that at least four of these vessels are being prepared for fishing scallops in Alaska.

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Further, the New England Fishery Management Council which administers the Georges Bank scallop fishery in the North Atlantic has recommended a moratorium on further entry into that scallop fishery with an effective date of March 2, 1990. The New England Fishery Management Council estimates that 40 scallop vessels have entered their scallop fishery since that date. If the moratorium becomes effective, these 40 scallop vessels will be looking for a fishery to participate in and it is highly likely that some of these will look to Alaska.

We and all the other owners of scallopers working in Alaska, with the exception of the new factory scalloper, have begged the Department to enact some efficiency limits to protect our scallop resource. The Department recognizes the recent pressure and the likelihood of increased pressure in the immediate future. However, the dearth of information on stock abundance, recruitment and exploitation makes it unlikely that a management plan can be developed and implemented quickly enough to avert overfishing.

The scallop resource is of great benefit to the State. The scallopers who we represent employ approximately 50 crewmembers who received over \$1.5 million in crew shares last year. In addition, a significant amount of money is circulated into local economies for purchases of fuel, food, gear and services for maintenance of these vessels. At considerable cost, and without assistance from ASMI or any other government subsidized program, we have continually upgraded our handling practices, modified our processing systems, and so improved markedly the quality of our product. Our scallops appear on the menus of many of the finest restaurants in the Pacific Northwest and in France, the two areas we have targeted as markets for Alaska scallops. If our fishery is threatened and stocks are drastically reduced, all this effort will have been wasted.

However, the economics of this situation are not the topic of this public comment. It is the potential for biological harm which we are discussing. The scallop fishery clearly is in compliance with the three criteria for enacting a moratorium:

1. the fishery has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;
2. the fishery is at a level of harvest that may approach or exceed the maximum sustainable yield; and
3. there is clearly insufficient biological and resource management information with which to promulgate a plan promoting the conservation and sustained yield of the fishery.

I hope you understand that we are not asking for limited entry for our fishery. We are asking for breathing room to give the Department time to formulate a viable management plan. We personally believe that our fishery and the biological regime of our species is unique in this State's commercial fisheries and

that a creative and innovative management plan is called for. We are confident that the Department and industry working together can construct such a plan. Enactment of a moratorium will protect our fishery until the plan is completed.

I hope you will confirm that the Department's findings on this petition fulfill the three statutory criteria for a moratorium.

Thank you.

Sincerely,



MARK KANDIANIS
TERESSA KANDIANIS
FV Provider