

To: Council and Board Members
From: Clarence Pautzke
Executive Director
Date: February 2, 2000
Subject: Crab Management

Proposed revisions to crab FMP

Council member Dennis Austin wrote a letter to the Council last September (attachment 1), seeking a move of the "other" rule change from Category 3 to Category 1, thus requiring a plan amendment for any rule change characterized as such. He also is seeking clarification of the jurisdiction of the Board of Fisheries which authorizes them to adopt rules impacting fisheries and fishers outside the bounds of the seasons and areas identified for the harvesting of crab. If the Council agrees in February that the plan should be revised, they could task the staff to begin work on that revision. Categories of management measures are shown in attachment 2.

Rebuilding plans for Bering Sea opilio crab and St. Matthew blue king crab

The 1999 NMFS Bering Sea survey indicated that two crab stocks (snow crab and St. Matthew blue king crab) were below the minimum stock size thresholds (MSST) established for these stocks. Consequently, these stocks were declared "overfished" on September 24, 1999. The Magnuson-Stevens Act requires that in the case of overfished stocks, rebuilding plans must be developed within one year. In October, the Council recommended that the analyses for these rebuilding plans be structured like the rebuilding plan developed for C. bairdi last year. Hence, harvest strategy, bycatch controls, and habitat protection would be examined as possible components of the rebuilding plans. The Council also requested that the analysis examine existing habitat information to identify discrete areas important to mating, pre-mating/molting adults, and juvenile opilio crabs. It is hoped that methodology developed for the spatial analysis may serve as a template for analysis of other crab species in the future.

Staff from NMFS, ADF&G, and Council have been drafting the analysis for the opilio rebuilding plan (Amendment 14) and for the St. Matthew blue king crab rebuilding plan (Amendment 15). To meet the one year deadline, rebuilding plan analyses will need to be ready for initial review in April, 2000, with final action at the June Council meeting. In addition, the Board will be considering revised harvest strategies for these two crab stocks during its upcoming March meeting. Staff will be on hand to discuss details and answer questions regarding proposed contents of the rebuilding plans.

Crab co-ops

Management of the BSAI crab fisheries through some type of co-op structure (similar to how pollock fisheries are now managed) has been the focus of several industry discussions over the past few months. Council members Dave Fluharty and Kevin O'Leary have facilitated meetings with industry and we have offered administrative assistance through the Council offices. Discussions to date have focused on some type of Congressional action to either establish such co-ops, or to provide authority for the Council to implement them. It is still unclear at this time whether the current congressional moratorium on IFQs would prohibit the Council from developing such co-ops.

Attachment 3 summarizes the December 1999 industry meeting, where a problem statement and list of initial alternatives and options were developed (also attached). As is evident from that list of alternatives, there will be many difficult decision points around which industry consensus must be formed in order for a co-op program to move forward. An informational and status report meeting is being scheduled for Wednesday, February 9 at 7:00 pm in the Aleutian Room of the Anchorage Hilton. There is also a meeting being planned for mid-late February in Seattle (time and location not yet determined).

A series of legal, policy, allocative, and legislative issues must be addressed before this program can move forward. Some of these involve management issues for the Council and/or Board. A tremendous amount of effort is being devoted to this effort on the part of several persons in the crab industry, with some of those persons taking on specific tasks. Attachment 4 contains a series of letters and suggestions written by Jeff Stephan which outline some of the issues requiring resolution. Of particular interest at this time is the issue of GHIL vs TAC; i.e., how would a co-op type system work in a fishery that is managed with a GHIL as opposed to a TAC? As this and other issues are explored in the letters, they are attached as informational items. At some point in time, ADF&G, the Council, and NMFS will be required to devote significant attention and staff resources if these issues are to be resolved. However, it seems that further industry work, and perhaps legislative direction, are required first.

Red king crab sideboards

Last June the Council approved 'sideboard limits' which would limit the participation of AFA pollock qualified vessels in the BSAI crab fisheries. For Bristol Bay red king crab (BBRKC), the sideboard limit essentially limits those vessel (about 40 vessels) to their aggregate historical catch in that fishery, which amounts to about 12% of the total available GHIL. Federal regulation defers to the State in terms of managing this sideboard limit. Initial reports from ADF&G last July indicated a plan to simply divide the available poundage by the number of participating vessels, and establish that as an equal trip limit for each vessel. In December our Council discussed this issue and requested an update from ADF&G at this time regarding possible management approaches for this fishery. In addition to being of interest to the affected vessels, how this fishery is managed could affect the necessity or form of management measures related to the standdown issue under agenda item 1.

Earl Krygier will explain the State's approach to managing the crab sideboard limits. His draft plan is under attachment 5.



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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September 8, 1999

Richard B. Lauber, Chair
North Pacific Fishery Management Council
605 West 4th Avenue, #306
Anchorage, Alaska 99501

RECEIVED

SEP 13 1999

N.P.F.M.C

Dear Rick:

As a result of the last few months of interactions with the Alaska Board of Fisheries, I believe it is timely to review the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Island (Crab FMP) and clarify the management intent and role of the Council. Specifically, I propose the Category 3 "other" rule change characterization be moved to Category 1 and any regulation which limits entry into the crab fishery be classified as a Category 1 rule change regardless of the expressed management intent and characterization of the rule. In addition, I would expect the review of the Crab FMP to clarify the jurisdiction of the Alaska Board of Fisheries which authorizes them to adopt rules impacting fisheries and fishers outside the bounds of the seasons and areas identified for the harvesting of crab.

The original Crab FMP was approved by the Secretary of Commerce over a decade ago (June 2, 1989). There have been six amendments to the FMP since 1989 and there are two pending now. Management has evolved and, hopefully, improved since the original FMP was adopted. The recent misunderstanding between the Board, the fishers, the processors, and the Council signal to me that the Council's (and possibly NMFS'?) management intent has been lost or also evolved during the decade since the Crab FMP was originally adopted. The resulting ambiguity is not helpful in our desire to establish a stable and thus, predictable relationship with the Board of Fisheries. I believe it is now timely for the Council's management intent to be clarified by the two proposals I have suggested.

Sincerely,

A handwritten signature in cursive script that reads "A. Dennis Austin".

A. Dennis Austin

ADA:ada

cc: Fish and Wildlife Commission
Jeff Koenings, Director

8.0 MANAGEMENT MEASURES

This chapter describes management measures that may be used to achieve the FMP's management objectives. Most of these management measures are currently used by the State to manage BS/AI king and Tanner crab fisheries; some measures are appropriate for more than one management objective.

Three categories of management measures are described (Table 8.1): Category 1 measures are those that are specifically fixed in the FMP, and require an FMP amendment to change. Category 2 measures are those that are framework-type measures which the State can change following criteria set out in the FMP. Category 3 measures are those measures that are neither rigidly specified nor frameworked in the FMP. The measures in Categories two and three above may be adopted as State laws subject to the appeals process outlined in the FMP (see Chapters 9 and 10).

The following description of management measures is not intended to limit the State government to only these measures. However, implementation of other management measures not described in the FMP must be consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, and may occur only after consultation with the Council.

Although specific strategies for attainment of objectives in the FMP are not described, management measures described in this chapter are all derived to attain one or more of those objectives. Any subsequent management measures must also be justified based upon consistency with the objectives in this FMP. All management measures must, further, be consistent with the Magnuson-Stevens Act and other applicable Federal law.

Table 8.1. Management measures used to manage king and Tanner crabs in the BS/AI management unit by category.

Category 1 (Fixed in FMP)	Category 2 (Frameworked in FMP)	Category 3 (Discretion of State)
Legal Gear	Minimum Size Limits	Reporting Requirements
Permit Requirements	Guideline Harvest Levels	Gear Placement and Removal
Federal Observer Requirements	In-season Adjustments	Gear Storage
Limited Access	Districts, Subdistricts and Sections	Vessel Tank Inspections
Norton Sound Superexclusive Registration	Fishing Seasons	Gear Modifications
	Sex Restrictions	Bycatch Limits (in crab fisheries)
	Pot Limits	State Observer Requirements
	Registration Areas	Other
	Closed Waters	

**BERING SEA/ALEUTIAN ISLANDS CRAB CO-OP MEETING
ANCHORAGE, ALASKA
12/7/99 MEETING MINUTES**

**NPFMC Meeting Facilitators: Kevin O'Leary
 Dave Fluharty**

Meeting notes were taken by Linda Kozak. Handouts included:

- a) Meeting minutes from the Seattle meeting of November 22, 1999
- b) Draft problem statement
- c) Options paper for cooperatives

Approximately 80 individuals attended the meeting, comprising vessel owners, skippers, processors, community leaders, and other interested people.

Kevin O'Leary provided a brief overview of the Seattle meeting. He then provided the reasons for developing a problem statement, how the Council uses them and how to proceed. Kevin indicated the status of the reauthorization process of the Magnuson-Stevens Act and the types of things industry has to do in order to achieve a solution. He then discussed briefly what a co-op is and how it works.

Following is a summary of key points addressed at the meeting.

Draft Problem Statement

The draft problem statement was read and discussed. Several editorial suggestions were made and some questions were raised regarding specific issues within the problem statement. The problem statement was approved as a working document to send out to the LLP recipients and to begin distributing to the Board of Fish, Council and other interested parties.

Communication

It was reiterated by Dave Fluharty that all interested parties remain involved in the process. Individuals need to assist in getting the word out, although efforts are being made to contact all crab LLP recipients, as well as processors and CDQ groups.

Chris Oliver indicated that the Council web site could have links to meeting notices, minutes and other documents. This could assist in the need to keep industry involved and informed.

Co-op Issues

Several industry comments were made for or against moving forward with development of co-ops for crab. Some concerns were that co-ops would stop the competitive fishery that now occurs. Another comment was that there doesn't seem to be too many boats in the Bering Sea at this time. One statement was made that industry needs to participate in developing a solution, not read about it in the Federal Register.

There were several questions about buybacks and whether they need to be tied to cooperatives. The referendum process was addressed and a clarification was made that while a buyback program needs 2/3 approval, the development of a co-op is not restricted in this way. It was reiterated that any type of co-op does need to have fleet support, but a

fleetwide vote is not required. It was decided to complete a primer on buybacks as well and to begin developing options for a vessel/license buyback program. Questions were raised about funding and payback options for a buyback. It was suggested that someone prepare a breakdown of this as well.

There was some discussion regarding the options for years for co-ops. Suggestions were made to include 1993-1999 and 1996-1999. One person stated that it is wrong to have 2000 in the options. There were some comments about the Council confirming the December 31, 1998 date for cut-off.

Kevin O'Leary reiterated that the processing sector of the industry needs to begin developing their ideas and be able to present them at the February meeting. Dave Fluharty indicated that Congress has given the signal that they are looking for an integrated approach and harvesters need to consider linking up with the processors in a joint plan.

There was a request from industry to begin looking at what fees would be involved, and Kevin O'Leary stated that this should be addressed as we get farther along in the process.

State & Federal Involvement

Several comments were made with regard to the process of the Magnuson-Stevens reauthorization, as well as the issues of addressing crab co-ops at the Council or congressional levels.

Earl Krygier and Pete Probasco from the Alaska Department of Fish & Game were present and Earl was asked if the state had yet developed a policy on this issue. He responded to say that state personnel have not yet had a chance to meet and discuss the co-op issue. He did indicate that the Board of Fish would be heavily involved in whatever was considered.

Future Plans

One individual commented that a descriptive/reference document is needed. Dave Fluharty informed the group that a primer on co-ops is in the process of being developed to address the specific needs of the crab fleet. Efforts will be made to send this out in the next mailing.

A suggestion from industry was that a questionnaire be sent out to the fleet requesting their comments and ideas. This was met with approval by those in attendance. It was decided to begin development of a survey and send it out to the fleet after the next meeting.

One suggestion was made to hold a January meeting in Dutch Harbor. A February meeting will be scheduled about two weeks after the close of the opilio fishery. The options paper will be reviewed and attempts made to begin reducing the number of options for consideration.

DRAFT

**PROBLEM STATEMENT
FOR THE
BERING SEA/ALEUTIAN ISLANDS CRAB FISHERIES**

The crab fisheries in the Bering Sea/Aleutian Islands are fully utilized. Despite amendments to the License Limitation Program and American Fisheries Act sideboards, capacity in these crab fisheries far exceeds available resources.

The ability for crab harvesters to diversify into other fisheries has been severely curtailed under the License Limitation Program and other management actions designed to bring stability to other gear groups and species.

Many of the concerns identified by the North Pacific Fishery Management Council at the beginning of the comprehensive rationalization process in 1992 still exist for the BSAI crab fisheries. The race for fish continues to result in:

- Resource/conservation and management problems
- Bycatch/handling mortality and deadloss
- Gear loss
- Excess harvesting capacity
- Lack of economic stability
- Safety issues

As a necessary step in the continued process of comprehensive rationalization, prompt action is needed to protect the crab resource and to promote stability for those who are dependent on the crab fisheries. In order to achieve a balanced resolution, the concerns of harvesters, processors and coastal communities must be addressed.

BERING SEA CRAB COOPERATIVE OPTIONS

As Identified on 12/7/99

MANAGEMENT PRIORITIES

Issues

1. Address GHIL vs. TAC management system
2. Establish conservative management/rebuilding regime
3. Address costs of management, monitoring and enforcement
4. Address full retention requirement
5. Other

END THE RACE FOR FISH - Crab Cooperatives

Qualification

1. Must own a crab license under the License Limitation Program
2. Other

Catch History Recipient

1. Vessel owner
2. Skipper
3. Other

Cut-off Date

1. December 31, 1998
2. December 31, 1999
3. Other

Establish a Catch History basis for Allocation

Year Options:

1. 1988 - 1998
2. 1992 - 1998
3. 1993 - 1999
4. 1995 - 1997
5. 1995 - 1998
6. 1996 - 1999

7. 1998 - 1999
8. 1998 - 2000
9. Other

Fishery-by Fishery Options:

1. Opilio - 1996-1998
2. Bristol Bay red king crab - 1996-998
3. Pribilofs - 1996-1998
4. St. Matthew - 1996-1998
5. Bairdi - 1994-1996
6. Adak red king crab - 1992-1995
7. Adak brown crab - 1996-1998
8. Other

Address Closed or Developing Fisheries

Catch History Options

1. All years included
2. Best six out of seven
3. Best five out of seven
4. Best two out of three
5. Best one out of five
6. Weigh recent participation higher
7. Other

Number of Vessels Allowed to Form Cooperatives

1. 10 vessels
2. 15 vessels
3. 20 vessels
4. Fishery-by-fishery basis
 - a) Bristol Bay red king crab _____
 - b) Opilio _____
 - c) Bairdi _____
 - d) St. Matthew _____
 - e) Pribilofs _____
 - f) Adak red crab _____
 - g) Adak brown crab _____

5. Minimum and maximum percentage of fishery, rather than number of vessels
6. Other

Duration of Co-op Contracts per Area and/or Fishery

1. One year
2. Two year
7. Other

Transfer/Leasing

1. None
2. Allow annual leasing with limits
3. Allow sale of catch history and stacking with limits
4. Other

Excessive Share Caps

1. None
2. 1% - 5% of resource
3. Cap on number of vessels owned - five vessels
4. Varying caps for each fishery/area
5. Grandfather provisions
6. Other

Catcher/Processor Issues

1. Capped same as catcher vessels with no processing caps
2. Capped at historical processing history
3. Consider separate co-op structure for catcher/processers
4. Other

PROCESSOR ISSUES

Processor Allocation

1. None
2. AFA style processor limited entry
3. Allocation to allow for growth of the share of crab processed
4. AFA style co-op structure
5. Other

Limit Number of Processors

1. None
2. Limited entry for processors
3. Other

Participation Requirements

1. Based on actual history
 - a) Same history as for harvesters
 - b) Participation in 1999 would be required, or last year a fishery was conducted
2. Community/location consideration
3. Other

Excessive Share Cap

Issues Surrounding Company Owned Harvesting Vessels

Leasing, Sale and Stacking of Processor Rights

OTHER

Pot Limits

1. Status quo
2. Eliminate
3. Raise pot limits

Observer/Reporting Issues

Proposed Timeline for Approval

1. October, 2000
2. Other

COMMUNITY ISSUES

Dependent Community Protections

1. None

2. Establish mandatory landing percentages
 - a) None
 - b) Based on actual history
 - c) Based on dependence
 - d) Combination of history and dependence
 - e) Other

SIDEBOARD ISSUES

Date: 1/24/00
 Sender: jstephan@ptialaska.net
 To: Chris Oliver
 Priority: Normal
 Subject: [Fwd: BSAI Crab Co-Ops/My Tasks/D. Fluharty & K. O'Leary]

-- see attachments --

-----Forwarded-----

From: jstephan@ptialaska.net at EXTERNAL
 To: fluharty@u.washington.edu at EXTERNAL
 To: skol@ptialaska.net at EXTERNAL
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 To: gblue@ix.netcom.com at EXTERNAL
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 To: jyoung@youngdenormandie.com at EXTERNAL
 To: fluharty@u.washington.edu at EXTERNAL
 To: cps@saslaw.com at EXTERNAL
 To: accesslw@olympus.net at EXTERNAL
 To: sminor@oz.net at EXTERNAL
 To: gmerrill@ptillaska.net at EXTERNAL
 To: destiny@ptialaska.net at EXTERNAL
 To: djentry@ptialaska.net at EXTERNAL
 Subject: BSAI Crab Co-Ops/My Tasks/D. Fluharty & K. O'Leary
 December 19, 1999

Mr. Dave Fluharty
 North Pacific Fishery Management Council
 Council Facilitator, BSAI Crab Co -Ops

Mr. Kevin O'Leary
 North Pacific Fishery Management Council
 Council Facilitator, BSAI Crab Co -Ops

Dear Dave and Kevin,

I have copied this message to those persons who placed their names and email addresses on the list that was circulated during our ad-hoc BSAI crab co-ops meeting of Thursday, December 9, 1999; a copy of such list that was provided to me. I have also included a few others who are obviously part of this initiative, and/or who asked me about the 12/9/99 meeting. Any omission of an individual with regard to the distribution of this email is inadvertent.

I. Tasks. Certain persons were asked to perform specific tasks at the 12/7/99 meeting. I was asked to perform 2 of the tasks that were assigned:

Task 1. "Follow up" with Pete Probasco, ADF&G Regional Manager for the Westward Region of the Commercial Fisheries Division.

The participants at the 12/7/99 meeting were informed that Pete Probasco had indicated that he had scheduled a meeting during the week of 12/13/99 with representatives of the BSAI crab industry. Such

meeting was scheduled to address a consideration that is known to arise with respect to any initiative that intends to incorporate the concept of cooperatives in the BSAI crab fisheries; that is, the issue of implementing co-ops in a fishery that is managed under a NHL, and not under a TAC. I met with Pete on Monday morning (12/13/99). Pete indicated that he was not aware of any such meeting, and he did not remember discussing such a meeting with anyone. Pete indicated that he was scheduled to be gone from Kodiak for the rest of the week of 12/13/99. However, Pete and I took the opportunity of our meeting to briefly discuss some of the issues that surround BSAI crab co-ops, including the NHL/TAC issue.

I spoke to Wayne Donaldson, ADF&G Regional Supervisory Management Biologist for Shellfish and Groundfish Management for the Westward Region of the Commercial Fisheries Division. Wayne was not aware of any such meeting.

I attempted to speak to Doug Pengilly, ADF&G Regional Supervisory Research Biologist for the Westward Region of the Commercial Fisheries Division. Doug was out of the office for the week. Upon his return, I intend to ask Doug, who is also Chair of the Council BSAI Crab Plan Team, to address the NHL/TAC issue during the next meeting of the Crab Plan Team; I intend to send an email to him with this request.

It is my impression from discussions with some ADF&G personnel that because of the demands of other high priority issues, several of them Council-related, ADF&G has not yet significantly addressed the considerations that may lie within their purview with respect to BSAI crab co-ops. Specifically, ADF&G is aware that the NHL/TAC issue needs clarification. I note that the same circumstance appears to exist at NMFS. Investing staff resources in an issue like this is clearly a matter of priority, and I am not sure that BSAI crab co-ops have been identified as a priority issue when compared to other issues that tax agency resources. I assume that the agencies will have to eventually focus their resources on BSAI crab co-ops if an informed decision is to eventually be made. The question is when, and which benchmarks must be achieved before agency activity is activated.

I have communicated with the Alaska Board of Fisheries, the Alaska Department of Fish and Game and the Alaska Department of Law requesting that they please provide, from the point of view of their respective authority, perspective and responsibility, any clarification and assistance that they can with respect to the development of a better understanding of the issues that are associated with incorporating co-ops in the BSAI crab fisheries. I have asked them to please identify and address any issues that the state of Alaska may have with respect to this issue. Specifically, I have asked for any assistance and clarification that they may provide with respect to considerations that surround the NHL/TAC issue. I will continue to follow up on this matter, and report as I learn more.

Task 2. Contact Phil Smith, NMFS RAM Division, with respect to obtaining a complete mailing list of BSAI crab LLP-qualified individuals.

Arnie Thomson and the Alaska Crab Coalition received much-deserved recognition at the 12/9/99 meeting for their efforts to copy and produce documents, organize and manage the mailing of these documents and other materials relative to BSAI crab co-ops, and organize the industry meetings at Lief Erikson Hall.

One of the items that was identified for discussion at the 12/9/99 meeting addressed the costs and organization of future mailings of BSAI crab co-op materials, documents, agendas, updates, etc. The issue of communication, education and the dissemination of information was seen as central to the future progress of the BSAI crab co-op initiative.

Identified in this discussion was the need to maintain and manage a comprehensive, complete and current mailing list of BSAI crab LLP-qualified individuals, BSAI crab processors, associations, and other interested individuals. It was suggested that the mailing list should be developed, and that the Council should be asked to maintain and manage such mailing list.

Additionally, the organization and costs of producing, copying, and mailing documents that are associated with the BSAI crab co-op initiative was identified as an important element that needed to be addressed with respect to the progress of the BSAI crab co-op initiative. It was suggested that the Council take the responsibility for the organization and costs of producing, copying, and mailing documents that are relevant to the BSAI crab co-op initiative.

I spoke to Phil Smith about the need to utilize the most current and complete mailing list of individuals who are LLP-qualified for the BSAI crab fishery. We discussed the fact that the most complete list of BSAI crab LLP-qualified individuals would probably be available after December 17, the deadline date for the submission of applications for the LLP program. After that time, it is assumed that anyone who will qualify, or who feels that they should qualify, for a BSAI crab LLP license will be identified in the NMFS/RAM database. Phil was amenable to addressing our need, and he and I agreed to consult further on the issue after the Council meeting. I will continue to follow up on this matter.

II. General. Notwithstanding the current industry effort with respect to the BSAI crab co-op exploratory initiative, the need appears to exist for the Council to take an early and formal leadership and developmental role in this initiative. The need appears to exist for the Council to make its good offices and resources available to develop, debate and determine the details of law, policy, jurisdiction, management options and alternatives, FMP considerations, legislative needs, etc. One objective of Council involvement and commitment with respect to this initiative should be to provide a needs assessment for the industry, the Council, and for legislation.

It is likely that the Council will have to invest a considerable amount of effort with respect to BSAI crab co-ops at some point in the future. It is understood that federal legislation will be needed to provide the authority to incorporate co-ops in the BSAI crab fishery. Absent early Council involvement, it is possible that a component of the industry will influence BSAI crab co-op legislation, and that such legislation will stipulate the direction and many of the details of BSAI crab co-ops, including Council responsibilities. It may be preferable for the Council to facilitate the effort that identifies the general direction and construct of BSAI crab co-ops, and that attempts to clearly identify the needs and bounds of legislative action. This will leave more of the decision making in the hands of the Council and the broader industry, rather than being left to the legislative process. There is a risk that legislation may go further, in a different direction, and in more detail than is either beneficial

or efficient for the Council and industry. That is, leaving too much to the legislative process, without first clearly determining the legislative needs, may be very risky. Leaving too much to the legislative process, rather than to a thoughtful and methodological Council-facilitated process, may produce an allocative mechanism that is not what otherwise may have been determined, or what otherwise may be in the best interest of the participants.

III. Suggestions. I respectfully provide several suggestions for your consideration. You will notice that most of the suggestions would probably need direction from you, and ideally, from other members of the Council. These suggestions are relevant only if the desire exists to significantly advance the understanding of the alternatives, options, impacts and operation of BSAI co-ops; if this situation exists, then this initiative should probably receive emphasis by the Council, and by other entities which have jurisdiction and authority with respect to BSAI crab. I define emphasis to mean organization, investigation and focus, and not necessarily an official predisposition toward the incorporation of co-ops in the BSAI crab fishery. If the industry and the Council are to understand what BSAI crab co-ops may mean to the future of the BSAI crab fishery, and to the participants in that fishery, and if it is believed that the Council will be called upon to make some informed decisions with respect to this issue at some future date, then it may be that the Council wishes to take a proactive approach. Otherwise, the Council and industry may be put in the position of reacting to a legislative mandate that has not received the benefit of meaningful and relevant thought and analysis. Absent emphasis from the Council, I expect that the current industry initiative will proceed, and will result in some future initiative for legislative and Council action.

Suggestion 1: Engage the Council to take an early and formal leadership and developmental role with respect to BSAI crab co-ops. Ask the Council to identify the issue of BSAI crab co-ops as a regular Agenda item during upcoming Council meetings, beginning with the February, 2000, meeting. This includes a long term commitment by the Council to address and identify the topical issues and needs that warrant consideration and clarification (e.g., legal, policy, allocative, legislative, jurisdictional, management, etc.), develop the issues/discussion papers, produce the qualitative and quantitative analysis of options and alternatives, interact with other entities that have jurisdiction, etc. Specifically, the GHL/TAC issue should be identified as an early topic for consideration by the Council.

Suggestion 2: Ask the Council to request those federal entities which have authority in the BSAI crab fishery (i.e., NOAA General Counsel/Alaska Region; NMFS Alaska Region Management authorities, i.e., Steve Pennoyer; NPFMC staff; etc.) to identify any issues that they may consider salient or relevant with respect to the incorporation of co-ops in the BSAI crab fishery, and to develop an issues/discussion paper that elaborates on the considerations that they envision with respect to such issues. Specifically, it would be helpful if these entities could assist in refining our understanding of how GHLs/TACs might comport with the management needs relative to BSAI crab co-ops.

Suggestion 3: Ask the Council to request those entities of the state of Alaska which have authority in the BSAI crab fishery (i.e., Alaska Board of Fisheries, ADF&G, the Alaska Department of Law, etc.) to identify any issues that they may consider salient or relevant with respect to the incorporation of co-ops in the BSAI crab fishery, and

to develop an issues/discussion paper that elaborates on the considerations that they envision with respect to such issues. Specifically, it would be helpful if these entities could assist in refining our understanding of how GHLS/TACs might comport with the management needs relative to BSAI crab co-ops.

Suggestion 4: Schedule a discussion with entities of the state of Alaska (i.e., Alaska Board of Fisheries, ADF&G, the Alaska Department of Law, etc.) for the purpose of determining the joint/trans-jurisdictional considerations that are associated with BSAI crab co-ops that require clarification. Since coordination and collaboration with such state of Alaska entities is an obvious prerequisite to decision making with respect to BSAI crab co-ops, discussions of these issues and considerations should be scheduled at the earliest possible moment to take advantage of timely and propitious opportunities for joint Council/Board meetings. The topic of BSAI co-ops could be scheduled for discussion at the following meetings:

1. Joint Council/Board Coordinating Committee meeting (January 28),
2. Joint meeting of the Council and the Board (week of February 7, 2000)
3. Alaska Board of Fisheries Statewide Shellfish meeting (March 17 to 27, 2000); ask the Board to schedule a discussion of BSAI co-ops at this meeting, and schedule the participation of a Council member and/or staff person at such meeting.

Suggestion 5: Arrange for the Council to maintain and manage a comprehensive, complete and current mailing list that is relevant to the BSAI crab co-op initiative, including a list of BSAI crab LLP-qualified individuals, BSAI crab processors, associations, and other interested individuals .

Suggestion 6: Arrange for the Council to take the responsibility for the organization and costs of producing, copying, and mailing documents that are relevant to the BSAI crab co-op initiative.

Please contact me if I can be of further assistance, or provide further clarification. I will continue to keep you informed as I receive more input with regard to the issues that are the subject of this communication.

Sincerely,

Jeff Stephan
UFMA

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ATTACH01

Date: 1/24/00
Sender: jstephan@ptialaska.net
To: Chris Oliver
Priority: Normal
Subject: [Fwd: BSAI Crab Co-Ops/State Of Alaska Issues]

-- see attachments --

-----Forwarded-----
From: jstephan@ptialaska.net at EXTERNAL
To: David_Benton@fishgame.state.ak.us at EXTERNAL
To: DianaC@fishgame.state.ak.us at EXTERNAL
To: lance_nelson@law.state.ak.us at EXTERNAL
cc: doug_mecum@fishgame.state.ak.us at EXTERNAL
cc: kevin_duffy@fishgame.state.ak.us at EXTERNAL
cc: pete_probasco@fishgame.state.ak.us at EXTERNAL
cc: wayne_donaldson@fishgame.state.ak.us at EXTERNAL
cc: doug_pengilly@fishgame.state.ak.us at EXTERNAL
cc: rance_morrison@fishgame.state.ak.us at EXTERNAL
cc: earl_krygier@fishgame.state.ak.us at EXTERNAL
cc: fluharty@u.washington.edu at EXTERNAL
cc: skol@ptialaska.net at EXTERNAL
Subject: BSAI Crab Co-Ops/State Of Alaska Issues
December 19, 1999

Mr. Dave Benton
Deputy Commissioner
Alaska Department of Fish and Game

Mr. Dan Coffey
Chairman
Alaska Board of Fisheries

Mr. Lance Nelson
Alaska Department Of Law

Gentlemen,

A segment of the BSAI crab industry has embarked on an exploratory initiative to investigate the proposition of incorporating cooperatives ("co-ops") in the BSAI crab fisheries. Such co-ops are of a similar concept to those cooperatives that are authorized in the American Fisheries Act, and that have been, or are in the process of being implemented in the BSAI pollock fishery. While the concept of BSAI crab co-ops is similar to the concept of BSAI pollock co-ops, the referenced industry segment has generally indicated that specific elements of any initiative with respect to BSAI crab co-ops are likely to be very different from elements of the BSAI pollock co-ops. It is generally understood that federal legislation, in addition to action by state and federal management and regulatory entities, will be needed to incorporate co-ops in the BSAI crab fishery.

The North Pacific Fishery Management Council ("Council") has recognized the interest of BSAI crab industry representatives to further explore BSAI crab co-ops, and has designated Council members Dave Fluharty and Kevin O'Leary as Council facilitators in this effort. Council members Fluharty and O'Leary have facilitated 2 industry meetings with respect to this initiative (11/22/99 and 12/7/99). It is likely that this initiative will become more formal as time progresses.

On December 7, Council members Fluharty and O'Leary facilitated a

meeting in Anchorage during which a large representation of the BSAI crab industry participated in a general discussion and review of several aspects of the BSAI crab co-op initiative. On December 9, a smaller group of individuals met, facilitated by Council member Fluharty. During the 12/9/99 meeting, several industry representatives were asked to accept specific tasks that would advance the general progress and understanding of specific elements of the BSAI crab co-op initiative. I accepted the task of attempting to gather information and identify issues that address a specific aspect of the BSAI crab co-op concept; that is, the specific issue of Guideline Harvest Level ("GHL") Management as compared to Total Allowable Catch ("TAC") Management, and how GHLs differ from TACs with respect to incorporating the concept of co-ops in the BSAI crab fishery.

I do not represent any individual or formal group with respect to this correspondence. As previously indicated, I accepted the task of attempting to gather information and identify issues that address a specific aspect of BSAI crab co-ops (i.e., the GHL/TAC issue). Therefore, I write to you on behalf of the unofficial and loosely organized segment of industry that is promoting the exploratory initiative with respect to BSAI crab co-ops. I portray no inference with respect to the predisposition of the broader BSAI crab industry, or any agency, toward the incorporation of co-ops in the BSAI crab fishery.

There are several legal, policy, allocative, legislative, jurisdictional and management issues that require clarification with respect to the incorporation of co-ops in the BSAI crab fisheries. For example, the BSAI pollock co-op program is managed in association with a TAC for BSAI pollock; however, the BSAI crab fisheries are managed in association with a GHL. There are legal and management-related distinctions between TACs and GHLs. These distinctions are linked to Fishery Management Plan ("FMP") issues, regulatory issues, interjurisdictional issues, legal issues, management issues, conservation issues, anti-trust issues, etc. Moreover, these distinctions traverse the jurisdiction of the Alaska Board of Fisheries ("Board"), Alaska Department of Fish and Game ("ADF&G"), North Pacific Fishery Management Council ("Council"), National Marine Fisheries Service ("NMFS"), etc.

This correspondence is partially meant to inform you of industry interest in the exploratory initiative to investigate the proposition of incorporating co-ops in the BSAI crab fisheries. There are several issues with respect to this initiative (i.e., FMP, interjurisdictional, GHL/TAC, etc.) that must involve the assistance and approval of those entities of the state of Alaska which have authority in the BSAI crab fishery (i.e., Board, ADF&G, Department of Law, etc.). It is important that you are kept apprised of developments with respect to this matter.

Additionally, the industry needs your help in addressing several issues that need clarification and action from you with respect to BSAI crab co-ops. Our desire is that the state of Alaska entities which have jurisdiction will begin to address the state issues with regard to BSAI crab co-ops at the earliest possible moment. With respect to this correspondence, we are especially interested in the state perspective with respect to the GHL/TAC issue. The GHL/TAC issue will also certainly need coordination between federal and state authorities. There are several upcoming meetings at which it may be prudent for the state authorities to attempt to address this and other

BSAI crab co-op related issues, for example, at the joint Board/Council Coordinating Committee meeting (January 28, 2000), the joint meeting of the Council and the Board (week of February 7, 2000), and the Board Statewide Shellfish meeting (March 17 to 27, 2000).

I have addressed this correspondence to ADF&G, the Alaska Board of Fisheries and the Alaska Department of Law in recognition that cooperation, collaboration and coordination between the subject three entities is essential if a greater understanding of this issue is to progress beyond the conceptual stage; especially with respect to the specific GHL/TAC issue. Moreover, this correspondence is directed to all three entities to request your assistance in addressing those issues in which you may have a management, policy, legal or conservation interest.

We would be most grateful if you could identify any issues from the perspective of your particular responsibility to the state of Alaska and to the BSAI crab fishery that you may consider salient or relevant with respect to the incorporation of co-ops in the BSAI crab fishery. Moreover, any narrative detail, or discussion/issues paper that elaborates relative to the considerations that you may envision with respect to such issues would be greatly appreciated. Specifically, it would be helpful if you could assist in refining our understanding of how GHLs/TACs might comport with the management needs relative to BSAI crab co-ops.

Thank you very much for any assistance that you may be able to provide with respect to our interest in this matter. As previously mentioned, it is understood that the Board, ADF&G and the Alaska Department of Law must be involved in providing information, judgment and assistance with regard to this initiative. Your suggestions would be greatly appreciated with respect to protocol, and how to best realize the needed assistance and information from you with respect to BSAI crab co-ops.

Please include Council members Dave Fluharty and Kevin O'Leary in any correspondence or response that may relate to the issues that are raised in this letter.

Thank you for your consideration of this request for information and assistance.

Sincerely,

Jeff Stephan
UFMA

Jeffrey R. Stephan
United Fishermen's Marketing Association, Inc.
PO Box 29127
Kodiak, AK 99615
tel: 907-486-3453; 907-486-4568
fax: 907-486-8362



ATTACH01

Date: 12/29/99

Sender: jstephan@ptialaska.net

To: doug_pengilly@fishgame.state.ak.us

cc: fluharty@u.washington.edu, skol@ptialaska.net, David Witherell, Chris Oliver, pete_probasco@fishgame.state.ak.us, wayne_donaldson@fishgame.state.ak.us, rance_morrison@fishgame.state.ak.us, earl_krygier@fishgame.state.ak.us, jeff_hartman@fishgame.state.ak.us, jstephan@ptialaska.net, Gretchen Harrington, Robert S. Otto, fftcs@uaf.edu, Jack Turnock, ffjag@aurora.alaska.edu

Priority: Normal

Subject: BSAI Crab Co-Ops/Crab Plan Team/D. Pengilly

December 29, 1999

Mr. Dave Pengilly
Chair, NPFMC BSAI Crab Plan Team
ADF&G Westward Region

Dear Dave,

I respectfully suggest that you schedule a discussion of BSAI crab co-ops during the next meeting of the Council BSAI Crab Plan Team ("Plan Team"). The concept of BSAI crab co-ops is in a formative stage. It is not clear if the industry, or the entities with jurisdiction or authority, will ultimately endorse the concept as a priority for further development and analysis. The concept of BSAI crab co-ops may be considered in the venues of the North Pacific Fishery Management Council ("Council") and the Alaska Board of Fisheries ("Board"). If so, it is likely that the Plan Team will have reason to address several considerations that are associated with the incorporation of co-ops in the BSAI crab fishery. Moreover, when taking into consideration the frequency of Plan Team meetings, it may make sense for the Plan Team to become acquainted with this initiative, and the associated considerations, sooner rather than later. We suggest that including BSAI crab co-ops on your next agenda would serve the purpose of making the Plan Team aware of the BSAI crab co-op concept, and involve the Plan Team to preliminarily discuss and identify those issues that may be relevant to BSAI crab management, and to Plan Team responsibilities, with respect to further development of the subject initiative.

As you may know, a segment of the BSAI crab industry has embarked on an exploratory initiative to investigate the proposition of incorporating cooperatives ("co-ops") in the BSAI crab fisheries. Such co-ops are of a similar concept to those cooperatives that are authorized in the American Fisheries Act, and that have been, or are in the process of being implemented in the BSAI pollock fishery. While the concept of BSAI crab co-ops is similar to the concept of BSAI pollock co-ops, the referenced industry segment has generally indicated that specific elements of any initiative with respect to BSAI crab co-ops are likely to be very different from elements of the BSAI pollock co-ops. It is generally understood that federal legislation, in addition to action by state and federal management and regulatory entities, will be needed to incorporate co-ops in the BSAI crab fishery.

The Council has recognized the interest of BSAI crab industry representatives to further explore BSAI crab co-ops, and has designated Council members Dave Fluharty and Kevin O'Leary as Council facilitators in this effort. Council members Fluharty and O'Leary have facilitated 2 industry meetings with respect to this initiative (11/22/99 and 12/7/99). It is likely that this initiative will become

more formal as time progresses.

On December 7, Council members Fluharty and O'Leary facilitated a meeting in Anchorage during which a large representation of the BSAI crab industry participated in a general discussion and review of several aspects of the BSAI crab co-op initiative. On December 9, a smaller group of individuals met, facilitated by Council member Fluharty. During the 12/9/99 meeting, several industry representatives were asked to accept specific tasks that would advance the general progress and understanding of specific elements of the BSAI crab co-op initiative. I accepted the task of attempting to gather information and identify issues that address a specific aspect of the BSAI crab co-op concept; that is, the specific issue of Guideline Harvest Level ("GHL") Management as compared to Total Allowable Catch ("TAC") Management, and how GHLs differ from TACs with respect to incorporating the concept of co-ops in the BSAI crab fishery.

I do not represent any individual or formal group with respect to this correspondence. As previously indicated, I accepted the task of attempting to gather information and identify issues that address a specific aspect of BSAI crab co-ops (i.e., the GHL/TAC issue). Therefore, I write to you on behalf of the unofficial and loosely organized segment of industry that is promoting the exploratory initiative with respect to BSAI crab co-ops. I portray no inference with respect to the predisposition of the broader BSAI crab industry, or any agency or entity, toward the incorporation of co-ops in the BSAI crab fishery.

There are several legal, policy, allocative, legislative, jurisdictional and management issues that require clarification with respect to the incorporation of co-ops in the BSAI crab fisheries. For example, the BSAI pollock co-op program is managed in association with a TAC for BSAI pollock; however, the BSAI crab fisheries are managed in association with a GHL. There are legal and management-related distinctions between TACs and GHLs. These distinctions are linked to Fishery Management Plan ("FMP") issues, regulatory issues, interjurisdictional issues, legal issues, management issues, conservation issues, anti-trust issues, etc. Moreover, these distinctions traverse the jurisdiction of the Alaska Board of Fisheries, Alaska Department of Fish and Game, North Pacific Fishery Management Council, National Marine Fisheries Service, etc. Cooperation, collaboration and coordination between the Council, Board, ADF&G, NMFS and others is essential if a greater understanding of this issue is to progress beyond the conceptual stage; especially with respect to the specific GHL/TAC issue.

This correspondence is partially meant to inform the Plan Team of industry interest in the exploratory initiative to investigate the proposition of incorporating co-ops in the BSAI crab fisheries. There are several issues with respect to this initiative (i.e., FMP, interjurisdictional, GHL/TAC, etc.) that may require guidance from the BSAI Crab Plan Team. Therefore, it is important that you are kept apprised of developments with respect to this matter.

Additionally, the industry can benefit from Plan Team consideration of issues that are associated with the incorporation of co-ops in the BSAI crab fishery; from our perspective, it would be desirable if the Plan Team would begin to address such issues that may be within its purview at the earliest possible moment. We are especially interested in the Plan Team perspective with respect to the GHL/TAC issue. The

GHL/TAC issue will certainly need coordination between federal and state authorities.

We would be most grateful if you could identify any issues from the perspective of your particular responsibility to the Council, and to the BSAI crab fishery that you may consider salient or relevant with respect to the incorporation of co-ops in the BSAI crab fishery. Specifically, it would be helpful if you could address the issue of how GHLs/TACs might comport with the management needs relative to BSAI crab co-ops.

Thank you very much for any assistance that you may be able to provide with respect to our interest in this matter.

Please include Council members Dave Fluharty and Kevin O'Leary in any correspondence or response that may relate to the issues that are raised in this letter.

Thank you for your consideration of our suggestion.

Sincerely,

Jeff Stephan
UFMA

Jeffrey R. Stephan
United Fishermen's Marketing Association, Inc.
PO Box 2917
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tel: 907-486-3453; 907-486-4568
fax: 907-486-8362

DRAFT 12/27/99

5 AAC 39. XXX AMERICAN FISHERIES ACT MANAGEMENT PLAN FOR THE BERING SEA AND BRISTOL BAY CRAB FISHERIES. The purpose of this plan is to give the department established guidelines by which to manage the Bristol Bay red king crab fishery and the Bering Sea *C. bairdi* Tanner crab fishery under the American Fisheries Act.

(a) The provisions of this management plan apply to all vessels designated by the National Marine Fisheries Service (NMFS) as endorsed under the American Fisheries Act (AFA) for Bristol Bay red king crab and Bering Sea *C. bairdi* Tanner crab.

(b) Unless otherwise specified in this section, the operator of an AFA vessel, endorsed to harvest crab, shall comply with all regulations in Title 5 chapters that are applicable to the area and species of crab being fished.

(c) Each AFA vessel, endorsed to harvest crab, may take crab only under the conditions of a permit issued by the commissioner.

(1) male king crab may be taken only in registration Area T as described in 5 AAC 34.800;

(2) male *C. bairdi* Tanner crab may be taken only in the Bering Sea district of Registration Area Q as described in 5 AAC 35.505(e), excluding the Norton Sound Section;

(3) the department may require an onboard observer during all fishing operations. If the department determines that an onboard observer is necessary the cost of the observer will be borne by the vessel;

(4) when less than 100 percent of the AFA participating vessels are required to carry an observer, the department will conduct a random drawing of all vessels preseason registered in subsection (d), to determine which vessels will carry an observer;

(5) other conditions as the department deems necessary.

(d) each AFA crab endorsed vessel's operator or vessel's agent or operator's agent must register preseason with the department. Each AFA crab endorsed vessel's operator may only land crab at a location with department personnel. At the time of the preseason registration each vessel operator will be notified of locations with department personnel and the vessel operator must specify the location(s) where crab will be landed.

(1) the preseason registration deadline for participating in the red king crab fishery is 5:00 p.m. September 24; and

(2) the preseason registration deadline for participating in the *C. bairdi* Tanner crab fishery is 5:00 p.m. September 24.

(e) Before a vessel may be registered under this subsection, the vessel operator must first obtain a valid CFEC interim-use permit for Bristol Bay king crab or Bering Sea *C. bairdi* Tanner crab that references the vessel's ADF&G license number. The registration form must identify the vessel operator's CFEC permit number, landing location and must be received in person, or by mail or facsimile, at the department office in Dutch Harbor at PO Box 920587, Dutch harbor, AK 99692-0587; facsimile number 907-581-1572 or Kodiak at 211 Mission Road, Kodiak, AK 99615-6399 or facsimile 907-486-1841 by the deadline specified in (d)(1) and (2) of this subsection.

(f) The harvest of all AFA crab endorsed vessels is capped as follows, as a percentage of the guideline harvest level annually established by the department.

(1) the AFA harvest cap for the Bristol Bay red king crab fishery is the sum of the harvest by all Bristol Bay red king crab endorsed vessels, as determined annually on May 1 by the NMFS, during the 1991 – 1993, and 1996 and 1997 time period, divided by the sum of the total open competitive commercial fishery harvest during the same period; and

(2) the AFA harvest cap for the Bering Sea *C. bairdi* Tanner crab fishery is the sum of the harvest by all Bering Sea *C. bairdi* endorsed vessels, as determined annually on May 1 by the NMFS, during the 1995 – 1996 time period, divided by the sum of the total open competitive *C. bairdi* commercial fishery harvest during the same period;

(3) effective July 1, 2000, and continuing until the *C. bairdi* Tanner crab stock is rebuilt, an AFA endorsed *C. bairdi* Tanner crab vessel may not participate in the directed or incidental *C. bairdi* fishery; the *C. bairdi* stock is considered rebuilt when the stock achieves the Maximum Sustained Yield (MSY) level in the federal fisheries management plan;

(4) an AFA harvest cap will be apportioned equally between those AFA endorsed vessels preregistered in subsection (d), to determine each vessel's season harvest limit; a vessel may be assigned a season harvest limit composed of two or more individual AFA crab endorsed vessel season harvest limits, if two or more vessel operators submit affidavits to the department at the time of the preseason registration; if a vessel is assigned a season harvest limit composed of two individual harvest limits, only one vessel's limit of gear may be fished; once the preseason registration deadline has passed, a vessel operator may not change the designated season harvest limit;

(5) each AFA vessel operator must track the vessel's harvest and may not land an amount of crab, in pounds, more than the assigned season harvest limit; exceeding the season harvest limit is a misdemeanor offense, and the overage is forfeited to the state at the time of landing by the processor that receives the landing;

(6) each AFA crab fishery managed under this section will close, by emergency order, concurrent to the non-AFA competitive commercial crab fishery, however, an AFA crab fishery may close prior to the non-AFA competitive commercial crab fishery if the AFA crab harvest cap is reached; an AFA crab fishery may not extend beyond the non-AFA competitive commercial crab fishery closure if the harvest cap is not achieved.

(g) Each registered AFA crab endorsed vessel operator must report electronically or via Single Side Band radio to the ADF&G office in Dutch Harbor every 12-hours, or as otherwise specified by the department in the commissioner's permit specified in (c). The report will contain harvest and effort information that the department has determined, at the time of vessel registration, to be necessary for managing the AFA fishery.