

Public Testimony Sign Up Sheet

Agenda Item ~~D 10~~ ~~10~~


C-1 CD QS

NAME (PLEASE PRINT)		AFFILIATION
1	X Phillip Lestenkot / Robert Melouidou	YOFDA
2	X Joe Kyle	APICDA
3	X Eugene Amick / ^{Don} Mitchell	NSEDC
4	X Cheryl Tillion	Alaskan
5	X Morgan Row	CVRF
6	X Robin Samuelson	
7	X Robert Williams	Coastal Villages
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council and AP Members

FROM: Chris Oliver 
Executive Director

DATE: March 28, 2005

SUBJECT: Community Development Quota (CDQ) Program

ESTIMATED TIME 6 HOURS

ACTION REQUIRED

- (a) NMFS Report on CDQ Allocation Process
- (b) Review and comment on the State of Alaska's initial allocation recommendations for the 2006 - 2008 CDQ fisheries

BACKGROUND

- (a) NMFS Report on CDQ Allocation Process

Sally Bibb (NMFS, CDQ Program Coordinator) and Ed Hein (NMFS, Alaska Region's Chief Administrative Appeals Officer) will provide an overview of the on-going CDQ allocation process, which is described, in part, in the background information below.

- (b) Review and comment on the State of Alaska's initial allocation recommendations for the 2006 - 2008 CDQ fisheries

The State of Alaska is forwarding to the Council its initial recommendations for CDQ group allocation percentages for the 2006 - 2008 CDQ fisheries. Included in this 3-year allocation cycle are allocations to the CDQ groups for groundfish, prohibited species, crab, and halibut. In addition, in accordance with crab rationalization, two new crab species were added to the CDQ Program beginning in 2005: Eastern Aleutian Islands golden (brown) king crab and Adak red king crab. Thus, the State has also provided recommendations and rationale for allocating these two crab species in 2005. The 2005 crab allocations are a supplement to the current 2003 - 2005 CDPs. A letter from the State to the CDQ groups (February 16, 2005) explaining the process the State is undertaking is attached as Item C-1(a).

The Community Development Plans (CDPs) developed by each group for the 2006 - 2008 allocation cycle were submitted to the State by November 1, 2004. The executive summaries of the CDPs were mailed to you on March 25. Prior to developing its recommendations, the State conducted a public hearing in Anchorage on November 30, and then a second round of expanded public hearings December 15 - 17. Upon notifying the groups of the State's initial allocation recommendations on February 9, the State provided a 30-day comment period during which the CDQ groups could request that the State reconsider its initial CDQ allocation recommendations. This process is intended to improve the administrative process for determining CDQ allocations, so that the groups may better understand the basis for the State's CDQ allocation recommendations

and may respond to or rebut the State's recommendations before they are finalized. Each group was allowed until March 11 (this was subsequently extended to April 1) to file a written request for reconsideration of the State's initial allocation recommendations, and the State has 30 days to respond to such reconsideration requests. The State's letter to the CDQ groups (Item C-1(a)) notes that any written requests for reconsideration would be included in the package submitted to the Council for consultation at the April 2005 Council meeting.

Additionally, the State announced in this letter that after considering comments from the first reconsideration process and after consultation with the Council at this April meeting, the State will provide each CDQ group with a revised draft of its allocation recommendations. At that time, each CDQ group will have a second opportunity to provide a written request for reconsideration of the State's recommendations. This reconsideration process is limited in scope to new issues not previously raised in any group's written application for reconsideration of the State's initial recommendations of February 9, 2005. Specifically, issues raised in this second reconsideration process are limited to those that exist as a result of:

- 1) the State providing a more detailed explanation of its initial allocation recommendations, which explanation was not set forth in the letter of February 9, 2005;
- 2) any allocation changes the State made, if any, to its initial allocation recommendations during the first reconsideration process; or
- 3) any allocation changes made, if any, after consultation with the Council.

The State has provided the CDQ groups with ten days from the date the allocation recommendations are faxed to the groups to provide the State with a second written request for reconsideration. Finally, the State will incorporate any comments from the Council during its consultation process, as well as any comments generated from the CDQ groups during the two reconsideration processes, into its written findings as part of the final allocation recommendations for submission to NMFS. Note that this is a different process than the State has undertaken in the past, in which the Council has reviewed the State's allocation recommendations and provided comments on the final recommendations prior to their being submitted to NMFS.

A table comparing the 2003 - 2005 CDQ allocations and the State of Alaska's 2006 - 2008 recommendations for all CDQ fisheries included in the program is provided as Item C-1(b). A formal letter to the Council (dated March 31, 2005), which includes the State's initial allocation recommendations and supporting letters that were sent to the groups on February 9, is provided as Item C-1(c). A separate letter from the State CDQ Team to Governor Murkowski (dated March 14, 2005) is provided as Item C-1(d). This letter was also sent to the CDQ groups, and provides more thorough justification in support of the State's initial allocation recommendations. The last two pages of this item contain the evaluation criteria used by the State CDQ Team per State regulations (6 AAC 93.040). The State will be available to answer questions that arise as a result of these letters or in public testimony. The State also intends to provide the Council with an updated CDQ Handbook at this meeting.

The State's consultation with the Council is required under Federal regulations before the State may submit its recommendations to NMFS for approval and implementation (50 CFR 679.30(c)).¹ The State is not required to submit its allocation recommendations and the rationale supporting those allocations to NMFS until October 15, 2005, but plans to submit those recommendations in late April in order to accommodate a six-month appeals process.

¹ *Council consultation: Before the State sends its recommendations for approval of proposed CDPs to NMFS, the state must consult with the council and make available, upon request, the proposed CDPs that are not part of the state's recommendations (50 CFR 679.30(c)).*

Please note that in a letter to the CDQ groups dated February 18, 2005 (**Item C-1(e)**), NMFS described NMFS's administrative appeals process and instructed that: (1) the State must provide the CDQ groups an opportunity to comment to the State on the complete CDQ allocation recommendations and rationale it intends to submit to NMFS, and (2) the CDQ groups must raise all factual issues and present all information during the State's request for reconsideration periods. NMFS will review the State's allocation recommendations and rationale on the basis of the record submitted by the State and the CDQ groups will not be allowed to raise new information or new factual disputes with the State in its appeal to NMFS.

In addition, in a letter to the State dated March 14, 2005, NMFS provided two comments on the format of the State's initial CDQ allocation recommendations. First, NMFS identified some incorrect quota categories in the allocation recommendation table. Second, NMFS notified the State that it intends to issue two separate decisions for the 2005 allocations of Eastern Aleutian Islands golden king crab and Adak red king crab and the 2006-2008 allocations for groundfish, prohibited species, halibut, and crab to improve the chance that the 2005 crab allocations could be approved in time for crab CDQ fishing after August 15, 2005. Combining the 2005 allocations with the 2006-2008 allocations may mean that final action by NMFS could not be completed in time for the CDQ groups to fish on the additional two crab allocations in 2005. This letter is provided as **Item C-1(f)**.

**Agenda C-1
Supplemental
April 6, 2005**

Excerpt from the transcript of the NPFMC's June 1991 meeting on inshore/offshore allocations (Amds 18/23) and the Council's discussion of the CDQ Program and pollock CDQ allocations.

Cotter: Well, Mr. Chairman, when we get to that subject, clearly we need to move in that direction. The problem with an emergency rule is it's 180 days. Maybe we can schedule that for final action, or notice the public of our intent to take an emergency action in December to implement a moratorium and see how far along . . . you know, I don't know when the analysis can be done, maybe it'll be January or something in which case we'll have a lag of a month or a couple of months after the 180 days, but I'm certainly not adverse to moving in that direction.

Blum: Mr. Chairman, I'd like to ask Steve or Lisa if they would please outline a course of action timeframe-wise that they think National Marine Fisheries Service could meet that would implement the intent of Roman numeral I in my motion of yesterday. We've tossed around August, we've tossed around September, we've tossed around December, now Larry's pushed it back to January. If the Council were to instruct staff and request National Marine Fisheries Service, including the Center, that this was high priority, what kind of a time line could we satisfy here?

Pennoyer: We did look at, and were requested at this meeting, to look at the questions of how a moratorium might fit in with an ITQ or other limited access program. There's an agenda item under C-8 that goes into that. It doesn't deal with an emergency moratoria, though, or how that might fit into the process and we need to look at that. We can do that, I guess my only comment would be is that that probably isn't the only high priority and I don't know how to tell you how quick you can do this absent knowing what we're going to do on bycatch, sablefish, halibut, and so on and so forth, and Clarence and I have to sit down with our staffs and take a look at that and others who may be willing to help. We've discussed getting help from our headquarters office and that may be some potential, but I think most of it's going to have to be done out here, so, and another thing, of course, will be how dramatically we structure the moratorium, the fisheries we're looking at and so forth. I guess, without digging into this document right at this second and trying to go through it, I'd say you're at least going to have to come back in August and spell out some alternatives and maybe put on your agenda, the calendar, a discussion of the moratoria and the elements you most want to see in it. At that point, we'll have a better idea of what we have to do for emergency or permanent, but it's going to depend heavily on how many other tasks we've got. I can't answer the question right now, though I will hopefully by tomorrow be able to answer the question of how the moratorium can be tied into this package, your original motion we have in front of us, in some tight fashion. It can't be part of inshore/offshore directly if inshore/offshore is to go forward by the first of next year because I'm sure that any actual final analysis on the moratorium for approval is not going to occur that quickly, but somehow we should be able to tie into this the fact the Council is going to do several things in connection with this package, to make the package as a whole something you want to deal with, if you do.

Lauber: Is that what you indicated you could prepare and be ready in the morning?

Pennoyer: We will look at that tonight, and get back to you in the morning with a time line and how that might fit and also how a moratoria might be structured into this package even though it can't be part of the package in total.

Blum: Could be an intent, or something like that, I think that's a good idea. And Dr. Pautzke would have to be involved in that because I . . .

Lauber: Is there anything further under this item at this time? O.K., number III.

Alverson: Under Roman numeral III, on the second line following "the caps of Bering Sea/Aleutian Islands FMP," I would move to insert "but not to exceed 10% of any single species TAC unless otherwise approved in a Council management plan." It would be, "For a Western Alaska community quota, the Council instructs National Marine Fisheries Service Regional Director to hold 50% of the

from motion

*START
← CDQ*

BSAI reserves as identified in the Bering Sea/Aleutian Islands FMP, but not to exceed 10% of any single species TAC unless authorized under a separate plan amendment." [seconded by Hegge]

Mace: What would 7.5% of, say of the pollock TAC, be in the Bering Sea a year?

Pennoyer: Somewhere in the order of 70,000 mt.

Alverson: The concern I have in the Bering Sea, under the Bering Sea management plan, is that when reserves are set aside they are not specified by species. Fifteen percent of the Bering Sea and Aleutian Island TAC, the cap is 2 million tons, and 15% would be 300,000 tons. Not being specified, half of that is 150,000 tons, and typically we have quotas on cod and Pacific cod of maybe 200,000, and decreasing, they could go down . . . and 100%, 75% of that quota could be dedicated for Western Alaska community quota. Similarly, on blackcod, which may have a collective TAC of 5-7,000 tons TAC annually, that could be totally dedicated . . . and basically if we go with an ITQ program, hopefully on that, it could be expropriated from those people that would receive it under this provision. At least it would be in conflict possibly with the action we take there. Similarly with a number of species that have quotas less than 150,000 mt at this time. And, this would keep it, I think, in realistic proportions to what is available and participation in the Bering Sea.

Blum: I understand where Mr. Alverson is going. I believe that the total paragraph under Roman numeral III has a number of safeguards in it that would make that possibility extremely remote. The Governor of the State of Alaska would have to approve it, the Secretary of Commerce would have to approve it, this Council would undoubtedly be invited to comment on that, and my view would be that while I understand where it's going, I think those concerns are taken care of by the checks and balances taken care of in Paragraph III.

Mace: Just a question of procedure. This particular item, are we going to have a chance to vote on it in total whether we adopt it or not adopt it, or we just amending it?

Alverson: This is a proposed amendment to paragraph III.

Mace: And we will have a vote . . . [several comments interjected -- "for the main motion," "on the total package," etc.]

Lauber: We'll have a vote on number III if this amendment passes or it doesn't.

Mitchell: Clarification. I had assumed, Mr. Blum, that your Number III also incorporated elements of what we had done as far as the program for assistance to disadvantaged communities, which has the parameters describing who is disadvantaged and guidelines. It also has a thing that says the Governor of the state shall develop such recommendations in consultation with the Council. So the Council really is in the process and would have to approve it, and then on to the Secretary.

Blum: Paragraph III, I think, is fairly complete as far as the whole program. Who has to do the additional work, what our future role, the approvals of the Governor, and the approvals of the Secretary of Commerce, so my answer is III is as it is stated.

Lauber: Mr. Mitchell, I have a question. Regarding, I think it probably is embodied in the last sentence, stating the criteria for community development plans shall be agreed upon by the Secretary of Commerce and the State of Alaska after review by the North Pacific Fishery Management Council. After reading a part of that document, it seems to be different than that. If it, could you explain to me how it differs? It seems as though in your proposal, or that proposal, that's out of what document, . . .

Mitchell: That's attached to the sablefish and . . .

Lauber: How does that differ from this? It seems that in that sablefish document the Council has involvement with individual applications and in this motion it only . . . we would establish the initial criteria but beyond that the Council, other than if we were invited by the Secretary to do something, or the Governor, we would have no involvement in the . . .

Mitchell: Well, it says after review. In the sablefish, "Assistance for Economically Disadvantaged Fishing Communities," it says 'each governor shall develop recommendations in consultation . . . then each Governor shall forward such recommendations to the Secretary following consultation with the Council. Upon receipt of such recommendations, the Secretary may designate the community' and, you know, go on with the plan. And I would expect that that would be formula that we would use, basically within III. It doesn't differ very much. I think perhaps that's not Mr. Blum's intent, but I see the Council as having a role in that process.

Lauber: Well, am I correct, Mr. Blum, in that we, the Council, would have an opportunity to review the criteria for community development plans, but there's nothing in here that would give the Council any role in commenting or recommendations, or whatever, to either the Governor or the Secretary of Commerce unless we were so invited. I would agree that's it likely that we would be, but there's nothing here that seems to say that.

Blum: You're correct, Mr. Chairman.

Hegge: I'm confused here, Alternative 7 in the book speaks to 10% of the shoreside allocation of pollock, however, Mr. Blum's number III speaks to the Bering Sea reserves of all species, which is quite different.

Blum: Either, you'll have to speak into your microphone, or send me a note.

Hegge: The #7 alternative in our book, . . .

Blum: This is not that.

Hegge: I know, that speaks only to the shoreside portion of the pollock. This speaks to the reserve for all species in the Bering Sea.

Blum: That's correct, I spoke to that yesterday. I indicated that there would be some communities from the testimony that we heard, that there would be some communities that could benefit from a pollock allocation, there would be others that could not. Therefore, I intentionally expanded this to be 7.5%, I'm sorry, 50% of the reserve of the TAC so that the communities could make a combination of allocations that could in fact result in community development and not have some . . . a pollock allocation that would allow a select few to become a part of the program.

Mitchell: Based on location. So, to clarify, if this were to pass and I suppose we could have it understood that the intent would be that these plans be reviewed by the Council after submission by the Governor and then they would be forwarded to the Secretary. But the intent, basically, is that certain communities in the Bering Sea could make application, come up with a plan, and have it reviewed here, and sent forward. Those communities could be more than just the Pribilofs. The Pribilofs may want to have an onshore plant. But other communities may have a plan to purchase a factory trawler that's going out of business or something like that, and they want to fish theirs in an offshore component, . . .

Blum: I'm not going to presuppose what the communities . . . and I don't think the Council should. That's the idea of giving them some flexibility within a relatively tight timeframe and a relatively tight quota.

Hegge: Getting back to Mr. Alverson's motion, I think it is very pertinent and certainly would be a necessary addition to this . . . amendment to the motion.

Alverson: Joe, the way I understood your writing here of #III, the program that could be set up for disadvantaged or Western Alaska communities could include allocations of blackcod along with grey cod along with the whole gamut of resources.

Blum: [affirmative], crab

Alverson: Crab? [affirmative] This is an amendment to a groundfish plan that . . .

Blum: I'm sorry, Mr. Chairman, it's a . . . the overall motion is a comprehensive fishery rationalization program for groundfish and crab resources of the Gulf of Alaska.

Pennoyer: There's no reserve of crab, of course, this is only groundfish the way it's written.

Cotter: Do we have motion on the table? [affirmative, an amendment to the main motion]
And, the amendment was to . . . I forget now.

Pautzke: Not to exceed 10% ["unless specified in an additional plan amendment," interjected by Alverson].

Cotter: I'm going to vote against the motion. I think I understand Mr. Alverson's concerns and I've listened carefully to Mr. Blum and Mr. Mitchell and the conversation and the safeguards and I think they're in there. I think this Council's going to be in the process; when we get to sablefish I may well be able to support a 20% set-aside for community development quotas simply because the recognition that TACs are low and in order to make this program work it may require access to amounts greater than 10%, but I think if we just leave the motion the way it is right now, the main motion, I think the Council has the flexibility to look at diverse business plans and make a decision based on a comprehensive overall approach by those communities and I think that's good.

Tillion: I get a little nervous here, but the Administration definitely supports community development quotas. The big problem, I just wanted to ask, was . . . does this cover Atka as well as the Pribilof Islands? We don't want it only for the Northwest coast.

Blum: Western Alaska.

Tillion: Western Alaska, that would include the Aleutian villages, too. Thank you, that's all I needed to know.

Alverson: I'd like to understand the intent of . . . Henry, and Clem, do you see this substituting for the community development program in the blackcod ITQ or do you see this in addition to? I put that to both of you.

Mitchell: Well, this is something that would go forward, the Secretary may or may not approve this type of provision. He may approve it only conditionally for pollock for the time being, depending, and then perhaps later as we move forward he would approve it for other species. The limited entry, or ITQ program, is coming up. We would intend to have a community development program go forward within that also, but not that . . . if this comes on line for blackcod later it wouldn't be an

additional amount over what they set aside in the ITQ program, at least as far as blackcod, and I think that you have to look at the fact that you have all these various interest groups sitting here represented on the Council, and they're not going to let the Council or the Secretary get away with stealing all the resource out from under traditional fishermen and processors. This is something that is subject to a lot of review, so I don't think you should be as concerned as you are.

Tillion: In answer to Mr. Alverson, I too am concerned. I would see the blackcod ITQ and the 20% reserve for these villages being given as a use it or lose it portion. I would see us allocating the rest of the ITQ in which case it would not be available. The thing is, that if we go forward with our ITQs, halibut, grey cod, rockfish, sablefish and that ITQ, that 20% that's held back for the villages that we specifically outline would be something that they would have an opportunity to catch, not a guarantee that they can sell elsewhere or build vessels that hire crews that don't live there to use elsewhere, and so it would be much more restrictive than this and whether this one goes through or not for all species, I'd be rather doubtful. I think you're talking something here that will probably go to Secretarial review and a Governor's review, basically for species that are not within the zone that the village has, such as your area 4E for pollock.

[end of tape]

Transcription of Council Discussion of Inshore/Offshore Allocation

Agenda C-2, June 25-28, 1991

Tape: Side 70

6/28/91

5:05 pm - 5:48 pm

Council Discussion/Action

Pereyra: I'm really torn on this particular motion. I understand we want to provide flexibility and I certainly want to give maximum flexibility to the Western Alaska natives to develop their fishing opportunities, but on the other hand, I'm also aware that yesterday Mr. Cotter told me to trust him and I did, and now we have exxed out the entire quota for pollock in the Gulf of Alaska. And so, it could be that this Council will change its character, I suspect it probably will, and we're going to be left with an open-ended ticket here and it concerns me because with that open-ended ticket, depending upon the will of the Governor and the Secretary of Commerce and this Council, we could find all the rockfish gone, we could find all the sablefish gone, we could find all the arrowtooth flounder gone, that might be a blessing; we could find the Atka mackerel gone, Greenland turbot, a good share of the rock sole and so forth. It gives me some concern, the safeguards notwithstanding. So, I am torn, but I haven't decided yet which way I'm going to go on this.

Mitchell: I'm very upset Mr. Pereyra is very torn, and of course when all these things happen, he can hide out in the Cayman Islands. But, getting down to this, I really think that people are being overly concerned and there are going to be broad benefits to many segments of the industry besides Western Alaska communities because in order for those communities under these guidelines, they're going to have to be doing business, forming equity relationships, with domestic processors and harvesters, bootstrapping themselves into their boats, and assisting with the building of processing plants, so the benefits go way beyond just the villagers. The present industry is going to benefit to a degree from this type of a plan.

Tillion: Not the least of which, after you try your wild scheme Henry, and go bankrupt, it will be on sale fairly cheaply.

Mace: I thought we're talking about an amendment, not about . . .

Lauber: Well, we've obviously given an extreme amount of latitude in this case and I heaven forbid would not want to make any kind of a ruling.

Mace: If we're speaking for or against item 3, I would like to speak my piece when it's appropriate.

Lauber: I will let you know.

Hegge: Mr. Pennoyer, did you comment when this was brought up about the appropriateness of it? I know we haven't been paying a lot of attention to the studies, but this seems to have gone beyond the scope of what we would have researched in alternative 7.

----miscellaneous comments from several Council members----

Mitchell: Oh, now it's a concern. I'm glad that people are raising these concerns on this issue. I want to make sure we have a proper record to fully justify all the various provisions we're sending forward and I appreciate you doing this.

Alverson: We're just following your lead for the last five days, Henry.

Mitchell: No, I really do. I think it's a good indication that that's what I was attempting to do. Some people thought that I had other motivations, but I do think it is important to make sure we're

well covered as far as the public have the proper notice and that we're within our responsibilities after having suitable information made available to us.

Cotter: Are we ready for the question?

Lauber: We could probably vote on the motion while we're waiting for the answer to the question, since the question wasn't germane to the motion, but, . . .
[question call for]

Mitchell: Mr. Chairman, it is germane, and I think it goes to. . . you know, perhaps someone is going to make a motion to limit this to pollock only because that was all that was noticed, so it is germane in terms of the talk about the limitation by species, and that's why it would be germane.

-----miscellaneous comments from various Council members-----

Lauber: There's a motion on the floor, I know it's been a long time ago, but . . .

Pereyra: I'm going to move to table it.

Lauber: Oh.

Pereyra: I move to table the amendment. I do that because I think there's an awful lot of uncertainty here on both sides and I also can . . . the fact that it doesn't really fit with what we've had in our SEIS and I think that would be an appropriate action to take.

Alverson: Point of order, Mr. Chairman. I made an amendment to item 3. If Wally would like to freeze out item 3, that's fine with me, but my amendment

-----more multiple comments-----

Mitchell: A motion to table takes precedence over anything that

Lauber: Your motion was to table . . . ?

Pereyra: The amendment.

Lauber: Mr. Alverson's amendment? All right. Is there a second to the motion to table Mr. Alverson's amendment? [negative]

Alverson: Wally, if everything you said is of concern to you, if we haven't discussed the 10% aspect of a single species, how much less have we talked about giving 75% of the codfish potentially away. 100% of all those species . . . how much . . . we haven't done anything there, but this does a lot less than that potential. I'm just safeguarding, unless there's an additional amendment that comes forward to the public process such as we have in the ITQ program for blackcod, where it has a full public hearing on that resource and maybe then we do something different from the 10%. I . . . Alaska, but I've been around this Council process since 1976, December 19 . . . , right after you got on, and this Council does squirrely things depending on the politics in Alaska and this whole thing . . . you know as well as I do, you get a Governor in this state and you get two people together and there's a political entity in this state and . . . [laughter, miscellaneous comments]. . . well, if you're from Homer, you can have one.

Cotter: Mr. Chairman, I don't know whether we're speaking to the amendment or . . .

Lauber: Yes, we're working our way. Let's speak only to the amendment, Mr. Alverson's amendment. . . . Is there any further discussion on the amendment?

Blum: Question.

Mitchell: Read the amendment, please.

Pautzke: The amendment to the motion is under Part III, to place after the words, "Bering Sea/Aleutian Islands FMP, "but not to exceed 10% of any species TAC unless authorized under a separate plan amendment," and then I think it would go on to say, "until the end of the third quarter annually." That's the amendment to the main motion.

Lauber: Call the roll.

Hegge: We're not going to get the answer from Pennoyer?

Cotter: The answer for what?

Pennoyer: Mr. Chairman, the question was is your record adequate to consider this particular form of this proposal at this meeting, and I can't tell you. The analysis under Alternative 7 dealt with pollock, the areas are somewhat different, the formulation is quite a bit different, but because of you're dealing with a structure that's in the sablefish plan currently where I think the alternative 7 was basically more or less a direct allocation to shorebased plants without specifying how. The topic is covered and has been noticed, but wasn't for all species. We're not clear on that. Lisa's going to have to make a couple of calls on that. I can't answer that sitting here.

Cotter: The reason I asked a moment ago whether or not we were speaking to the amendment, is because I was going to have something to say in reference to Mr. Hegge's question, but that question is not pertinent to this amendment, and so . . .

Tillion: This amendment is just the 10% cap, so let's do the amendment.

Lauber: All right, call the roll.

Roll call vote: Pereyra, yes; Tillion, no; Alverson, yes; Blum, no; Cotter, no; Dyson, no; Hegge, yes; Mace, yes; Mitchell, no; Pennoyer, no; Lauber, yes. Fails.

Alverson: Mr. Chairman, I would move to amend #3 on line 2, such that it reads, "that the National Marine Fisheries Service Regional Director hold 50% of the Bering Sea pollock reserve." [Seconded by Hegge] If I can speak to this, I don't believe that the other species in the Bering Sea are part of this main motion and everything speaks to pollock in the Bering Sea, pollock and cod and the impacts of potentially taking away 75% of the P. cod or 100% of other quotas, are not spoken to. They are not spoken to in terms of the economic impacts, not spoken to in terms of displacement or what would happen to those people in the industry. There is no economic analysis in terms of the degree that we had on the study on pollock and cod, and those are the real potentials with the way this original item 3 reads. The high-valued species that people need to augment the other fisheries out there would totally be usurped and all we'd have is a review at this level and it would not be able to be initiated at the Council level. I think that's giving away authority that we should not give away. I think with that type of potential the Governor of Alaska, . . . and I think the Governor of the State of Washington is . . . 80% of that resource right now is harvested by Washington and Oregon residents; those two Governors should have equal say in terms of how something like this should be approved when this amount of resource is coming up for redistribution, even if we go ahead with some ITQ system on pollock down the road, people could turn around and find another 7% slid out

from underneath their . . . out of their back pocket, or 100% of their codfish, or 100% of their turbot, and basically all we've got is a review process from the Council on this. We've had a debate and EIS and RIR on pollock and I think that that's what it should be tailored to.

Pereyra: National Marine Fisheries Service, I have a question. It's my understanding that the reserve is an unspecified reserve, so how do we set aside 50% of something which isn't specified?

Pennoyer: Well, how do we do it now, or how would we do it under this scheme?

Pereyra: How would we do it under this scheme?

Pennoyer: Well, I would presume that if the reserve is 15% of let's say 2 million mt, is 300,000 tons of fish, half of it would be 150,000 tons; we can't, even given that, exceed the ABC on any species, so we would simply take any species up to the difference between the ITAC and the ABC. Without Mr. Alverson's limitation, we could take a full amount of the original proposed limitation, and put it into community development if it passed through the rest of these bells and whistles. So, for example, if cod was 200,000 tons and the reserve was 30,000 tons, that's 170 left in the open fishery, the whole 30 could go to community development, or . . . because it's 50% of the total, even though it's only 50% of the total, it's not necessarily 50% of cod, so the total cod could go to community development if you had the appropriate other factors considered.

Pereyra: It's my understanding that the reserve is unspecified and so it was taken off the top before you ever . . .

Pennoyer: It's not specified when it's set aside; we specify it when we reallocate it. I mean, you can't fish on 15% of an unknown species, so we basically release it by species, but we can't go over the ABC on any individual species.

Cotter: I'm speaking against the amendment. I'd like to congratulate Mr. Blum on the job he's done on the . . . I like this program and I think it's well thought out and I think it provides some flexibility and I think there are safeguards in here. One of the things that I find kind of interesting about it is it's really enabling type legislation. There may be an obligation to hold back 50% of the reserve, but there's really no obligation to release. It's true that the SEIS dealt specifically with pollock, but it's also true that we have had testimony before us for years now and many people testifying before us at this meeting. It's also true that we've been studying community development quotas and various other programs during the past few years. We know what it is that we're talking about. We have analyzed the pollock portion of it, it does provide some potential significant benefits, 100 to 200 jobs, I think the SEIS refers to, in St. Paul, a \$40 million payroll. That's substantial to that community. It seems to me that one of the things that's going to happen, though, if we go ahead with the program, is we're going to have to develop criteria, and the criteria is going to outline how the program is going to work. And, whether or not we have final say on adoption of a particular program that's presented to the Secretary and to the Governor, the fact is that we are going to be passing judgment on that program. That program is going to outline what species they want, and for how long and what it is that they are going to do with it, and I'm sure that this Council is not going to take that up at one meeting as someone just brings it up. We're going to notice it and we're going to received testimony regarding the impact on the various harvesting sectors as to what that program would have on them. So, I'm not really worried about the record on this particular one, it's enabling legislation and it's a good program. I think we ought to go ahead with it in its entirety.

Hegge: I was just looking back through our AP minutes and they passed out a rendition of #7 which I assume that a number of representatives of the coastal communities participated in, and I find that one quite supportive and quite supportive by the RIR. I'm going to have a great deal of difficulty

voting for anything that strays very far from that and I think that that is probably going to remain my position. I possibly would vote for this motion, I certainly cannot vote for #III as proposed.

Pennoyer: We're going to have to look at that a little bit, but in actual fact, I think the EA/RIR, SEIS, whatever, certainly deals with the pollock allocation in the Bering Sea. I'm not clear that the sablefish fishermen had any idea that some of his catch was going to be diverted at this stage as well, and I'm having a little trouble deciding whether in fact switching to all the other species is something that's going to be in the final analysis, supportable. There was no notice, I think, of anything but pollock; in essence the SEIS is about pollock in the Bering Sea, pollock and cod in the Gulf and Alternative 7 is very specific, as I read it, to pollock in the Bering Sea, so you've expanded this to impact potentially gear types that don't harvest pollock but that harvest other species that are now being, I'm not arguing about the merits, but are being reallocated potentially. I think that's a problem; I'd probably feel more easy with that after further consultation, but I think that's a problem.

Tillion: I, too, have some apprehension here. I would not object to #III if it exempted blackcod, halibut, rockfish, and grey cod, that we will be moving forward, I hope, with ITQs of which I would hope to set a 20% back for the use of these villages, but to have it double-dip would be very alarming to me and once we have come forward with what I hope is an ITQ system in the coming months, I wouldn't want to have that reallocated out from under them again. So, while I'm willing to go community development quotas or at least an amount to Atka, St. Paul, St. George and the Western coast, I'm not willing to have them reach down into the Gulf of Alaska off of Sitka or Petersburg and take a portion of that allocation.

Mitchell: This does not speak to double-dipping and there may be some legal deficiencies and it's good to see everybody's digging here to point those inconsistencies out on this issue. But I don't think there's a real harm in sending it forward the way it is because what it's telling the Secretary is that we're more interested in going forward with a program like this. If in fact the analysis that's been done, and the notice that's been done, is insufficient for the others the Secretary can take those other species out, but at least he'll know the direction we're heading and so I think it's best to leave it intact. Basically there's been a lot of information on the record about the coastal communities, the need for employment, the St. Paul situation, we're well aware of, unemployment, the fact that the villagers in Tooksook, Tuninak are trying to establish a cod fishery and their belief that they've been preempted. I think there may be enough information available to the Secretary for him even to go forward with a small amount of cod in a program like this, if approved, just on the basis of the various records that's available. Maybe not, but in the case of pollock, I really do think it does. I think we should send the whole thing forward and if the Secretary doesn't like it for the other species he can just say that's not approvable at this point and he can forward with pollock if this whole amendment package is approved.

Pautzke: Now that Mr. Mitchell's brought this up, at some point in this meeting I think that the Council needs to discuss with the Regional Director partially approving or partially disapproving components of your package and what your intent is on severability. I think the Magnuson Act reads that he has to disapprove things partially, or whatever, and send it back to the Council and the Council really needs to tell the Secretary, are some of the components of this package open to revision by the Secretary or must he approve or disapprove the package as a whole. What's your intent, here and then what does the Secretary feel he can do. And this will come up in sablefish, too.

Lauber: Any further discussion?

Blum: One small point, and that is that I understand Mr. Alverson's concern with respect to this Council's role, but it's always been my understanding that this Council is fundamentally a recommending body and we don't have ability to take unilateral definitive action and so the whole

process is one of this Council recommending to the Secretary or the Secretary's representative for final action, so this is not unique.

Pennoyer: . . . indicate to the Secretary, not tell the Secretary . . .

Lauber: Let me speak to that point in your motion, Mr. Blum, in the last line, you used the term . . . it isn't in there . . . the only role that I can see this Council has is that they would be allowed to review the criteria. The individual community plan would be solely approved by the Governor, presumably under the criteria that is established by the Secretary and the State of Alaska, but the Council has no role that I can see in this whole process other than review and review is very similar, I think, to allowing anyone that would submit to make public comment and that's the only thing we do, once we turn this loose. Believe me, I'm supportive of the community development quotas and I don't want to in any way vote against them, but I am concerned that the Council should have some input. We could, . . . that it's not just dependent upon the whims of the Secretary of Commerce or the Governor to say . . . O.K. you can take a look at them. Mr. Mitchell's plan under sablefish, I think, gave us that, we don't have any final say, of course, but it gave us more than a review, did it not, Mr. Mitchell?

Mitchell: That is correct; we have another motion on the floor and once that is disposed of I would move that this be amended to put the section of 2 and 3 which talk about each Governor shall develop this recommendation in consultation with the North Pacific Council, and after that to be put . . . forward any such recommendations to the Secretary following consultation with the Council. Upon receipt of such recommendation the Secretary may designate the communities and you could say, instruct the Regional Director to make the quota available. If that solves people's problems with it, if you see it as not enough of a role for the Council in the process.

Blum: The amendment is to have this only be pollock.

Lauber: I understand, but I spoke to it because of . . . and listed the comments I wanted from Mr. Mitchell . . . because one might be tempted to further restrict it if you didn't feel that you had some input.

Tillion: I understand the next motion is to just be pollock and I don't know that I want to be quite that restrictive. I just want to make sure that it cannot preempt our sablefish, halibut, in other words I wouldn't want to see it hit that, or preempt our codfish or rockfish, but as far as Atka mackerel and the other things found in coordination with pollock, I would not have any objection to those going into the community development program such as you're proposing.

[end of tape]

Transcription of Council Discussion of Inshore/Offshore Allocation

Agenda C-2, June 25-28, 1991

Tape: Side 71

6/28/91

5:48 pm - 6:48 pm

Council Discussion/Action

Lauber: We have an amendment on the floor that limits #III to a Bering Sea/Aleutian Islands pollock. Is there further discussion?

Mace: Yes, I'm going to support this amendment because this whole package deals with pollock in the Bering Sea and pollock and cod in the Gulf of Alaska. Just seems to make sense to me to limit it to the species involved.

Blum: This package does not deal with only pollock and Pacific cod. This package quite intentionally was stated to be a comprehensive program for the Gulf and Bering Sea/Aleutian Islands. I am concerned, somewhat surprised, that the desire of some members of the Council to limit this to pollock only in the context of community development goes in the face of what I thought was one more instance, about 2-1/2 days ago, in which the collective body of those come from the Western Alaska communities came and made a series of points with respect to what their needs were, and the proposal that I have addresses those needs as identified. Now, Steve or Lisa may have some legal problems. I think those are subject to being fixed. The problems that I'm hearing around the table with respect to what species or in and what species out, I think fly in the face of what the identified needs of these communities are. To allocate only a relatively low value fish in the sense of pollock, and I don't mean that in any negative way toward pollock, flies in the face, if this Council and if the State of Alaska, are really interested in doing something for these communities. Giving the communities an opportunity to have a diversified fish based economic development I think is the only thing that makes any sense. If you're going to tell these communities, as we have done in the fur seal arena, where we're taking one thing away, but you go out and do these other things, but we're really not going to give you these other things to do, I think it is a real injustice to their potential. If we say pollock only, that severely limits what some of these communities can do, that they're going to need to do, to get into the latter part of the 20th century, and hopefully into the 21st century. I'm not a great one for social reconstruction. I do think this is a place where this Council has an opportunity to provide something for those folks and I think we have the obligation to do it.

Alverson: The attempt to limit this under this agenda item and this EIS that went out to the public to pollock is an attempt to address the main issues that were advertised to the public, not to reflect the Council's or my particular position on where community development programs and resources and how they should be allocated to the Western Alaska communities. I think that we have distinct fisheries out there. We have a pollock fishery that is different than a codfish fishery and the way that's prosecuted, and different from how a blackcod fishery is, and different people that participate in each one of those. We had 40-some-odd people testify on blackcod ITQs, had those people known that this was up for grabs, that they could potentially lose significant harvesting potential and rights under a program like this on codfish and blackcod, we would have heard testimony on that, and we didn't because the public was not advised on these particular issues. It doesn't mean that we can't, through the ITQ program on blackcod, it looks like there's a program being developed there, and we can develop it on other species through regulatory process. I think Bob Mace said it correctly, and I embrace his comments.

Hegge: I'm going to support this. I feel that with the amendment it is very similar to the Advisory Panel. I notice that it was given careful consideration in the Advisory Panel, and I think the previous comments and discussions we've had about community development we have stated that they would be implemented as we made allocations. The discussion was as we start cutting the pie they should get a piece and we're cutting up the pollock and I think it is appropriate. I think that this is a good

first step; I think that it would be upholdable and as Mr. Tillion has made very clear, they are going to be considered as we make allocations in the other fisheries and I support the motion as amended.

Pennoyer: Mr. Blum, I agree with just about everything you said in terms of opportunity for the Council to do some good here, a need that's been expressed, and the desire to get on with trying to do something for some of these communities. However, we are again dealing with this under sablefish and I think the world knows we're dealing with this aspect under sablefish; I don't think the world expected that we would deal with sablefish, for example, under this particular amendment. We are somewhat beyond the scope of the amendment analysis now, we're talking about 50% of the reserve of all species and I believe the amendment dealt with 10% of the total shoreside allocation of pollock so we're going considerably beyond the analysis in terms of impact if we include all species; we're a little beyond it terms of just pollock by itself, but certainly if we include all species we're well beyond it. So, I'm not talking against the concept, I just think we've got a problem with doing that at this stage and this amendment and I'm going to support pollock only at this time.

Lauber: Any further discussion? Call the roll.

Roll call vote: Tillion, yes; Alverson, yes; Blum, no; Cotter, yes; Dyson, yes; Hegge, yes; Mace, yes; Mitchell, no; Pennoyer, yes; Pereyra, no; Lauber, yes. [Pass]

Lauber: Now, #III is before you as amended. Any further discussion?

Pennoyer: I think your intent will be clear in doing this, but there are a number of things in the motion the way it's structured and how this thing mechanically is going to have to be implemented, that probably requires some work. The language seems to imply that the authority for release is going to be given from the Secretary of Commerce deferred to the Governor of Alaska, whereas the discussions that we had under the sablefish says things such as Henry read before, "each Governor shall develop such recommendations in consultation with the North Pacific Fishery Management Council, forward them to the Secretary, etc., and the Secretary may do certain actions," which I think is probably the more correct form. If in fact you pass the concept, my judgement is that we ought to go back and adopt language similar to that that's currently in the sablefish EIS.

Pereyra: I would like to add after the word, "Alaska," on line 5, the phrase, "and the North Pacific Fishery Management Council," so that would read that "the held reserve shall be released to communities in Western Alaska who submit a plan approved by the Governor of Alaska and the North Pacific Fishery Management Council," etc. [seconded by Alverson]

My reason for submitting that amendment is that I'm concerned that the North Pacific Council is not involved in the process in a more active way. The reason I say this is not that the Governor is not capable of coming up with a plan, but we have a lot of other factors in the fishery that have to be taken into consideration under any allocations that we make. There's bycatch considerations, there's seasonal aspects of fisheries, and so forth. And I think that we, the Council, need to deliberate on those aspects and furthermore, and probably more importantly, I think we need to give the public a chance to have an open forum to express their concerns or their ideas, not only to give us advice and potentially give the Governor advice, but to establish a record that will allow something of this sort to go forward. Furthermore, I don't have any idea what sort of a review process or public input process the Governor has in putting together such plans of this nature, so I think this would be helpful from those aspects and also I think it would go a long ways toward maybe answering some of the concerns that have been expressed by Mr. Alverson, Mr. Hegge and others about some sort of disproportionate allocations that might result from a plan that the Council did not have a more direct involvement in, so I would hope that Council would see fit to approve this amendment.

Pennoyer: Mr. Pereyra, I think you're trying to build the Council more into the loop, and I think that's appropriate, but I would reiterate my concern that in fact the Council and the Governor in whatever combination still need to submit their recommendations to the Secretary of Commerce for approval and that's not clearly spelled out here. I think if you look under the sablefish document back on the section on assistance for economically disadvantaged fishing communities it talks about developing a plan approved by the Governor of the requesting state, the Governor develops recommendations in consultation with the Council, the Governor then forwards recommendations to the Secretary following the consultations with the Council, then the Secretary can do certain things, including the release of the reserve. So, I understand what you're trying to get at, it seems to me you could do a lot of wordsmithing on the pieces of this but you need to get back to the concept of the Governor and the Council in some combination forwarding some plan that has certain criteria, and it may or may not be spelled out here, to the Secretary.

Pereyra: That's my plan, but I wanted to make certain that we had the Council directly involved in the loop before it goes back to the Secretary of Commerce and not in the capacity of just advising the Governor, but I think we need to have something which is more formalized than that so that we make sure we have a good public record and have a chance for the public to comment.

Mitchell: I would agree with Mr. Pereyra and I had suggested that I would amend this to put those in and I think everybody knows what the intent is, but I will warn the Council, you don't want to be involved in that too much because if in fact these community development quota things are approved there will be diverse communities coming in here from Western Alaska, all with fantastic plans, subjecting you to intensive lobbying. The infighting over this will be enormous and will probably take up a good 20 to 30 days a year, so your role in it as far as having public hearings on every petition would just . . . you don't know what you're getting into.

---miscellaneous remarks from various Council members---

Blum: While we're all having a good laugh at Henry's expense, I think his warning is worth paying some attention to. One of the things I tried to deal with by way of structuring it this particular way, was in fact to avoid the Council being involved in what I considered to be very much a process that the State of Alaska ought to be involved in and that we be provided the resolution of that based upon them having gone through whatever public process they go through to select how their communities are going to be aided. I was not attempting to take the Council out of the loop of having some involvement with the Secretary, but if it gets structured so the Council is the place that the decision gets made as to which community gets what against competition with other communities, then I think the intent of Mr. Pereyra's amendment is going to come back and bite us and I think for all of the humor with Henry we ought to really seriously consider that because I, for one, don't think that's a good use of this Council's time.

Pereyra: What we've done here, if we go through with this, we set up an entitlement program for approximately 150,000 tons of fish in the Bering Sea [Blum interjected "No, we just amended it"] Pollock, only? O.K., well maybe then it's only 145,000 tons, but at any rate, it's a large quantity of fish and it may have some implications that we want to review or be involved in. I don't know, maybe the language that Mr. Pennoyer has suggested, maybe that would be more helpful.

Lauber: Could we have that again, Mr. Pennoyer? Maybe it could be a substitute.

Pennoyer: Well, Mr. Chairman, I don't think reading it to you you're going to take it all in. I'm reading out of the sablefish document and it talks about the communities having developed their fisheries development plan, approved by the Governor of the requesting state, and this would be Alaska I presume, but it includes arrangements too, there are other things in there that would probably come under the criteria that is spelled out yet that would have to be done. And it just says,

"Each Governor shall develop such recommendations in consultation with the North Pacific Fishery Management Council," which keeps you in the loop in consultation but you're not in a contract monitoring mode which you don't want to get into, I don't think. Then it says, "Each Governor shall forward such recommendations to the Secretary following consultation with the Council. Upon receipt of such recommendations the Secretary may," and I presume it would be 'release all or part of the reserve to eligible communities.' So, that's the concept; I think I could write something out here for you. I think Mr. Blum intended that the criteria be subject to some development and review -- that you would sit here and try to dream up all the criteria that might go into it. But I think this type of thing would work, keep you in the loop, keep you out of contract monitoring and that type of thing which, believe me, is no fun, government grants monitoring.

Pereyra: In deference to greater wisdom on the Council, I'll withdraw my motion if the second will go along with it.

Alverson: Well, I think you had a good motion.

Lauber: Mr. Mitchell, were you going to submit a motion?

Mitchell: Well, I could. My intent would be that the section on Assistance for Economically Disadvantaged Fishing Communities basically be a model and numbers 2 and 3 which talk about the Governor recommending to the Council in consultation, and then moving that forward to the Secretary is really all the involvement that we really need. If we become the place where we have the public hearings, and ultimately decide which communities get it, it's going to be a disaster for us.

Pautzke: Under agenda item C-1, if you just flip about four pages in from the back, you'll find Table 1.3a which is the community development program under sablefish with all the criteria that Steve was reading and that Henry is referring to.

---miscellaneous Council remarks while trying to find the appropriate paper---

Mitchell: I'm just pointing out that under Table 1.3a it shows you, number 2 and 3, is basically all you need to make sure that you're enough in the loop. Anything more than that, you're really going to get stuck analyzing a lot of things and get in the middle of some very contentious applications because there'll be a lot of different communities trying to apply for use of these quotas and 2 and 3 give you the kind of protection that you seek. If this Council doesn't like something they can send a pretty nasty letter forward.

Tillion: I'm sure that would do a lot of good.

Mitchell: Well, it all depends on who the Secretary is, it depends on who's lobbying the Secretary and I don't have a million dollars to hire one of those high-priced lobbyists in Washington.

Alverson: Henry, is it your idea that these communities would first go to the Governor of Alaska, and then the Governor of Alaska submits his plan to the North Pacific Council? [Affirmative response] O.K., under that process, do you think we will not have all these communities sign up on little blue cards to testify? Or is it that the Governor will choose the community before it gets to us so we don't have to make that cut?

Mitchell: Well, I would hope that the Governor would look at the proposals, have a process to pick out those that make some sense and he would send those forward to you for your consultation and hopefully you would approve, after reviewing some of them, say . . . you know . . . and say well, these look good, or comment back to the Governor and say these look bad. He has your comments, you could send your comments independently and then it would go forward to the Secretary.

Alverson: I kind of know how tough decisions are made at high levels there and it's to throw in all the options and dump it on the next guy to make the cut and the way I see this thing evolving is we're going to be the guy to make the cut. Which is fine, but I don't see us getting out of any big loop in terms of avoiding the public process.

Mitchell: Well, we probably will be involved somewhat, but I don't think that this Council should basically be telling one community or the other, . . . here's there's only so much fish and we're going to give you 50,000 and we're going to give you 20,000, and we're going to give you 15,000. I don't think that should be your role. I think the role should be to review the developmental plan that's submitted to you by the Governor and say this looks good to us, it doesn't look good to us, this thing looks pretty hokey, this is a scam, . . .

Alverson: You're going to tell that to your Governor?

Mitchell: Yeah, I tell that to my Governor. I've had no problem doing that before. I did that on TV last night; in fact I said the Governor was a fool . . . [miscellaneous remarks]

----more miscellaneous comments----

Pennoyer: Mr. Chairman, I don't know that I have an exact sense of what the Council wants to do, but I would be willing to take a shot a combining the wording out of the sablefish plan with what Mr. Blum has presented . . . which Mr. Blum didn't presented, and put something in front of you to look at that combines these two thoughts with what Henry has been suggesting, staying out of the direct contract review process. I think we could do that in 10 or 15 minutes.

[The Council took a break and evidently the tape did not get turned on immediately when the discussion began again; it appears that some discussion is missing. Evidently Mr. Pennoyer submitted a motion (which was read into the record later by Mr. Blum--on the next page of this transcript)]

Alverson: . . . in the Pribilofs?

Pennoyer: They're part of the 200-mile zone so I suppose it's part of the coast . . . [miscellaneous comments, not distinguishable]

Pennoyer: Like I said, we have two separate terms in front of us, I used them interchangeably, but the assumption is that it's communities in or on the Bering Sea or around the Bering Sea, I guess.

Tillion: But no more than a mile up river.

Mitchell: Mr. Tillion just made the statement, no more than a mile up river, and the historic 100-year flood plain extends up the Kuskokwim River about 45 miles, so the sea comes in that far.

Cotter: Mr. Chairman, for those of us who have difficult seeing that far [referring to the projector screen where the motion is displayed], could somebody read it so we can follow along.

Lauber: Could someone read it there? It's a good thing, I have some trouble with the edges.

Blum: [reading the motion] "For Western Alaska community quotas the Council instructs the National Marine Fisheries Service Regional Director to withhold 50% of the Bering Sea/Aleutian Island reserves, as identified in the FMP, until the end of the third quarter annually. The held reserves shall be released to communities on the Bering Sea coast who submit a plan approved by the Governor of Alaska for the wise and appropriate use of the released reserve. Any of the held

reserve not released by the end of the third quarter shall be released as called for in the FMP, except for pollock, which shall be released according to the inshore/offshore formula established in the FMP. Criteria for community development plans shall be submitted to the Secretary of Commerce for approval as recommended by the State of Alaska after review by the North Pacific Fishery Management Council. The program will be structured such that the Governor of Alaska is authorized to recommend to the Secretary that a Bering Sea rim community be designated as an eligible fishing community to receive a portion of the reserve. To be eligible, a community must meet the specified criteria and have developed a fisheries development plan approved by the Governor of Alaska. The Governor shall develop such recommendations in consultation with the North Pacific Fishery Management Council. The Governor shall forward any such recommendation to the Secretary following consultation with the Council. Upon receipt of such recommendations the Secretary may designate a community as an eligible fishing community and under the plan may release appropriate portions of the reserve."

Pennoyer: Mr. Chairman, with no particular pride of authorship, we patched this together, there are some problems in there. But if the intent is yours, we could clean the language up and come back with a final draft.

Blum: Mr. Chairman, I would move that Article III be amended to read as I have just read. [seconded by Dyson]

Lauber: Is there any discussion?

Mitchell: Now you say that it would be under the formula, now that formula would be the formula with Mr. Cotter's numbers? That would be for the release, we would not use the formula as part of the community development, though, that's not the intent.

Pennoyer: No. The intent is that anything left in it in the 4th quarter would be released according to the formula approved under the plan, the Council's formula for inshore/offshore.

Mitchell: Another clarification. A community may apply but want to use resource in the 3rd and 4th quarter, but they don't fish before that. You would reserve that before them before that time period, is that correct?

Pennoyer: That's correct.

Alverson: Just the procedure. If this passes and we eventually get involved in this, I think the Governor, or Governors, or Governor of Alaska, should be the one that narrows down any options on communities and that it should not be the responsibility of the Council to choose between different communities, that that responsibility before a plan comes to this Council, be done by the Governor.

Pennoyer: Well, I didn't get into that type of detail. My assumption is when you talk about the criteria being developed in consultation with the Council, part of that would be criteria and procedures, perhaps, that would include the degree to which you want to become involved in the process. I didn't get into all that because I think there's a lot of discussion and thought that needs to go into what's an eligible community, how's it set up, does it need to be one mile from the coast, or Henry's 45-mile flood plain, all that type of discussion. And then also, how the actual program will be structured. [continued on next tape]

Transcription of Council Discussion of Inshore/Offshore Allocation
Agenda C-2, June 25-28, 1991
Tape: Side 72 6/28/91 6:47 pm - 7:17 pm

Council Discussion/Action

Pennoyer, continued: There's going to have to be people, set up accounting firms, monitoring, monitoring grants, and so forth. I've left all that up to the discussions of the criteria and the procedures which would be done in consultation with the Council. At that point, if the Council simply wanted to see a final product, which I assume you probably would, not all the detail going into it to start with, then that would be specified, but I didn't try to do that here.

Lauber: Any further discussion?

Mace: Is this where we can speak for or against the . . .

Lauber: Yes, this is the time.

Mace: Well, this subject has been before the Council for a good many years and we opposed it going in, still oppose it. I notice one thing that's been dropped out is the other states which are involved in the geographic area under the Council's jurisdiction, Oregon, and I can't speak for Washington, but while we may not have a community that would be available for this type of development quota, I think that we should be a part of the process, and we're not, and so I think that's the major reason why I'm going to oppose it.

Blum: Mr. Chairman, I made the motion in order to get it on the table. I'm going to vote against it because of the fact that it is specific to pollock and I simply cannot support that.

[question called for]

Lauber: Call the roll.

Roll call vote: Alverson, no; Blum, no; Cotter, yes; Dyson, yes; Hegge, yes; Mace, no; Mitchell, yes; Pennoyer, yes; Pereyra, yes; Tillion, yes; Lauber, yes. Motion carries.

Cotter: Are we done with #III? [affirmative] Did we ever deal with #I?

Lauber: No, we have not . . .

Blum: Mr. Chairman, I thought NOAA General Counsel and the Regional Director and staff were going to visit about the moratorium and how we might deal with it and come back to us tomorrow morning on that subject.

Pennoyer: Mr. Chairman, we were not going to do that at this time; we were going to report back to you tomorrow, how you decide you want to treat this item relative to the rest of the program here, I guess you might want to make some comments on that, but we were going to advise you as to how (1), how you could make a moratorium a mandatory part of this package even though it isn't part of the package, per se, and (2), something about the time and procedures in which you're going to have to address a moratorium, either by emergency and/or by an emergency and final rule combination of some kind. We have not had time to do that yet, we were typing.