MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Acting Executive Director

DATE: May 30, 2001

ESTIMATED TIME
10 HOURS

SUBJECT: BSAI Crab Rationalization

ACTION REQUIRED

Review discussion paper on proposed alternatives for analysis; provide direction to staff.

BACKGROUND

At the April 2001 meeting, the Council requested staff to prepare a discussion paper for the June meeting on the proposed elements and options for the BSAI Crab Rationalization program. Specifically, the Council requested staff to provide perspectives on the anticipated amount of effort and time required to analyze the suite of options under consideration and, where possible, identify ways to make the analytical task more manageable. The Council requested staff to highlight in the discussion paper any proposed options that may be problematic in terms of data requirements, analytical difficulty, and management aspects in light of the Council's desire for the analysis to be completed by December 2001. The staff was instructed to use the AP motion (which includes alternatives from the Crab Rationalization Committee) as the focus of the discussion paper. The Council also requested that the discussion paper address several additional options pertaining to processing shares, skipper and crew shares and controls on vertical integration. The draft AP motion, revised to include these additional options, is attached under Item C-2(b).

The requested discussion paper has been prepared by staff with input and assistance from ADF&G, NMFS, NOAA General Counsel and Northern Economics. An executive summary of the discussion paper is attached under Item C-2(a). While the discussion paper is *not* an analysis of the proposed program, it is intended to assist the Council in finalizing alternatives and options for formal analysis. In addition to providing perspectives on the analytical effort, this discussion paper includes an assessment of the scope of the analysis requested by Congress and whether formal analysis of cooperatives as an alternative to the proposed IFQ program is needed. Staff notes that, while cooperatives were considered at length during the ad-hoc industry committee meetings, the Crab Rationalization Committee focused mainly on IFQ-type approaches to rationalization. The discussion paper also requests the Council to clarify its intent on a number of issues and proposed options.

In addition to the discussion paper, the Council may also wish to consider issues highlighted in the ADF&G letter dated March 22, 2001 (addressed to Chairman Benton, from Kevin Duffy). A copy of the ADF&G letter is included under Item C-2(c). In particular, the letter articulates ADF&G's position regarding management of an IFQ program using Guideline Harvest Levels (GHLs) or Total Allowable Catches (TACs). This issue, as well as other issues raised in the letter, were considered by the Crab Rationalization Committee during its March 22-23 meeting. As mentioned by staff during the April 2001 meeting, the Committee recommends that the Council request the State to work with staff to address the following two issues: (1) collection of economic data to monitor the impact of rationalization, and (2) funding sources for management, research and enforcement. To the extent that the State provides the requested input to staff, both issues will be addressed more fully in the analysis.

Discussion Paper of
Proposed Elements and Options for BSAI Crab Rationalization Program
(May 2001)

Executive Summary

At the April 2001 meeting, the Council requested staff to prepare a discussion paper for the June meeting on the proposed elements and options for the BSAI Crab Rationalization program. Specifically, the Council requested staff to provide perspectives on the anticipated amount of effort and time required to analyze the suite of options under consideration and, where possible, identify ways to make the analytical task more manageable. The Council requested staff to highlight in the discussion paper any proposed options that may be problematic in terms of data requirements, analytical difficulty, and management aspects in light of the Council's desire for the analysis to be completed by December 2001. The staff was instructed to use the AP motion (which includes alternatives from the Crab Rationalization Committee) as the focus of the discussion paper. The Council also requested that the discussion paper address the following additional options pertaining to processing shares, skipper and crew shares and controls on vertical integration:

- Expanded range for processor shares of 0-100%
- An initial allocation of 0, 10%, or 20% of harvesting quota shares distributed equally to qualifying crew members.
- Expanded range for crew shares that would receive first-right-of-refusal of 0-20%.
- Controls on vertical integration:
  - Option 1. No controls
  - Option 2. Allow purchases up to a cap (1%, 5% and 10%)

The requested discussion paper has been prepared by staff with input and assistance from ADF&G, NMFS, NOAA General Counsel and Northern Economics. While this discussion paper is *not* an analysis of the proposed program, it is intended to assist the Council in finalizing alternatives and options for formal analysis. The discussion paper is organized into the following sections:

A. Scope of Analysis Requested by Congress
B. Other Legal Issues for the Council to Consider
C. Overview of Elements and Options of Proposed IFQ Program
D. Outline of Analysis of IFQ Program Alternatives
E. Available Data and Ownership Information
F. Analytical Issues Unique to Harvesting Sector
G. Analytical Issues Associated with Processing Sector Options
H. Analytical Issues for Options that Define the Interaction of the Harvester and Processor Components
I. Analytical Issues Unique to Regionalization
J. Other Issues for Analysis Recommended by the AP
K. Summary of Analytical Time Requirements and Staff Recommendations

A. Scope of Analysis Requested by Congress

This section considers the Congressional request that the Council examine fisheries under its jurisdiction to determine whether rationalization is needed and provide an analysis of several specific approaches to rationalization. Staff requested NOAA General Counsel (GC) to clarify several issues, including the scope of the analysis required by Congress and whether the analysis needs to consider cooperatives as an explicit

alternative to an IFQ-type program. NOAA GC indicated to staff that, since the act explicitly states that the "Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities," it does not appear to give the Council any discretion to exclude one of the approaches from the analysis. **Based on this assessment, NOAA GC indicated that the analysis needs to include consideration of cooperatives.**

NOAA GC suggested that the analysis for Congress could provide a threshold analysis that compares the different approaches to rationalization and analyzes the implications of key design features of each type of program for harvesters, processors and communities. This threshold analysis could be followed by a more in-depth analysis of elements and options of a specific program such as a one-pie or two-pie IFQ program. NOAA GC indicated that the two types of analyses could be developed as separate documents or combined into a single document. Staff notes, however, that preparing two separate analyses would very likely increase the analytical effort and workload for the staff. **Therefore, staff recommends that the required analyses be developed as a single document. Once the analysis is completed, the Council could consider whether a portion of the analysis should be extracted out for purposes of fulfilling the request from Congress.**

B. Other Legal Issues for the Council to Consider

NOAA GC also identified several other legal issues for the Council's consideration as follows: (1) in defining qualification criteria for allocating quota shares, consideration should be given to present participants up through the date of the Council's final action; (2) as the Council refines the design of the proposed IFQ program, the Council may want to consider the antitrust implications of certain design features of the proposed program; and (3) the analysis may need to address whether certain design features of the proposed IFQ program are consistent with the "port preference" clause of the U.S. Constitution.

C. Overview of Elements and Options of Proposed IFQ Program

This section describes the three components of the proposed IFQ program (harvesting quota shares, processing quota shares, and regionalization) and the types of IFQ models under consideration. Depending on which components are included, the resulting IFQ program will resemble one of the following four types of rationalization models: (1) harvester only IFQ, (2) harvester only IFQ with regionalization, (3) two-pie IFQ, and (4) two-pie IFQ with regionalization. Even if all three components are maintained as a single alternative, the analysis still will need to include an extensive comparison of these different types of IFQ models since each has significantly different implications for the industry and stakeholders. **On the other hand, if the types of IFQ models the Council wishes to consider can be narrowed down, the analysis could be vastly streamlined. Note that the Crab Rationalization Committee was not able to reach consensus on the relative desirability of the different types of IFQ models.**

D. Outline of Analysis of IFQ Program Alternatives

This section provides an outline of the analysis and a tentative budget of the time available to complete the analysis, assuming the goal of completing a preliminary draft by the October meeting. Given about 12 calendar weeks of available time, staff is budgeting 9-10 weeks to complete the description of existing conditions (tentatively called Chapter 2) and the analysis of the alternatives (tentatively called Chapter 3). The remaining 2-3 available weeks would be allotted for preparing all remaining chapters of the document. Note that this is a *budget* of available time and *not* an indication of the time required to complete the analysis. The analytical effort required to prepare Chapter 2 (existing conditions) and Chapter 3 (analysis of alternatives) is highly sensitive to the Council's choice of options. On the other hand, the section in Chapter 3 that compares and analyzes the implications of the various IFQ models under consideration, as well as

cooperatives, is likely to require the most significant effort and yet is also least sensitive to the Council's choice of options. **While staff has budgeted 1.5 weeks to complete this comparative analysis, the required analyses may require significantly more time to prepare. A more realistic estimate of the amount of time required to complete this section would be 6-8 weeks. Thus, staff may need to contract out portions of this section in order to complete the analysis in the allotted time.**

E. Available Data and Ownership Information

This section describes the types of data available and ownership information required to complete the analysis. Available data includes information on crab harvest by vessel, crab purchases by processor, information on vessel owners, processors and skippers, ex-vessel and whole-sale prices and fish taxes. Staff notes that information on the cost structure of firms and data on expenditure patterns are not readily available. In order to analyze options on ownership caps and limits on foreign ownership, staff will need information on (a) the ownership of harvesting vessels (by other harvesters and by processors), (b) the ownership of processing facilities (by other processors and by harvesters), and (c) foreign ownership. **During the Crab Rationalization Committee meetings, industry representatives offered to provide ownership information to staff for purposes of the analysis. To allow timely completion of the analysis, Council staff needs the ownership information by August 1, 2001.** Staff encourages industry to provide the information in a consistent format in order to facilitate staff's use of the data in the analysis.

F. Analytical Issues Unique to Harvesting Sector

This section discusses analytical issues unique to the harvesting sector component of the proposed IFQ alternative. Staff comments are provided for the proposed elements and options in paragraph 1.0 of the draft AP motion (Attachment 1). This discussion includes a number of staff suggestions and requests the Council to clarify its intent on a number of issues. The staff suggestions and requested clarifications are summarized below:

Staff Suggestions for Harvesting Sector Options (by Attachment 1 paragraph):

- Included crab fisheries (paragraph 1.1) - developing fisheries should not be included in the program at this time because of low participation and unsurveyed stocks.
- Options for brown king crap (paragraph 1.3.1.1) - separate brown king crab into two categories of quota shares (eastern and western Aleutian Islands).
- Qualifying periods for QS distribution (paragraph 1.4.2) - consider using a more recent qualifying period to reduce impact of catch history of vessels that are no longer in the fishery. Also consider eliminating options for qualifying years which were intended to mirror the vessel buy-back program.
- Suboption to award 50/50 split for brown king crab (paragraph 1.4.2.7) - consider dropping this suboption since it would not be reflective of actual catch history of participants.
- Ownership caps (paragraph 1.6.3) - note that analysis of these options requires ownership and part ownership information that industry representatives agreed to provide staff.
- Catch accounting under IFQs (paragraph 1.7.2) - note that options for treatment of discards may require a change to the FMP provisions defining the State of Alaska's authority.
- Vessel use caps (paragraph 1.7.3) - note that it may not make sense to set vessel caps below ownership caps since this would force the QS holder to fish its IFQs on multiple vessels.

- Skipper and Crew options (paragraph 1.8) - consider dropping the option to protect traditional crew share percentages with no sunset since the government's role is not clear.
- Roll-over provisions (paragraph 1.8.2) - consider dropping the roll-over options since it is not clear they would accomplish their intended goal.
- Options for AFA vessels (paragraph 1.8.3) - consider dropping Option 2 since the buy-back statute P.L. 106-554 already provides for the requested adjustment for AFA vessels.

Requested Council Clarifications (by Attachment 1 paragraph):

- Eligibility criteria (paragraph 1.2) - clarification of whether the 75% U.S. ownership requirement refers to the vessel or corporation/partnership.
- Options defining initial allocation of QS (paragraph 1.2 and 1.4) - clarification of (1) the basis for the issuance of QS and (2) to whom the QS will be granted in cases where the holder of the LLP license and the owner of the certified vessel are not the same persons. In addition, consider adding a requirement that the QS recipient own a certified vessel.
- Eligibility to receive transfers (paragraph 1.6.1) - confirmation that sea time requirement applies to the U.S. citizen with 20% ownership and not the entity.
- Shares initially issued to skippers and crew (paragraph 1.8) - clarification of whether shares initially issued to skippers/crew would be a separate category of shares.

G. Analytical Issues Associated with Processing Sector Options

This section discusses analytical issues associated with some of the processing sector options. (Note that options that define the interaction between harvesters and processors are discussed in a later section.) This discussion includes a number of staff suggestions and requests for clarification as follows:

Staff Suggestions and Requests for Clarification (by Attachment 1 paragraph):

- Categories of processing quota shares (paragraph 2.2) - clarification of whether catcher processors would be eligible to receive processing quota shares for processing of crab delivered by a different harvester.
- Options that define initial allocation of processing quota shares (paragraph 2.1) - clarification of whether the phrase "any crab fishery in 1998 or 1999" refers only to crab fisheries included in the IFQ program.
- Options for qualifying periods (paragraph 2.3) - consider eliminating some of the options for qualifying years in order to streamline the analysis. Also consider eliminating the suboption to allow any fishery to be dropped from the program or clarify the intent of this suboption.
- Ownership and use caps (paragraph 2.7) - clarification of how the ownership caps will be applied (e.g., company as an entity or owners of the company). Note also that ownership information that industry representatives agreed to provide will be needed.

H. Analytical Issues for Options that Define the Interaction of the Harvester and Processor Components

This section discusses analytical issues associated with the proposed options that define the interaction of harvesters and processors under a two-pie IFQ model. Staff comments on the proposed options are summarized below (by Attachment 1 paragraph):

- Percentage of season's GHL issued as IPQs (paragraph 2.4) - the two proposed approaches (issue IPQs for a percentage ranging from 0-100% and issue IPQs for a percentage > 100% of the GHL) have fundamentally different implications for how the two-pie IFQ program would work and represent two alternative IFQ models. Inclusion of both approaches would likely substantially increase the analytical task since each has different implications that would need to be considered in the analysis.
- Options for open deliveries (paragraph 2.5) - these options have different implications for the ability of harvesters and processors to negotiate prices and how the fishery is prosecuted (timing of deliveries, deadloss, continuation of race for fish, etc.).
- "Use it or lose it" penalties (paragraph 2.8.2) - staff notes that the Crab Rationalization Committee agreed to this option with the understanding that "use it or lose it" penalties may be required for both harvesters and processors.
- Private sector binding arbitration (paragraph 2.8.3) - staff notes that while it may be possible for staff to include a brief discussion of this (Canadian) process based on readily available information, a more extensive analysis of this proposal may require contractor assistance.
- Roll-over provisions (paragraph 2.8.4) - consider dropping these options since it is not clear it would function as intended if the GHL is not adjusted upward in the following season.

I. Analytical Issues Unique to Regionalization

This section discusses analytical issues associated with options that would impose regional delivery restrictions for a one-pie (harvester only) or two-pie IFQ program. Under regionalization, deliveries to processors would be restricted on a regional basis; the regional restrictions, however, would not restrict where crab could be harvested. Staff comments are summarized as follows (by Attachment 1 paragraph):

- General comment on regionalization - note that the administrative record will need to state why other approaches to addressing community concerns were not pursued.
- Definition of regions (paragraph 3.1) - due to small number of processors operating in North Region, staff would need processors with plants located in the North Region to waive confidentiality restrictions for purposes of the analysis.
- Period used to determine regional percentages (paragraph 3.2.1) - note that it may make sense to extend the time period back (e.g., back to 1992) in order to analyze historical delivery patterns in years of both low and high abundance.
- Assignment of regional designation (paragraph 3.2.4) - consider amplifying conditions under which quota share designated for one region could be re-assigned to a different region.
- Federal subsidies for Pribilofs/Bering Sea Region (paragraph 3.4) - consider dropping this options since it may be in conflict with the disaster provisions of the MSA.
- Duration of Program (paragraph 4) - consider renaming this provision "Program Review" since potential for program to end could prevent realization of rationalization goals.

J. Other Issues for Analysis Recommended by the AP

In addition to analysis of the specific elements and options of the proposed IFQ program, the AP recommended that the analysis include a comprehensive qualitative and, where possible, quantitative consideration of 18 items, grouped under the following issues:

- Vertical Integration (items A - D, G, H and K)
- Foreign Ownership (items E, F and M)
- Competitive Implications of Various Rationalization Models (items I, J, L and Q)
- Spillover effects on other Fisheries (item N)
- Effects of Purchases Made by Non-Eligible Processors (item O)
- Canadian Code of Conduct (item P)
- Conservation Implications (item R)

Most of this section focuses on the possible approaches for analyzing the vertical integration and competitive implications of the various rationalization models under consideration. Staff notes that this portion of the analysis could serve as the "threshold" comparative analysis of the different approaches to rationalization requested by Congress. Three approaches are suggested for the analysis of vertical integration and competition as follows: (1) determine concentration of ownership and implications for competition (4-8 weeks), (2) perform an extensive supplemental review of economic literature concerning bargaining power in fisheries and other industries (2 to 3 weeks), and (3) - optional - perform an extensive theoretical (and possibly empirical) analysis of specific program elements (6 - 12 months).

K. Summary of Analytical Time Requirements and Staff Recommendations

This section discusses the analytical time requirements and notes portions of the analysis where there may be significant gaps between time required and time available. Staff estimates that, once the information and chapter on the existing conditions of the BSAI crab fisheries is prepared (which may take up to 10 weeks), the time required to complete the analysis of the alternatives is approximately 26 weeks if all proposed options are included. **The estimated time requirements include staff time required to interact and coordinate efforts with other agencies (NMFS and ADF&G), manage any contractor studies and perform the required analyses.**

If some options are dropped (e.g., those suggested by staff) and portions of the analysis are contracted out, the analytical time required for staff would be reduced by eight weeks or more. **As discussed earlier, staff recommends preparing the analysis for Congress as a part of the analysis for Council action and believes that separating the two analyses will increase the workload overall.** Staff also suggests the following ways to streamline the analysis:

1. Narrow the choice of rationalization models (for example, only one two-pie IFQ model, only a harvester-only IFQ model, no co-op or a limited co-op alternative, etc.)
2. Only include a few of the crab fisheries (e.g., opilio and king crab)
3. Clarify intent to grant QS to owners of certified vessels
4. Further reduce options for qualifying years (effort expands for each year analyzed)
5. Only consider one approach to crew shares

Of these suggestions, 1, 3 and 4 are most likely to streamline the analysis to the greatest degree. For example, to the extent that the choice of models to consider can be narrowed, the analysis may be streamlined significantly, perhaps by as much as one month per model. In spite of these suggestions, staff believes that a substantial portion of the effort required to complete the analysis arises from the inherent complexity of the three-component IFQ model, the number of crab fisheries under consideration and the complexity of the issues involved.

Proposed Elements and Options for Crab IFQ Program

(Based on AP Motion plus Additional Options Proposed by Council During April 2001 Meeting)

1. Harvesting Sector Elements

1.1 Crab fisheries included in program are those subject to the Federal FMP for BSAI,
Suboption: include closed and developing fisheries

1.2 Persons eligible to receive an initial allocation of QS must be:
(a) persons that have L.L.P. permits and endorsements for each crab species; and
(b) U.S. citizens, U.S. corporations or partnerships
Option 1. Eligible to document a U.S. fishing vessel
Option 2. 75% US ownership

1.3 Categories of QS/IFQs

1.3.1 Crab Fishery Categories - QS/IFQs will be assigned to one of the following crab fishery categories: Opilio, Bairdi, Bristol Bay red king crab, Pribilofs red king crab, Pribilofs blue king crab, St. Matthew blue king crab, Brown king crab or Adak red king crab.

1.3.1.1 Brown king crab options:
Option 1. A single category for all areas in catch history
Option 2. Split into two categories: Dutch Harbor brown king crab and Western Aleutian Islands brown king crab
Option 3. Do not include Aleutian Island Brown Crab

1.3.1.2 Adak red king crab options (*this fishery has been closed for several years*):
Option 1 Do not include Adak red king crab until it becomes a viable fishery again
Option 2. Include Adak red king crab in crab IFQ program

1.3.2 Harvesting sector categories - QS/IFQs will be assigned to one of the following harvesting sector categories:
(a) catcher vessel (CV), or
(b) catcher/processor (CP)

1.3.3 Processor delivery categories - QS/IFQs for the CV sector may be assigned to processor delivery categories if Processor quota shares (PQs) are included in the program. Several options for implementation exist as follows:

Option 1. No processor delivery categories (*processors may either accept deliveries on an open-access basis first or only accept open-access deliveries after their processing quota shares are utilized - see Processing Sector Elements.*)

Option 2. Two processor delivery categories (*options for the percentage split between class A/B shares for initially allocated QS appear under the Processing Sector Elements*):

(a) Class A - allow deliveries only to processors with unused IPQs
(b) Class B - allow deliveries to any processor

1.3.4 Regional Categories - QS/IFQs for the CV and C/P sectors may be assigned to regional categories if Regionalization is included in the program. Two regions would be defined as follows (*see Regionalization Elements for more detailed description of regions*):
(a) North Region - All areas on the Bering Sea north of 56° 20' N. Latitude.
(b) South Region - All areas south of 56° 20' N. Latitude

1.4 Initial allocation of QS

1.4.1 Calculation of initial QS distribution will be based on legal landings excluding deadloss. **The intent of the AP is that the denominator used to determine the distribution of QS would be the sum of the histories of vessels qualified under Amendment 10. The AP notes that some vessels qualified under Amendment 10 are replacement vessels and recommend an option that the replaced vessels' history would flow to the replacement vessel.**

1.4.2 Qualifying Periods for Determination of the QS Distribution:

1.4.2.1 Opilio
Option 1. 1990 - 1999
(a) All years
(b) Best 7 years
Option 2. 1992 - 1999
(a) All years
(b) Best 5 years
Option 3. 1995 - 1999
(a) All years ~~(consistent with buyback program)~~
(b) Best 3 years

1.4.2.2 Bristol Bay red king crab
Option 1. 1990 - 1999
(a) All years
(b) Best 7 years
Option 2. 1993 - 1999 ~~(consistent with buyback program)~~
Option 3. 1992 - 1999
(a) All years
(b) Best 5 years
Option 4. 1995 - 1999
1. All years
2. Best 3 years

1.4.2.3 Bairdi
Option 1. 1992 - 1996 ~~(consistent with buyback program)~~
Option 2. 1994 - 1996
Option 3. 1990 - 1997

1.4.2.4 Pribilofs red king crab
Option 1. 1993 - 1998
Option 2. 1994 - 1998 ~~(consistent with buyback program)~~
Option 3. 1996 - 1998

1.4.2.5 Pribilofs blue king crab
Option 1. 1993 - 1998
Option 2. 1994 - 1998 ~~(consistent with buyback program)~~
Option 3. 1996 - 1998

1.4.2.6 St. Matthew blue king crab
Option 1. 1993 - 1998
Option 2. 1994 - 1998 ~~(consistent with buyback program)~~
Option 3. 1996 - 1998

1.4.2.7 Brown king crab (based on calendar years ending 12/31)
(Options apply to both Dutch Harbor and western Aleutian Island brown king crab)
Option 1. 1990 - 1999
Option 2. 1992 - 2000
Option 3. 1995 - 1999 ~~(consistent with buyback program)~~
Option 4. 1995 - 2000

Suboption: award each initial recipient 50/50 Dutch Harbor/western Aleutian Island brown king crab QS instead of according to historical participation in each region.

1.4.2.8 Adak Red King Crab
Option 1. 1992 - 1995
Option 2. Define qualifying years in separate amendment if fishery reopens

1.5 Annual allocation of IFQs:

1.5.1 Basis for calculating IFQs:
Option 1. GHL
Option 2. Convert GHL to TACs and use TAC as the basis.

1.6 Transferability and Restrictions on Ownership of QS/IFQs:

1.6.1 Persons eligible to receive QS/IFQs by transfer -

Option 1. **(a) All persons or entities eligible to document a U.S. fishing vessel are eligible to own or purchase harvest vessel QS and IFQs**
(b) Persons or entities with 75% ownership

Option 2. **Initial recipients of harvesting quota share**

Option 3. **US citizens who have had at least**
- **a. 30 days of sea time**
- **b. 150 days of sea time**
- **c. 365 days of sea time**

Option 4. **Entities that have a US citizen with 20% or more ownership with at least**
- **a. 30 days of sea time**
- **b. 150 days of sea time**
- **c. 365 days of sea time**

1.6.2 Leasing of QS (Leasing is equivalent to the sale of IFQs without the accompanying QS.)
Option 1. Leasing QS is allowed with no restrictions
Option 2. Leasing QS is not allowed

1.6.3 **Separate and distinct** QS Ownership Caps - apply to all **harvesting** QS categories pertaining to a given crab fishery with the following provisions:

(a) initial issuees that exceed the ownership cap would be grandfathered;

(b) apply individually and collectively to all QS holders in each crab fishery;

(c) percentage-cap options for the Bristol Bay red king crab, Opilio, Bairdi, Pribilofs red king crab, Pribilofs blue king crab and St. Matthew blue king crab fisheries (*a different percentage cap may be chosen for each fishery*):
Option 1. 3% of the total QS pool for the fishery
Option 2. 5% of the total QS pool for the fishery
Option 3. 8% of the total QS pool for the fishery

(d) percentage-cap ranging from 30%-40% for the Dutch Harbor and western Aleutian Island brown king crab (*a different percentage cap may be chosen for each fishery or may be applied to the combined fisheries if not categorized separately*).

(e) percentage-cap ranging from 20%-30% for Adak red king crab (if QS for this fishery are issued)

Suboption (c, d, and e) would analyze a range of QS caps for each species bounded by the average QS held and the maximum QS holding at the time of initial issuance with grandfather provision.

1.6.4 Controls on vertical integration (ownership of harvester QS by processors):

Option 1. ***No controls***
Option 2. ***Allow purchases up to a cap of 1%, 5% or 10%***

1.7 Use of IFQs:

1.7.1 Use by harvesting sectors - IFQs must be used in accordance with the privileges defined for the associated QS category. The following provisions also apply:

(a) CP-IFQs may be used on catcher vessels to harvest and process on board;

(b) CV-IFQs may be used on catcher/processors for harvesting but must be delivered to another processor unless sufficient processing quota shares are also held;

(c) Processing quota shares may be used on catcher/processors to process crab harvested with CV-IFQs (whether by itself or another catcher vessel).

(d) Initial recipients of CP quota shares that also receive CV quota shares shall be able to convert, at the time of issuance, their initial issuance of CV quota shares to CP quota shares.

Suboption: Owners of CP quota shares cannot purchase additional CV quota shares

The following amendment failed 7/10

Divestiture:

1. An initial recipient of CV and CP quota share is required to divest quota shares in excess of the cap amount in:

Option 1. ***Five years after initial issuance***
Option 2. ***Ten years after initial issuance***
Option 3. ***Twenty years after initial issuance***

2. A initial recipient of IPQ quota shares is required to divest any CV or CP quota shares in:

Option 1. ***Three years after initial issuance***
Option 2. ***Five years after initial issuance***
Option 3. ***Ten years after initial issuance***

3. An initial recipient of QS is required to divest any IPQ QS in:

Option 1. ***Three years after initial issuance***
Option 2. ***Five years after initial issuance***
Option 3. ***Ten years after initial issuance***

1.7.2 Catch Accounting Under IFQs - All landings including deadloss will be counted against IFQs. Options for treatment of incidental catch are as follows:

Option 1. No discards of legal crab will be allowed, and sufficient IFQs for legal crab must be available.

Option 2. **No discards of "marketable" crab will be allowed for opilio crab and sufficient IFQs for "marketable" crab must be available. (Legal size for opilio is 3.1 inches, but the industry standard is 4 inches.)**

Option 3. **No discards of opilio crab with a carapace of 4 inches or greater in width *(motion passed 10/7)***

Option 4. Discards of incidentally caught crab will be allowed. (*This option would allow, for example, incidental catch of Bairdi Crab in a Red King Crab fishery to be discarded without counting against Bairdi IFQs.*)

1.7.3 Use caps on IFQs harvested on any given vessel

Option 1. Range from average to highest of annual catch by vessel by species

Option 2. No use caps

1.8 Other Optional Provisions - the Committee included several other options for analysis as follows:

1.8.1 Options for skippers and crews:

Option 1. ***An initial allocation of 0, 10% or 20% of harvesting quota shares distributed equally to qualifying crew members***

Option 2. **First-right-of-refusal on transfers**

(a) **range of *0-20%* of harvesting QS would be designated as crew shares. Transfers of harvesting QS must include transfer of 10% crew shares for which there will be first right of refusal for eligible crew to buy.**

(b) **timeframe for first right of referral is 1-2 months**

(c) **Eligibility of U.S. citizens to purchase crew shares would be defined by a range of sea time of**

(a) 30 days of sea time

(ii) 150 days of sea time

(iii) 365 days of sea time

Option 3. Protection of traditional and historical crew share percentages with no sunset.

Option 4. A low-interest rate loan program for skipper and crew purchases of QS would be established or made part of the existing loan program for IFQ purchases.

1.8.2 Rollover Provisions - Holders of CV and CP IFQ that is not fished in the season for which it is issued, may roll over a portion of their IFQ

Option 1. 1%

Option 2. 3%

Option 3. 5%

1.8.3 Options for AFA vessels:

Option 1. AFA harvester sideboard caps on crab species shall be eliminated upon implementation.

Option 2. If crab buy-back program goes into effect without crab rationalization, modify AFA crab sideboards to permit AFA vessels to share proportionately in any increase in crab harvest opportunities that accrue to remaining crab vessels.

2. Processing Sector Elements

2.1 Eligible Processors - processors eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows:
(a) U.S. Corporation or partnership (not individual facilities), and
(b) processed crab for any crab fishery in 1998 or 1999.

2.2 Categories of Processing Quota Shares

2.2.1 Crab fishery categories - processing quota shares will be issued for the following crab fisheries: Bristol Bay red king crab, Pribilof red king crab, Pribilof blue crab, St. Matthew blue crab, Opilio, Bairdi and brown king crab.

2.2.2 Regional categories - processing quota shares will be categorized into two regions if regionalization is adopted (*see Regionalization Elements for description of regions*):
(a) Northern Region - All areas on the Bering Sea north of 56° 20' N. Latitude
(b) Southern Region - All areas south of 56° 20' N. Latitude

2.3 Initial allocation of processing quota shares -

Option 1. Processing quota shares shall be initially issued to Eligible Processors based on three-year average processing history[2] for each fishery, determined by the buyer of record listed on ADF&G fish tickets, as follows:
(a) 1997 - 1999 for Bristol Bay red king crab
(b) 1996 - 1998 for Pribilof red king crab
(c) 1996 - 1998 for Pribilof blue crab
(d) 1996 - 1998 for St. Mathew blue crab
(e) 1997 - 1999 for opilio crab
(f) Bairdi crab based on 50/50 combination of processing history for BBRKC and opilio
(g) 1996/97, 1997/98 and 1998/99 for brown king crab

Suboption: The ability to drop any species from processing share program

Option 2. Processing quota shares shall be initially issued to eligible processors based on the years 1990-1999 processing history for each fishery, determined by the buyer of record listed on ADF&G fish tickets.

Suboption: Processor able to choose the best 8 of 10 years.

Option 3. Processing quota shares shall be initially issued to Eligible Processors based on the years 1995-1999 processing history for each fishery, determined by the buyer of record listed on ADF&G fish tickets.

Suboption: Processor able to choose the best 4 of 5 years.

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[2]The three-year average shall be the three-year aggregate pounds purchased by each Eligible Processor in a fishery divided by the three-year aggregate pounds purchased by all Eligible Processors in that fishery.

Option 4. Same years as years for harvesting shares on fishery by fishery basis.

2.4 Percentage of season's GHL (or TAC) for which individual IPQs are distributed:

2.4.1 IPQs will be issued for a portion of the season's GHL (or TAC) for each species, to provide open access precessing as a means to enhance price competition.

Option 1 **100% GHL (or TAC) would be issued as IPQs**

Option 2 90% GHL (or TAC) would be issues as IPQs - the remaining 10% would be considered open access.

Option 3 80% of GHL (or TAC) would be issued as IPQs - the remaining 20% would be considered open access.

Option 4 **70% of GHL (or TAC) would be issued as IPQs - the remaining 30% would be considered open access.**

Option 5 ***0% - no processing shares***

A motion to include an option 5 for 50% of GHL (or TAC) would be issued as IPQs - the remaining 50% would be considered open access failed 3/10.

2.4.2 Annual distribution of individual processing quota (IPQs) will be issued as a percentage of the quota share pool as follows:

Option 1 **105% of processors proportional share of quota share pool would be issued as processor's IPQ.**

Option 2 **130% of processors proportional share of quota share pool would be issued as processor's IPQ.**

(Motion passed 10-5)

2.5 Implementation of the open access processing portion of the fishery (three options):

Option 1. Catcher vessel QS/IFQs are categorized into Class A and Class B shares. Purchases of crab caught with Class A shares would count against IPQs while purchases of crab caught with Class B shares would not. Crab caught with Class B shares may be purchased by any processor on an open-access basis.

Option 2. No separate A/B categories for catcher vessel QS/IFQs. Deliveries to processors holding processor quota shares will count against their IPQs first. When its IPQs are fully utilized, a processor may take additional deliveries until the open access portion of the fishery is closed. Open access processors may purchase crab until the open access portion of the fishery is closed.

Option 3. No separate A/B categories for catcher vessel QS/IFQs. Initially, all processors may purchase crab on an open-access basis until the open access portion of the fishery is closed. Then, any remaining crab may be purchased by processors with unutilized IPQs.

2.6 Transferability of processing shares - provisions for transferability include the following:

1. Processing quota shares and IPQs would be freely transferable, including leasing
2. IPQs may be used by any facility of the Eligible Processor (without transferring or leasing)

3. Processing quota shares and IPQs categorized for one region cannot be transferred to a processor for use in a different region.

2.7 Ownership and use caps - different percentage caps may be chosen for each fishery:

2.7.1 Ownership caps -

Option 1. based on maximum share for processors by fishery plus a percentage of 5%, 10% or 15%.

Option 2 Ownership cap equal to largest share issued to processor at initial issuance.

Option 3 A range of caps from average to maximum with grandfather clauses

2.7.2 Use caps -

Option 1 Annual use caps ranging from 30% -50% of the GHL (or TAC) by fishery.

Option 2 Annual use caps equal to a range of 125% to 200% of the amount of IPQ quota shareholder received at initial issuance

Option 3 Annual use caps of quota share equal to the largest IPQ quota share holder in the specific fishery.

2.8 Other Optional Provisions

2.8.1 The crab processing caps enacted by Section 211(c)(2(A) of the AFA would be terminated.

2.8.2 Penalties - Eligible Processors must fully utilize their processing quota shares in the season while a fishery is open or lose the amount that is not utilized in the next season.

(a) Unused quota

Option 1. Distributed to other processors proportionally

Option 2. Distribute to other processors equally

Option 3. Allocate to open access

(b) Hardship provisions

2.8.3 Incorporate in the analysis (through a brief discussion paper) an option for use of a private sector managed (non-governmental), binding arbitration process, for failed price negotiations, between fishermen and processors.

2.8.4 For IPQs allocated under 2.4.1, the holders of IPQs that are not processed in the season for which they are issued may roll over a portion of their IPQ.

Option 1. 1%

Option 2. 5%

Option 3. 10%

3. Regionalization Elements

3.1 Two regions are proposed:

1. Northern Region - All areas on the Bering Sea north of 56° 20' N. Latitude. *(This region includes the Pribilof islands and all other Bering Sea Islands lying to the north. The region also includes all communities on Bristol Bay including Port Heiden, but excludes Port Moller and all communities lying westward of Port Moller.)*

2. Southern Region - All areas south of 56° 20' N. Latitude *(This region includes all parts of the Alaska Peninsula westward of and including Port Moller. All of the Aleutian Islands are included in the South Region as are all ports and communities on the Gulf of Alaska.)*

3.2 Regional categorization of processing and/or harvesting quota shares -

3.2.1 Categorization will be based on all historical landings. Periods used to determine regional percentages are as follows (two options):
Option 1. 1995 - 1999
Option 2. 1997 - 1999

3.2.2 Options for the harvesting sector:
Option 1. C/P and all CV quota shares are categorized by region
Option 2. C/P and only Class A CV quota shares are categorized by region

3.2.3 Options for the processor sector:
Option 1. Processing quota shares and IPQs are categorized by region
Option 2. Regional restrictions apply to deliveries made on open access basis *(Note that it may not be possible to enforce this option if the catcher vessel Class B shares are not categorized by region.)*

3.2.4 Once assigned to a region, processing and/or harvesting quota shares cannot be reassigned to a different region.

3.3 Delivery and processing restrictions - the following provisions apply to the delivery and processing of crab with IFQs or IPQs that are categorized by region:

1. Crab harvested with catcher vessel IFQs categorized for a region must be delivered for processing within the designated region
2. Crab purchased with IPQs categorized for a region must be processed within the designated region.

3.4 Other optional provisions of Regionalization:

Option 1. Pribilof/Bering Sea Region (Federal) subsidies for goods and services for the duration of the disaster

4. Duration of program
The following options apply to all program elements:

Option 1. Program review after 5 years

Option 2. Program review every 4 years to objectively measure the success of the program by addressing concerns identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards

Option 3. No sunset

(Motion passed 12-5)

Further, the AP recommends that the Analysis include, to the extent possible, a comprehensive qualitative, and where possible, quantitative consideration and examination of the following:

A. Processor ownership interest in BSAI crab harvesting vessels,
B. CV ownership interest in processors
C. Processor ownership interest in BSAI crab fishing history,
D. CV ownership interst in BSAI processing history
E. Foreign ownership interest in the BSAI crab processing sector,
F. Foreign ownership in the BSAI crab harvesting sector
G. The percentage of Harvester IFQs (IFQs) that will be allocated to the processor sector as a result of processor sector ownership interest in BSAI crab harvesting vessels and BSAI crab fishing history.
H. The percentage of processor IPQs that will be allocated to the harvesting sector as a result of harvesting sector ownership interests in the BSAI crab processing sector and BSAI crab processing sector history including CPs.
I. The anti-competitive impacts and economic barriers that may result from the cumulative and combined impacts of Individual Processing Quotas (IPQs) coupled with Regionalization. For example: are the combined impacts and barriers of IPQs and Regionalization different than the individual and respective impacts of IPQs or Regionalization, and if so, to what extent,
J. The general economic and social impacts, and the impacts on free and open competition and markets of IPQs, including the Halverson Report, and Matulich report on 2-pie IFQ program.
K. The impacts of IPQs on free markets and vigorous competition in the BSAI crab industry that may result from, 1) processor sector ownership interest in BSAI crab harvesting vessels, 2) processor sector ownership interest in BSAI crab fishing history, and 3) the percentage of Harvester IFQs that may be allocated to the processor sector as a result of processor sector ownership interest in BSAI crab vessels and BSAI crab fishing history,
L. The general impacts of IPQs on free markets and vigorous competition, price mechanisms, costs, distribution of rents, and other competitive mechanisms:

(1) in the BSAI crab processor sector
(2) in the BSAI crab harvester sector.
(3) in the BSAI crab industry,
(4) in the non-AFA processor sector,
(5) in the Kodiak processor sector,
(6) in the BSAI and GOA fishing industry,
(7) that may result from mergers, acquisitions, combinations and concentrations in the processing sector,
(8) that may result from foreign ownership interest in the processing sector,

M. Restrictions of ownership of Harvester IFQs by processing entities that have more than 25% of foreign ownership interest.

N. Spillover effects on other fisheries
O. Include a discussion of the percent of GHL purchased by non-elegible processors on an annual basis and this effect on the final QS pool
P. Include a discussion on the Canadian Code of Conduct and its ability to address concerns that option 1 of section 1.8.1 is intended to address.
Q. Include a conceptual discussion on how co-op managment might work in the harvesting and processing sectors and a comparison of IFQs/IPQs, to co-ops including the Dooley-Hall co-op structure in addressing the problem statement.
R. Conservation benefits and other implications of each component of the program (IFQ, IPQ, Regionalization Co-ops). It is anticipated that analysis of these issues may be presented in a consolidated section in the EA/RIR.
(Motion passed 10-6)

TONY KNOWLES, GOVERNOR

AGENDA C-2(c)
JUNE 2001

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, ALASKA 99802-5526
PHONE: (907) 465-4100
FACSIMILE: (907) 465-2332

March 22, 2001

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Benton:

Fleet rationalization resulting from the American Fisheries Act (AFA) has stimulated industry efforts to rationalize additional fisheries under the jurisdiction of the North Pacific Fishery Management Council (Council). The Alaska fishing industry is considering two immediate rationalization programs for Bering Sea and Aleutian Islands crab and Gulf of Alaska groundfish fisheries. These are perhaps the two most important rationalization efforts ongoing in the entire United States, and the State of Alaska realizes these efforts must succeed in order for individuals, harvesters, processors, and communities to have viable fisheries now and in the future.

In a September 21, 2000, letter to Senator Ted Stevens, Governor Knowles went on record supporting an extension of the Individual Fishing Quota (IFQ) moratorium. He also provided comments on issues for the Council to consider in rationalization of fisheries in Alaska. For the Bering Sea and Aleutian Islands crab fisheries, he wanted some assurance of participation by all sectors of the fishing industry, including coastal fishing communities, as elements and options for a rationalization program are developed.

As Governor Knowles explained, difficult decisions concerning crab conservation, over-capitalization, and rationalization of these fisheries will need to be made. In order to proceed with the best possible decisions, the Governor wanted, through the Council process, a thorough analysis of current conditions in the Bering Sea and Aleutian Islands crab fisheries.

Industry and communities in Alaska have invested a great deal of time and effort to make this work, and the rationalization process is moving at a rapid pace. As we move forward there are general policy and specific management considerations that should be analyzed. General policy considerations the Governor asked the Council to include in the analysis were:

- Conservation and sustainability of biological resources is the highest priority
- Ensuring an appropriate increase in quota to the CDQ program and/or creating some other opportunity for community-based access to quota
- Protecting the communities' historic reliance on crab processing

- Maintaining an independent fleet and arms-length price negotiations between harvesters and processors to ensure market and fleet diversity
- Minimizing disruption to the processing sector and evaluating the best means to address overcapitalization in the processing sector
- Protecting against excessive concentration of quota
- Examining possible limited-duration quota systems that allow for periodic review of the assignment and transfers of quota

The Alaska Department of Fish and Game also has concerns about specific management details involving an IFQ system. At issue are differences in the interpretation of Guideline Harvest Levels (GHLs) or Total Allowable Catches (TACs). In some years, the department has made inseason adjustments to the GHL for a particular fishery when inseason fishery performance suggests population abundance has been under/over-estimated due to survey error or unexpected mortality. On the other hand, TAC is generally considered to be a fixed target goal that is a necessary component of a quota share system. TAC allows fishermen participating in IFQ fisheries the confidence that regardless of when they choose to harvest their quota shares, their quota amount would not change for the duration of the season. Those opting to get a later start should have no concern that the catch ceiling may be reduced, thereby reducing their allocated percentage of the total catch as compared to a fisherman who had fished his share early in the season. Since a change from a GHL to a TAC approach would not allow for seasonal harvest quota adjustment based on fishery performance, harvest quotas for unsurveyed crab stocks, such as the Bering Sea brown king crab, grooved and triangle Tanner crabs, would be very conservative, using something less than the long-term average population estimates. In addition, several crab fisheries, notably the Norton Sound red king crab and the Korean hair crab would not likely be part of the rationalization process.

Under rationalized fisheries that provide individuals the ability to fish within extended open fishing periods, staff would need to reevaluate the current biological seasons and management implications. Existing biological seasons are very broad, and an IFQ or coop program would potentially allow fishing at any time during those seasons. Although major changes in the biological periods are unlikely, new information on crab mating and molting would be used to more accurately describe biological seasons. If a CDQ, AFA, or IFQ fisherman chose to fish late in the spring and softshell crab were encountered, ADF&G may need to close prior to the TAC being achieved. In addition, the department may also need to review the effect of broader fishing seasons with respect to natural mortality during the interval between the survey and the fishery. Another issue to be evaluated would be the potential for increased handling mortality from catch that is sorted multiple times in a season.

There is also the issue of funding sources for management and research needs. Currently we conduct test fisheries in the Bering Sea and use receipts to help meet research and management funding demands. Some similar form of industry support would have to continue under any program. In the existing halibut and sablefish IFQ programs off Alaska, the IFQ permit holder pays an amount up to three percent of the exvessel value of the IFQ landings, and those dollars can only be used to fund research and management costs of those stocks. The intent is to reimburse the agency for costs incurred that result directly from IFQ management and enforcement. However, the cost recovery system required under the Magnuson/Stevens Act is

only for IFQ fisheries; whether that mandate would extend to some variation on IFQ management (e.g., cooperatives) remains to be seen. Under a rationalized fishery, seasons become more protracted, requiring sampling efforts over an extended duration, at a larger cost to ADF&G. Similarly, enforcement efforts would need to cover longer periods of fishing opportunity. Additionally, passage of a rationalization program will result in subsequent changes to existing state regulations and require a major rewrite of the present crab FMP. This will result in further costs to the state. Therefore, I assume that if the state incurred increased costs in monitoring, enforcing, or implementing a crab IFQ program, it would be a worthy candidate for some level of reimbursement.

The state is concerned that under a rationalization program fishing practices could change to meet economic considerations and these changes may result in unintended biological consequences. In order that the state meet its statutory responsibility to conserve the resource, the state believes that the rationalization plan should include a representative observer coverage, similar to the AFA requirements.

Along with the need for creating a crab rationalization program that promotes resource sustainability, the state is also very interested in sustainability of its residents and communities. Following the creation of the halibut and sablefish IFQ program, the State of Alaska launched a major initiative to fully analyze the economic changes created by the IFQ program. There were, however, serious data constraints in tracking these changes in the industry due to insufficient economic information. For a crab rationalization program, the state would prefer to see this shortcoming corrected by recommending a more formal collection effort of key industry economic information to track the industry. This effort would allow for the evaluation of the long-term economic consequences of this program on vessel owners, crew, skippers, processors, and the local communities.

I am hopeful that the crab rationalization committee will take these issues under consideration as they move forward in the development of elements and options for a crab rationalization program.

Sincerely,

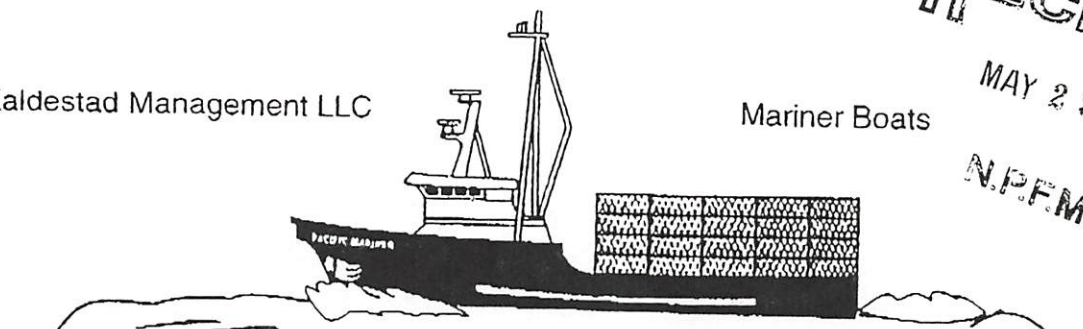
Kevin C. Duffy

Kevin C. Duffy
Deputy Commissioner

cc: Chris Oliver
Frank Rue
Doug Mecum
John Sisk

Kaldestad Management LLC

Mariner Boats



5470 Shilshole Ave. N.W. #410 • Seattle, WA 98107 • (206) 783-3018 FAX (206) 783-3145

May 29, 2001

North Pacific Fishery Management Council
605 West 4th Avenue, Suite 305
Anchorage, AK. 99501-2252

COPY

Re: C-2 BSAI Crab Rationalization

Dear Council Members,

At this upcoming June meeting the Council will be reviewing the White Paper on options for BSAI crab rationalization. As a former member of the Council appointed Crab Rationalization Committee, I feel that the Committee had made great strides in moving toward a program which would be a good starting point for rationalization. The crab industry has been told many times by members of Congress that "consensus" was needed by the various segments of the crab industry to allow Congress to lift the moratorium on IFQs and allow rationalization to take place. No one has told what the exact definition of "consensus" is. As a crab harvester, I do not particularly like processor quotas or having to sell crab in a certain area, but I believe without these being included in a crab rationalization plan, there will be no plan. The crab fleet badly needs rationalization. Processors and communities will survive without it. Many in the crab fleet will not.

Analyzing elements and options is a futile process, though I realize it must be done. As a former economics major with over 25 years in the crab fishery, I cannot tell you how everything will work under rationalization. I don't believe anyone can. Relationships and ways of doing business will change under rationalization. I think it is more important to set up a good review process to see how the interactions have changed and then make changes to the program to correct any problems created.

I a m hopeful that the Council will use the Committee's recommendations, and add in the element of binding arbitration to alleviate price disputes. to move forward with a plan for crab rationalization inn the BSAI.

Sincerely,

Kevin L Kaldestad

Kevin L. Kaldestad

RECEIVED
MAY 11 2001
N.P.F.M.C

To : North Pacific Fisheries Management Council

From; Randy Walton

Regards: Implementing I.F.Q.s in B.S.A.I. Crab Fisheries

My main concern with I.F.Q.s in the crab fisheries is giving all the quote shares to the vessel owners only and not giving concentration to other parties involved in the operation of the vessel that does not hold any L.L.P.s.

I agree that there needs to be changes in the current system that we use know, I think I.F.Q.s make the most sense with the following points to be concentered.

In my case I am the skipper and I owned all the crab pots (200 in total) and had a 5 year lease agreement between me and the vessel owner.
The vessel would not have a catch history for any quota shares without leaseing my crab pots, you can not have one without the other to come up with catch history.

My point is that the vessel owner had money invested in the boat and I had money invested in the crab pots and all the related expenses for the upkeep, replacement, and storage of the crab pots. This situation worked well for both parties for capital that each of us had to use at the time.

I do not think it is right that only a person who holds a L.L.P.(vessel owner) be the only one that receives any Quota Shares when there was another person with invested interest in the vessels operation which inturn qualified it for Quota Shares, but did not own part of the vessel.

This situation is different from the lease agreements that were allowed in the implementation of I.F.Q.s in halibut and black cod fisheries.

The fact that I had a 5 year long term lease between me and the vessel owner and not a short term (one season lease), makes my lease different and needs to be allowed on my behalf in any Quota Share Allocation that is to be given to the vessel owner. I think I should receive the percentage of what my gear lease percentage was for the term of the lease for compensation for my contribution to the operation of the vessel in the crab fisheries in the Bering Sea.

These are some of my concerns that need to be concentered in any further I.F.Q.s in the crab fisheries.

Sincerely;

Randy Walton

TO : North Pacific Fishery Management Council

From : Randy Walton

Reference To: Including Skippers in any Proposed BSAI Crab I.F.Q.s

In this letter I would like to express some of my concerns regarding I.F.Q.s in the BSAI crab fisheries for the future.
I've been commercial fishing for the last 22 years, 10 of those years on deck, and the last 12 as a skipper-operator. Commercial fishing is my career, and is my source of income.

With the implementation of I.F.Q.s in the crab fisheries and being give only to the vessel owner or the holder of the L.L.P. licence and not giving any concern to the operator makes me very concerned.

It is the skippers skill and knowledge of the fisheries that has produced the catch history for any of the vessel's that qualify for I.F.Q.s. The skipper is the one that has to train new crewmembers, he is the one that is liable for fines due to small crabs that might get delivered. He is responsible for making sure that the vessel has all the Coast Guard Safety equipment and that it is up too date and for training the crew on the use of the safety equipment in case of an emergency.
In my case I have to purchase all the Interm Use cards that are required by law before the vessel can participate in any fishery.

Being a skipper on a boat is not like being a manager for some company working 8 to 5 with week ends off. It is a job that requires 24 hours a day, 7 days a week for each fishing season.
Their are no 401 K retirement plans, no medical plans for him and his family, no payed vacations, and in most cases no unemployment benefit to fall back on. Their are no re-training programs for fisherman that will be displaced from their jobs due to I.F.Q.s if they are not included in the allocation process.

The skipper is more than just the driver of the vessel, he is the one that makes the operation run and keep running, good season or bad season. The majority of the skippers have been doing this as a career for most of their working lives and need to be included in any I.F.Q. program to assure them a future in the fishing industry, they have earned it.

These are some of my concerns that I have regarding I.F.Q.s in the future for any of the crab fisheries in the BSAI.

Sincerely,

Randy Walton

Obsession Fisheries L.L.C.
Pacific Mist Fisheries L.L.C.
Pacific Marit Fisheries L.L.C.
King * Opilio * Tanner * Salmon
Fishing Charters
P.O. Box 3476 * Kodiak, Alaska 99615 * 907 487 2248 * Fax 907 487 2515

May 24, 2001

LETTER TO THE EDITOR OF THE KODIAK DAILY MIRROR

Response to "Processors want "limited entry plus", Guest Opinion By Dick Powell, May 21, 2001

There are two basic issues that need to be clarified in Mr. Powell's article: the first is Mr. Powell's fishing operation; and second, misrepresentations and clarifications about the proposed Bering Sea-Aleutian Islands crab two pie ITQ system, with an overlay of regional landings. I also wish to point out some very pressing reasons for rationalizing the crab fisheries.

To begin, it is necessary to clarify a few things about the understated Mr. Powell. Mr. Powell is not just a "boat owner", he is the owner of the most successful Aleutians brown king crab fishing company in Alaska, with his at-sea crab catcher processor, Patricia Lee and the catcher vessel, Icelander. Although Mr. Powell expresses highly exaggerated fears about processors' ownership and control of up to 30% of the fishing and processing history in some crab fisheries, he himself has a vertically integrated fishing company that has reportedly controlled 25% of the Aleutians brown king crab quota for several years running-worth this year an estimated $4-$5 million in revenues. There are currently only 17 vessels operating in this fishery that has a dockside value of over $20 million dollars. The average gross stock of these vessels from the fall of 2001 and the winter of 2001 exceeds that of the average Bering Sea crab vessel by a ratio of three to one.

At the NPFMC, Mr. Powell's representative has proposed that if the NPFMC rationalizes the Aleutians brown crab fishery into a quota program, that the individual or company ownership cap on fishing-and processing history be no less than 30% of the quota, (or GHL) while IFQ fishing history caps of 1% to 5% of the quota are being contemplated for the Bering Sea crab fisheries. The 30% cap will give the Patricia Lee company room for growth in the future. In addition, although not mentioned in the article, Mr. Powell is a major owner in the Kodiak shorebased plant, Island Seafoods, pictured in the article. Although he and his partner have invested substantially in the plant in the last two years, the plant has virtually no processing history in crab or groundfish, and therefore will receive virtually no processor quota shares under the proposed two pie regionalization program for the BSAI crab fisheries.

Myself, I have been involved in the Bering Sea crab fisheries for twenty years and like many others, I have experienced the prosperous years of resource abundance, when Alaskan fisheries were akin to the last frontier in world fisheries. Those days are gone and under the present limited entry system and the archaic race for fish, I am truly concerned the resources will not rebound without the assistance of a rational quota based program.

I see three major reasons we need to rationalize the BSAI crab fisheries: safety; resource management; and economic stability. The rationalization plan must take into account the interests of harvesters, processors and communities -as directed by the U.S. Congress in Public Law 106-554 last year. The Chairman of the NPFMC has recently sent a letter to the Secretary of Commerce expressing his intent to follow through with the Congressional direction this year. The processors and communities we live in are as much a part of this industry as the fishermen and the boats they work on, and they should command equal respect and consideration in the development of the program.

The processor quota concept developed in response to the halibut and sablefish IFQ program, advocated by fishermen. Processor quotas puts both sectors on a more level playing field. Fishermen are granted their

historical allocations and processors allocated their historical allocations. Contrary to what Mr. Powell states, both types of allocations are illegal at this time, and the moratorium on IFQs has just been extended for two more years with no reassurances that it will not be extended again, unless a political compromise is negotiated with the processors and communities.

In closing, I would like to respond to Mr. Powell's hypothetical example of the market problem with the "last trip of crab" brought into Dutch Harbor, or any other Alaskan port, under the two pie system, and a fisherman being forced to sell to the last buyer with processing quota for less than the going market price. As a member of the NPFMC Advisory Panel and the NPFMC Crab Rationalization Committee, I have worked long and hard over the last eighteen months, with fishermen, crab organizations, processors and community representatives, on the issue of maintaining a fair market price. We have come up with three key elements that have been accepted into the NPFMC analysis for crab rationalization in a two pie/regionalization program. If properly implemented, these mechanisms will more than adequately address market concerns and pave the way for additional benefits that could materialize from a better relationship between fishermen, processors and communities.

- A provision mandating a private sector binding arbitration process, on a company-by-company basis, in the case of failed price negotiations between fishermen and processors. The process would have a deadline, and be initiated about eight weeks before the opening of the season. It has worked successfully in the Newfoundland snow crab industry for the last four years.
- The 80:20 to 90:10-proposed guaranteed and open access portions of processing quotas-allows for 10% to 20% of each fishing vessel's IFQs to be sold outside of the pool of initial processing quota share (IPQ) holders, to any licensed crab buyer in the State of Alaska. The 10% to 20% open access share in each of the BSAI crab fisheries will provide the vessel owners with bargaining leverage and it will hopefully stimulate growth in the number of Alaskan small buyers, just as the sablefish and halibut IFQ program generated growth in small buyers in that industry.
- Mandatory program review after one or two years of operation-with a focus on the issue of market competition, and other priority concerns that fishermen, processors and communities feel should be reviewed.

If the final decision on rationalization comes down to where I have to deliver 80% to 90% of my product to the same companies I have been selling 100% of my product to for the past ten years, so be it. It is a cost of doing business, in order to achieve my three major goals of safety, resource management and economic stability. Only with rationalization does this industry have a chance to survive and prosper. In regards to the processors, I have respect for them all, and I look forward to doing business with them in the future.

Sincerely,

Jeff Steele
Obsession and Pacific Mist Fisheries L.L.C.
Kodiak, Alaska 99615

cc: David Benton, Chairman, NPFMC

Processors want 'limited entry plus'

GUEST OPINION

By Dick Powell

I don't often write a letter to the editor, but feel I need to respond to some of the points raised in the recent article titled "Bill could hurt local processors" by Erin Harrington.

The national fisheries bill referenced in the article was introduced by Senator Olympia Snowe (R-Maine) and provides guidelines for future IFQ programs throughout the United States. There is a current moratorium on new IFQ programs which expires next year. Senator Snowe introduced the legislation to begin the process of requiring national standards for any new IFQ programs which are to be considered. These standards include protection for communities and crewmembers, and the need for a review of any IFQ program adopted.

It is true that processor shares were not included in the bill. Can you guess why?

Processor limited entry and processor shares are not legal. They have *never* been legal in the United States. The only fishery that has a form of processor limited entry is the pollock fishery in the Bering Sea, and this was created with special legislation called the American Fisheries Act. The reason processor limited entry and processor shares aren't legal is to allow the fishermen a chance at a fair price when they deliver the product.

The current moratorium applies to quotas for fishing history only. The Snowe bill does *not* prohibit the allocation of fishing shares to processors as asserted in the article. The reason it doesn't address the idea of processor limited entry or processor shares is because they have never been allowed anyway. They are not legal.

Did you know that most of the large processors own vessels that participate in the various fisheries? In fact, some people suspect that if fishing shares were handed out, the processors would get up to a third of the shares for some fisheries. The processors conveniently tend to forget about this when they talk about their "need" to have exclusive rights to processing shares. Just because "need" and "greed" rhyme doesn't mean they are the same thing.

Most of the groundfish fisheries (salmon, groundfish, halibut, crab and whatever else comes into town. Most fishermen are limited to one or two fisheries and are totally dependent on those for their income. The processors have the ability to make it up with one product if they lose a bit on another. Fishermen don't have that luxury.

Processors want a system I like to call "Limited Entry Plus." This system first sets up the class of processors by only letting in those who have processed a certain amount of product over a certain period of years. This makes up the eligible processing sector and is limited entry. Then they want to take their processing history for those years and further divide it up among themselves. They then get *guaranteed* landings for that history. So we have only a few processors who can even think about buying my product, and those processors have divided up the pie. Let's say there are three processors in this community that qualify for Bering Sea crab. And let's say they each get one-third of the crab that can come into this community. Now, let's say I'm the last guy out fishing and when I bring my crab to town, I get sent down the line to the last guy who has processing quota. Let's say I go to that processor and tell him I want to negotiate a price or I'm taking my crab elsewhere. What do you think he would do? He'd laugh me out of the room and tell me I have two options. I can sell to him at the price he wants to pay me or I can take my crab back to the Bering Sea and try sell it in Dutch Harbor to maybe the last processor taking crab out there. I think you get my point about how this works.

Instead of this very anti-competitive situation, I think it makes sense to look at another possible solution. I support the idea of having some kind of regional or community landing requirements.

Instead of this very anti-competitive situation, I think it makes sense to look at another possible solution. I support the idea of having some kind of regional or community landing requirements. This would mean I would have to bring my product to town and not take it to another community. This provides community protection, and guarantees that some processor in the community will get my product. For those processors who want it all, I say no. As a lifelong Alaskan and commercial fisherman, I would hate to see us go back to the time when the processors controlled everything and fishermen were owned by the "company store."

(Dick Powell is a Kodiak resident and boat owner.)

Seat belt enforcement blitz

Letters to the editor

To the editor:

Every day, tens of thousands of drivers break the law in Alaska — and by doing so — put themselves and their child passengers at deadly risk. In the split second that an adult fails to buckle up or buckle up children, a decision has been made that could result in a death of one or all passengers in the vehicle.

That is why the Kodiak Police Department is joining the largest-ever crackdown on drivers who don't buckle up and don't buckle up their children. This month through Memorial Day, our officers will sharply intensify enforcement of adult seat belt and child passenger laws throughout the community as part of Operation ABC Mobilization.

During this enforcement blitz, officers will look for and ticket drivers who knowingly violate seat belt laws.

We join this enforcement effort because it works. Since the mobilizations began in 1997, child fatalities have dropped 17 percent. While we are proud to be a part of this lifesaving effort, more must be done.

In 1999, three children under the age of 16 and 30 adults in Alaska died in unrestrained crashes. Traffic crashes continue to be the No. 1 killer of children, killing more than 2,000 people each year in the United States. If you ignore the law and put innocent lives at risk, look for us in your rearview mirror this Memorial Day.

Respectfully,

—Charles T.C. Kamai
Chief of Police

Blood donors from Europe rejected

WASHINGTON (AP) — Guarding against mad cow disease, the American Red Cross said today that it will stop accepting blood donations from people who have spent as little as three months in Britain or six months anywhere in Europe.

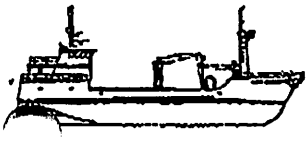
The Red Cross rules, which will take effect in September, are much stricter than those contemplated by the Food and Drug Administration.

Experts worry that the dueling policies will further confuse the public about the baffling disease. The American Red Cross said today that caution is needed given that there is no blood test for the human form of mad cow disease, which has a long latency period.

"In light of tremendous scientific uncertainty, we have to make the best judgment possible," said Red Cross spokeswoman Blythe Kuvina.

The Red Cross estimates that the new rule will make 8 percent of its current donors ineligible.

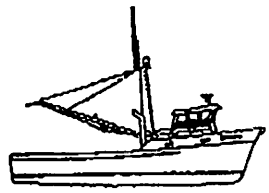
Published in the Kodiak Daily Mirror May 21, 2001



F / V LADY ALASKA
F / V LADY KODIAK
F / V LADY ALEUTIAN

KEVIN SUYDAM

F / V LADY KODIAK • F / V LADY ALASKA
F / V LADY ALEUTIAN • F / V WENONA
P.O. Box 980 • Kodiak, Alaska 99615
(907) 486-5396



F / V WENONA

North Pacific Fisheries Management Council
605 West 4th Ave. Suite 306
Anchorage, Ak. 99501-2252

May 26, 2001

Dear Mr. David Benton-Chairman;

For the first time in the history of the Brown Crab fishery there has been a closure due to the quota being filled on May 28, 2001. In prior seasons to this season, the Brown Crab Fishery continues 12 months of the year without closing, thus leaving quota unharvested, and therefore is not "fully utilized". As one example, the 98/99 season continued for 12 months closing in 1999 with 1,000,000 pounds of Brown crab quota that had been left unharvested. This current season closure is only season to date under which this fishery could be termed "fully utilized", to conform to the Problem statement for Rationalization under the Magnuson-Stevens act.

The Aleutian Island Brown Crab fishery could not be termed "overcapitalized" from having too many vessels. Currently there are only 17 active vessels in one of the largest expanses of water in Alaska. In reality there has been a "decapitilization" in fleet over the last 15 some odd years. The trend is as follows: the 1983/84 season had a peak of 157 vessels participating, 1989/90 had 64 vessels participate, and 1994/95 had 35 vessels participate. At this time, there are approximately 23 valid permanent LLP licenses for this fishery as the final number of LLP Licenses will be reduced once interim license issues are resolved.

There are National Standards in the Magnuson Stevens Act that would contradict using the years towards an IFQ program in which the Brown Crab Fishery was not "fully utilized".

a. National Standard 1 calls for achieving on a continuing basis the Optimum Yield of each fishery. Since the Brown Crab Fishery closed for the first time of its history this year, the Optimum Yield cannot yet be shown as having been achieved a continuing basis. The Aleutian Brown Crab Fishery has met this Standard for Optimum Yield for the first time this season. Prior seasons not do not meet this Standard for Optimum Yield.

b. National Standard 4 calls for allocations to be fair and equitable, and carried out in such a manner that there is an avoidance of excessive shares. Using years in which the fishery is not "fully utilized", where the fishery had a reduction in vessels; will result in some excessive shares in the Brown Crab Fishery. Therefore excessive shares should not be allocated at the expense of eliminating other current participating competitive vessels by using those years in which the fishery was not "fully utilized".

c. National Standard 5 prohibits distribution of a fishery resource on the sole purpose of Economic Allocation. To use years towards an IFQ program in which a fishery has never closed and was not "fully utilized", in order to eliminate vessels that made huge investments to participate in this under-utilized fishery; would be for the sole reason of economic allocation.

I had made the huge investment on my vessel the "Lady Alaska" to participate in the Brown Crab fishery knowing that the Aleutian Island Brown Crab quota had never been filled, and therefore not a fully utilized fishery. I ask that the Brown Crab fishery be removed from the Rationalization process, unless we only use seasons in which the Brown Crab Fishery quota was "fully utilized". This would prevent legal challenges over Brown Crab. The Crab Rationalization process has enough challenges to address with the other "truly distressed" Crab fisheries. Thank you.

Respectfully Submitted,

Kevin Suydam

F/V ERLA-N

Alan Bing Henkel, Owner/Operator

May 22,2001

Mr. David Benton
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Benton:

As the council begins the process of brown crab rationalization, I ask that it consider the following points concerning the Aleutian Island brown crab fishery:

1.) A vessel fishing with an interim LLP license should be qualified and eligible to establish a vessel catch history toward any future individual fishing quotas.

2.) It is very important to keep the Dutch Harbor and the Western Aleutian Islands brown crab areas separate. A quota share should be based upon a vessel's area of historical participation. To do otherwise could negitively impact the safety and finances of the smaller vessels.

3.) There are a number of LLP licenses no longer participating in the fishery. If the qualifying years start in 1996, there will be a reduction in the number of these licenses which will have positive impact on the preservation of this manageable fishery.

I am confident that you will give these matters careful consideration.

Sincerly,

Bing Henkel

Brown Crab Vessels:

F/V Erla-N
F/V Alaska Sea
F/V Western Viking
F/V Tiffany

1736 205th Place NE, Sammamish, WA 98074
Phone: 425-868-8870 Fax: 425-868-7574 E-mail: abhenkel@home.com

CITY OF SAINT PAUL
P.O. BOX 901
SAINT PAUL ISLAND, ALASKA
99660-0901
(907) 546-2331
FAX (907) 546-3188

RESOLUTION 01-07

A RESOLUTION OF THE ST. PAUL CITY COUNCIL IN SUPPORT OF CRAB RATIONALIZATION FOR THE BERING SEA ALEUTIAN ISLAND CRAB FISHERIES

WHEREAS, St. Paul has successfully developed a fisheries based economy based on the St. Paul Harbor which, since 1995, has been the primary crab processing location in the Bering Sea and the number two fishing port in Alaska in terms of fisheries tax revenues; and

WHEREAS, crab deliveries to St. Paul exceeded 40% of the total harvest in years 1997 and 1998; and

WHEREAS, St. Paul crab landings and processing have accounted for approximately 85% of the cash entering the community; and

WHEREAS, a collapse of the Bering Sea crab stocks occurred in 2000 resulting in an 86% reduction in the year 2000 Guideline Harvest Level for Bering Sea snow crab, and a significant loss of revenue to the community; and

WHEREAS, the collapse of the Bering Sea crab stocks has resulted in an industry-wide effort of harvesters, processors, and communities to develop a rationalization program; and

WHEREAS, St. Paul has actively participated in the development of a rationalization program in order to protect its investment in the industry, which continues to face a severe downturn on crab stocks and high levels of overcapitalization in both processing and harvesting; and

WHEREAS, the situation warrants immediate legislative relief to enable an alternative management solution to encourage restoration of the stocks and to enable industry consolidation; and

WHEREAS, the United States Congress authorized, through the December 2000 Omnibus Appropriations Bill, provisions which direct the North Pacific Fisheries Management Council to do an analysis of crab rationalization options; and

WHEREAS, the analysis of any quota based program is specifically to include harvesters, processors and communities; and

WHEREAS, the North Pacific Fishery Management Council has stated that it is still committed to the overall rationalization process for the crab fisheries; and

WHEREAS, the North Pacific Fishery Management Council appointed a crab rationalization committee and the City of Saint Paul had a representative appointed to the committee that kept the St. Paul City Council advised on the committee's progress and recommendations to the North Pacific Fishery Management Council; and

WHEREAS, the Council of the City of Saint Paul supports and recognizes the need to protect the investments of current participants, including harvesters, processors and the community of St. Paul, as well as other affected fishing communities, and the need for a rational decapitalization of the industry;

NOW THEREFORE, BE IT RESOLVED THAT the Council of the City of Saint Paul supports the proposal for a fair and equitable quota-based program of a two-pie IFQ allocation to harvesters and processors including the requirement that the live crab deliveries be to processors in the regions within Alaska in accordance with recency requirements and historic delivery rates; and

BE IT FURTHER RESOLVED that the St. Paul City Council urges the North Pacific Fishery Management Council to complete their analysis in a timely manner as they feel this issue is of utmost importance and forward their report on to Congress as soon as possible.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE COUNCIL OF THE CITY SAINT PAUL THIS 23RD DAY OF MAY 2001.

Simeon Swetzof, Sr., Mayor

ATTEST:

Phyllis A. Swetzof, City Clerk

ALASKA CRAB COALITION
3901 Leary Way N.W. Ste. 6
Seattle, Washington 98107
206 547 7560
Fax: 206 547 0130
acc-crabak@msn.com

DATE: May 29, 2001

TO: David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite306
Anchorage, Alaska 99501-2252

FROM: Arni Thomson
Executive Director

TOTAL: 6 PAGES

RE: COMMENTS ON AGENDA ITEM C-2 CRAB RATIONALIZATION

COMMENTS IN SUPPORT OF THE CRAB RATIONALIZATION COMMITTEE REPORT ON ELEMENTS AND OPTIONS FOR ANALYSIS:
The ACC wishes to file comments in support of holding the analysis of Bering Sea and Aleutian Islands (BSAI) crab rationalization to the elements and options developed by the NPFMC Crab Rationalization Committee as noted in their minutes of the March 22nd and 23rd committee meeting.

The BSAI crab industry has conducted numerous public meetings through the NPFMC Ad Hoc Crab Industry Cooperative Committee beginning in November 1999, with extensive discussion and consideration of proposals for crab cooperatives (attachment, ACC Testimony to the NPFMC, April 16, 2001). On March 22, 23, 2001 the NPFMC Crab Rationalization Committee completed its discussions and recommendations on options to analyze for the crab rationalization program. They recommended an analysis of single pie IFQs for harvesters only and options for analysis of two pie IFQs and IPQs for harvesters and processors, including an option to "regionalize" deliveries of crab to insure the long term sustainability of communities. These are the two priority proposals that have been under consideration by the industry for the past twelve months. Although seven of the twenty-one Committee members have not endorsed the Committee report, four of those committee members, in a group testimony before the NPFMC on October 8th, 2000, requested the development of the committee, as soon as possible, and to task the committee to develop elements and options to analyze for crab rationalization by the February 2001 Council meeting.

The ACC strongly encourages the NPFMC to expedite the completion of the analysis by December 2001. The NPFMC has provided the Secretary of Commerce with a status report on crab rationalization, and laid out a tentative date for completing the analysis, of December 2001, in conjunction with the Council's request for agency support of a $50 million congressional appropriation for the crab permit and vessel buyback program.

Given the upheaval in the U.S. Senate this week, the ACC is now even more concerned that without a widespread industry commitment for rationalization, (and even with widespread support for rationalization), the U.S. Congress may not appropriate the necessary funds to insure a successful buyback referendum.

ADDITIONAL RECOMMENDATION, BINDING ARBITRATION:
To address fishermen's concerns about the need to maintain market competition under a two pie system, **the ACC recommends the Council include in the analysis, implementation of a non-governmental, private sector managed binding arbitration process, in the case of failed price negotations between fishermen and processors.** The ACC envisions that the process would be conducted on a company-by-

company basis, with each company submitting their best price and groups of fishermen submitting their best price to an arbitrator who decides the price. The province of Newfoundland, which has a snow crab fishery comparable in volume to the Alaska snow crab fishery has been utilizing this process for four years and the last two years the price has been settled without arbitration. John Sackton, CEO for Seafood.com has been the designated market analyst that has been making the opening price recommendation for the industry. (Attached is a description of the concepts the ACC envisions would be involved in a binding arbitration process.) The ACC realizes that binding arbitration in the event price negotations fail will need to be statutorily defined at the time that IFQs and IPQs are authorized by the congress for BSAI crab.

ADDITIONAL RECOMMENDATION FOR NON-U.S. DOCUMENTED—CRAB LLP QUALIFIED—FISHING VESSELS:
Develop an additional eligibility requirement for the crab rationalization program, through NMFS implementing regulations, or to be statutorily defined:

> **Any vessel, which at any time after October 10, 1998, has been ineligible for a fishing endorsement, is ineligible for a license to participate in the crab fisheries of the Bering Sea/Aleutian Islands, and any rights and permits to participate in such fisheries that are associated with that vessel can not be transferred or sold.**

On April 16th, 2001, the ACC submitted in public testimony a summary and an analysis of non-U.S. documented crab LLP qualified, catcher processors (attachment, Catcher Processor (CP) Summary Analysis, April 16, 2001).

- There are a total of 35 potential catcher processor licenses, for vessels that are GQP and EQP qualified—but 13 of the vessels are not recency qualified under Amendment 10.
- The analysis shows that there are 22, Amendment 10 recency qualified catcher processors, but only 13 have participated in crab fisheries in 1998 or 1999. Four of the 22, are currently not U.S. documented.

The LLPs and the catch histories of most of the non-U.S. documented cp vessels, (most of which are over 165 feet in registered length) are being held in speculation by U.S. companies that are current participants in the BSAI crab fisheries.

PROGRAM REVIEW:
Although mandatory program review options are already included in the Committee recommendations of options for analysis, at this time **the ACC wishes to restate its support for a streamlined program review of priority concerns, following two years of operation of the program. From the harvesters' perspective, the ACC requests that the review include analysis of market prices and cost comparisons of fleet services within the communities in the proposed Northern and Southern regions.**

DRAFT REVISED 5-22-01

CONCEPTS FOR DEVELOPMENT OF A COLLECTIVE BARGAINING, BINDING ARBITRATION PROCESS FOR BERING SEA CRAB FISHERIES TO BE INCORPORATED INTO A TWO PIE ITQ AND REGIONALIZATION PROGRAM

Background: The concepts proposed for industry discussion and NPFMC analysis are derived from the Newfoundland (Canada) snow crab industry process that began in 1997, following a protracted fishermen's strike due to low prices. The strike lasted from April until August and by the time it was settled, most of the buyers had abandoned crab and everyone lost money. In response, the province of Newfoundland legislated a new negotiation process that involved binding arbitration (by a private arbitrator)—if the parties could not reach agreement.

According to John Sackton, the market analyst for the Newfoundland snow crab industry, and others, this program has been quite successful. It has resulted in more stable crab market prices, and led to more stability in harvesting than had been the case before.

This year is the first year the price has really declined since the process has been instituted in Newfoundland, however, the Japanese market for snow crab remains soft. This year the opening price was set at $1.88 Canadian, and two weeks later, declined to $1.82 Canadian, based on a 2 cent change in the exchange rate, and a 4 cent drop in the market price.

Concepts in the Process:

- The binding arbitration process in Newfoundland and as it is being proposed for Bering Sea crab, is a fall-back mechanism, in the event company-by-company negotiations with fishermen fail. Newfoundland snow crab production is comparable to the Alaska snow crab production, in 2001, the Newfoundland regional quotas are set at 118 million pounds.

- As part of this process, for crab, in Newfoundland, the parties asked for an outside independent analysis of the market, which would help guide the arbitrator. Also, in negotations, the parties agreed to adjust the price in season based on market prices, because the Newfoundland crab season runs for about six months.

- About eight weeks prior to the beginning of the season, (in early February for a season opening around April first) John Sackton makes a presentation to the fishermen's organization and the processors' organization about current market conditions in the U.S. and Japan. At the start of negotiations, a date is set to go to arbitration. (i.e. within 10 days or two weeks). If the sides have not agreed before that date, lets say two weeks after the start, then it goes to arbitration. The potential arbitrator is chosen before the start of negotiations, and he sits in on the presentations, although he does not sit in on face-to-face negotations. If the sides do not reach agreement, both sides take a couple of days to prepare their submissions to the

arbitrator, and he has about a week to decide. The arbitration is based on both sides submitting their best offer, and the arbitrator picking one or the other price—but not splitting the difference. The whole process is set up so that no matter what happens, within about four weeks from the start of the process, a price will be set.

- This is the fourth year John Sackton has been doing the analysis and for the past two years, they have simply been asking him to determine an opening price based on the market analysis.

- The proposed price, is a reference price to the boats. It is based on the market analysis of the market price of 5-8 sections, the price of combo meat packs, and the price of 5 up sections packed for Japanese buyers. These prices go into a formula that includes yield calculations and the exchange rate.

- The proposed price, much of the time functions like a minimum price, with processors guaranteed to pay at least this amount, but often paying something over the reference price, thus it allows variability between companies.

John Sackton Comments:

- In reference to applicability for Bering Sea crab fisheries, the most important thing about using an independent market report is to find someone who is a respected both by processors and fishermen, but who is independent of both.

- It is essential to the success of the arbitration process, that both sides, fishermen and processors are committed to it.

- In Canada, they have the situation where the price paid by large companies, like Fishery Products (which probably handles 40% of the snow crab in Newfoundland) is set by a process that is independent of their control. In this situation, as in Alaska, it is very important that not only fishermen and small processors, but that major processors who buy a significant amount of crab production, feel that their view of the market is accurately represented.

Arni Thomson
Alaska Crab Coalition

OUTLINE OF THE TESTIMONY OF ARNI THOMSON, EXECUTIVE DIRECTOR, ALASKA CRAB COALITION TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

April 16, 2001
Anchorage, Alaska Crab Coalition

The following are NPFMC references and background information on the ad-hoc industry co-op committee work on the two pie IFQ program and the Crab Rationalization Committee instructions on the development of elements and options for analysis of a crab rationalization program. This background is pertinent to the controversy some Committee members are raising, and it attempts to deal with the question of why they and their allies waited until April 16th to submit major proposals to the Advisory Panel for analysis by the NPFMC.

- September 25, 2000, memorandum of Chris Oliver, Acting Executive Director, NPFMC, Agenda Item D-2, BSAI Crab Issues, for the October NPFMC meeting.

  (b) Crab Co-op Development and Buyback: "Regarding developments on the co-op front, the industry co-op committee also met again in September, with their discussions focused on some fundamental, major issues, particularly the issues of processor inclusion, hired skippers, and communities. **While co-ops were the original focus of this initiative, a potential IFQ program, or two-pie IFQ program, now seems to have taken center stage in those discussions."**

  Attached to Oliver's memorandum is a copy of the industry draft two pie ITQ proposal, the agenda for the September 7, 2000 co-op committee and a harvestor two pie ITQ proposal presented by harvesters to the processors at the September 7, 2000 committee meeting.

- October 8th, 2000, at the Sitka NPFMC meeting in Sitka, Agenda item D-3, Staff tasking, Linda Kozak and some of her clients presented a problem statement to the NPFMC, requesting the Council adopt the problem statement and reconstitute a formal crab rationalization committee. The problem statement, adopted by the Council, is reprinted in the AP minutes. **A key goal is restated here:** "In the continued process of comprehensive rationalization, **prompt action is needed** to protect the crab resource and to promote stability for those dependent on the crab fisheries. In order to achieve a balanced resolution, the concerns of harvestors, processors and coastal communities must be addressed.

- December 15th, 2000, Chris Oliver sends a memorandum to the new Crab Rationalization Committee members announcing their appointments and the Council's charge to the committee. **"The Council's action requests a Committee report in April, with final recommendations by June, at which time the Committee would dissolve, unless extended by the Council. The task of the committee is to develop elements and options for analysis, not necessarily to arrive at final resolution of all the issues. To the extent possible, the Committee should build off the previous work of the ad hoc industry Committee."**

- January 11, 2001, Crab Rationalization Committee Summary:
  1. The committee discussed and recognized the importance of the work previously done by the ad hoc industry Committee as a starting point for further development.
  2. **Linda Kozak proposed the Committee adopt a goal of attempting to complete their work by April Council meeting and the Committee adopted her recommendation.**

- February 15-16, 2001, Crab Rationalization Committee Minutes and attachments:
  1. Council staff presented the latest version of issues and options developed by the ad hoc industry committee, which featured an expanded cooperative proposal and a summary two pie proposal.
  2. None of the committee members expressed any degree of interest in the cooperative proposal, but most focused on the ITQ proposal and the Two Pie ITQ proposal.

CATCHER PROCESSOR (CP) SUMMARY ANALYSIS: **Revised 4-16-01** **ARNI THOMSON, ACC**

13: NUMBER OF CURRENT CATCHER PROCESSORS WITH CP ACTIVITY IN 1998 OR 1999

22: ADDITIONAL POTENTIAL CATCHER PROCESSORS, GOP AND EOP LLP QUALIFIED. SOME OF THESE VESSELS HAVE TRANSFERRED LLPS AND CATCH HISTORY, 1990-1994, WITHIN COMPANIES THAT HAVE OTHER CURRENT CRAB CATCHER VESSELS

35: TOTAL POTENTIAL CATCHER PROCESSORS

22: TOTAL AMENDMENT 10 QUALIFIED CATCHER PROCESSORS

14 TOTAL CATCHER PROCESSORS GREATER THAN 165 FEET IN REGISTERED LENGTH,NOT U.S DOCUMENTED AS OF SEPTEMBER 25, 1997, AND UNDER THE PROVISIONS OF THE AFA ARE INELIGIBLE FOR A USCG FISHERY ENDORSEMENT.

4: TOTAL AMENDMENT 10 RECENCY QUALIFIED CATCHER PROCESSORS THAT ARE NOT U.S. DOCUMENTED FISHING VESSELS

8: TOTAL NUMBER OF ALEUTIANS BROWN CRAB AMENDMENT 10 QUALIFIED CP LLPS. Note, 5 of the CP permits are being held by the owners of catcher vessels that are current participants in the Aleutians brown crab fishery. Currently there is only one CP operating in this fishery, and this vessel reportedly catches and processes over 25% of the entire Aleutians GHL, in conjunction with the owner's catcher vessel.
The exvessel value of the 5.8 million pound 1999-2000 fishery was an estimated $14.5 million and the first wholesale value an estimated $28 million. There are 17 vessels currently participating in the fishery, most of whom concentrate on the Dutch Harbor area with a 2.7 million pound quota. Last fall these vessels shared an average gross stock estimated at $650,000 per vessel, in the month of September, then participated in the Bristol Bay king crab fishery and the winter opilio crab fishery, adding another $300,000 to their gross stock, while the average gross stock for the 210 vessel Bering Sea fleet was only $300,000.

CATCHER PROCESSOR CATCH HISTORY: **(References: ADF&G Westward Region, and NMFS RAM Division)**

Opilio crab:

2001: 7 vessels	13% of the GHL
2000: 9 vessels	4% of the GHL
1995-1999 Average:	10.2% of the GHL

1995-1999 Average vessels: 15
1990-1994 Average vessels: 23

Bristol Bay king crab:

2000: 6 vessels	2.7% of the GHL
1993-1999:	5.7% of the GHL

1993-1999 Average vessels: 9

Alaska Marketing Association

25 May 2001

To: North Pacific Fisheries Management Council

From: Jake Jacobsen, Manager, Alaska Marketing Association

The Alaska Marketing Association is the collective bargaining association for Bering Sea crab fishermen (with 165 member vessels). As such, our purpose and efforts focus on obtaining a fair value for our catch and we remain neutral on issues generally regarded as political in nature. One such issue is the rationalization of the BSAI crab fisheries. Our members include strong advocates of a variety of opinions regarding rationalization. We do not consider it within our purview to advocate or criticize the positions of any of our members in this regard. Our Officers and Directors however, are concerned about proposed rationalization plans involving quotas for processors.

If the Council approves IPQ's, there must be provision for establishing a fair value for our catch. One proposed method of establishing an ex-vessel price is by means of a binding arbitration process, patterned generally after the Newfoundland model. We feel that such a process entertains equally the concerns of fishermen and processors, and scribes the interests of both sides within the reality of the marketplace. Even without rationalization, a binding arbitration process in the event of failed negotiation would end the long and costly tie-ups that have served as our only recourse to unacceptable or non-existent price offers. Arbitration on a company-by-company basis would consider the specific circumstances of each processor and the fishermen that sell to them. Arbitration on a company-by-company basis may also prove compatible with U.S. Federal anti-trust legislation that would prohibit following the Newfoundland model (one price for all companies) exactly.

Many of our members have voiced grave concern about their ability to resolve price issues under an IPQ system. The concept of IPQs is untried and unproven. A defined process of fair price resolution, such as a company-by-company binding arbitration process in the event of failed negotiations, must be an integral component of any rationalization plan with IPQs.

Jake Jacobsen, AMA Manager

Gary Stewart, President
Walter Christensen, Vice President

4917 Leary Ave NW Seattle WA 98107 Phone (206) 784-8948 Fax (206) 784-9813 ama@foxinternet.com

Maira,

Thought I'd write a letter to express something I've been thinking about in regard's to skipper being included in I.F.Q.s in crab.

I think there should be a qualifying period for skippers just like boat's have to be.

Maybe something like the following:
1. 1990 to 1996 they had to make a delivery in each crab ~~sp~~ fishery at least 4 out of the 6 years to qualify for each fishery.
2. They had to have made a delivery in each ~~of~~ crab fishery ~~from~~ 1998 to 2000. This would require recent participation.

I think this need's to be part of the process for skippers. I think this is only fair because it seperates the skipper's that have made crab fishing thier career and depend on these fisheries for thier income.

There are some skipper's that show up for the big season's and leave and do something else for the little season's. I fell it's only fair to have qualifying period's for skipper's to qualify for any I.F.Q.s in crab.

This letter is not addressed to the council, ~~tho~~ I just wanted to express

to you what I thought about having a quicifying period for skippers.

Thanks

Randy Walton

Walton
RD. Box 1950
Redmond, Or
97756

Malcolm Milne

Dear Mr Benton,

I am writing you to express my support for the Zonal Approach as a plan for Stellar Sea Lion conservation. As a member of a coastal community and a commercial fisher I feel it is very important to make allowances for the small boat fleet and differentiate between it and the large scale operations.

Thank You for your attention

Malcolm Milne, Po Box 1846
Homer AK 99603

May 18, 2001

Mr. David Benton
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

SENT VIA FAX

Dr. James W. Balsiger
Regional Adminstrator
National Marine Fisheries Service
709 West Ninth Street, Number 401
Juneau, Alaska 99802

Re: Crab Rationalization - Recent Participation

Dear Mr. Benton and Dr. Balsiger:

The purpose of this letter is to bring to request that the Council and NMFS take steps to reduce speculative fishing activity as the Council considers crab rationalization alternatives.

A number of vessels have recently entered crab fisheries in which they have little or no historical participation. A case in point is the ALASKA TROJAN, which to our knowledge did not meet the License Limitation Program landing requirements for the Aleutian Islands brown king crab fishery, but is nonetheless operating in that fishery under an "interim" LLP license this year. We assume it is only able to do so pending completion of the LLP appeal process.

We have two major concerns regarding this type of activity. First, it is having a substantial adverse impact on the incomes of LLP-qualified participants. When the Council adopted the LLP program in 1995, it was intended as a "placeholder" to protect established fishermen from further over-capitalization and increases in harvesting capacity, pending fishery rationalization. It is ironic that the Council may well have adopted a suite of rationalization alternatives for the crab fisheries before the

620 – 6TH STREET SOUTH, KIRKLAND, WASHINGTON 98033
425/822-6980 • FAX 425/822-7380

placeholder adopted 6 years ago has its intended effect. To address this short term impact, we ask that NMFS expedite the LLP application and appeal processes, especially in cases of fisheries (such as the Aleutian brown king crab fishery) with relatively small numbers of LLP-qualified participants, where every additional non-qualified participant has a measurable adverse effect.

Our second concern has to do with rationalization. Uncertainty concerning the qualifying years for rationalization has created an incentive for vessel owners to enter fisheries on a speculative basis, in the hope that their recent participation will accrue to their benefit. This incentive has exacerbated the LLP-related problems identified above.

We understand that the Council has made a policy statement that catch history in the crab fisheries after December 31, 1998 may not count in future rationalization programs, and that the Council reaffirmed that statement at its October 1999 meeting. We are asking that the Council reiterate that position, and further, if it has not already done so, we ask that the Council set a formal "control date" for crab rationalization purposes as soon as possible.

Thank you for your attention to these matters.

Very truly yours,

Kim Hansen
President
Ocean Olympic Fisheries Inc.
F/V Ocean Olympic

Very truly yours,

Russell W. Moore
Russell W. Moore
President,
North Pacific Enterprises, Inc.

Very truly yours,

Ronald K. Peterson
Managing Owner
F/V Aleutian No. 1
Jasmine M. Carlson
Skipper/owner

HEUKER BROS., INC.
62975 NE Tumalt Road
Cascade Locks, OR 97014
(541) 374-8255 o Fax: (541) 374-8553

March 30, 2001

VIA FACSIMILE 907-271-2817

FAXED 4-2-01

David Benton, Chairman
and NPFMC Council Members
605 West 4th Ave, Ste 306
Anchorage, AK 99501-2252

SUBJECT: **Crab Rationalization - Replacement Vessel/Catch History**

We are the owner of the F/V Sandra Five, ADF & G #70770, a replacement vessel for the F/V Chevak, which sank in February 1994. Before being lost, the Chevak was a crab catcher vessel with catch history dating back to the 1980s. The Chevak was strictly a pot fishing catcher vessel, and if not lost, it would still be active in the pot fisheries.

Plans for replacement of the Chevak and purchase of the fishing rights and catch history began in 1996. Final contracts were acquired in October 1997, and construction of F/V Sandra Five began November 4, 1997 with completion on June 20, 1998. The Chevak had catch history from 1990-1994 and F/V Sandra Five has catch history from 1998 (blue and red king crab) and 1999 (opilio, blue and red king crab).

I understand the committee is considering catch history from 1990-1999, 1992-1999 or 1995-1999. Due to the time and financial commitment required, replacement vessels cannot be completed in between seasons. Therefore, under the first option (1990-1999), we would lose 40% of our catch history. For the years 1992-1999, we would lose 60% of our catch history, and for the years 1995-1999, we would lose 80% of our catch history. This is based on the opilio fishery only. A reduction of this magnitude would put undue hardship on our participation in the future crab fisheries, and ultimately affect the financial stability of the families relying on the income from this vessel.

To my understanding, there are 10-12 vessels in the same situation. The vessels could average their catch history over the years they participated and apply the result to the years they lost during replacement of the vessel. It would be unreasonable to apply zero catch histories in coming up with an average for the vessel as the vessel has proven history when the vessel was participating. This would not apply to vessels that left to participate in another fishery, rather only those vessels that did not participate in any fishery at all.

With this said, it would be our recommendation that the Crab Rationalization Committee address the issue of replacement vessels and find ways to resolve it in the planning stages rather than later where there is potential for delaying adoption of the program.

Sincerely,

Chris Heuker

CITY OF UNALASKA
P.O. BOX 610
UNALASKA, ALASKA 99685-0610
(907) 581-1251 FAX (907) 581-1417

May 28th 2001

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Ave, Suite 306
Anchorage, Alaska 99501

RECEIVED
MAY 29 2001
N.P.F.M.C

Sent Via Fax

Subject: C-2 Crab Rationalization

Dear Chairman Benton,

The City of Unalaska is in support of Rationalization of the Bering Sea /Aleutian Island crab fisheries. The United States Congress authorized in the December 2000 Omnibus appropriations bill provisions that directed the North Pacific Fishery Management Council to perform an analysis of crab rationalization options, and any quota based program that was to be analyzed would include harvesters, processors, and communities.

We feel the situation in the Bering Sea / Aleutian Island crab industry warrants immediate legislative relief to enable an alternative management solution that would lead to industry consolidation. During the past two years, almost three hundred crab vessels had a total of three weeks fishing time. We believe we have reached a crisis situation. As a community that has seen first hand the benefits of the American Fishery Act Pollock cooperatives, we believe in rationalization as a management tool that is needed. Having said that, we also believe that further rationalization won't happen unless all sectors of the industry are involved including harvesters, processors and fishery dependant communities. They all have made investments in the Bering Sea crab fisheries, and they should be recognized.

As a member from the outset of the crab rationalization committee meetings, representing the City of Unalaska, the position we have supported has been two pie system for quotas for harvesters and processors and the regionalization of live crab deliveries to communities based on historic rates of participation. The Unalaska City Council will be formalizing that position by voting on Resolution 2001-44 which is included with this letter at there June 5, 2001 regular City Council meeting.

Sincerely

Frank Kelty
City of Unalaska
Resource Dept.

CC: Mayor Paul Larsen
Unalaska City Council
Scott Seabury, City Mgr.

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION NO. 2001-44

A RESOLUTION OF THE UNALASKA CITY COUNCIL IN SUPPORT OF CRAB RATIONALIZATION FOR THE BERING SEA/ALEUTIAN ISLAND CRAB FISHERIES.

WHEREAS, the purpose of crab rationalization is to assist the crab industry that is facing a severe downturn on crab stocks and high levels of overcapacity; and

WHEREAS, the situation in the crab industry warrants immediate legislative relief to enable an alternative management solution to encourage restoration of the stocks and to enable industry consolidation; and

WHEREAS, the United States Congress authorized, through December 2000, an omnibus appropriations bill, which includes provisions that directs the North Pacific Fisheries Management Council to perform an analysis of crab rationalization options; and

WHEREAS, the analysis of any quota based program to be performed by the North Pacific Fishery Management Council will include harvesters, processors and communities; and

WHEREAS, the North Pacific Fishery Management Council has stated that it is continues to be committed to the overall rationalization process for the crab fisheries of the Bering Sea/Aleutian Islands, including support for the crab vessel buyback program which was also authorized in the recent omnibus appropriations bill; and

WHEREAS, the North Pacific Fishery Management Council appointed a crab rationalization committee, and Frank Kelty, Resource Analyst for the City of Unalaska, was appointed to the committee; and

WHEREAS, the Unalaska City Council supports and recognizes the need to protect the investments of harvesters, and processors equally; and

WHEREAS, the Unalaska City Council believes this issue is of the utmost importance to the crab industry and to the community of Unalaska.

NOW THEREFORE BE IT RESOLVED THAT the Unalaska City Council supports a proposal for a fair and equitable quota-based program consisting of a two pie IFQ-IPQ quota allocation to harvesters, processors; and

BE IT FURTHER RESOLVED THAT the Unalaska City Council supports a regionalization of live crab deliveries to regions within Alaska consistent with recency requirements and historic rates of participation; and

BE IT FURTHER RESOLVED that the Unalaska City Council urges the North Pacific Fishery Management Council to complete their analysis in a timely manner and forward their report to Congress as soon as possible

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS _____ DAY OF _____, 2001.

_____
MAYOR

alaska fresh seafoods, inc.

PLANT: 105 MARINE WAY, KODIAK, AK 99615 (907) 486-5749 FAX (907) 486-6417
HEAD OFFICE: 4241 21ST AVE. WEST, SUITE 204, SEATTLE, WA 98199

May 29, 2001

Mr. Chris Oliver
Executive Director
North Pacific Fishery Management Council

Re: Agenda Item C-2, BSAI Crab Rationalization, June 2001 Council Meeting

Dear Mr. Oliver,

I am submitting my comment from September, 2000 with regards to Bering Sea crab rationalization.

Sincerely,

David Woodruff
Vice President, Owner, and General Manager
Alaska Fresh Seafoods

alaska fresh seafoods, Inc.

PLANT: 105 MARINE WAY, KODIAK, AK 99615 (907) 486-5749 FAX (907) 486-6417
HEAD OFFICE: 4241 21ST AVE. WEST, SUITE 204, SEATTLE, WA 98199

Clarence Pautzke
Executive Director
North Pacific Fishery Management Council

September 4, 2000

Re: Agenda Item C-5(a): Magnuson Stevens Act Reauthorization, Transferable Processing Quotas for Bering Sea Crab Processors

Dear Mr. Pautzke,

As the Council may be aware, several members of the Bering Sea crab industry are attempting to pass an amendment to the Magnuson Stevens Act that would grant Bering Sea crab processors transferable processing quotas for Bering sea crab. I ask the Council to take the circumstances of Alaska Fresh Seafoods, and other Kodiak processors into account as you discuss the proposal to distribute transferable processing quotas to Bering Sea processors.

Alaska Fresh Seafoods, and several other Kodiak processors, have a long history of processing Bering Sea crab. It is important that the Council understand the history of the Kodiak processors when they discuss the granting of transferable processing quotas for Bering Sea crab. I am worried that Kodiak processors may be precluded from the opportunity to process Bering Sea crab in the legislation that has been proposed. Kodiak processors should not be required to meet the same qualification requirements that may be determined for Bering Sea processors. Any formula that is used as the basis of determining the general qualification of a processor to receive a transferable processing quota, or that is used to compute the individual transferable processing quota for a specific processor, should consider the special circumstances of Kodiak processors, and therefore, the formulas and qualifying criteria may need to be different for Kodiak processors.

I hope that the Council understands that many of the Bering Sea crab processors will end up owning a substantial portion of any harvesting IFQs that are distributed because of the ownership interest that many of these Bering Sea crab processors have in crab catcher vessels and in crab catcher processors. I hope that the Council also understands, depending on the qualifications that are adopted, that some of the processors who will receive transferable processing quotas for Bering Sea crab could end up to be the only processors who will be able to process Bering Sea crab in Kodiak and elsewhere in the Gulf of Alaska because of their ownership of processing assets in the Gulf. And, some of these processors are already protected and capitalized under AFA, whereas many Kodiak processors are not.

Depending on the year, Bering Sea crab has represented an important component of the overall product mix that Alaska Fresh Seafoods and other Kodiak processors depend upon. Since we opened the doors in 1978, and through the mid-1980's, AFS has processed Bering Sea king crab and tanner crab on a fairly regular basis. Bering Sea crab was an extremely important part of our product mix during that time. Since the mid-1980's, we have still processed Bering Sea crab, but to a lesser degree because of declining crab quotas, and the shortness of the seasons. We have frequently depended upon Kodiak and non-Kodiak crab vessels bringing their last trips back to Kodiak. I feel that AFS, and other Kodiak processors, have provided an important alternative market for crab vessels that needs to be protected. It is very likely that AFS, and other Kodiak processors, will be largely left out of the allocation scheme for Bering Sea crab because of the amounts of Bering Sea crab that we have processed in recent years, and the priority that we are told is being put on recent processing history since 1996. Also, if only 10% of the Bering Sea crab quotas are left for open competition among processors as we are told is being proposed, that will not go far. For example, the 2000 Bristol Bay red king crab quota is approximately 8.0 Million pounds. That means that only approximately 800 Thousand pounds would be available for open competition between Kodiak processors and those Bering Sea processors that will already have received transferable processing quotas . You can see that AFS and other Kodiak processors will have a difficult time competing in this fishery.

I believe that the Council should tell Congress that the Council is the proper entity to be developing IFQ programs. However, if Congress wishes to grant Bering Sea crab processors transferable processing quotas for Bering sea crab, we ask the Council to request Congress to grant protection to, and provide for the special circumstances of, Alaska Fresh Seafoods and other Kodiak processors.

Sincerely,

David Woodruff
Vice President, Owner, and General Manager
Alaska Fresh Seafoods

Kris Poulsen & Associates
1143 NW 45th St.
Seattle, Washington 98107
F/V Arctic Sea F/V North Sea F/V Bering Sea

May 28, 2001

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

RE: Agenda Item C-2 Crab Rationalization

Mr. Chairman,

I support the elements and options developed by the NPFMC Crab Rationalization Committee from the March 22nd and 23rd committee meeting.

The rationalization process for crab has taken nearly a decade with many different forms of rationalization considered with still no implementation of a program. Ideas of rationalization have included co-ops, one pie IFQs, two pie IFQs, and every shade in between. We now are on the verge of the greatest industry wide support for any single rationalization program in the history of the Bering Sea crab industry with the Rationalization Committee's endorsement of a two pie IFQ.

Of course there were dissenters of this endorsement, but by and large, they are the same people who ruined an opportunity of a single pie IFQ program in the mid 1990's. They should not be allowed to impede the opportunity before us to finally achieve rationalization in crab. I believe that this group of dissenters will do anything they can to slow down the rationalization process, especially by asking the Council to include options in the Council analysis which are not even politically feasible.

The crab industry has been told many times by both Republican and Democratic Senators that any rationalization program for crab must meet the requirement of being acceptable to harvesters, processors, and communities. Analyzing a one pie IFQ system does not meet this requirement as it leaves out the processing sector, and therefore is a waste of resources for the Council to analyze. I ask instead that if the dissenters in the crab industry are not satisfied with the current direction specified in David Benton's recent letter to the Secretary of Commerce, that they instead put forward a productive option for

analysis which meets their particular concerns, yet at the same time does not exclude the requirement of inclusion of processors into the program.

Lastly, I support the ACC's position of including binding arbitration into the Council analysis. I feel that binding arbitration could be a very useful tool to help maintain the status quo balance of power between processors and harvesters, which has also been an agreed upon principle of all industry participants in the Rationalization Committee meetings.

Sincerely,

Kris Poulsen

C.R.A.B. GROUP

Crab Rationalization and Buyback Group

907-747-7967 • P. O. Box 1064 • Sitka, Alaska 99835

Date: May 22, 2001

To: Mr. David Benton, Chairman
North Pacific Fishery Management Council

From: Gordon Blue, President, C.R.A.B. Group

Subject: Agenda Item C-2, BSAI Crab Rationalization

Re: Draft considerations for scoping analysis

1. Introduction:

We are very appreciative of the help and continued support of the NPFMC for the BSAI Crab Fisheries Capacity Reduction Program. We are grateful for your May 2, 2001 letter of support to Secretary of Commerce Evans. We think it especially important that you noted the value of this program as ". . . a very important first step in the rationalization process . . ."

The CRAB Group has adopted the incremental approach to rationalization that has been set forth by NPFMC, initially as Comprehensive Rationalization. We are working to help move that agenda ahead. It is our belief that the process of rationalization will be best served, and most thoroughly grounded, by an analytic package that adheres as closely as possible to the mandates established by Congress in HR4577, which is reproduced below:

SEC. 144.
... (b) Notwithstanding sections 303(d)(1)(A) and 303(d)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by this section, ...
(2)(a)... The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner.[1]

2. Executive Summary:

The need for rationalization of the BSAI crab fisheries rises above that of any of the other fisheries under the control of the NPFMC. This need is a consequence of the excess of harvest capacity in the BSAI crab fisheries, and has manifested in the failure of fishery stocks. This imperative necessitates that such rationalization be developed as soon as possible, independently of the process for development of groundfish rationalization. This is further discussed, below the caption "The Need for Rationalization."

We are thus very appreciative of your commitment, expressed in the letter of May 2, to respond to the House of Representatives and Senate committees in a timely manner. The letter indicates that you have undertaken completion of the analysis ". . .with final action likely in February of 2002." Much work must be accomplished in that time. Attempts to narrow the field of inquiry, have centered around arguments that specific models of rationalization for the fisheries are 'undesirable' and therefore should be excluded from analysis or further consideration. This is the basis offered by proponents of the 'majority opinion' of the crab rationalization committee. Such an opinion undermines the validity of the committee process itself, and is based upon incomplete or misleading information, and is inadequate.[2] Without a more thorough analysis, there is a high likelihood that considerable imbalance resulting from rationalization will occur. This is not in accord with the requirements of national law and policy concerning the process of regulatory review,[3] and would pose the risk of significant delay to program implementation.

There are considerable differences between the types of rationalization presented in the Congressional mandate: Community shares, Harvester Shares, Cooperatives and Processor Shares. Examples of each of these models, already existing in domestic fisheries, have been identified and are described below. These are: the halibut/sablefish ITQ program, the Whiting Conservation Cooperative, the Surf Clam/Ocean Quahog [SCOQ] ITQ program, the American Fisheries Act [AFA] shore based cooperatives, and the Russian-American Fur Monopoly. The latter is included to provide an historic endpoint which brackets the proposed "two-pie" model, and provides sufficient context for analysis of this theoretic proposal. The differences are sufficient to require separate analysis of each of the proposed models, as they would apply to Bering Sea crab fisheries. It is important to complete the analysis of these models such that they are all treated thoroughly, since the preliminary discussion indicates very different probable results, depending upon which model is chosen.

All this work could be contracted and performed in parts, according to the various models. With stipulation of uniformity of outputs, the modification of the existing examples of rationalization programs required to bring about transformation of the status quo structures of the crab fisheries, can be modeled. Each analysis should include consideration of impacts with respect to the

following factors:

effect on concentration of ownership, of harvesters and processors.
effect on pricing mechanisms, at ex-vessel and wholesale levels
effect on the number of employees and quality of employment
effect on the diversity of businesses, both harvester and processor, with respect to size and product mix (this relates to start-up costs and the possibility of new entry)
effect on the regulation of the fisheries and the degree of complexity required in regulation.

The Council can then legitimately compare the strengths and weaknesses of the models. The comparative impacts section can then also be prepared in parts, by Council direction to the preparers of the initial reports. In such fashion, all can be accomplished in the time you have indicated, while thoroughly satisfying the requirements of public process.

The incentives produced by each of the models include two factors, which are pertinent to recognition of an organizing principle for evaluation of the relative impacts of the models. These are the post-rationalization competitive environment, and the ability of managers to manage the fisheries. The models vary considerably with respect to the degree of control that is exerted over competition in the fisheries and the processing of fish. The quality and the extent of these controls, however, is not commensurate with the controls which are necessary to the primary policy goal of the Magnuson-Stevens Fishery Conservation and Management Act. This paramount policy goal is sustainable fisheries, and it is this goal which relates to the determination of the need for rationalization. The primary focus of the forthcoming analysis, then, becomes:

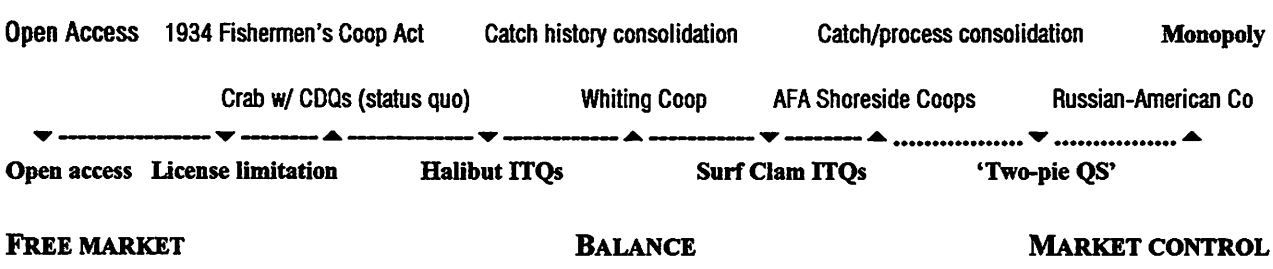
a) to ascertain the relative ability of the agencies [NMFS, NPFMC and ADF&G] under the proposed models to promote sustainable fisheries,

and

b) to assess the impacts of the proposed models and the regulatory structures on the Communities, the Processors, and the Harvesters.

Each of the models therefore, is examined below to determine the degree of disparity between the policy incentive, sustainable fisheries, and the social and economic incentives created by the model. The greater the degree of disparity between these incentives, the greater is the requirement for effective intervention by the agencies in management of the fisheries. Another way to state this is, each of the proposed models must be examined to determine the relative risk of the model to long term sustained fishing. The further one travels from a model that balances economic incentives with management incentives, the more intervention is required to produce sustainable fisheries, and the more difficulty sustainable fishery managers encounter. The relative complexity of the regulations necessary to provide for sustainable fishing serves to indicate the degree of intervention. It is historically evident that neither a free market system, nor a monopoly system, has produced sustainable fisheries.

Consider the following illustration:



This illustration establishes a continuum which clarifies the relationship between various historic allocation models, and places each along an axis of increasing constraint upon the catching and marketing of the catch. The 'two-pie' allocation model is properly placed in relation to other models along this line of historic experience, however, the broken dots represent that there is, in fact, no historic precedent for this model. As previously indicated, the more that economic and conservation incentives coincide, the more centered the model is upon the continuum, and the less regulatory intervention is required to manage sustainable fisheries. As one travels along the line from left to right, economic and market constraints increase, through the degree of consolidation which has been allowed/encouraged by program design.

Some degree of movement toward market control in the fisheries (and away from the "free market/open access") has been necessary to accomplish sufficient controls to provide for sustainable fisheries. In the case of the BSAI crab fisheries, an extremely complex, innovative and very responsive and informed management structure has been insufficient to produce sustainable fisheries. The goal of sustainable fisheries has apparently been met in the halibut/sablefish ITQ program, with the additional limitation of a harvest quota allocation placed upon access to the resources. There has been a necessity for a relatively high degree of regulation, to maintain this program. This level of complexity is related to the degree of disparity between economic and management incentives, especially as related to limitation of consolidation. To adapt this model for the BSAI crab fisheries requires that the owner-operator structure of the halibut/sablefish program be examined in light of the actual relationship between owners and operators in the BSAI crab fleet.

The Whiting Conservation cooperative is considered to be an example of a program which nearly balances these incentives. In this instance, the government has provided no specific quota allocations to individual harvesting entities. Rather, there has been a sectoral allocation to the offshore fleet of catcher/processors, and an opinion by the Department of Justice that no *per se* violation of antitrust regulations exists, given the organization of catch-history allocation by agreement based upon the 1934 Fishermen's Cooperative Marketing Act [FCMA]. Within this program, the incentives toward further consolidation are balanced by the possible disqualification of the basis for the program. If the 'arms-length' basis of marketing of product is significantly

undermined, then the justice department finding may be invalidated.

The regulatory structure apparently necessary to maintain a fleet of independent harvester/processors and a sustainable fishery has thus far been relatively simple.[4] The regulation of the closely-related Pollock Conservation Cooperatives has proven somewhat less simple, to date, as a consequence of enmeshment within the American Fisheries Act, complexities of consolidation of harvest vessels, consolidation through involvement of an AFA qualified shore-based processor, and the endangered status of the western population of Steller Sea Lions.[5] Nonetheless, the management of this fishery represents considerably less complexity and stricture than that imposed by the unsuccessful BSAI crab management regime.

The adaption necessary to model these cooperatives for the BSAI crab fisheries is minor. Three variants are suggested for analysis: a strict construction which would require all harvesters in the fisheries to participate (this is the status quo of cooperative organizational efforts of participants in the brown king crab fisheries); a mode in which a cooperative is allowed to form, given a minimum number of participants (i.e., ten), under the provisions of the FCA, and a modified AFA version, which would allow non-AFA crab processors to participate in cooperatives through inclusion of vessels those processors own. In each of the second and third options, the participation of a harvester in a cooperative is voluntary, and an 'open-access' component of the fishery remains an option.

Beyond the point at which the incentives of economics and management balance, however, further movement toward market control has apparently been dictated by levels of consolidation and control of the affected industries, prior to rationalization, and not by the necessity of sustainable fisheries. The further a model has moved toward market control and away from this balance, the more regulation is necessary to produce long-term sustainable fisheries. Although limitation of consolidation was apparently not part of program design in the SCOQ program, implementation of such controls as well as measures designed to provide for entry to the fisheries by crewmen, could be provided at the same approximate regulatory cost as similar measures have required in te halibut/sablefish ITQ program. At slightly further remove from the point of balance, toward market control, the AFA shore based pollock fisheries have required a tremendous amount of regulation, especially in the attempt to limit consolidation over other fisheries and their participants, with a high level of risk in the failure of these bulwarks.[6] Should this consolidation occur, the implications for long-term sustained crab fisheries are distinctly negative, to the extent limitations of the groundfish catch prove necessary to establish such sustainable fisheries.

The incentives produced under the 'two-pie' system are examined below, with respect to the degree of restraint that this system is likely to require from fishery managers to produce sustained fisheries that provide for the inclusion of more than a very small number of participants. The result is that a great degree of regulation is required. This represents a high risk of failure to produce

sustainable fisheries. The example of the Russian-American Company illustrates the failure of a monopoly management structure to provide for sustained harvest, despite the intervention of the Czarist government. It is important to note that vigilance is required on the part of fishery managers under any model, because shifting fishery and market conditions create shifts in the balance of incentives.

The mandate of Congress for analysis of the need for rationalization of the BSAI crab fisheries, and the effects of various models of rationalization, provides an opportunity for the NPFMC to learn from the experiences of those models. From this examination, the NPFMC can choose the model that best provides for sustainable fisheries, with less requirement for intervention and regulation, and a consequently greater likelihood of long-term management success.

3. The Need for Rationalization:

CONDITION OF THE FISHERIES RESOURCES

Stocks of crab throughout the State of Alaska have sustained fisheries at high levels, then entered a decline. Many have not recovered, even after significant periods of time.[7] The Bristol Bay red king crab fishery suffered a dramatic failure in 1982, and has not recovered to former levels. The tonnage of product delivered from the BSAI FMP managed crab fisheries in 2000, is twelve percent (12%) of that delivered in 1990[a]. This reduction in catch has been the result of declines in populations of fishery stocks. The *opilio* population decline and its associated effects have been of sufficient impact to require a declaration of fishery disaster by the Governor of the State of Alaska and the Secretary of Commerce, in the spring of 2000. This disaster has been acutely felt by harvesters, processors, communities and the suppliers of services and support to these fisheries.

FISHERY MANAGEMENT STRATEGY

The present management strategy, which has been under development and review since 1991[8], has established a more precautionary approach to management of the fisheries. Development of the new harvest strategy first established a new stock recruitment model for the Bristol Bay red king crab. This was based upon the length of recruits rather than strict stock aging, to account for the incremental growth pattern of crab, which is accomplished at risk, through molting of the shell. The model recognized that factors of climate and weather impact recruitment rates with greater variability and less predictability than had been appreciated in the older population model.

The overall harvest strategy has since been adapted for differing biology and knowledge, to provide the elements governing rebuilding requirements of the Magnuson Stevens Fishery Conservation and Management Act [MSFCMA][9], particularly with respect to the Bering Sea *bairdi*[10], St. Matthew Island blue king[11], and Bering Sea *opilio*[12] crab fisheries.

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[a] See appended tables: Harvest, BSAI Crab Fisheries, 1976 - 2000.

In the first year since all of the rebuilding plans have been established, three BSAI FMP fisheries have been closed for rebuilding (St. Matthew Island blue king crab, Pribilof Island red and blue king crab) two have continued to be closed for rebuilding (Bering Sea *bairdi* crab and Adak red king crab), and the Bristol Bay red king crab and Bering Sea *opilio* [snow] crab fishery have been operated at reduced exploitation rates, as they were in the 1999/2000 fishing year.

The reduced exploitation rates applied to the crab fisheries, have resulted in lower allowable rate of catch. In the language of the writers of the report of the results of the 1999 summer survey: "Abundance has declined precipitously to below threshold and is now defined as over fished. Exploitation rate has been reduced to 22%. Little recruitment is apparent, and the fishery may be closed next year"[13] This decline continued into the present year [14], and, although the annual summer survey cruise that will produce data for the determination of the 2002 fishery has yet to occur, the condition of stocks observed on the grounds during the directed fishery was not encouraging. The conservation benefits which are designed to accrue to future fisheries have also acted to increase the present problems of excess capacity in the fisheries, and their broader impacts.

CHARACTERISTICS OF THE FLEET

Vessels involved in the fisheries must withstand wintertime conditions in the Bering Sea, and be capable of competitive fishing in cold and fierce seas. Catcher vessels are typically 91 to 125 feet overall length (73% of the fleet[15]), and cost $1 million to $3 million. Vessels are generally owned by partnerships or limited liability companies formed of a few investors, mostly individuals actively involved in the fisheries in some capacity, and very often owners include the principal Captain of the vessel. There is a fleet of approximately 235 vessels that are especially outfitted for these fisheries and primarily dependent upon them[b].

Crew sizes vary between fisheries, with a typical catcher operation carrying five to seven persons on board. "Input stuffing" in the form of additional crewmen, was a prevalent practice during the years of greatest *opilio* harvest, 1991-95. There are disincentives to much larger crews, however - both as increased cost in liability coverage, and, with ten or more, crewmen become employees, rather than co-venturers. During the years 1991 -1995, the maximum fishing capacity of the fleet and supporting industries attained sustained harvest rates above 30 million pounds per week. Fleet size peaked in the fishery in 1994, with 273 vessels participating for some part of the fishery.

A 1997 survey of vessel owners[16] indicated that 81% qualified as small business entities, under the provisions adopted by NMFS for the region. Consolidation, both among vessel owners and processors, as well as an increased degree of vertical integration between harvester and processor owners, had been occurring already at that time, and has been increasing since. Primary causes of

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[b] See appended tables: Vessels delivering, BSAI FMP crab fisheries.

this consolidation are economic.

These economic pressures for consolidation of ownership interest are heightened by excess of fishing capacity in the BSAI crab fisheries and manifest in a number of factors. Processing companies have increased their shares of vessel ownership, whether by design, or through failed notes to troubled owners. Vessel owners struggling to maintain income in an era of falling revenues have added units of production. Since 1995, when NPFMC asked NMFS to implement a limited entry program, new vessel construction has diminished, and existing vessel acquisition has increased.

Some vessel owners have acquired "fishing rights" in anticipation of increased value due to the License Limitation Program [LLP], implemented in 2000, and revised in 2001. A feature of the LLP, as implemented, provides incentive for consolidation. Although the total number of LLP licenses for crab is high, the fishing rights represented by the license are actually a binomial nomenclature, with specific fisheries 'endorsements' attaching to each license. Fishing rights are not allowed to be severed from the license, however licenses are allowed to be 'stacked' within limits, on a given vessel. This scheme makes it necessary for a vessel owner wishing to pursue a fishery for which the vessel was not issued an endorsement, to acquire, and 'stack' the entire license of another vessel, in order to pursue that fishery. The licenses available for stacking are drawn from the pool of vessels which have sunk, or otherwise departed the area fisheries. These 'latent licenses' might otherwise re-enter the fisheries on new vessels. Excess capacity is helping to drive consolidation of vessel ownership, but not reducing the fishing capacity of the fleet in these fisheries.

Opilio

(1,000,000lb) Harvest	Year	($1,000,000) Revenue	Registered Vessels	($ 1,000) $/vessel
96.6	86	60.0	103	582.5
100.9	87	75.7	171	442.7
130.8	88	100.7	168	599.4
147.6	89	110.7	189	585.7
160.0	90	102.4	220	465.5
325.2	91	162.6	250	650.4
313.0	92	156.5	254	616.1
229.2	93	171.9	254	676.8
148.0	94	192.4	273	704.8
74.0	95	180.0	253	711.5
64.4	96	86.3	234	368.8
117.1	97	92.5	226	409.3
243.3	98	134.7	229	588.2
184.5	99	162.4	241	673.9
33.6	2000	62.1	231	268.8
25.0	01	38.7	207	187.9

ECONOMIC IMPACTS ON THE FLEET

One of the results of overcapacity in fisheries is that revenues decline. Average gross revenues per vessel in the opilio fishery are shown in the adjacent table. Note that these revenues broadly follow the population trends, and are impacted by capacity, as represented by number of vessels. Also bear in mind that trends in other crab fishery populations which have augmented vessel income in the past, have similarly been in decline, in

some cases, fisheries have been closed, for rebuilding.[c]

The peak per vessel revenue year in this fishery occurred in 1995. As stocks declined, a number of newer vessels left the fishery, both for domestic fisheries elsewhere, and foreign fisheries. In addition, the ex-vessel price was the highest received. This trend abruptly turned in 1996, when the resource continued to show low levels of recruitment, although "prerecruit"(stocks one year away from fishing size) levels showed that a "recruitment spike" (a single year class) was likely to be entering the fishery the following year. Vessel revenues buoyed in 1997 as this population component entered the fishery.
Once again, ex-vessel price supported revenues for one year after the stocks began to diminish, even though a number of vessels re-entered the fishery in 1999. Both harvest and revenue fell dramatically in 2000. The differences represented by the declines of harvest in 1995 and 1999 are greater than the impact of the new "rebuilding strategy." Population structures, described above, in "Condition of the Fisheries Resources,"indicate that the time required to rebuild stocks is likely to be greater than previously occurred, in 1995-7.

COMPETITIVE PRESSURES

Pressures of increasing competition in the fisheries have several impacts. The vessels in the fisheries resort to "capital stuffing," which reduces return to investment. In the BSAI crab fisheries, many older vessels were replaced, between 1986 and 1994. Much of this activity involved Capital Construction Fund [CCF] activity, and an appreciable amount of that was from Fishing CCF qualified withdrawals. An even greater benefit was received by vessel owners who brought vessels converted from oilfield support activity into the fisheries through conversion. This benefit derived from a coincident decline in oilfield activity, and the retirement of many of the support vessels that had been built under terms of Maritime Administration CCF agreements, which were then available at very favorable cost, for conversion to crab fishing platforms.

Many of the existing vessels in the fleet increased capacity between 1995 and 1999 by 'sponsoning' to greater width Some lengthened as well. These measures were felt as imperatives by individual operators due to the necessity to fish in tougher weather conditions, at greater distance from markets, and further offshore. The shift, from new vessel acquisition to existing vessel conversion, was in response to changes in access to the fisheries, discussed below. In the aggregate, of course, the individual imperatives to compete drove the problems of capacity further ahead than 'fleet number' alone would indicate.

As vessels became larger and more effective, gear restrictions were imposed. Pot limits were instituted in the 1992. Due to a court challenge, the first pot limit was redesigned, producing a 'tier' which allowed more pots according to vessel size. This created an incentive for vessels to

[c] See attached Table: Fleet gross revenues, BSAI FMP crab

lengthen into the upper tier. These capacity enhancements combined with the attempt at effort limitation to change fishing behaviors. Gear soak times dropped as vessels sought to stay busy, under the reduced soak times. Pots began to be 'shuffled' more routinely across the grounds, rather than targeted on an optimum spot and reset. This was a consequence of the shorter soak times, the larger, more efficient vessels, and the declining stocks. One impact of this, is a rise in handling mortality of *regulatory discards* (the required discarding of small and female crab). Rather than former searching behaviors, which resulted in the ability to identify select fishing spots for size and quality of catch, it became the norm for one vessel after another to make a pass through the same ground. The reiterative impacts of small handling injuries to discarded crab created additional mortalities in the immature and reproductive reserve stocks. This is an increase in waste, due to the increase in capacity.

The combined effects of fishery closures and diminished quotas are such, that the fishing fleet in the BSAI FMP crab fisheries suffered a steep decline of gross revenues, following upon a period of capital and other input stuffing that maximized vessel productivity, at significant cost and reduction of net revenue. The fleet gross revenues in 2000 were 35% of those available in 1990. Revenue thus far in 2001 has continued to fall: the opilio fishery produced only 62% of the gross revenues available in 2000.

If the 'break-even' income for a vessel engaged in the *opilio* fishery is taken to be $500,000 (a number that is too low, when other crab fisheries are curtailed), then the vessel gross revenues in the table show clearly that for four of the past six years, vessels have operated at loss in the fishery. The 'ripple effect' of these combined losses in local economies has begun to take on the character of steep seas sweeping through some communities, which have suffered reduced tax revenues (a function of raw fish price), municipal and other layoff of workers, general economic slowing, and increasing transportation difficulties as airline service levels have dropped and freighter schedules become less frequent - in short, increased isolation, fewer goods in local stores, lower quality of food as fresh food supplies age and dwindle, loss of income and occupation. In addition to short-term support, the communities require a long-term reduction of capacity in these fisheries as much as the fleet does.

THE RACE FOR FISH

The opening date and time for each fishery for which a Guideline Harvest Level [GHL] has been determined, is set by statute. Vessels are required to be licensed, as are the vessel operator and crewmen. Permits must be acquired for each fishery, and vessels must be registered prior to entering a fishery. The registration process includes a 'tank inspection', typically performed within two days of the start of the fishery; the tank inspection assures that no crab are on board; there is a pot tag, unique to each season and fishery, required for each pot allowed, which must be displayed on the buoy of any pot on board the vessel or actually used in the fishery. No pots are allowed to be set before the opening time, and aircraft with sophisticated surveillance equipment, as well as

vessels, of both the State of Alaska and the US Coast Guard, patrol the grounds, watching for violations.

Fisheries are closed by the managers, when it is estimated that the GHL has been attained. Managers may allow catch in excess of the GHL, or stop the fishery short of GHL, depending upon the rates of catch and the manager's reappraisal of stock conditions. Fisheries which ran for months have, within the past decade, been reduced to days.[17] A fishery closure may be announced with as little as twelve hours notice. In certain conditions, the closure announcement may be made for a specified time period, before the start of fishing. In this mature stage of competition, there is no margin for error. The first boat to the crab takes the most, and the rest of the fleet is not far behind. 'Hot spots' and accumulations of legal stocks are soon caught up. Delays for any purpose, result in irrevocable loss of diminishing opportunities to fish - this management regime is well described as 'the Olympic system.'

SAFETY

The conditions of weather and climate of the region during the winter have helped to make these fisheries among the most dangerous of occupations, and those who fish for crab are at the greatest risk for fishing-related fatalities. This is aggravated by the management system, and risks have been made acute by the fishing power of the fleet and the decline of stocks.[18] Beginning in 1999, and continuing through 2000 and 2001, U.S. Coast Guard [USCG] officers began boarding vessels during the preseason tank inspection period, in order to make an assessment of the preparation of the vessels. They found a 'surprising' proportion of licensed captains - half of the vessels boarded, even though there is no legal requirement for licensing. They found safety equipment above that required, a very high degree of compliance with stability and lading characteristics of the vessels, and that a large percentage of vessels had participated in voluntary USCG dockside safety examinations.[19]

Although the boardings have helped to keep the importance of safety in the minds of captains and crews, they have also served to demonstrate that competence alone will not serve to reduce these risks. Spurred to a more proactive approach, USCG and ADFG arrived at an understanding of mutual authorities that allowed ADFG to postpone the start of the October 2000 Bristol Bay king crab fishery while a forecast storm system with winds of 60 knots and 45 foot seas passed through.[20] Once a fishery is underway, however, there is no mechanism for such closure. Operating far at sea, with fisheries openings that are only days in length, fleets are unable to avoid weather that comes up during the openings. "Hurricane-force winds. Waves crashing through pilothouses. All that, and the fleet didn't even reach the quota, thanks to more bad weather . . ." read the opening of one report of the 2001 *opilio* season.[21] Overcapacity has lethal effects in the BSAI crab fisheries.

4. Incremental Rationalization

A MORATORIUM ON ACCESS

One of the ways in which fishery managers have attempted to control fishing capacity, is effort control through limiting access to the fishery resources. This has taken a number of forms throughout the nation. One constant, which was noted during the investigations of the Federal Fisheries Investment Task Force, is a necessary result of open, public process. In each case for which a regional Fishery Management Council has proposed a future access control system, the number of participants in the affected fishery has risen, in anticipation of the closing window of opportunity, frequently to the dismay of the regulators. The particular path of access limitation in the BSAI crab fisheries is described, with respect to impacts on capacity in the fisheries. It will be seen that the Capacity Reduction program for BSAI crab has become a crucial component of this program development.

In 1992, the NPFMC voted to establish a moratorium on new entrants to the BSAI crab and groundfish fisheries. This moratorium, which would have allowed more than 700 vessels into the BSAI crab fisheries, was not implemented by the Secretary of Commerce, until 1995. During this interregnum, the NPFMC proposal spent most of its time on the desk of the Regional Administrator, in Juneau. This turned out to be an astute judgement, from an administrative viewpoint. The NPFMC decision was announced to the public in the usual manner, and the behavior of investors in the fisheries underwent a shift. Rather than undertake a project with the additional burden of risk arising from indeterminate actions of government, and in face of such a clear statement of intent by the NPFMC, investors began to create agreements involving the sale of future fishing rights arising under the proposed moratorium. Before long, a regular market in "moratorium rights" was trading through boat and permit brokerages at $1,000/foot of vessel length, even though there were no such rights in law. No method to determine whether this trade had any impact on capacity in the fisheries has suggested itself, however, it is clear that commercial agreements helped to establish the legitimacy of the regulation.

At the outset, the NPFMC recognized there was little benefit to controlling capacity, in establishing such a broad, inclusive class. Nevertheless, it was apparent that the groundfish fisheries had become fully utilized by the domestic fleet within a very few years (many had been vessels fleeing the collapse of the red king crab fishery in 1981 - 82) and that additional capacity was building and entering the fisheries. As a part of the moratorium deliberations, the NPFMC adopted the goal of an incremental approach to fishery rationalization, called the Comprehensive Rationalization Plan [CRP], which recognized that the spillover of vessels made surplus by the rationalization of a fishery, could create disruptive increases in the levels of capacity in other, not rationalized, fisheries. For this and other reasons, the NPFMC determined the most reasonable course for development of further rationalization programs (halibut/sablefish was already in development), was to move rationalization ahead in all the fisheries under its jurisdiction.

THE LICENSE LIMITATION PROGRAM

The second phase of the NPFMC Comprehensive Rationalization Plan [CRP] was to establish a limited entry system for the fisheries of the region. The License Limitation Program [LLP] for Bering Sea/Aleutian Island Crab and Groundfish was adopted by the NPFMC in 1995. Not coincidentally, the moratorium on entry was implemented by the NMFS, in the same year.

Again, the parameters for inclusion were broad. The LLP resulted in 542 potential licenses in the crab fisheries, when program implementation by NMFS finally occurred, in 2000. This number includes 168 licenses which were issued as "interim" or "non-transferrable." Interim licenses were issued under appeal from license-holders and are under administrative review by the Restricted Access Management [RAM] division of the NMFS. Although a certain number of appeals may eventually result in denial of a license, this is a long-drawn procedure.

Additionally, and recalling the binomial nomenclature of the LLP license discussed under "Characteristics of the Fleet," relatively few of the 'umbrella' LLP licenses are in dispute. Far more common, is the appeal of one or more endorsements, by vessel owners seeking to continue participation in specific fisheries.

One of the observations to be made, with respect to this initial LLP program for crab, is that the total number overestimates the vessel capacity that is of concern to the BSAI Capacity Reduction program. Included are licenses which qualify 64 vessels to fish in the Norton Sound red king crab fishery, and no other BSAI crab fishery. This fishery has been exempted from the Capacity Reduction program, because it consists of a small-boat near-shore "super-exclusive" registry (that is, vessels engaging in the fishery can take part in no other king crab fishery) summer season fishery of opportunity for local vessels of the Norton Sound area, which tend to have a higher dependence on other fisheries in the area. Additionally, there are two vessels which have been issued interim licenses, with NO endorsements. Deducting the vessels described above, the LLP qualified 476 vessels to fish in the BSAI FMP crab fisheries. This represents a considerable burden in latent capacity, given that the primary economic activity of the fisheries has the regular participation of a fleet of about 235 vessels.

A NATIONAL MORATORIUM, ON 'RATIONALIZATION'

By 1996, many participants in the BSAI crab fisheries were convinced that it was time to move forward to the next phase of rationalization with establishment of Individual Transferrable Quotas. An even greater number were opposed. This opposition included new entrants to the fisheries, processing interests, who felt the program would detract from their degree of control of the fishery resources, and the State of Alaska, which was in the throes of a sharp reaction to the establishment of the halibut/sablefish program, and the Comprehensive Rationalization Plan itself, which sought to move rationalization of all species of crab and groundfish together.

In this light, every defect of the halibut/sablefish ITQ program was magnified, and some intended features (such as a very moderate consolidation of effort) were re-characterized as defects. Alaska and national opposition to ITQ programs resulted in a four year moratorium on establishing new Individual Fishery Quota [IFQ] programs, nationwide, as a provision of the MSFCMA. This stopped progress on the NPFMC development of the third phase of its CRP.

AMENDMENT 10

In December, 1997, the NPFMC Industry Advisory Panel began an effort to reduce the number of LLP licenses to be issued, by requiring current participation in the fisheries. Economic analysis and necessary staff time were budgeted by the NPFMC to move the process forward. Amendment 10 established a minimal landing requirement, one landing of any species of crab, in any of the three years since final action on the LLP. This provision resulted in the elimination of approximately 90 latent licenses, resulting in 286 projected licenses for the crab LLP. Final action by the NPFMC took place in June, 1999.

In January, 2000, the LLP program was implemented. Notices mailed to initial recipients cautioned that the program was under revision, and that licenses were issued for one year only. Work aimed at implementing Amendment 10 proceeded.

EXTENSION OF THE NATIONAL MORATORIUM

In late 1999, an ad hoc industry committee formed, to examine the possibility of establishing harvesting cooperatives, similar to those of the Whiting Conservation Cooperative or the Pollock cooperatives authorized under the American Fisheries Act, in the BSAI crab fisheries. The process was to initiate discussion of the elements that would need to be present to succeed in adopting such allocation structures. A parallel committee was formed, to determine unresolved issues facing the CRAB buyback, and to advance its implementation.

By June, 2000, the ad hoc cooperative committee had adopted a plan to achieve quota shares, rather than cooperatives, and to seek Congressional support. The moratorium on new IFQ programs expired, in October of 2000. The ad hoc committee plan for rationalization described Individual Transferrable Fishing Quotas [ITQs] to harvest crab, Individual Transferrable Processing Quotas [IPQs] to process crab, and a Regional Landing Requirement to stabilize the historic pattern of deliveries, and protect communities from the migration of deliveries away, in a rationalized fishery. In December, the national moratorium was extended for two more years.

CAPACITY REDUCTION PLAN FOR THE BSAI CRAB FISHERIES

In April, 2000, NPFMC Chairman Rick Lauber sent a letter to the Secretary of Commerce, describing the resource problems of the BSAI crab fisheries, and the problem of excess harvesting capacity. The letter described a "two-step" process, and asked the Secretary first, "to seek congressional assistance to support a vessel buyback program using a combination of appropriations, federal loans, and modifications of the Capital Construction Fund as appropriate."

Secondly, the letter asked the Secretary to ". . .support our efforts to further rationalize these critical crab fisheries. We are committed to working toward the reduction of fishing capacity, which fully comports with NOAA Fisheries Strategic Plan to alleviate overcapitalization in 15% of federally managed fisheries by 2004."[22] Under this strategy, the CRP would be modified to accelerate the rationalization of the BSAI crab fisheries, due to the acute problems of management and the resource failures in the fisheries.

In June, 2000, the ad hoc buyback committee met, in Portland, Oregon, and resolved final details of the program. The period of consideration for catch history to be retired under the plan was to be the most recent five years in the years 1990 to 1999, when a fishery was open. The amount of appropriated funds requested was to be $50 million, with a $50 million loan to be repaid by industry. This amount was calculated to be capable of payback at reduced levels of harvest mandated by the new harvest strategies adopted by the Board of Fish in 1999 and 2000. Given the uncertainty of fishery openings in the years just ahead, the term of the loan was requested to be extended to 30 years.

Finally, in response to the concerns of participants in other fisheries, and in recognition of the necessity to provide faster rationalization of the BSAI crab fisheries than could be justified for the groundfish fisheries involved in the CRP, new strictures on future use of buyout vessels were established. The vessels which were attached to the fishing rights and history purchased under the buyout, would lose the right to participate in any fishery, anywhere in the world. In the US, this could be accomplished through the permanent retirement of the vessel fishery endorsement to the Vessel Documentation. Elsewhere, this is to be accomplished through prohibition of reflagging of buyout vessels.

The buyback will permanently remove fishing capacity which will otherwise remain in the BSAI crab fisheries, or move from those fisheries to others, due to the effects of a rationalization program, or of economic pressures. This is a very important step in the rationalization process, and it is a necessary step. It is, however, only an increment of the progress toward a rationalization program which will provide for long-term sustainable fisheries. The necessity for rationalization is accompanied by a necessity to thoroughly examine the options.

5. Outline Elements for Analytic Consideration of Model Impacts.

The impacts of any new rationalization plan for BSAI crab must be analyzed, model by model, for the economic effects on harvesters (including crew), processors, and communities. Comments below are intended to illuminate specific problems which manifest under each of the proposed models, and do not include the necessary exhaustive cross-referencing of these specifics to each

model.

I. STATUS QUO

Understanding of the organization of entities within the status quo is necessary to establish a baseline for the analysis of the effects of various models for rationalization of the fisheries. In the BSAI region, the dominant model for status quo crab processing businesses has become the Corporation initiated by or including harvester vessel owners as shareholders. Companies which formed in this fashion include the American Fisheries Act (AFA) qualified pollock processors, Trident, Alyeska and Icicle, as well as non-AFA companies, Norquest and Royal Aleutian. The remaining crab processors that have so far operated in 2001, Peter Pan, Unisea and Westward, are Japanese-parent-company owned, AFA qualified entities.

In each instance, fleets of vessels capitalized by 'independent fishermen' have added significantly to the product flow of the processing plants. 'Independent fishermen' have increased processor market share and lowered the processor capital cost per pound processed. This has augmented the product mix of these plants, strengthening diversification in other fisheries or complementing that production and creating additional activity for floating processor platforms that move throughout the State during the year, following fishery activities.

A processing plant located at Sitka, the Seafood Producer's Co-op, is organized under provisions of the FCMA of 1934. This is the closest example of such a cooperative, available under the status quo. While this plant is too far from the Bering Sea to have processed live crab from that region, the plant does process crab produced in S.E. Alaska. Additionally, each of the above processors (excepting Royal Aleutian) handles a diversified line of seafood (although not always within a single plant) including herring, salmon, sablefish and halibut. Most include operations both within S.E. Alaska and the Bering Sea. Analysis is required to determine:

a. What are the marginal gains experienced by the processors, and
b. how does this vary, between
   (1) those owned by foreign entities,
   (2) those organized with inclusion of "fishermen shareholders" in corporations,
   (3) and the fishermen's cooperative?

Consolidation, as a normal part of the competitive business cycle, has been occurring in the BSAI crab fisheries during recent years. Among harvesters, this manifests in concentration of vessel ownership to relatively fewer individuals; among processors, fewer processing plants are operating, and fewer owners of plants remain; vertical integration of harvesters and processing capacity is also increasing. This has occurred through purchase of vessels, as well as through processor loans to vessels secured by fishing agreements and/or LLP licenses.

The BSAI opilio (snow crab) fishery, which has been the mainspring of the crab fleet's economy since the mid-1980s, experienced a stock collapse. A regional fishery disaster was declared by Gov. Tony Knowles, and by the Secretary of Commerce in 2000. A rebuilding plan has been established to meet the requirements of Magnuson - Stevens Act with regard to "overfished" stocks. This plan has established threshold spawning stock biomass requirements, below which a fishery may not operate, and has provided for lower exploitation rates when the fishery does operate. Since 1999, the Yardarm Knot, a crab and salmon processor with a number of fishermen shareholders, and an affiliate of an AFA offshore company, has ceased operation, at least until stocks of crab improve. Snopac, a non-AFA company which processed crab at St. George, did not operate in the 2001 fishery. Trident announced it would not open its plant at St. Paul Island in 2000, but did subsequently operate with a reduced staff in the 2000 and 2001 *opilio* fisheries, as well as the 2001 pot cod fishery. Unisea closed and scrapped its processor, formerly located at St. Paul.

Further confounding the effects of competition, and increasing the degree of consolidation, a limited access program for fisheries throughout the region, the License Limitation Plan (LLP), was implemented January 1, 2000. The LLP mandated a ceiling on license ownership, after initial licenses were issued, of five crab licenses for a given "person". Not only were initial licenses allowed to be held in greater numbers by a "person," but the caps on ownership have been applied at only the first level of ownership. Typically, vessels in these fisheries represent a capital expenditure of $1 - 3 million, and ownership of vessels is vested in closely held corporations or limited liability companies of several partners, a legal "person". This establishes protection for owners from some liabilities, and allows the pooling of resources to meet the capital requirements, and to spread risks. Another effect, however, is that existing LLP license caps provide no effective bar to consolidation by individuals, although they would seem to effectively limit the number of licenses that may be "stacked" on a given vessel. The LLP has provided incentives to consolidate.

The AFA provided a large incentive for acquisition of pollock harvesters by shore side processors. A number of these harvesters also are licensed for specific crab fisheries. Consolidation in the crab processing sector has also accelerated due to the AFA, despite provisions of the AFA that were designed to limit this. The largest onshore processor of pollock, Trident, acquired Tyson, one of the offshore pollock companies, together with an additional share of crab. A non-AFA company, Icicle, acquired an AFA shore side processor, Northern Victor, together with its fleet of vertically integrated boats. This strategic acquisition, designed to protect the supply of surimi for Icicle's crab analogue lines, also sent Icicle across AFA lines, and fixed a cap on its allowable processing volume of crab.

II. COMMUNITY QUOTAS

The status quo provides one element that is particularly useful for modeling. This is the Community Development Quota [CDQ] program, as it presently exists in the BSAI region, particularly as it applies to BSAI crab. Many details of the program are shrouded in "confidentiality agreements" but the program is administered by the State of Alaska, and all details are known to the State, and could be shared for purposes of complete analysis.

In the status quo crab CDQ program, several CDQ groups have acquired vessels, which fish the CDQ share of crab species for the group, returning a royalty and other benefits to the group, including the vesting of the Communities directly in the harvest of the resource. All groups have employed harvester vessels which deliver their product to shore based processors. There have been different processing agreements. Variations included profit sharing, that is computed post season and after sale of the finished product, and custom processing, for a set fee per pound, with sale of the product to the account of the CDQ group.

The option of 'regionalization' has been endorsed by all sides in the rationalization discussion, and has a consensus endorsement of the rationalization committee. The adoption of the 'regionalization' proposal should be considered with respect to several options generated from the potentials presented under adoption of harvester quota share systems, cooperatives and processor quota share systems. In the present depressed stock conditions, consolidation of processing plants has occurred. This has resulted in net loss of all processing capacity from St. George and a substantial reduction at St. Paul.

a. To what extent can 'regionalization' reduce these impacts in the status quo (that is, without further rationalization)?
b. To what extent does 'regionalization' provide for protection of processors, as well as communities, within the harvest quota systems modeled, halibut/sablefish and Surf Clam Ocean Quahog?

The *continuation of a number of markets is an essential factor to the success of 'regionalization'*. Without this, a regulation requiring 'regional' landings becomes meaningless. Cooperatives would seem to provide for continuance of a number of markets, since each cooperative would form around a specific processor.

c. To what extent do cooperatives modeled on the Whiting Conservation Cooperative, but which provide for deliveries to shore based processors by harvesters (which is the dominant mode of the BSAI crab fisheries) facilitate the objectives of 'regionalization'?

In the AFA cooperatives, harvester participation with a specific processor was mandated. In the

differing circumstances of the BSAI crab fisheries, the effect of different options should be considered. Several options can be accomplished with a minimum of regulatory change, under the FCMA of 1934, and are considered below under the rubric of the WCC.

One of the difficulties facing the initiation of 'regionalized' crab AFA-style coops is that the competitive advantage of AFA processors cannot be overcome by extending the same privileges to those processors, as well as a few non- AFA processors. In other words, the implementation of AFA-style coops in crab can only provide for a number of processing cooperatives if these cooperatives are each to remain financially viable. Such viability can occur, temporarily, if subsidized by the harvester fleet, through lower ex-vessel prices (see the discussion of a closely related disincentive, under AFA cooperatives). This does not balance the competitive disparities between AFA and non-AFA processors, it merely lays off the necessity of 'regionalization' to a cost on harvesters, and is limited to the extent that harvesters can absorb such costs. Beyond this, such a model increases the incentive for acquisition of harvesters by AFA processors since internalized harvester losses can be supported by AFA revenues to the detriment of non-AFA processors. This problem becomes especially acute for those non-AFA processors those which are significantly vertically integrated, since these have less independent fleet available to share these costs.

Counterbalance of the AFA processor advantages can be obtained by considered allocation of cooperative benefits, within the regional framework. For instance, non-AFA processors could be allowed to form cooperatives with their fleets, and enjoy the AFA-style benefit of participation, despite their ownership of vessels in the coop, while AFA processors, having already received this significant benefit in the pollock fishery, could be denied the right to form cooperatives that include vessels they own. This formation of cooperatives would necessarily not mandate the participation of independent harvest vessels, as in the AFA, since this would create disparities with the treatment of independent harvest vessels delivering to AFA crab processors.

d. What are the results which a program designed according to such balance can be expected to produce, in the performance of 'regionalized' fisheries?

This type of differentiation can be achieved under 'regionalized' cooperatives, but not with a 'regionalized' two-pie system. In the 'regionalized' two-pie system, the incentives created by transferability lead to optimum processor efficiency, within the regional framework, at the expense of all other considerations, including those social considerations which lie at the root of the 'regional' perspective. Transferable, 'regionalized' processor quota shares produce incentives for extreme processor consolidation, devolving to one processor per qualifying community. Competition between processors is replaced by transfer of shares between processors to reduce processing infrastructure to one major plant for each surviving company while accomplishing consolidation of other, formerly competitive, plants.

The transferability provisions of the 'regionalized' two pie system also produce incentives for extreme harvester consolidation. Fleet size becomes defined strictly in terms of 'technical' or 'functional' capacity. One processor told the rationalization committee that a fleet of twenty or so vessels would suffice, for the future.[23] Processors already own more vessels than this, which implies harvester vessel owners would be compelled to sell or lease quota to be fished by processor-owned vessels. This occurs because ex-vessel prices are minimized, since the economically efficient incentive in this regulatory framework is to lower the cost of harvest. Lower crew shares, lower landing taxes and lower royalty payments ALL are achieved by this means.

For these reasons, the analysis of a 'two-pie' regime, with respect to its effects, will demonstrate the necessity to mitigate impacts on Communities, by such means as these:

e. Derivation of CAPS on consolidated ownership, use or control of
   (1) harvest shares
   (2) process shares.
f. Provision for price determination, at ex-vessel level.
g. Determination of a MINIMUM acceptable number for
   (1) harvest crewmen
   (2) process workers
   (3) harvest vessel owners
   (4) process plant owners.
h. Protection of DIVERSITY of size and type (to allow new entrants)
   (1) harvesters and
   (2) processors.
i. The determination of a level of CDQ allocation of Processing Quota, that would suffice to mitigate negative impacts of the program on Communities, identified above.
j. An assessment of the costs and feasibility of NMFS and NPFMC maintaining the above strictures, with contrary economic incentives, is an essential component of the Community impact assessment of 'two-pie'.

It is not certain that the analysis of the CDQ program, and of the 'regionalization' proposal will suffice to satisfy the requirements of the Congressional mandate. The language could well be interpreted to convey a different analytic responsibility, for instance, were the intent to examine the type of community-held fishing rights that are presently in use in the Shetland Islands[24], or the types of proposals that have been generated for community ownership of halibut/sablefish quota share in the Gulf of Alaska. At least, the analysis should include reference to these innovative management protocols.

III. Halibut/sablefish ITQ

These provide for strict limitations on both the amount of quota that may be held by an individual (tracked through all layers of ownership, ½ % for most halibut fisheries) as well as the amount of quota that may be fished on a given vessel. These measures, together with vessel class restrictions and the Sitka Block, very effectively limit the consolidation of quota to a fairly large class of individuals. Modest consolidation occurred in the first two years of the program, with initial allocation to 5,484 halibut shareholders decreasing by 24%, through 1997[25].

The control of quota is also largely placed in the hands of harvesters, and most quota shares are required to be harvested with the owner of the shares on board the harvesting vessel. Processor control over the fishery is thus somewhat constrained: although financing and other contractual obligations provide a number of levers for processors to exercise, several processors continue to complain that the system shifted market power in favor of quota shareholders.

To adapt this model for application to the BSAI crab fisheries, the role of the "quota owner on board" requirement must be examined within the context of the present ownership structures of the BSAI crab fisheries

- a What is the effect of wide-spread ownership of vessels by closely held corporations and limited liability companies, as in the status quo BSAI crab fisheries?
- b To what extent can the requirement of "owner on board" be made to provide for the inclusion of crewmen in the benefits of the program, at least, for minority owner captains?
  - (1) What is the status quo extent of vessel operation by owners?
  - (2) What are the impacts of requiring specific levels of ownership to be held, at minimum, by owner-operators?
- c To what extent can fishery managers be expected to succeed in establishing such provisions, for the long term? What are the likely costs and benefits?

IV. Whiting Conservation Cooperative [WCC]

The WCC was formed after the Pacific Fishery Management Council established a separate allocation for the offshore fleet of catcher processors operating in the Pacific whiting fishery, in order to protect the harvest share of inshore vessels delivering to shore plants. A component of this allocation allowed licenses for offshore catcher vessels to be purchased and combined. The companies involved in the offshore fishery created agreements within the structure of the Fishermen's Cooperative Marketing Act of 1934 [FCMA], which then allowed the reapportionment of catch between vessels, and the more efficient utilization of both catch and total

allowable catch. This has been accomplished through the use of fewer offshore vessels and a reduced rate of catch, which has increased product recovery rates and reduced bycatch of other species.

Provisions of the WCC agreement were *specifically tailored to avoid a finding of per se violation of antitrust law*, as a "market allocation" among competitors. First, WCC activities were explicitly limited to the minimum activity necessary to achieve harvest share benefits, foregoing other activities implicitly available under the FCMA. Secondly, the more efficient management of harvest capacity allows a greater proportion of the total allowable harvest to reach the market, thus increasing the supply of product, rather than limiting this supply. "By explicitly agreeing to process, market and sell their products on an arms-length basis . . . all indications were that a harvesting share arrangement . . . would result in more product being produced at a lower unit cost from the same fixed quantity of fish . . . [the WCC provided] fishery rationalization to be in the consumer's best interest."[26] Consolidation (or lack thereof) of entities participating in agreements modeled on the WCC strategy, is a key indicator of the breakdown (or continuing validity) of this 'arms-length' rationale.

In the differing circumstances of the BSAI crab fisheries, the delivery of product by harvest vessels to shore based processors is the dominant operational mode. Processor owned vessels may not participate in cooperatives organized under the FCMA of 1934.

a. Which BSAI crab fisheries could be expected to be able to organize a cooperative structure that includes all participants in the fisheries?
b. Which BSAI crab fisheries could be expected to succeed in formation of cooperatives, of some specified minimum size, only if there is provision for the option of continued 'open access' fishing at the choice of the participants?
c. Would this model produce greater incentives for processors to integrate vertically or divest vessel ownership?

V. Atlantic Surf Clam/Ocean Quahog (SCOQ) ITQ

Consolidation was allowed to proceed more freely and to a much greater extent than in the Halibut/Sablefish program. There is no maximum holding or limit to accumulation of shares provided within the program. Anyone qualified to own a fishing vessel under U.S. law may acquire SCOQ ITQ shares; there is no bar on domestic processing company ownership of harvest shares.

The Surf clam fleet shrunk from 127 vessels in 1980 to 33 in 1997, and concerns about the concentration of ownership came to the surface. "After ITQs were implemented, a few buyer-processors gained dominance . . . The issue of monitoring of concentration of ownership has been

particularly problematic for two reasons. First, it is practically impossible to ascertain the exact identity of 'owning persons' due to the nature of the record keeping process. Second, the critical term 'excessive share' is not defined . . ."[27]

One company, Borden's, received approximately 20% of the Ocean Quahog initial allocation. Within a relatively short period, this company acquired additional shares, buying Doxsee, with approximately 12% of initial SCOQ, and the American Original company. Borden's grew to control more than one third of the SCOQ, together with harvesting vessels, processing facilities, and established labels and product lines.[28] Since 1997, and for reasons which are unclear, Borden's has liquidated their holdings. Lacking an available buyer of sufficient size, the company sold vessels, quota and processing operations to a number of different buyers.

This model adapts readily to the status quo structures of ownership in the BSAI crab fisheries. Questions most necessary to provide for the analysis of its effects include:

a. What is the extent of ownership and control of harvest vessels by processors under the status quo?
b. What is the degree of consolidation of harvester ownership which is most appropriate?
c. What is the degree of consolidation of processor ownership of the harvest which is most appropriate?
d. To what extent must vertical integration be regulated?
e. To what extent do the impacts on communities noted for the 'regionalized two-pie' model occur, given the levels of consolidation determined above?
f. How might such impacts, if considerable, be mitigated?
g. To what extent can fishery managers be expected to succeed in establishing such provisions, for the long term? What are the likely costs and benefits?

VI. American Fisheries Act [AFA] shore based cooperatives.

Under terms established in the AFA, a three sectoral allocation of Bering Sea pollock occurred. These three sectors were differently treated under provisions of the AFA. The offshore sector included the four companies which had developed the Whiting Conservation Cooperative. This sector moved quickly to accomplish similar agreements that resulted in the Pollock Conservation Cooperative [PCC] and the Offshore Pollock Catchers' Cooperative [OPCC] beginning operations in January 1999. The WCC model discussion includes this sector for consideration.

The mothership sector does not provide useful modeling for rationalization of the BSAI crab fisheries.

The onshore sector is most directly analogous to the status quo BSAI crab fisheries, in that the dominant mode of the BSAI crab fisheries is harvest vessels delivering to shore based processors. Ownership of vessels and historic development of the fisheries, as well as the levels of capital investment required, however, are significantly different between the BSAI shore based crab and pollock fisheries.

Under the AFA, vessels which had qualifying history in the pollock fisheries, and had delivered catch to shore plants, were allocated a share of future pollock harvest allocations based upon the vessel's historic catch. These vessels were constrained to deliver that catch to the processor which had received the largest share of the vessel's catch, and the ability of the harvest vessel to later shift between processor markets was restricted. The shore side pollock cooperatives which have formed depart in a significant manner from the operation of the WCC and PCC, because each shore side cooperative membership includes one specific processing company, and in nearly all cases, vessels which are owned by the processing company - a situation not previously allowed under interpretation of anti-trust statute.

Ground rules are evolving under the purview of the NPFMC and the NMFS. These include provisions for the transfer of vessels between cooperatives, and the transfer of quota allocation between vessels and cooperatives. Also, measures have been designed to place caps on consolidation of control over the pollock harvest. Additional rules have been in consideration, to protect the harvesters and processors of other fisheries: from the influx of new effort when vessels become surplus in the pollock fishery, or from predatory pricing opportunities or other financial advantages accruing with the benefit of the pollock rights conferred under the AFA.

The experience of the NPFMC and NMFS in maintaining the caps on consolidation designed for the halibut/sablefish ITQ programs, provided these entities with the ability to establish and maintain controls over the consolidation and expansion of effort into other fisheries by pollock harvester vessels. The ability of the NPFMC and NMFS to effectively control the consolidation and impacts of the AFA qualified shore side processing companies has not been apparent, however. Ownership caps on pollock processing shares, an original feature of the AFA, were undermined and made moot, shortly before final action of the NPFMC on those caps. This occurred as a result of the acquisition of a major offshore pollock company, Tyson, by Trident Seafoods, the largest onshore company.

The NPFMC has set caps on the allowable percentage of crab harvest processed by AFA companies. These caps stand despite considerable unpopularity with the catcher fleet, since they remove most incentive for price bidding by processors. AFA processors have greater catch, from the fleets that are committed to deliver to them, than they are allowed to process under the caps. Non-AFA processors (there are presently only two) are thus guaranteed a larger share of the processing market, as spillover from the AFA companies. This occurs in conjunction with the

shrinkage in number of processors that has occurred over the base period for setting of caps. The NPFMC has thus far demonstrated an inability to mandate caps that control processors without penalizing harvesters.

This model does not readily adapt to the status quo structures of ownership in the BSAI crab fisheries. Imposition of AFA pollock-style harvest vessel bondage to processing companies, makes no sense with the relatively larger number of independent harvesters in the BSAI crab fisheries. The total capital investment of harvesters is very much greater than that of processors, in these fisheries, unlike the situation of the high-technology pollock processing industry. Questions most necessary to provide for the analysis of its effects include those directed at assessment of the SCOQ program, and a number of questions that are subsequent.

a. What is the extent of ownership and control of harvest vessels by processors under the status quo?
b. What are the relative total investments of processors (in equipment devoted to processing crab) and, similarly, harvesters?

The trend for pollock shore based cooperatives has been to increase vertical integration of the cooperative entities, through processor assimilation of the harvester. This has produced windfalls to some harvesters leaving the fisheries. In adapting this model to the crab fisheries, a key determinant for policy consideration is whether consolidation of harvesters by the processors is more likely to occur through buyout of harvester vessels, or, since the ratio of independent harvesters to those owned by processors is greater than that of the pre-AFA pollock fishery, through the royalty leasing of quota share.

c. How do ex-vessel prices of vertically integrated companies compare with those which are not?
d. To what extent do the impacts on communities noted for the 'regionalized two-pie' model occur, given the levels of integration experienced under the AFA?
e. How might such impacts, if considerable, be mitigated?
f. To what extent can fishery managers be expected to succeed in establishing such provisions, for the long term?

The structure of the AFA shore based coops was in part a consequence of the AFA objective to reduce the harvest of pollock by offshore catcher processors, and in part a consequence of the effort to limit foreign control over the resource by more stringent citizenship standards for vessel ownership. These objectives do not apply to the application of the model to the BSAI crab fisheries, where AFA ownership standards have already been applied to vessel ownership, and where most of the harvest is delivered to shore based processors. The "Community Quota" section contains discussion of a modification of AFA shore based coop rules, which is designed to provide increased protection of the non-AFA crab processors from depredation of the AFA

processors, without creating penalty to the Community revenue base. In addition to this mitigation,

g. What are the costs and benefits of this model to the harvesters, and the processors?

It is well to recall that the resource benefits claimed for the AFA pollock cooperatives are, for the most part, benefits which have been realized within the offshore sector, not the shore side: avoidance of areas of high bycatch, increased product recovery rates, and so on. Actual resource benefits, other than more precise use of the roe season, are unlikely to accrue to any great extent to shore plant pollock operations, because they lack the mobility necessary to capture benefits of this sort. Avoidance of areas of high bycatch by shore based fleets, for instance, simply amounts to increased fuel expenditure. Increased product recoveries do not result from the longer holding times necessitated by longer trips. This realization has been delayed, perhaps, and masked in the general costs imposed by recent measures designed to protect the Steller Sea Lion, an endangered species. The difficulty is intrinsic, and will manifest clearly at some future time. There are indications that at least one pollock shore plant, located on a ship, is attempting to relocate, so as to capture some of the benefit which is presently available only to the offshore processors. The historic distribution of deliveries which is preserved in the 'regionalizaton' proposal is a direct analog of this tactic, applied to the BSAI crab fisheries.

The more precise utilization of the roe season carries benefits, by increasing the supply of this product. The longer-term meaning of the increase in roe supply is not yet clear, however - whether the benefits shall be greater to the consumers, as lower product cost, or to the producers, as higher margin, is not yet known. In either case, the intentional restriction of the supply of roe in order to support the price of the product, would probably constitute a rationale for a finding of "market allocation" and would severely undermine the legal basis for the establishment of the cooperatives.

The major benefit to processors of the advent of the shore side pollock cooperatives, has been a *financial* benefit. This program was conceived and implemented in a time of freely available credit. Rather than "decapitalizing the fisheries," the capital has been flowing in, at high volumes. A note of caution is appropriate. The expansion of capital in fisheries occurs in response to the perception of opportunities for profit. Rational quota systems, which provide increased malleability to capital, are also excellent facilitators of the flight of capital in the event of a downturn of underlying fishery stocks, or of the ability to exploit them.

Resource benefits available under an AFA modeled BSAI crab fishery presumably would occur from the reduction of fleet size which such a program may make possible. Since the BSAI crab fisheries are already in a state of severe downturn, the financial benefits enjoyed by AFA pollock processors are unlikely to occur, for the BSAI crab processors, in the short term. This would

indicate that the possibility of windfall to either processors or to retired independent harvester vessel owners is unlikely to occur until significant rebuilding of stocks occurs, if ever. This would likely result in a lower net benefit to both processors and harvesters, than an option which more nearly balances the incentives of conservation and the participants in the industry, such as those previously considered.

VII. The "two-pie" quota share hypothesis

In addition to the questions raised for the models considered above, the 'two-pie' model poses a number of analytical challenges. This theory posits that processing company interests are compromised when quota shares are allocated to harvesting vessels, alone. As an example of the sort of disadvantage that is expected by the theory to occur, Dr. Matulich, the inventor of the plan, asserts that, before 1987, crab harvesters in the BSAI snow crab fishery received ex-vessel prices amounting to ". . . about 15% of the processor's sale price. After that, the fleet organized for collective bargaining of price, and the processors were prevented from organizing similarly [due to anti-trust regulations]. Consequently, the percentage of the processor's price paid to the vessels doubled, and has probably increased significantly since then."[29]

Whether this increase in the percentage of processor sale price paid to vessels for the harvest of the snow crab actually represents a compromise of the processing company interests, to the advantage of harvester vessel owners, is far from evident. Neither has there been a demonstration that any damage to processors has occurred due to the allocation of quota shares to harvesters alone, under either the halibut/sablefish model or the SCOQ model.

To amply demonstrate the relative merit of these assertions requires an extensive analysis, which may be accomplished if the requisite data is provided by the ostensible beneficiaries of a 'two-pie' quota allocation, the processors. Without the data, and the analysis, this program should not be allowed to proceed, because objective justification for it will be lacking. The analysis must necessarily examine the internal cost structures of both harvesters and processors, the ex-vessel and wholesale price structures, as well as the downstream prices received by processor affiliated companies involved in the reprocessing and marketing of the products. These would need to be understood, over a significant time series, and with respect to changes that have occurred in the size of the harvesting fleet, the number of processors and their locations, the level of investment per unit of production required in the harvest as well as the processing sectors, the changes over time of these investment levels, together with the relative flexibility of use for the capital invested, within the context of the applicable regulations, such as the timing of seasons, the diversity of products and product forms handled within the plants, and the amounts of catch allowed. The changes in market share and therefore in control over the market which processors and their affiliates may exert, at given levels of operation, must also be considered.

Then, the issue of ownership and control of harvester vessels by processors, and the inverse, of processors by harvesters, must be considered. What is the range of control over harvesters exhibited by the various processing companies? How does this experience differentiate between companies, and their relative success? For instance, what are the benefits, in increased market share or otherwise, that have been derived by processing companies, through the attraction of fleets of harvester vessels which are not owned by the processor, or its affiliates? What has been the distribution of benefits, assuming such, resulting from the "collective bargaining" of grounds price, between vessel owners (including processor affiliates), vessel operators, crewmen and municipalities (in the form of landing taxes)? In each case, these benefits derive in direct relation to the ex-vessel price. To what extent have the revenues collected by municipalities been reinvested in infrastructure that favorably affects the business of the harvester or processor? Has either (harvester or processor) received a greater share of such benefit?

Although there is a prevalent assumption that capital invested in vessels is less stranded than that invested in shore plants, the assumption needs to be tested, and has probably been rendered invalid by restrictions on the use of harvester vessels. The assumption is based upon the observation that vessels are designed to move, and shore plants are not. This is certainly not always the case. Many "shore plants" meet the definition under Alaska and other regulations despite their installation on ships or barges. Many of the regulations designed to control fishing effort and slow harvest, consist in mandates for inefficiency. A common form is the vessel length limit. Fishing opportunities which would otherwise occur, are often limited by such regulations. While different vessels are required to fish salmon and BSAI crab, the same processing platform can suffice for both.

Furthermore, in this era of limited access, the capital required to purchase fishing rights and permits significantly diminishes the portability of the harvester vessel asset, and the ability of the vessel to transfer between fisheries. The creation of fishing rights may create benefit to the recipients of those rights, assuming continued viable fisheries, against which must be measured the cost that results as extension of these systems becomes general. The LLP, for instance, creates capital requirements and relatively high investment thresholds to movement of vessel capital. The LLP also presents increased opportunities for capital invested in permits and rights to become stranded, in the event a licensed fishery stock declines.

On the other hand, discharge permitting and environmental protections may be understood to be a form of entry limitation upon processors. It is certain that most communities in Western Alaska which already support processing plants, offer little opportunity for the introduction of new plants, because of the permitting requirements. Once such permitting is accomplished, however, there is less impediment to transition between fisheries within the plant, so long as discharges are not significantly increased. Thus, the buildings and equipment, tied in position, represent a locus of varied opportunity, unmatched by vessel opportunities in the limited entry or rationalized fishery

context.

One of the contradictions which is overlooked by processor advocates for the 'two-pie' system results from the additional capital cost and risk to capital which the institution of processor shares will bring. If a processor desires to increase market share, enter a new fishery, or expand operations, new costs will be created by this program. The oversight is understandable, since the present landscape is being examined through the lens of the expectation that initial receipt of shares will produce a windfall to the recipients. In the diminished state of the crab processing industry, dreams of an exit strategy are appealing. This must be particularly true for those companies which have already written off, disposed of or mothballed processing capacity - that is, latent processors. These latent processors would be rewarded with a bonus, value received for processing history. One company, which has paid the very high cost of entry into the rationalized pollock processing industry, paradoxically, is an avid proponent of the even more expensive 'two-pie' system.

It is imperative that the consideration of the costs and benefits of a 'two-pie' model be very carefully considered, from perspective not only of the effects upon the communities and the harvesters, but upon the processors as well. In addition to the mitigation of effects required to protect community and harvester interests, which will add a great deal of complexity to the program, as well as cost, there are impacts upon processors. The disappearance of Borden's from the Ocean Quahog fishery occurred even with an established, commanding position in a fully rationalized fishery, by a vertically integrated harvesting, processing and marketing entity, possessed of respected national brands.

If, in a 'two-pie' quota regime, there happens to be a fishery collapse, or severe reduction in the ability to harvest due to legal, economic or other factors, the sale of such a highly integrated entity becomes even more problematic. As a result of the additional burden created by the necessity to match units of harvest capacity to units of processing capacity, dismantling for sale of components is inhibited, and 'two-pie' may well depress, rather than enhance, liquidated values. There is certainly legitimate ground for concern that the additional restraint of trade represented by the constraints of the 'two-pie' system may be destabilizing to fishery management, as well as business, in conditions of a severe resource downturn, a tight capital market, or fundamental change in demand or marketing of product.

According to the 'two-pie' theorem, the establishment of a single class of quota shares for harvest vessel owners in the BSAI crab fisheries, would lead to a demonstrable change in the "symmetry" of relationships between harvest vessel owners and processing companies. Symmetry, in this sense, refers to a special requirement that the relationships of power and wealth between the harvest vessel owners and the processors would emerge, after imposition of a quota share system, without fundamental change. An unproven assertion of the 'two-pie' model, is that symmetry

would be violated in such fashion that the new relationships would be more favorable to the harvester vessel owners, and detrimental to the processors. This assertion does not bear much weight.

In the affirmative, some conjecture that, under the status quo, harvester vessel owners have been compelled to deliver their product to processors within a tightly bounded window of opportunity, and that a wider window, that is a more extended operating season, would invite more competition into the processing sector. This window is framed within the wall of the 'Olympic' fishery management system, which consists in a set starting-point for a fishery, and an upper bound on catch (or a guideline harvest level) that determines the point at which fishing will cease - thus, the race for fish. The expectation of profit, a primary motivation for entry into processing competition, is enhanced by the opportunity represented by a longer season in the Olympic fishery management regime, primarily because such increased seasonal length occurs as a function of larger fishery stocks, which represent increased opportunity to defray fixed costs. A management regime that extends the potential operating season within the bounds of a lower harvest level, provides no such incentive.

Rather, the potential benefit is to increase efficiencies within the context of a fixed catch. The potential efficiency gains are clear: the Olympic fishery management system has been reasonably credited with establishing a set of incentives which are wasteful of capital, destructive to fishery stocks, and dangerous to fishers. The implication of the 'two-pie' argument is that processors are benefitted under the conditions of the Olympic management system, or at least, that processors suffer less of the Olympic management system's indirect cost than the harvesters. Thus, 'two-pie' tenets imply that the end of this system spells a relative disadvantage to processors.

One must concede that were this so, the Olympic management system's costs of waste, destruction, and danger, must be less than the system's benefits to processors. Analysis is not likely to support this conclusion, with the sole exception of danger - it is the case that fish harvesters are more at peril than shore side process workers and plant managers. There are substantial safety dividends available in both processing and harvesting sectors, however, from rationalized fishery management. Other cost factors, such as transport and support of additional manpower for short-term employment, dedicated facilities required to handle massive intermittent product overflow, and inventory carrying costs (or their internalized equivalent, lower sales prices as a result of customer's carrying costs), discard and handling mortality of stocks aggravated by the race for fish, and the decline and closure of fisheries that can result, bear cruelly upon both processors and harvesters - indeed, upon the whole market structure. The benefits of ending this waste, destruction, and danger accrue equally to harvesters and processors.

The institution of quota share will end the collective bargaining of price for crab, since this has depended on assembly of the fleet for the Olympic season's start. In the status quo, vessel owners

have proven too conflicted to bargain price collectively, price has been set, instead, by action (or inaction, rather) of the Captains and crews of the harvest vessels. The halibut/sablefish quota system provides an example of how the extended season has dispersed a fleet, and ended collective bargaining for price. An auction system, which predated the implementation of halibut/sablefish quota shares, has adapted to the new system, with auction activity moving from Seattle to Homer. Such an auction would be forbidden under 'two-pie' constraints, except for some portion of catch allowed to be freely delivered.

These observations indicate that the symmetry of the 'two pie' model is flawed, *to the detriment of harvesters*. If analysis bears this out, the strictures necessary to remove this apparent imbalance, introduce an even greater level of complexity and cost to the program. There is much anecdotal evidence that processors resent their perceived exclusion from the benefits of the halibut/sablefish ITQ program. The suggestion that a 'two-pie' quota system will provide for redress of this resentment is ironic, if it results in the failure to consider simpler, more balanced models of rationalization, which include the possibility of relatively high levels of processor ownership and control of fishing quota. The examination of these alternatives makes it clear that a thorough analysis of the impacts of the 'two-pie' model upon harvesters, processors and communities is likely to show very high levels of cost and complication *to the processors*. This becomes necessary to provide a program that is even moderately workable.

VIII. Monopoly

A monopoly of the sea otter trade between Alaska and China was granted to the Russian American Company by the Russian Imperial Government, in 1799. The Company was built on a model that provided infrastructure and encouraged permanent settlement, that is, development of the communities of Russian Alaska. The monopoly grant required that the company perform many of the functions of government, including support of the communities, education, care of orphans, aid of the Church, and expansion of imperial influence.

The monopoly structure provided for gains in efficiency in the take of sea otters. Shareholders received an annual return of 55%, on average, for the first five years of the company. This was followed by a collapse of the resource. A 5% return, on average, prevailed for the following fourteen years, and then profits disappeared completely.

In 1805, Imperial Chamberlain N.P. Rezanof found that sea otter were being "overkilled" and began a program of conservation. The rebuilding program failed to restore populations of sea otters, and the Company became a drag on the Imperial economy, resulting in the eventual sale of the territory to the U.S. and failure of the imperial effort.[30]

IX. Conclusion

The BSAI crab fisheries are in a state of crisis. Despite innovative, responsive and informed management, there has been a series of resource failures. Rebuilding of the fisheries is mandated by the MSFCMA, and rebuilding programs have been implemented, yet rebuilding remains problematic. Reduced exploitation of the stocks is an essential element of rebuilding; this has added to the dimensions of the crisis. The fishing capacity of the fleet, that is, the ability of the fleet to catch crab, is vastly greater than the available resource. In a typical winter week of the mid-1990s, the fleet delivered as much product as was available for the entire 2000/01 BSAI crab fishery. Despite incremental progress over the past ten years, there is no management system in place which will allow for these limited fisheries to be more efficiently shared among the fleet. The result has been intensified problems of competition: egregious waste of resources and capital, increased peril to life and limb, and aggravated difficulties of management of the fisheries. Those dependent upon the fisheries have suffered catastrophic losses of income; crewmen, vessel owners, processors, suppliers and communities have all experienced levels of increased hardship.

The crisis has created response from those impacted. There has been considerable effort to find solutions to the crisis, with much well intentioned discussion, and there has been the threat of obstruction by powerful interests.[31] An ad-hoc industry committee failed to reach consensus. A subset of the committee concluded that a particular form of rationalization of the fisheries would provide the solution to the crisis. The subset committee requested action by Congress to immediately impose a solution on the fishery, its participants and the managers of the fishery. Congress responded with an extension of the national moratorium on IFQs, and with the mandate to the NPFMC that appears in the introduction to this paper, and is before you for further action.

The NPFMC has recognized the acute need for solutions to the crisis in the BSAI crab fisheries. You empaneled a committee to study rationalization and recommend a range of considerations for analysis, received the report of this committee and its advisors, and identified a program of action. This includes completion of the incremental steps necessary to bring rationalization to date, through implementation of the BSAI capacity reduction program, and completion of a regulatory review process parallel to the Congressional study, to streamline further development, and sooner implementation, of rational management for the BSAI crab fisheries. It is not only an imperative of the Congressional mandate that a broad range of possibilities for rationalization be considered, it is also an imperative of the regulatory review process, and the urging of precaution, that this consideration take into account the breadth of experience available, and depth of insight. The investigation presented here strongly indicates that the implementation of a rationalization program based upon the 'two-pie' model, will result in a costly and complex program that is not in the best interests of processors, harvesters or communities. Modification of a harvester ITQ or producer cooperative based model, will provide the best solution for all the affected groups.

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TABLE 1	HARVEST, BSAI FMP CRAB FISHERIES (lbs.)								
ADF&G TABLE	4-6	3-2	4-4	5-12	5-7	5-2	5-21	5-28	
Year\Fishery*	Adak RKC	DH BKC**	Adak BKC**	St. Matthew	Pribilof ++	BB RKC	Bairdi	Opilio	Total
1976	no fishery	no fishery	no fishery	no fishery	6,600,000	63,000,000	22,200,000	no fishery	91,800,000
1977	900,000	no fishery	no fishery	1,100,000	6,300,000	69,200,000	51,200,000	no fishery	128,700,000
1978	800,000	no fishery	no fishery	1,900,000	6,300,000	86,400,000	66,400,000	1,700,000	163,500,000
1979	450,000	no fishery	no fishery	210,000	5,700,000	104,200,000	4,250,000	31,400,000	146,210,000
1980	1,400,000	no fishery	50,000	****	10,700,000	128,089,795	36,500,000	39,300,000	216,039,795
1981	1,600,000	100,000	1,200,000	4,600,000	9,100,000	32,880,079	29,600,000	50,500,000	129,580,079
1982	1,700,000	1,100,000	7,800,000	8,700,000	4,400,000	2,905,376	10,900,000	28,300,000	65,805,376
1983	1,900,000	1,800,000	8,000,000	8,600,000	2,200,000	no fishery	5,200,000	24,800,000	52,500,000
1984	1,400,000	1,500,000	3,100,000	3,700,000	300,000	4,146,805	1,200,000	26,000,000	41,346,805
1985	900,000	1,900,000	11,100,000	2,400,000	500,000	4,168,517	3,100,000	64,900,000	88,968,517
1986	700,000	1,800,000	12,500,000	1,000,000	300,000	11,109,807	no fishery	96,600,000	124,009,807
1987	1,200,000	1,400,000	7,800,000	1,100,000	700,000	12,168,679	no fishery	100,900,000	125,268,679
1988	1,600,000	1,500,000	9,000,000	1,300,000	no fishery	7,364,258	2,200,000	130,800,000	153,764,258
1989	1,100,000	1,800,000	10,100,000	1,200,000	no fishery	10,183,457	7,000,000	147,600,000	178,983,457
1990	700,000	1,700,000	5,100,000	1,700,000	no fishery	20,245,815	64,200,000	160,000,000	253,645,815
1991	900,000	1,400,000	6,200,000	3,200,000	no fishery	17,058,224	31,500,000	325,200,000	385,458,224
1992	1,300,000	1,300,000	4,800,000	2,500,000	no fishery	8,034,018	35,100,000	313,000,000	366,034,018
1993	700,000	920,000	4,600,000	3,000,000	2,600,000	14,500,000	12,800,000	229,200,000	268,320,000
1994	200,000	1,700,000	6,400,000	3,700,000	1,300,000	no fishery	7,600,000	148,000,000	168,900,000
1995	38,941	2,000,000	4,900,000	3,100,000	2,100,000	no fishery	4,200,000	74,000,000	90,338,941
1996	no fishery	3,200,000	2,600,000	3,100,000	1,100,000	8,380,000	1,800,000	64,400,000	84,580,000
*1997****	no fishery	5,300,000	**	4,600,000	1,270,000	8,700,000	no fishery	117,100,000	136,970,000
1998	15,000	5,940,000	**	2,870,000	1,030,000	14,300,000	no fishery	243,300,000	267,455,000
1999	no fishery	5,420,000	**	no fishery	no fishery	11,100,000	no fishery	184,500,000	201,020,000
2000	no fishery	*3,630,000*	*ongoing*	no fishery	no fishery	*8,108,108*	no fishery	*33,583,466*	45,321,574

TABLE 3	VESSELS DELIVERING: BSAI FMP FISHERIES								Registrations	Largest
Year\Fishery*	Adak RKC	DH BKC**	Adak BKC	St. Matthew	Pribilof	BB RKC	Bairdi	Opilio	TOTAL (r)	Fleet (f)
1986	33	17	62	38	16	159	no fishery	103	428	159
1987	71	22	46	61	38	236	98	171	743	236
1988	73	21	74	46	no fishery	200	98	168	680	200
1989	56	13	64	69	no fishery	211	179	189	781	211
1990	7	16	13	31	no fishery	240	255	220	782	255
1991	10	11	16	68	no fishery	302	285	250	942	302
1992	12	10	18	174	no fishery	281	294	254	1,043	294
1993	12	4	21	92	112	292	261	254	1,048	292
1994	20	14	34	87	104	no fishery	183	273	715	273
1995	4	17	25	90	127	no fishery	196	253	712	253
1996	no fishery	14	13	122	66	196	135	234	780	234
1997	no fishery	13	6	117	53	256	no fishery	226	671	256
1998	NA	14	3	131	57	275	no fishery	229	709	275
1999	no fishery	15	NA	no fishery	no fishery	257	no fishery	241	513	257
2000	no fishery	15	NA	no fishery	no fishery	244	no fishery	231	490	244

10 YEAR AVERAGE INCOME, 1990 through 1999 =>	$253,592,688
10 YEAR AVERAGE INCOME, 1989 through 1998 =>	$239,956,704
10 YEAR AVERAGE INCOME, 1986/7 through 1995/6 =>	$241,819,414

TABLE 5 FLEET GROSS REVENUES, BSAI FMP ($)

Year\Fishery*	Adak RKC	DH BKC**	Adak BKC	St. Matthew	Pribilof	BB RKC	Bairdi	Opilio	Total (i)
1976	NA	no fishery	NA	NA	3,828,000	36,540,000	4,218,000	NA	>45,000,000
1977	NA	no fishery	NA	NA	6,993,000	76,812,000	15,360,000	NA	>100,000,000
1978	NA	no fishery	NA	NA	7,749,000	106,272,000	25,232,000	646,000	>140,000,000
1979	NA	no fishery	NA	NA	5,757,000	105,242,000	2,210,000	9,420,000	>123,000,000
1980	1,288,000	no fishery	50,000	NA	9,600,000	115,300,000	19,000,000	82,500,000	>230,000,000
1981	3,216,000	200,000	2,400,000	NA	13,600,000	49,300,000	17,200,000	13,100,000	>100,000,000
1982	5,848,000	3,300,000	23,400,000	NA	13,400,000	8,800,000	11,500,000	20,700,000	>87,000,000
1983	6,517,000	5,500,000	23,200,000	25,800,000	6,600,000	no fishery	6,200,000	8,700,000	82,517,000
1984	2,940,000	2,000,000	6,100,000	6,500,000	100,000	10,800,000	1,100,000	7,800,000	37,340,000
1985	1,935,000	3,800,000	27,800,000	3,800,000	1,400,000	12,100,000	4,300,000	19,500,000	74,635,000
1986	2,695,000	5,100,000	37,600,000	3,200,000	1,200,000	45,000,000	no fishery	60,000,000	154,795,000
1987	4,800,000	4,000,000	23,500,000	3,100,000	2,800,000	48,700,000	no fishery	75,700,000	162,600,000
1988	8,000,000	4,500,000	28,700,000	4,000,000	no fishery	37,600,000	4,800,000	100,700,000	188,300,000
1989	4,620,000	6,300,000	30,200,000	3,500,000	no fishery	50,900,000	20,300,000	110,700,000	226,520,000
1990	2,800,000	5,100,000	15,200,000	5,700,000	no fishery	101,200,000	89,800,000	102,400,000	322,200,000
1991	2,700,000	2,800,000	15,400,000	9,000,000	no fishery	51,200,000	47,300,000	162,600,000	291,000,000
1992	6,565,000	3,300,000	9,900,000	7,400,000	no fishery	40,000,000	58,800,000	156,500,000	282,465,000
1993	2,709,000	1,900,000	11,200,000	9,700,000	13,000,000	55,100,000	31,600,000	171,900,000	297,109,000
1994	1,100,000	6,900,000	20,400,000	15,000,000	8,600,000	no fishery	28,500,000	192,400,000	272,900,000
1995	105,141	5,000,000	9,600,000	7,100,000	6,800,000	no fishery	11,700,000	180,000,000	220,305,141
1996	no fishery	6,592,000	5,798,000	7,533,000	3,290,000	33,520,000	4,734,000	86,296,000	147,763,000
1997***	no fishery	11,925,000	**	10,166,000	3,700,000	28,362,000	no fishery	92,509,000	146,662,000
1998	NA	12,474,000	**	5,366,900	2,400,000	37,752,000	no fishery	134,650,000	192,642,900
1999	no fishery	16,693,600	**	no fishery	no fishery	69,486,000	no fishery	162,360,000	248,539,600
2000	no fishery	12,886,500	*ongoing*	no fishery	no fishery	39,324,324	no fishery	*62,129,412*	114,340,236

* All data conforms to latest available presentations - Regional Information Report No. 4K97-41, July 1997 & appended material (enclosed) This material differs in presentation from earlier versions, particularly in the manner in which it is tallied to a given year.

** After 1985, the Aleutian brown king crab districts were redefined, with a shift in the boundary between the districts. Total area (and total of catch data) coverage remain the same.

*** The Western Aleutians (formerly Adak) brown king crab fishery begins in August, and typically continues into July the following year. Data not yet available.

Table 3. Estimated Time Requirements for Analysis of Alternatives and Proposed Options

Section/Topic	Attachment 1 Paragraph(s)	Analytical Method	Data Needed	Issues/ Concerns	Est. Time (weeks) Budget	Req'd	Diff	Staff Suggestions/Comments and Options to Drop
Existing Conditions of BSAI Crab Fisheries								
Biology and Condition of Crab Stocks		Summarize biology and condition of each crab stock	annual crab surveys			0.6		
Management of Crab Fisheries		Overview of management structure under FMP	FMP			0.4		
Markets and Prices for Crab		Describe markets and historical price patterns	operator's reports			0.6		
Harvesting Vessels		Discuss participants, catch histories, ex-vessel revenues	harvest data, ownership information, ex-vessel revenues	Need vessel ownership information		1.4		Staff needs ownership info
Processors		Discuss participants, processing histories, whole-sale revenues	processing data, ownership information, whole-sale revenues	Need processor ownership information		1.4		Staff needs ownership info
Harvester/Processor Relationship		Discuss cross ownership, consistency of deliveries	cross-ownership data	Need cross-ownership info		0.8		Staff needs cross-ownership info
Ex-vessel Prices and Competition		Discuss how prices are determined and seasonal effects	price data and cross-ownership info	Consider whether independent vessels bargain differently than vertically integrated plants		0.8		
Regional/Community Conditions		Discuss communities, landings, population (full-time and seasonal), employment and fish taxes	Data on communities	Confidentiality		1.0		May need confidentiality waiver
					1.0	7.0	(6.0)	
Other Background Information								
Other Rationalization Programs		Describe other selected rationalization programs (Halibut IFQ, AFA Coops, Whiting Coops, Newfoundland Crab Fishery, etc.)	information on other programs and fisheries	Not necessarily applicable to proposed program		1.0		
NRC Study		Summarize findings and recommendations on IFQ programs and Alaska's CDQ program	NRC studies			0.4		
Other Studies		Summarize other studies on rationalization models, including studies by Matulich, Halvorsen, etc.	literature search	Not necessarily applicable to proposed program		1.6		May need contractor assistance
					1.0	3.0	(2.0)	
Status Quo								
Outlook for Crab Stocks		Discuss status of stock recovery efforts	Input from ADF&G			0.4		
Outlook for Industry		Discuss outlook for industry if fisheries are closed versus if recovery efforts are successful				0.4		
Impact of Amendment 10		Discuss impact of Amendment 10 on participants	Input from NMFS			0.4		
Impact of Vessel Buyback		Discuss impact of Vessel Buyback on fleet capacity	Input from NMFS			0.4		
Outlook for Communities		Discuss outlook for communities if fisheries are closed versus if recovery efforts are successful				0.4		
					1.0	2.0	(1.0)	
Harvesting Sector Component								
Describe One-Pie IFQ		Describe how fishery would function under one-pie IFQ				0.2		
Categories	1.3	Show historical harvest for each fishery by CVs and CPs	harvest data			0.2		Drop 1.3.1.1 Options 1 & 3
Initial Allocation	1.2	Determine universe of eligible QS recipients	LLP holders, U.S. ownership info.	Some LLP licenses are held by persons different than vessel owner		0.2		Clarify who receives QS and basis
	1.4	Show QS allocation for each fishery and option	harvest data, LLP and vessel linkages	No records on transfers of catch history		3.0		Drop options mirroring buy-back
Annual Allocation	1.5	Discussion of GHL vs. TAC	ADF&G GHL vs. season closures	pre-season GHL often needs to be adjusted in-season		0.6		
Transferability	1.6.1, 1.6.2	Discussion of effects of transfers on fishery structure	sablefish/halibut IFQ transfer rates	Do sea time requirements apply to entities or individuals?		0.4		Staff needs foreign ownership info
Ownership Caps	1.6.4	Determine potential QS distribution by considering individual and collective ownership of vessels	Vessel ownership information	Need ownership information; confidentiality issues		0.8		Staff needs ownership info
Use Restrictions	1.7	Discuss management, enforcement and conservation issues	Input from ADF&G	May need change in authorities outlined in FMP		0.6		
Skipper/Crew	1.8.1	Determine universe of skippers/crew that may be eligible to receive QS; compare to sablefish/halibut IFQ	Skipper and crew information	No data on crew members or historical crew shares		0.6		Drop 1.8.1 Option 3

NPFMC Staff

Table 3. Estimated Time Requirements for Analysis of Alternatives and Proposed Options								
	Attachment 1	Analytical	Data	Issues/	Est. Time (weeks)			Staff Suggestions/Comments
Section/Topic	Paragraph(s)	Method	Needed	Concerns	Budget	Req'd	Diff	and Options to Drop
Roll-over	1.8.2	Discuss impact of roll-overs on next season's IFQs and role in balancing market power	Input from ADF&G	Roll-overs would just dilute value of IFQs		0.2		Drop 1.8.2 Options 1-3
AFA	1.8.3	Discuss implications of lifting AFA harvester sideboard caps on crab	Analysis of AFA crab sideboards	Need to consider consistency with intent of AFA		0.2		Drop 1.8.3 Option 2
Impact of Vessel Buyback		Discuss implications of buyback on participants, QS distribution, ownership caps, etc.	Input from NMFS	Need to consider vessels likely to be bought back		1.0		
					1.5	8.0	(6.5)	Saves 1.6 weeks
Processing Sector Component								
Describe Two-Pie IFQ		Describe how fishery would function under two-pie IFQ				0.2		
Categories	2.2	Show historical processing by species and by processor	processing history			0.2		
Initial Allocation	2.1	Determine Universe of Eligible Processors	processors that caught crab in 1998 & '99	Need to consider processors that participated in earlier years		0.2		Staff needs foreign ownership info
	2.3	Calculate allocation of processor-QS by fishery	processing history	Large number of redundant options for years		3.0		Drop 2.3 Options 2 & 3, Drop 2.3 Option 1 - Suboption
Transferability	2.6	Discuss impact of transfers on consolidation/competition	facilities owned by same processor			0.4		
Ownership Caps	2.7.1	Determine distribution of processor-QS by owner	processor ownership information	Need ownership information; confidentiality issues		0.6		Staff needs ownership info
Use Caps	2.7.2	Determine distribution of processor-QS by facility	facilities owned by same processor			0.2		
AFA	2.8.1	Discuss implications of lifting AFA processor caps on crab	Analysis of AFA processing caps	Need to consider consistency with intent of AFA		0.2		
					1.0	5.0	(4.0)	Saves 1 week
Interaction of Harvesters and Processors								
Vertical Integration	A-D, G, H, K	Analyze cross ownership of harvesters and processors and implications for balance of power and competition	data on cross ownership	Need data on cross ownership		1.4		Staff needs cross-ownership info
Percent GHL<100%	2.4.1	Determine amount guaranteed versus historical market share during high/low abundance; Discuss implications for bargaining power and competition	processing history	Previous studies do not address case where only portion of GHL is issued as IPQs		1.0		
Percent GHL>100%	2.4.2	Determine implications for consolidation, bargaining power and competition	processing history and processor participation	Previous studies do not address case of > 100% GHL		1.0		Contract out if included
Open Delivery Options	2.5	Discuss implications for bargaining power and prosecution of fishery, deadloss and race to process	Input from ADF&G			1.0		
Penalties	2.8.2	Discuss implications for bargaining power and competition		Consider symmetrical penalties for harvesters		0.4		Also impose on harvesters
Binding Arbitration	2.8.3	Discuss history, process and effectiveness	Information from Canada and Newfoundland	May require significant effort and applicability is unclear		1.0		Contract out if included
Roll-over	2.8.4	Discuss impact of roll-overs on next season's IPQs and role in balancing market power	Input from ADF&G	Roll-overs would just dilute value of IPQs		0.2		Drop 2.8.4 Options 1-3
					1.0	6.0	(5.0)	Saves 2.2 weeks
Regionalization and Community Impacts								
Describe Regionalization		Describe how fishery would function under one-pie or two-pie with regionalization				0.2		
Regional Definitions	3.1	Show historical delivery patterns, tax revenues, employment	data on deliveries, taxes, employment	Few processors in North region problematic for management and reporting		0.2		
Regional Categories	3.2.1	Show North/South split based on historical deliveries	data on deliveries	Need processors in North region to waive confidentiality for analysis		1.4		Staff suggests using 1992 - present
One-Pie w/ Regionalization	3.2.2	Discuss categorization of all CV QS or only Class A shares; discuss impact on bargaining power				0.6		

Table 3. Estimated Time Requirements for Analysis of Alternatives and Proposed Options

Section/Topic	Attachment 1 Paragraph(s)	Analytical Method	Data Needed	Issues/ Concerns	Est. Time (weeks) Budget	Req'd	Diff	Staff Suggestions/Comments and Options to Drop
Two-Pie w/ Regionalization	3.2.3	Discuss categorization of processor-QS under two-pie; discuss impact on bargaining power				0.6		
Regional Restrictions	3.3	Discuss implications of restrictions on deliveries; consider "port preference clause", discuss implications for communities (taxes, employment, social, etc.)				0.8		
Other	3.4	Compare Federal subsidies versus regionalization		May need amendment to MSA disaster provisions		0.2		Drop 3.4 Option 1
					1.0	4.0	(3.0)	Saves 0.2 weeks
Comparison of Rationalization Models								
Net Economic Benefits		Some quantitative, mostly qualitative analysis of impact on consumer/producer surplus for all rationalization models	data on distribution of rents between harvesters, processors	Lack data on distribution of rents		1.5		
Products, Quality & Prices		Discuss potential changes in products, product quality and ex-vessel prices		Cannot quantify potential changes in prices		0.5		
Competitive Implications	I, J, L, Q	Analyze price competition for key design features for all models: one-pie, two-pie, regionalization, co-ops, etc.	need co-op design features	Previous studies may not be fully applicable		6.0		Contract portions of this out
Impacts on stakeholders		Determine implications of each rationalization model on stakeholders: harvesters, skipper/crew, processors, communities, consumers		Previous studies may not be fully applicable		2.0		
					1.5	10.0	(8.5)	Saves 6 weeks
Other Issues								
Program Duration	4.0	Discuss ability to measure success of program relative to goals and MSA National Standards	may need economic data to track	Consider renaming section "Periodic Review"		0.4		
Spill-over effects	N	Discuss ability of participants in crab to move into other fisheries (GOA groundfish and GOA crab)	data on participation in other fisheries			1.0		
Code of Conduct	P	Discuss role of Canadian Code of Conduct	background info	Applicability not clear		0.2		Staff requests clarification
Conservation	R	Discuss resource conservation implications for elements of proposed rationalization models	Input from ADF&G			0.8		
Enforcement/Safety	Problem Statement	Discuss ability to enforce provisions of program and implications for safety	Input from ADF&G	Some provisions may not be enforceable without representative observer coverage		1.0		
					1.0	3.0	(2.0)	
Total Time Budgeted vs. Time Req'd					10.0	48.0	(38.0)	Total Potential Savings 11 weeks

C.R.A.B. GROUP

Crab Rationalization and Buyback Group

907-747-7967 • P. O. Box 1064 • Sitka, Alaska 99835

Date: May 22, 2001

To: Mr. David Benton, Chairman
North Pacific Fishery Management Council

From: Gordon Blue, President, C.R.A.B. Group

Subject: Agenda Item C-2, BSAI Crab Rationalization

Re: Draft considerations for scoping analysis

1. Introduction:

We are very appreciative of the help and continued support of the NPFMC for the BSAI Crab Fisheries Capacity Reduction Program. We are grateful for your May 2, 2001 letter of support to Secretary of Commerce Evans. We think it especially important that you noted the value of this program as ". . . a very important first step in the rationalization process . . ."

The CRAB Group has adopted the incremental approach to rationalization that has been set forth by NPFMC, initially as Comprehensive Rationalization. We are working to help move that agenda ahead. It is our belief that the process of rationalization will be best served, and most thoroughly grounded, by an analytic package that adheres as closely as possible to the mandates established by Congress in HR4577, which is reproduced below:

SEC. 144.

... (b) Notwithstanding sections 303(d)(1)(A) and 303(d)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by this section, ...

(2)(a)... The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner.[1]

2. Executive Summary:

The need for rationalization of the BSAI crab fisheries rises above that of any of the other fisheries under the control of the NPFMC. This need is a consequence of the excess of harvest capacity in the BSAI crab fisheries, and has manifested in the failure of fishery stocks. This imperative necessitates that such rationalization be developed as soon as possible, independently of the process for development of groundfish rationalization. This is further discussed, below the caption "The Need for Rationalization."

We are thus very appreciative of your commitment, expressed in the letter of May 2, to respond to the House of Representatives and Senate committees in a timely manner. The letter indicates that you have undertaken completion of the analysis ". . .with final action likely in February of 2002." Much work must be accomplished in that time. Attempts to narrow the field of inquiry, have centered around arguments that specific models of rationalization for the fisheries are 'undesirable' and therefore should be excluded from analysis or further consideration. This is the basis offered by proponents of the 'majority opinion' of the crab rationalization committee. Such an opinion undermines the validity of the committee process itself, and is based upon incomplete or misleading information, and is inadequate.[2] Without a more thorough analysis, there is a high likelihood that considerable imbalance resulting from rationalization will occur. This is not in accord with the requirements of national law and policy concerning the process of regulatory review,[3] and would pose the risk of significant delay to program implementation.

There are considerable differences between the types of rationalization presented in the Congressional mandate: Community shares, Harvester Shares, Cooperatives and Processor Shares. Examples of each of these models, already existing in domestic fisheries, have been identified and are described below. These are: the halibut/sablefish ITQ program, the Whiting Conservation Cooperative, the Surf Clam/Ocean Quahog [SCOQ] ITQ program, the American Fisheries Act [AFA] shore based cooperatives, and the Russian-American Fur Monopoly. The latter is included to provide an historic endpoint which brackets the proposed "two-pie" model, and provides sufficient context for analysis of this theoretic proposal. The differences are sufficient to require separate analysis of each of the proposed models, as they would apply to Bering Sea crab fisheries. It is important to complete the analysis of these models such that they are all treated thoroughly, since the preliminary discussion indicates very different probable results, depending upon which model is chosen.

All this work could be contracted and performed in parts, according to the various models. With stipulation of uniformity of outputs, the modification of the existing examples of rationalization programs required to bring about transformation of the status quo structures of the crab fisheries, can be modeled. Each analysis should include consideration of impacts with respect to the

following factors:

effect on concentration of ownership, of harvesters and processors.

effect on pricing mechanisms, at ex-vessel and wholesale levels

effect on the number of employees and quality of employment

effect on the diversity of businesses, both harvester and processor, with respect to size and product mix (this relates to start-up costs and the possibility of new entry)

effect on the regulation of the fisheries and the degree of complexity required in regulation.

The Council can then legitimately compare the strengths and weaknesses of the models. The comparative impacts section can then also be prepared in parts, by Council direction to the preparers of the initial reports. In such fashion, all can be accomplished in the time you have indicated, while thoroughly satisfying the requirements of public process.

The incentives produced by each of the models include two factors, which are pertinent to recognition of an organizing principle for evaluation of the relative impacts of the models. These are the post-rationalization competitive environment, and the ability of managers to manage the fisheries. The models vary considerably with respect to the degree of control that is exerted over competition in the fisheries and the processing of fish. The quality and the extent of these controls, however, is not commensurate with the controls which are necessary to the primary policy goal of the Magnuson-Stevens Fishery Conservation and Management Act. This paramount policy goal is sustainable fisheries, and it is this goal which relates to the determination of the need for rationalization. The primary focus of the forthcoming analysis, then, becomes:

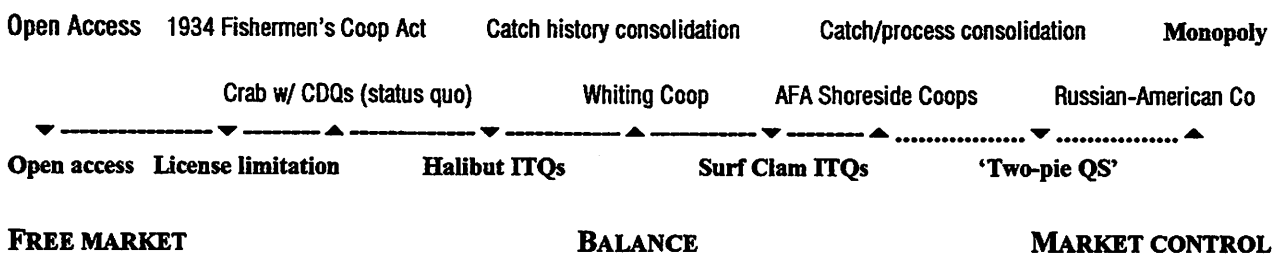
a) to ascertain the relative ability of the agencies [NMFS, NPFMC and ADF&G] under the proposed models to promote sustainable fisheries,

and

b) to assess the impacts of the proposed models and the regulatory structures on the Communities, the Processors, and the Harvesters.

Each of the models therefore, is examined below to determine the degree of disparity between the policy incentive, sustainable fisheries, and the social and economic incentives created by the model. The greater the degree of disparity between these incentives, the greater is the requirement for effective intervention by the agencies in management of the fisheries. Another way to state this is, each of the proposed models must be examined to determine the relative risk of the model to long term sustained fishing. The further one travels from a model that balances economic incentives with management incentives, the more intervention is required to produce sustainable fisheries, and the more difficulty sustainable fishery managers encounter. The relative complexity of the regulations necessary to provide for sustainable fishing serves to indicate the degree of intervention. It is historically evident that neither a free market system, nor a monopoly system, has produced sustainable fisheries.

Consider the following illustration:



This illustration establishes a continuum which clarifies the relationship between various historic allocation models, and places each along an axis of increasing constraint upon the catching and marketing of the catch. The 'two-pie' allocation model is properly placed in relation to other models along this line of historic experience, however, the broken dots represent that there is, in fact, no historic precedent for this model. As previously indicated, the more that economic and conservation incentives coincide, the more centered the model is upon the continuum, and the less regulatory intervention is required to manage sustainable fisheries. As one travels along the line from left to right, economic and market constraints increase, through the degree of consolidation which has been allowed/encouraged by program design.

Some degree of movement toward market control in the fisheries (and away from the "free market/open access") has been necessary to accomplish sufficient controls to provide for sustainable fisheries. In the case of the BSAI crab fisheries, an extremely complex, innovative and very responsive and informed management structure has been insufficient to produce sustainable fisheries. The goal of sustainable fisheries has apparently been met in the halibut/sablefish ITQ program, with the additional limitation of a harvest quota allocation placed upon access to the resources. There has been a necessity for a relatively high degree of regulation, to maintain this program. This level of complexity is related to the degree of disparity between economic and management incentives, especially as related to limitation of consolidation. To adapt this model for the BSAI crab fisheries requires that the owner-operator structure of the halibut/sablefish program be examined in light of the actual relationship between owners and operators in the BSAI crab fleet.

The Whiting Conservation cooperative is considered to be an example of a program which nearly balances these incentives. In this instance, the government has provided no specific quota allocations to individual harvesting entities. Rather, there has been a sectoral allocation to the offshore fleet of catcher/processors, and an opinion by the Department of Justice that no *per se* violation of antitrust regulations exists, given the organization of catch-history allocation by agreement based upon the 1934 Fishermen's Cooperative Marketing Act [FCMA]. Within this program, the incentives toward further consolidation are balanced by the possible disqualification of the basis for the program. If the 'arms-length' basis of marketing of product is significantly

undermined, then the justice department finding may be invalidated.

The regulatory structure apparently necessary to maintain a fleet of independent harvester/processors and a sustainable fishery has thus far been relatively simple.[4] The regulation of the closely-related Pollock Conservation Cooperatives has proven somewhat less simple, to date, as a consequence of enmeshment within the American Fisheries Act, complexities of consolidation of harvest vessels, consolidation through involvement of an AFA qualified shore-based processor, and the endangered status of the western population of Steller Sea Lions.[5] Nonetheless, the management of this fishery represents considerably less complexity and stricture than that imposed by the unsuccessful BSAI crab management regime.

The adaption necessary to model these cooperatives for the BSAI crab fisheries is minor. Three variants are suggested for analysis: a strict construction which would require all harvesters in the fisheries to participate (this is the status quo of cooperative organizational efforts of participants in the brown king crab fisheries); a mode in which a cooperative is allowed to form, given a minimum number of participants (i.e., ten), under the provisions of the FCA, and a modified AFA version, which would allow non-AFA crab processors to participate in cooperatives through inclusion of vessels those processors own. In each of the second and third options, the participation of a harvester in a cooperative is voluntary, and an 'open-access' component of the fishery remains an option.

Beyond the point at which the incentives of economics and management balance, however, further movement toward market control has apparently been dictated by levels of consolidation and control of the affected industries, prior to rationalization, and not by the necessity of sustainable fisheries. The further a model has moved toward market control and away from this balance, the more regulation is necessary to produce long-term sustainable fisheries. Although limitation of consolidation was apparently not part of program design in the SCOQ program, implementation of such controls as well as measures designed to provide for entry to the fisheries by crewmen, could be provided at the same approximate regulatory cost as similar measures have required in te halibut/sablefish ITQ program. At slightly further remove from the point of balance, toward market control, the AFA shore based pollock fisheries have required a tremendous amount of regulation, especially in the attempt to limit consolidation over other fisheries and their participants, with a high level of risk in the failure of these bulwarks.[6] Should this consolidation occur, the implications for long-term sustained crab fisheries are distinctly negative, to the extent limitations of the groundfish catch prove necessary to establish such sustainable fisheries.

The incentives produced under the 'two-pie' system are examined below, with respect to the degree of restraint that this system is likely to require from fishery managers to produce sustained fisheries that provide for the inclusion of more than a very small number of participants. The result is that a great degree of regulation is required. This represents a high risk of failure to produce

sustainable fisheries. The example of the Russian-American Company illustrates the failure of a monopoly management structure to provide for sustained harvest, despite the intervention of the Czarist government. It is important to note that vigilance is required on the part of fishery managers under any model, because shifting fishery and market conditions create shifts in the balance of incentives.

The mandate of Congress for analysis of the need for rationalization of the BSAI crab fisheries, and the effects of various models of rationalization, provides an opportunity for the NPFMC to learn from the experiences of those models. From this examination, the NPFMC can choose the model that best provides for sustainable fisheries, with less requirement for intervention and regulation, and a consequently greater likelihood of long-term management success.

3. The Need for Rationalization:

CONDITION OF THE FISHERIES RESOURCES

Stocks of crab throughout the State of Alaska have sustained fisheries at high levels, then entered a decline. Many have not recovered, even after significant periods of time.[7] The Bristol Bay red king crab fishery suffered a dramatic failure in 1982, and has not recovered to former levels. The tonnage of product delivered from the BSAI FMP managed crab fisheries in 2000, is twelve percent (12%) of that delivered in 1990[a]. This reduction in catch has been the result of declines in populations of fishery stocks. The *opilio* population decline and its associated effects have been of sufficient impact to require a declaration of fishery disaster by the Governor of the State of Alaska and the Secretary of Commerce, in the spring of 2000. This disaster has been acutely felt by harvesters, processors, communities and the suppliers of services and support to these fisheries.

FISHERY MANAGEMENT STRATEGY

The present management strategy, which has been under development and review since 1991[8], has established a more precautionary approach to management of the fisheries. Development of the new harvest strategy first established a new stock recruitment model for the Bristol Bay red king crab. This was based upon the length of recruits rather than strict stock aging, to account for the incremental growth pattern of crab, which is accomplished at risk, through molting of the shell. The model recognized that factors of climate and weather impact recruitment rates with greater variability and less predictability than had been appreciated in the older population model.

The overall harvest strategy has since been adapted for differing biology and knowledge, to provide the elements governing rebuilding requirements of the Magnuson Stevens Fishery Conservation and Management Act [MSFCMA][9], particularly with respect to the Bering Sea *bairdi*[10], St. Matthew Island blue king[11], and Bering Sea *opilio*[12] crab fisheries.

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[a] See appended tables: Harvest, BSAI Crab Fisheries, 1976 - 2000.

In the first year since all of the rebuilding plans have been established, three BSAI FMP fisheries have been closed for rebuilding (St. Matthew Island blue king crab, Pribilof Island red and blue king crab) two have continued to be closed for rebuilding (Bering Sea *bairdi* crab and Adak red king crab), and the Bristol Bay red king crab and Bering Sea *opilio* [snow] crab fishery have been operated at reduced exploitation rates, as they were in the 1999/2000 fishing year.

The reduced exploitation rates applied to the crab fisheries, have resulted in lower allowable rate of catch. In the language of the writers of the report of the results of the 1999 summer survey: "Abundance has declined precipitously to below threshold and is now defined as over fished. Exploitation rate has been reduced to 22%. Little recruitment is apparent, and the fishery may be closed next year"[13] This decline continued into the present year [14], and, although the annual summer survey cruise that will produce data for the determination of the 2002 fishery has yet to occur, the condition of stocks observed on the grounds during the directed fishery was not encouraging. The conservation benefits which are designed to accrue to future fisheries have also acted to increase the present problems of excess capacity in the fisheries, and their broader impacts.

CHARACTERISTICS OF THE FLEET

Vessels involved in the fisheries must withstand wintertime conditions in the Bering Sea, and be capable of competitive fishing in cold and fierce seas. Catcher vessels are typically 91 to 125 feet overall length (73% of the fleet[15]), and cost $1 million to $3 million. Vessels are generally owned by partnerships or limited liability companies formed of a few investors, mostly individuals actively involved in the fisheries in some capacity, and very often owners include the principal Captain of the vessel. There is a fleet of approximately 235 vessels that are especially outfitted for these fisheries and primarily dependent upon them[b].

Crew sizes vary between fisheries, with a typical catcher operation carrying five to seven persons on board. "Input stuffing" in the form of additional crewmen, was a prevalent practice during the years of greatest *opilio* harvest, 1991-95. There are disincentives to much larger crews, however - both as increased cost in liability coverage, and, with ten or more, crewmen become employees, rather than co-venturers. During the years 1991 -1995, the maximum fishing capacity of the fleet and supporting industries attained sustained harvest rates above 30 million pounds per week. Fleet size peaked in the fishery in 1994, with 273 vessels participating for some part of the fishery.

A 1997 survey of vessel owners[16] indicated that 81% qualified as small business entities, under the provisions adopted by NMFS for the region. Consolidation, both among vessel owners and processors, as well as an increased degree of vertical integration between harvester and processor owners, had been occurring already at that time, and has been increasing since. Primary causes of

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[b] See appended tables: Vessels delivering, BSAI FMP crab fisheries.

this consolidation are economic.

These economic pressures for consolidation of ownership interest are heightened by excess of fishing capacity in the BSAI crab fisheries and manifest in a number of factors. Processing companies have increased their shares of vessel ownership, whether by design, or through failed notes to troubled owners. Vessel owners struggling to maintain income in an era of falling revenues have added units of production. Since 1995, when NPFMC asked NMFS to implement a limited entry program, new vessel construction has diminished, and existing vessel acquisition has increased.

Some vessel owners have acquired "fishing rights" in anticipation of increased value due to the License Limitation Program [LLP], implemented in 2000, and revised in 2001. A feature of the LLP, as implemented, provides incentive for consolidation. Although the total number of LLP licenses for crab is high, the fishing rights represented by the license are actually a binomial nomenclature, with specific fisheries 'endorsements' attaching to each license. Fishing rights are not allowed to be severed from the license, however licenses are allowed to be 'stacked' within limits, on a given vessel. This scheme makes it necessary for a vessel owner wishing to pursue a fishery for which the vessel was not issued an endorsement, to acquire, and 'stack' the entire license of another vessel, in order to pursue that fishery. The licenses available for stacking are drawn from the pool of vessels which have sunk, or otherwise departed the area fisheries. These 'latent licenses' might otherwise re-enter the fisheries on new vessels. Excess capacity is helping to drive consolidation of vessel ownership, but not reducing the fishing capacity of the fleet in these fisheries.

Opilio

(1,000,000lb) Harvest	Year	($1,000,000) Revenue	Registered Vessels	($ 1,000) $/vessel
96.6	86	60.0	103	582.5
100.9	87	75.7	171	442.7
130.8	88	100.7	168	599.4
147.6	89	110.7	189	585.7
160.0	90	102.4	220	465.5
325.2	91	162.6	250	650.4
313.0	92	156.5	254	616.1
229.2	93	171.9	254	676.8
148.0	94	192.4	273	704.8
74.0	95	180.0	253	711.5
64.4	96	86.3	234	368.8
117.1	97	92.5	226	409.3
243.3	98	134.7	229	588.2
184.5	99	162.4	241	673.9
33.6	2000	62.1	231	268.8
25.0	01	38.7	207	187.9

ECONOMIC IMPACTS ON THE FLEET

One of the results of overcapacity in fisheries is that revenues decline. Average gross revenues per vessel in the opilio fishery are shown in the adjacent table. Note that these revenues broadly follow the population trends, and are impacted by capacity, as represented by number of vessels. Also bear in mind that trends in other crab fishery populations which have augmented vessel income in the past, have similarly been in decline, in

some cases, fisheries have been closed, for rebuilding.[c]

The peak per vessel revenue year in this fishery occurred in 1995. As stocks declined, a number of newer vessels left the fishery, both for domestic fisheries elsewhere, and foreign fisheries. In addition, the ex-vessel price was the highest received. This trend abruptly turned in 1996, when the resource continued to show low levels of recruitment, although "prerecruit"(stocks one year away from fishing size) levels showed that a "recruitment spike" (a single year class) was likely to be entering the fishery the following year. Vessel revenues buoyed in 1997 as this population component entered the fishery.
Once again, ex-vessel price supported revenues for one year after the stocks began to diminish, even though a number of vessels re-entered the fishery in 1999. Both harvest and revenue fell dramatically in 2000. The differences represented by the declines of harvest in 1995 and 1999 are greater than the impact of the new "rebuilding strategy." Population structures, described above, in "Condition of the Fisheries Resources,"indicate that the time required to rebuild stocks is likely to be greater than previously occurred, in 1995-7.

COMPETITIVE PRESSURES

Pressures of increasing competition in the fisheries have several impacts. The vessels in the fisheries resort to "capital stuffing," which reduces return to investment. In the BSAI crab fisheries, many older vessels were replaced, between 1986 and 1994. Much of this activity involved Capital Construction Fund [CCF] activity, and an appreciable amount of that was from Fishing CCF qualified withdrawals. An even greater benefit was received by vessel owners who brought vessels converted from oilfield support activity into the fisheries through conversion. This benefit derived from a coincident decline in oilfield activity, and the retirement of many of the support vessels that had been built under terms of Maritime Administration CCF agreements, which were then available at very favorable cost, for conversion to crab fishing platforms.

Many of the existing vessels in the fleet increased capacity between 1995 and 1999 by 'sponsoning' to greater width Some lengthened as well. These measures were felt as imperatives by individual operators due to the necessity to fish in tougher weather conditions, at greater distance from markets and further offshore. The shift, from new vessel acquisition to existing vessel conversion, was in response to changes in access to the fisheries, discussed below. In the aggregate, of course, the individual imperatives to compete drove the problems of capacity further ahead than 'fleet number' alone would indicate.

As vessels became larger and more effective, gear restrictions were imposed. Pot limits were instituted in the 1992. Due to a court challenge, the first pot limit was redesigned, producing a 'tier' which allowed more pots according to vessel size. This created an incentive for vessels to

[c] See attached Table: Fleet gross revenues, BSAI FMP crab

lengthen into the upper tier. These capacity enhancements combined with the attempt at effort limitation to change fishing behaviors. Gear soak times dropped as vessels sought to stay busy, under the reduced soak times. Pots began to be 'shuffled' more routinely across the grounds, rather than targeted on an optimum spot and reset. This was a consequence of the shorter soak times, the larger, more efficient vessels, and the declining stocks. One impact of this, is a rise in handling mortality of *regulatory discards* (the required discarding of small and female crab). Rather than former searching behaviors, which resulted in the ability to identify select fishing spots for size and quality of catch, it became the norm for one vessel after another to make a pass through the same ground. The reiterative impacts of small handling injuries to discarded crab created additional mortalities in the immature and reproductive reserve stocks. This is an increase in waste, due to the increase in capacity.

The combined effects of fishery closures and diminished quotas are such, that the fishing fleet in the BSAI FMP crab fisheries suffered a steep decline of gross revenues, following upon a period of capital and other input stuffing that maximized vessel productivity, at significant cost and reduction of net revenue. The fleet gross revenues in 2000 were 35% of those available in 1990. Revenue thus far in 2001 has continued to fall: the opilio fishery produced only 62% of the gross revenues available in 2000.

If the 'break-even' income for a vessel engaged in the *opilio* fishery is taken to be $500,000 (a number that is too low, when other crab fisheries are curtailed), then the vessel gross revenues in the table show clearly that for four of the past six years, vessels have operated at loss in the fishery. The 'ripple effect' of these combined losses in local economies has begun to take on the character of steep seas sweeping through some communities, which have suffered reduced tax revenues (a function of raw fish price), municipal and other layoff of workers, general economic slowing, and increasing transportation difficulties as airline service levels have dropped and freighter schedules become less frequent - in short, increased isolation, fewer goods in local stores, lower quality of food as fresh food supplies age and dwindle, loss of income and occupation. In addition to short-term support, the communities require a long-term reduction of capacity in these fisheries as much as the fleet does.

THE RACE FOR FISH

The opening date and time for each fishery for which a Guideline Harvest Level [GHL] has been determined, is set by statute. Vessels are required to be licensed, as are the vessel operator and crewmen. Permits must be acquired for each fishery, and vessels must be registered prior to entering a fishery. The registration process includes a 'tank inspection', typically performed within two days of the start of the fishery; the tank inspection assures that no crab are on board; there is a pot tag, unique to each season and fishery, required for each pot allowed, which must be displayed on the buoy of any pot on board the vessel or actually used in the fishery. No pots are allowed to be set before the opening time, and aircraft with sophisticated surveillance equipment, as well as

vessels, of both the State of Alaska and the US Coast Guard, patrol the grounds, watching for violations.

Fisheries are closed by the managers, when it is estimated that the GHL has been attained. Managers may allow catch in excess of the GHL, or stop the fishery short of GHL, depending upon the rates of catch and the manager's reappraisal of stock conditions. Fisheries which ran for months have, within the past decade, been reduced to days.[17] A fishery closure may be announced with as little as twelve hours notice. In certain conditions, the closure announcement may be made for a specified time period, before the start of fishing. In this mature stage of competition, there is no margin for error. The first boat to the crab takes the most, and the rest of the fleet is not far behind. 'Hot spots' and accumulations of legal stocks are soon caught up. Delays for any purpose, result in irrevocable loss of diminishing opportunities to fish - this management regime is well described as 'the Olympic system.'

SAFETY

The conditions of weather and climate of the region during the winter have helped to make these fisheries among the most dangerous of occupations, and those who fish for crab are at the greatest risk for fishing-related fatalities. This is aggravated by the management system, and risks have been made acute by the fishing power of the fleet and the decline of stocks.[18] Beginning in 1999, and continuing through 2000 and 2001, U.S. Coast Guard [USCG] officers began boarding vessels during the preseason tank inspection period, in order to make an assessment of the preparation of the vessels. They found a 'surprising' proportion of licensed captains - half of the vessels boarded, even though there is no legal requirement for licensing. They found safety equipment above that required, a very high degree of compliance with stability and lading characteristics of the vessels, and that a large percentage of vessels had participated in voluntary USCG dockside safety examinations.[19]

Although the boardings have helped to keep the importance of safety in the minds of captains and crews, they have also served to demonstrate that competence alone will not serve to reduce these risks. Spurred to a more proactive approach, USCG and ADFG arrived at an understanding of mutual authorities that allowed ADFG to postpone the start of the October 2000 Bristol Bay king crab fishery while a forecast storm system with winds of 60 knots and 45 foot seas passed through.[20] Once a fishery is underway, however, there is no mechanism for such closure. Operating far at sea, with fisheries openings that are only days in length, fleets are unable to avoid weather that comes up during the openings. "Hurricane-force winds. Waves crashing through pilothouses. All that, and the fleet didn't even reach the quota, thanks to more bad weather . . ." read the opening of one report of the 2001 *opilio* season.[21] Overcapacity has lethal effects in the BSAI crab fisheries.

4. Incremental Rationalization

A MORATORIUM ON ACCESS

One of the ways in which fishery managers have attempted to control fishing capacity, is effort control through limiting access to the fishery resources. This has taken a number of forms throughout the nation. One constant, which was noted during the investigations of the Federal Fisheries Investment Task Force, is a necessary result of open, public process. In each case for which a regional Fishery Management Council has proposed a future access control system, the number of participants in the affected fishery has risen, in anticipation of the closing window of opportunity, frequently to the dismay of the regulators. The particular path of access limitation in the BSAI crab fisheries is described, with respect to impacts on capacity in the fisheries. It will be seen that the Capacity Reduction program for BSAI crab has become a crucial component of this program development.

In 1992, the NPFMC voted to establish a moratorium on new entrants to the BSAI crab and groundfish fisheries. This moratorium, which would have allowed more than 700 vessels into the BSAI crab fisheries, was not implemented by the Secretary of Commerce, until 1995. During this interregnum, the NPFMC proposal spent most of its time on the desk of the Regional Administrator, in Juneau. This turned out to be an astute judgement, from an administrative viewpoint. The NPFMC decision was announced to the public in the usual manner, and the behavior of investors in the fisheries underwent a shift. Rather than undertake a project with the additional burden of risk arising from indeterminate actions of government, and in face of such a clear statement of intent by the NPFMC, investors began to create agreements involving the sale of future fishing rights arising under the proposed moratorium. Before long, a regular market in "moratorium rights" was trading through boat and permit brokerages at $1,000/foot of vessel length, even though there were no such rights in law. No method to determine whether this trade had any impact on capacity in the fisheries has suggested itself, however, it is clear that commercial agreements helped to establish the legitimacy of the regulation.

At the outset, the NPFMC recognized there was little benefit to controlling capacity, in establishing such a broad, inclusive class. Nevertheless, it was apparent that the groundfish fisheries had become fully utilized by the domestic fleet within a very few years (many had been vessels fleeing the collapse of the red king crab fishery in 1981 - 82) and that additional capacity was building and entering the fisheries. As a part of the moratorium deliberations, the NPFMC adopted the goal of an incremental approach to fishery rationalization, called the Comprehensive Rationalization Plan [CRP], which recognized that the spillover of vessels made surplus by the rationalization of a fishery, could create disruptive increases in the levels of capacity in other, not rationalized, fisheries. For this and other reasons, the NPFMC determined the most reasonable course for development of further rationalization programs (halibut/sablefish was already in development), was to move rationalization ahead in all the fisheries under its jurisdiction.

THE LICENSE LIMITATION PROGRAM

The second phase of the NPFMC Comprehensive Rationalization Plan [CRP] was to establish a limited entry system for the fisheries of the region. The License Limitation Program [LLP] for Bering Sea/Aleutian Island Crab and Groundfish was adopted by the NPFMC in 1995. Not coincidentally, the moratorium on entry was implemented by the NMFS, in the same year.

Again, the parameters for inclusion were broad. The LLP resulted in 542 potential licenses in the crab fisheries, when program implementation by NMFS finally occurred, in 2000. This number includes 168 licenses which were issued as "interim" or "non-transferrable." Interim licenses were issued under appeal from license-holders and are under administrative review by the Restricted Access Management [RAM] division of the NMFS. Although a certain number of appeals may eventually result in denial of a license, this is a long-drawn procedure.

Additionally, and recalling the binomial nomenclature of the LLP license discussed under "Characteristics of the Fleet," relatively few of the 'umbrella' LLP licenses are in dispute. Far more common, is the appeal of one or more endorsements, by vessel owners seeking to continue participation in specific fisheries.

One of the observations to be made, with respect to this initial LLP program for crab, is that the total number overestimates the vessel capacity that is of concern to the BSAI Capacity Reduction program. Included are licenses which qualify 64 vessels to fish in the Norton Sound red king crab fishery, and no other BSAI crab fishery. This fishery has been exempted from the Capacity Reduction program, because it consists of a small-boat near-shore "super-exclusive" registry (that is, vessels engaging in the fishery can take part in no other king crab fishery) summer season fishery of opportunity for local vessels of the Norton Sound area, which tend to have a higher dependence on other fisheries in the area. Additionally, there are two vessels which have been issued interim licenses, with NO endorsements. Deducting the vessels described above, the LLP qualified 476 vessels to fish in the BSAI FMP crab fisheries. This represents a considerable burden in latent capacity, given that the primary economic activity of the fisheries has the regular participation of a fleet of about 235 vessels.

A NATIONAL MORATORIUM, ON 'RATIONALIZATION'

By 1996, many participants in the BSAI crab fisheries were convinced that it was time to move forward to the next phase of rationalization with establishment of Individual Transferrable Quotas. An even greater number were opposed. This opposition included new entrants to the fisheries, processing interests, who felt the program would detract from their degree of control of the fishery resources, and the State of Alaska, which was in the throes of a sharp reaction to the establishment of the halibut/sablefish program, and the Comprehensive Rationalization Plan itself, which sought to move rationalization of all species of crab and groundfish together.

In this light, every defect of the halibut/sablefish ITQ program was magnified, and some intended features (such as a very moderate consolidation of effort) were re-characterized as defects. Alaska and national opposition to ITQ programs resulted in a four year moratorium on establishing new Individual Fishery Quota [IFQ] programs, nationwide, as a provision of the MSFCMA. This stopped progress on the NPFMC development of the third phase of its CRP.

AMENDMENT 10

In December, 1997, the NPFMC Industry Advisory Panel began an effort to reduce the number of LLP licenses to be issued, by requiring current participation in the fisheries. Economic analysis and necessary staff time were budgeted by the NPFMC to move the process forward. Amendment 10 established a minimal landing requirement, one landing of any species of crab, in any of the three years since final action on the LLP. This provision resulted in the elimination of approximately 90 latent licenses, resulting in 286 projected licenses for the crab LLP. Final action by the NPFMC took place in June, 1999.

In January, 2000, the LLP program was implemented. Notices mailed to initial recipients cautioned that the program was under revision, and that licenses were issued for one year only. Work aimed at implementing Amendment 10 proceeded.

EXTENSION OF THE NATIONAL MORATORIUM

In late 1999, an ad hoc industry committee formed, to examine the possibility of establishing harvesting cooperatives, similar to those of the Whiting Conservation Cooperative or the Pollock cooperatives authorized under the American Fisheries Act, in the BSAI crab fisheries. The process was to initiate discussion of the elements that would need to be present to succeed in adopting such allocation structures. A parallel committee was formed, to determine unresolved issues facing the CRAB buyback, and to advance its implementation.

By June, 2000, the ad hoc cooperative committee had adopted a plan to achieve quota shares, rather than cooperatives, and to seek Congressional support. The moratorium on new IFQ programs expired, in October of 2000. The ad hoc committee plan for rationalization described Individual Transferrable Fishing Quotas [ITQs] to harvest crab, Individual Transferrable Processing Quotas [IPQs] to process crab, and a Regional Landing Requirement to stabilize the historic pattern of deliveries, and protect communities from the migration of deliveries away, in a rationalized fishery. In December, the national moratorium was extended for two more years.

CAPACITY REDUCTION PLAN FOR THE BSAI CRAB FISHERIES

In April, 2000, NPFMC Chairman Rick Lauber sent a letter to the Secretary of Commerce, describing the resource problems of the BSAI crab fisheries, and the problem of excess harvesting capacity. The letter described a "two-step" process, and asked the Secretary first, "to seek congressional assistance to support a vessel buyback program using a combination of appropriations, federal loans, and modifications of the Capital Construction Fund as appropriate."

Secondly, the letter asked the Secretary to ". . .support our efforts to further rationalize these critical crab fisheries. We are committed to working toward the reduction of fishing capacity, which fully comports with NOAA Fisheries Strategic Plan to alleviate overcapitalization in 15% of federally managed fisheries by 2004."[22] Under this strategy, the CRP would be modified to accelerate the rationalization of the BSAI crab fisheries, due to the acute problems of management and the resource failures in the fisheries.

In June, 2000, the ad hoc buyback committee met, in Portland, Oregon, and resolved final details of the program. The period of consideration for catch history to be retired under the plan was to be the most recent five years in the years 1990 to 1999, when a fishery was open. The amount of appropriated funds requested was to be $50 million, with a $50 million loan to be repaid by industry. This amount was calculated to be capable of payback at reduced levels of harvest mandated by the new harvest strategies adopted by the Board of Fish in 1999 and 2000. Given the uncertainty of fishery openings in the years just ahead, the term of the loan was requested to be extended to 30 years.

Finally, in response to the concerns of participants in other fisheries, and in recognition of the necessity to provide faster rationalization of the BSAI crab fisheries than could be justified for the groundfish fisheries involved in the CRP, new strictures on future use of buyout vessels were established. The vessels which were attached to the fishing rights and history purchased under the buyout, would lose the right to participate in any fishery, anywhere in the world. In the US, this could be accomplished through the permanent retirement of the vessel fishery endorsement to the Vessel Documentation. Elsewhere, this is to be accomplished through prohibition of reflagging of buyout vessels.

The buyback will permanently remove fishing capacity which will otherwise remain in the BSAI crab fisheries, or move from those fisheries to others, due to the effects of a rationalization program, or of economic pressures. This is a very important step in the rationalization process, and it is a necessary step. It is, however, only an increment of the progress toward a rationalization program which will provide for long-term sustainable fisheries. The necessity for rationalization is accompanied by a necessity to thoroughly examine the options.

5. Outline Elements for Analytic Consideration of Model Impacts.

The impacts of any new rationalization plan for BSAI crab must be analyzed, model by model, for the economic effects on harvesters (including crew), processors, and communities. Comments below are intended to illuminate specific problems which manifest under each of the proposed models, and do not include the necessary exhaustive cross-referencing of these specifics to each

model.

I. STATUS QUO

Understanding of the organization of entities within the status quo is necessary to establish a baseline for the analysis of the effects of various models for rationalization of the fisheries. In the BSAI region, the dominant model for status quo crab processing businesses has become the Corporation initiated by or including harvester vessel owners as shareholders. Companies which formed in this fashion include the American Fisheries Act (AFA) qualified pollock processors, Trident, Alyeska and Icicle, as well as non-AFA companies, Norquest and Royal Aleutian. The remaining crab processors that have so far operated in 2001, Peter Pan, Unisea and Westward, are Japanese-parent-company owned, AFA qualified entities.

In each instance, fleets of vessels capitalized by 'independent fishermen' have added significantly to the product flow of the processing plants. 'Independent fishermen' have increased processor market share and lowered the processor capital cost per pound processed. This has augmented the product mix of these plants, strengthening diversification in other fisheries or complementing that production and creating additional activity for floating processor platforms that move throughout the State during the year, following fishery activities.

A processing plant located at Sitka, the Seafood Producer's Co-op, is organized under provisions of the FCMA of 1934. This is the closest example of such a cooperative, available under the status quo. While this plant is too far from the Bering Sea to have processed live crab from that region, the plant does process crab produced in S.E. Alaska. Additionally, each of the above processors (excepting Royal Aleutian) handles a diversified line of seafood (although not always within a single plant) including herring, salmon, sablefish and halibut. Most include operations both within S.E. Alaska and the Bering Sea. Analysis is required to determine:

a. What are the marginal gains experienced by the processors, and
b. how does this vary, between
   (1) those owned by foreign entities,
   (2) those organized with inclusion of "fishermen shareholders" in corporations,
   (3) and the fishermen's cooperative?

Consolidation, as a normal part of the competitive business cycle, has been occurring in the BSAI crab fisheries during recent years. Among harvesters, this manifests in concentration of vessel ownership to relatively fewer individuals; among processors, fewer processing plants are operating, and fewer owners of plants remain; vertical integration of harvesters and processing capacity is also increasing. This has occurred through purchase of vessels, as well as through processor loans to vessels secured by fishing agreements and/or LLP licenses.

The BSAI opilio (snow crab) fishery, which has been the mainspring of the crab fleet's economy since the mid-1980s, experienced a stock collapse. A regional fishery disaster was declared by Gov. Tony Knowles, and by the Secretary of Commerce in 2000. A rebuilding plan has been established to meet the requirements of Magnuson - Stevens Act with regard to "overfished" stocks. This plan has established threshold spawning stock biomass requirements, below which a fishery may not operate, and has provided for lower exploitation rates when the fishery does operate. Since 1999, the Yardarm Knot, a crab and salmon processor with a number of fishermen shareholders, and an affiliate of an AFA offshore company, has ceased operation, at least until stocks of crab improve. Snopac, a non-AFA company which processed crab at St. George, did not operate in the 2001 fishery. Trident announced it would not open its plant at St. Paul Island in 2000, but did subsequently operate with a reduced staff in the 2000 and 2001 *opilio* fisheries, as well as the 2001 pot cod fishery. Unisea closed and scrapped its processor, formerly located at St. Paul.

Further confounding the effects of competition, and increasing the degree of consolidation, a limited access program for fisheries throughout the region, the License Limitation Plan (LLP), was implemented January 1, 2000. The LLP mandated a ceiling on license ownership, after initial licenses were issued, of five crab licenses for a given "person". Not only were initial licenses allowed to be held in greater numbers by a "person," but the caps on ownership have been applied at only the first level of ownership. Typically, vessels in these fisheries represent a capital expenditure of $1 - 3 million, and ownership of vessels is vested in closely held corporations or limited liability companies of several partners, a legal "person". This establishes protection for owners from some liabilities, and allows the pooling of resources to meet the capital requirements, and to spread risks. Another effect, however, is that existing LLP license caps provide no effective bar to consolidation by individuals, although they would seem to effectively limit the number of licenses that may be "stacked" on a given vessel. The LLP has provided incentives to consolidate.

The AFA provided a large incentive for acquisition of pollock harvesters by shore side processors. A number of these harvesters also are licensed for specific crab fisheries. Consolidation in the crab processing sector has also accelerated due to the AFA, despite provisions of the AFA that were designed to limit this. The largest onshore processor of pollock, Trident, acquired Tyson, one of the offshore pollock companies, together with an additional share of crab. A non-AFA company, Icicle, acquired an AFA shore side processor, Northern Victor, together with its fleet of vertically integrated boats. This strategic acquisition, designed to protect the supply of surimi for Icicle's crab analogue lines, also sent Icicle across AFA lines, and fixed a cap on its allowable processing volume of crab.

II. COMMUNITY QUOTAS

The status quo provides one element that is particularly useful for modeling. This is the Community Development Quota [CDQ] program, as it presently exists in the BSAI region, particularly as it applies to BSAI crab. Many details of the program are shrouded in "confidentiality agreements" but the program is administered by the State of Alaska, and all details are known to the State, and could be shared for purposes of complete analysis.

In the status quo crab CDQ program, several CDQ groups have acquired vessels, which fish the CDQ share of crab species for the group, returning a royalty and other benefits to the group, including the vesting of the Communities directly in the harvest of the resource. All groups have employed harvester vessels which deliver their product to shore based processors. There have been different processing agreements. Variations included profit sharing, that is computed post season and after sale of the finished product, and custom processing, for a set fee per pound, with sale of the product to the account of the CDQ group.

The option of 'regionalization' has been endorsed by all sides in the rationalization discussion, and has a consensus endorsement of the rationalization committee. The adoption of the 'regionalization' proposal should be considered with respect to several options generated from the potentials presented under adoption of harvester quota share systems, cooperatives and processor quota share systems. In the present depressed stock conditions, consolidation of processing plants has occurred. This has resulted in net loss of all processing capacity from St. George and a substantial reduction at St. Paul.

a. To what extent can 'regionalization' reduce these impacts in the status quo (that is, without further rationalization)?
b. To what extent does 'regionalization' provide for protection of processors, as well as communities, within the harvest quota systems modeled, halibut/sablefish and Surf Clam Ocean Quahog?

The *continuation of a number of markets is an essential factor to the success of 'regionalization'*. Without this, a regulation requiring 'regional' landings becomes meaningless. Cooperatives would seem to provide for continuance of a number of markets, since each cooperative would form around a specific processor.

c. To what extent do cooperatives modeled on the Whiting Conservation Cooperative, but which provide for deliveries to shore based processors by harvesters (which is the dominant mode of the BSAI crab fisheries) facilitate the objectives of 'regionalization'?

In the AFA cooperatives, harvester participation with a specific processor was mandated. In the

differing circumstances of the BSAI crab fisheries, the effect of different options should be considered. Several options can be accomplished with a minimum of regulatory change, under the FCMA of 1934, and are considered below under the rubric of the WCC.

One of the difficulties facing the initiation of 'regionalized' crab AFA-style coops is that the competitive advantage of AFA processors cannot be overcome by extending the same privileges to those processors, as well as a few non- AFA processors. In other words, the implementation of AFA-style coops in crab can only provide for a number of processing cooperatives if these cooperatives are each to remain financially viable. Such viability can occur, temporarily, if subsidized by the harvester fleet, through lower ex-vessel prices (see the discussion of a closely related disincentive, under AFA cooperatives). This does not balance the competitive disparities between AFA and non-AFA processors, it merely lays off the necessity of 'regionalization' to a cost on harvesters, and is limited to the extent that harvesters can absorb such costs. Beyond this, such a model increases the incentive for acquisition of harvesters by AFA processors since internalized harvester losses can be supported by AFA revenues to the detriment of non-AFA processors. This problem becomes especially acute for those non-AFA processors those which are significantly vertically integrated, since these have less independent fleet available to share these costs.

Counterbalance of the AFA processor advantages can be obtained by considered allocation of cooperative benefits, within the regional framework. For instance, non-AFA processors could be allowed to form cooperatives with their fleets, and enjoy the AFA-style benefit of participation, despite their ownership of vessels in the coop, while AFA processors, having already received this significant benefit in the pollock fishery, could be denied the right to form cooperatives that include vessels they own. This formation of cooperatives would necessarily not mandate the participation of independent harvest vessels, as in the AFA, since this would create disparities with the treatment of independent harvest vessels delivering to AFA crab processors.

d. What are the results which a program designed according to such balance can be expected to produce, in the performance of 'regionalized' fisheries?

This type of differentiation can be achieved under 'regionalized' cooperatives, but not with a 'regionalized' two-pie system. In the 'regionalized' two-pie system, the incentives created by transferability lead to optimum processor efficiency, within the regional framework, at the expense of all other considerations, including those social considerations which lie at the root of the 'regional' perspective. Transferable, 'regionalized' processor quota shares produce incentives for extreme processor consolidation, devolving to one processor per qualifying community. Competition between processors is replaced by transfer of shares between processors to reduce processing infrastructure to one major plant for each surviving company while accomplishing consolidation of other, formerly competitive, plants.

The transferability provisions of the 'regionalized' two pie system also produce incentives for extreme harvester consolidation. Fleet size becomes defined strictly in terms of 'technical' or 'functional' capacity. One processor told the rationalization committee that a fleet of twenty or so vessels would suffice, for the future.[23] Processors already own more vessels than this, which implies harvester vessel owners would be compelled to sell or lease quota to be fished by processor-owned vessels. This occurs because ex-vessel prices are minimized, since the economically efficient incentive in this regulatory framework is to lower the cost of harvest. Lower crew shares, lower landing taxes and lower royalty payments ALL are achieved by this means.

For these reasons, the analysis of a 'two-pie' regime, with respect to its effects, will demonstrate the necessity to mitigate impacts on Communities, by such means as these:

e. Derivation of CAPS on consolidated ownership, use or control of
   (1) harvest shares
   (2) process shares.
f. Provision for price determination, at ex-vessel level.
g. Determination of a MINIMUM acceptable number for
   (1) harvest crewmen
   (2) process workers
   (3) harvest vessel owners
   (4) process plant owners.
h. Protection of DIVERSITY of size and type (to allow new entrants)
   (1) harvesters and
   (2) processors.
i. The determination of a level of CDQ allocation of Processing Quota, that would suffice to mitigate negative impacts of the program on Communities, identified above.
j. An assessment of the costs and feasibility of NMFS and NPFMC maintaining the above strictures, with contrary economic incentives, is an essential component of the Community impact assessment of 'two-pie'.

It is not certain that the analysis of the CDQ program, and of the 'regionalization' proposal will suffice to satisfy the requirements of the Congressional mandate. The language could well be interpreted to convey a different analytic responsibility, for instance, were the intent to examine the type of community-held fishing rights that are presently in use in the Shetland Islands[24], or the types of proposals that have been generated for community ownership of halibut/sablefish quota share in the Gulf of Alaska. At least, the analysis should include reference to these innovative management protocols.

III. Halibut/sablefish ITQ

These provide for strict limitations on both the amount of quota that may be held by an individual (tracked through all layers of ownership, ½ % for most halibut fisheries) as well as the amount of quota that may be fished on a given vessel. These measures, together with vessel class restrictions and the Sitka Block, very effectively limit the consolidation of quota to a fairly large class of individuals. Modest consolidation occurred in the first two years of the program, with initial allocation to 5,484 halibut shareholders decreasing by 24%, through 1997[25].

The control of quota is also largely placed in the hands of harvesters, and most quota shares are required to be harvested with the owner of the shares on board the harvesting vessel. Processor control over the fishery is thus somewhat constrained: although financing and other contractual obligations provide a number of levers for processors to exercise, several processors continue to complain that the system shifted market power in favor of quota shareholders.

To adapt this model for application to the BSAI crab fisheries, the role of the "quota owner on board" requirement must be examined within the context of the present ownership structures of the BSAI crab fisheries

- a What is the effect of wide-spread ownership of vessels by closely held corporations and limited liability companies, as in the status quo BSAI crab fisheries?
- b To what extent can the requirement of "owner on board" be made to provide for the inclusion of crewmen in the benefits of the program, at least, for minority owner captains?
  - (1) What is the status quo extent of vessel operation by owners?
  - (2) What are the impacts of requiring specific levels of ownership to be held, at minimum, by owner-operators?
- c To what extent can fishery managers be expected to succeed in establishing such provisions, for the long term? What are the likely costs and benefits?

IV. Whiting Conservation Cooperative [WCC]

The WCC was formed after the Pacific Fishery Management Council established a separate allocation for the offshore fleet of catcher processors operating in the Pacific whiting fishery, in order to protect the harvest share of inshore vessels delivering to shore plants. A component of this allocation allowed licenses for offshore catcher vessels to be purchased and combined. The companies involved in the offshore fishery created agreements within the structure of the Fishermen's Cooperative Marketing Act of 1934 [FCMA], which then allowed the reapportionment of catch between vessels, and the more efficient utilization of both catch and total

allowable catch. This has been accomplished through the use of fewer offshore vessels and a reduced rate of catch, which has increased product recovery rates and reduced bycatch of other species.

Provisions of the WCC agreement were *specifically tailored to avoid a finding of per se violation of antitrust law*, as a "market allocation" among competitors. First, WCC activities were explicitly limited to the minimum activity necessary to achieve harvest share benefits, foregoing other activities implicitly available under the FCMA. Secondly, the more efficient management of harvest capacity allows a greater proportion of the total allowable harvest to reach the market, thus increasing the supply of product, rather than limiting this supply. "By explicitly agreeing to process, market and sell their products on an arms-length basis . . . all indications were that a harvesting share arrangement . . . would result in more product being produced at a lower unit cost from the same fixed quantity of fish . . . [the WCC provided] fishery rationalization to be in the consumer's best interest."[26] Consolidation (or lack thereof) of entities participating in agreements modeled on the WCC strategy, is a key indicator of the breakdown (or continuing validity) of this 'arms-length' rationale.

In the differing circumstances of the BSAI crab fisheries, the delivery of product by harvest vessels to shore based processors is the dominant operational mode. Processor owned vessels may not participate in cooperatives organized under the FCMA of 1934.

a. Which BSAI crab fisheries could be expected to be able to organize a cooperative structure that includes all participants in the fisheries?
b. Which BSAI crab fisheries could be expected to succeed in formation of cooperatives, of some specified minimum size, only if there is provision for the option of continued 'open access' fishing at the choice of the participants?
c. Would this model produce greater incentives for processors to integrate vertically or divest vessel ownership?

V. Atlantic Surf Clam/Ocean Quahog (SCOQ) ITQ

Consolidation was allowed to proceed more freely and to a much greater extent than in the Halibut/Sablefish program. There is no maximum holding or limit to accumulation of shares provided within the program. Anyone qualified to own a fishing vessel under U.S. law may acquire SCOQ ITQ shares; there is no bar on domestic processing company ownership of harvest shares.

The Surf clam fleet shrunk from 127 vessels in 1980 to 33 in 1997, and concerns about the concentration of ownership came to the surface. "After ITQs were implemented, a few buyer-processors gained dominance . . . The issue of monitoring of concentration of ownership has been

particularly problematic for two reasons. First, it is practically impossible to ascertain the exact identity of 'owning persons' due to the nature of the record keeping process. Second, the critical term 'excessive share' is not defined . . ."[27]

One company, Borden's, received approximately 20% of the Ocean Quahog initial allocation. Within a relatively short period, this company acquired additional shares, buying Doxsee, with approximately 12% of initial SCOQ, and the American Original company. Borden's grew to control more than one third of the SCOQ, together with harvesting vessels, processing facilities, and established labels and product lines.[28] Since 1997, and for reasons which are unclear, Borden's has liquidated their holdings. Lacking an available buyer of sufficient size, the company sold vessels, quota and processing operations to a number of different buyers.

This model adapts readily to the status quo structures of ownership in the BSAI crab fisheries. Questions most necessary to provide for the analysis of its effects include:

a. What is the extent of ownership and control of harvest vessels by processors under the status quo?
b. What is the degree of consolidation of harvester ownership which is most appropriate?
c. What is the degree of consolidation of processor ownership of the harvest which is most appropriate?
d. To what extent must vertical integration be regulated?
e. To what extent do the impacts on communities noted for the 'regionalized two-pie' model occur, given the levels of consolidation determined above?
f. How might such impacts, if considerable, be mitigated?
g. To what extent can fishery managers be expected to succeed in establishing such provisions, for the long term? What are the likely costs and benefits?

VI. American Fisheries Act [AFA] shore based cooperatives.

Under terms established in the AFA, a three sectoral allocation of Bering Sea pollock occurred. These three sectors were differently treated under provisions of the AFA. The offshore sector included the four companies which had developed the Whiting Conservation Cooperative. This sector moved quickly to accomplish similar agreements that resulted in the Pollock Conservation Cooperative [PCC] and the Offshore Pollock Catchers' Cooperative [OPCC] beginning operations in January 1999. The WCC model discussion includes this sector for consideration.

The mothership sector does not provide useful modeling for rationalization of the BSAI crab fisheries.

The onshore sector is most directly analogous to the status quo BSAI crab fisheries, in that the dominant mode of the BSAI crab fisheries is harvest vessels delivering to shore based processors. Ownership of vessels and historic development of the fisheries, as well as the levels of capital investment required, however, are significantly different between the BSAI shore based crab and pollock fisheries.

Under the AFA, vessels which had qualifying history in the pollock fisheries, and had delivered catch to shore plants, were allocated a share of future pollock harvest allocations based upon the vessel's historic catch. These vessels were constrained to deliver that catch to the processor which had received the largest share of the vessel's catch, and the ability of the harvest vessel to later shift between processor markets was restricted. The shore side pollock cooperatives which have formed depart in a significant manner from the operation of the WCC and PCC, because each shore side cooperative membership includes one specific processing company, and in nearly all cases, vessels which are owned by the processing company - a situation not previously allowed under interpretation of anti-trust statute.

Ground rules are evolving under the purview of the NPFMC and the NMFS. These include provisions for the transfer of vessels between cooperatives, and the transfer of quota allocation between vessels and cooperatives. Also, measures have been designed to place caps on consolidation of control over the pollock harvest. Additional rules have been in consideration, to protect the harvesters and processors of other fisheries: from the influx of new effort when vessels become surplus in the pollock fishery, or from predatory pricing opportunities or other financial advantages accruing with the benefit of the pollock rights conferred under the AFA.

The experience of the NPFMC and NMFS in maintaining the caps on consolidation designed for the halibut/sablefish ITQ programs, provided these entities with the ability to establish and maintain controls over the consolidation and expansion of effort into other fisheries by pollock harvester vessels. The ability of the NPFMC and NMFS to effectively control the consolidation and impacts of the AFA qualified shore side processing companies has not been apparent, however. Ownership caps on pollock processing shares, an original feature of the AFA, were undermined and made moot, shortly before final action of the NPFMC on those caps. This occurred as a result of the acquisition of a major offshore pollock company, Tyson, by Trident Seafoods, the largest onshore company.

The NPFMC has set caps on the allowable percentage of crab harvest processed by AFA companies. These caps stand despite considerable unpopularity with the catcher fleet, since they remove most incentive for price bidding by processors. AFA processors have greater catch, from the fleets that are committed to deliver to them, than they are allowed to process under the caps. Non-AFA processors (there are presently only two) are thus guaranteed a larger share of the processing market, as spillover from the AFA companies. This occurs in conjunction with the

shrinkage in number of processors that has occurred over the base period for setting of caps. The NPFMC has thus far demonstrated an inability to mandate caps that control processors without penalizing harvesters.

This model does not readily adapt to the status quo structures of ownership in the BSAI crab fisheries. Imposition of AFA pollock-style harvest vessel bondage to processing companies, makes no sense with the relatively larger number of independent harvesters in the BSAI crab fisheries. The total capital investment of harvesters is very much greater than that of processors, in these fisheries, unlike the situation of the high-technology pollock processing industry. Questions most necessary to provide for the analysis of its effects include those directed at assessment of the SCOQ program, and a number of questions that are subsequent.

a. What is the extent of ownership and control of harvest vessels by processors under the status quo?
b. What are the relative total investments of processors (in equipment devoted to processing crab) and, similarly, harvesters?

The trend for pollock shore based cooperatives has been to increase vertical integration of the cooperative entities, through processor assimilation of the harvester. This has produced windfalls to some harvesters leaving the fisheries. In adapting this model to the crab fisheries, a key determinant for policy consideration is whether consolidation of harvesters by the processors is more likely to occur through buyout of harvester vessels, or, since the ratio of independent harvesters to those owned by processors is greater than that of the pre-AFA pollock fishery, through the royalty leasing of quota share.

c. How do ex-vessel prices of vertically integrated companies compare with those which are not?
d. To what extent do the impacts on communities noted for the 'regionalized two-pie' model occur, given the levels of integration experienced under the AFA?
e. How might such impacts, if considerable, be mitigated?
f. To what extent can fishery managers be expected to succeed in establishing such provisions, for the long term?

The structure of the AFA shore based coops was in part a consequence of the AFA objective to reduce the harvest of pollock by offshore catcher processors, and in part a consequence of the effort to limit foreign control over the resource by more stringent citizenship standards for vessel ownership. These objectives do not apply to the application of the model to the BSAI crab fisheries, where AFA ownership standards have already been applied to vessel ownership, and where most of the harvest is delivered to shore based processors. The "Community Quota" section contains discussion of a modification of AFA shore based coop rules, which is designed to provide increased protection of the non-AFA crab processors from depredation of the AFA

processors, without creating penalty to the Community revenue base. In addition to this mitigation,

g. What are the costs and benefits of this model to the harvesters, and the processors?

It is well to recall that the resource benefits claimed for the AFA pollock cooperatives are, for the most part, benefits which have been realized within the offshore sector, not the shore side: avoidance of areas of high bycatch, increased product recovery rates, and so on. Actual resource benefits, other than more precise use of the roe season, are unlikely to accrue to any great extent to shore plant pollock operations, because they lack the mobility necessary to capture benefits of this sort. Avoidance of areas of high bycatch by shore based fleets, for instance, simply amounts to increased fuel expenditure. Increased product recoveries do not result from the longer holding times necessitated by longer trips. This realization has been delayed, perhaps, and masked in the general costs imposed by recent measures designed to protect the Steller Sea Lion, an endangered species. The difficulty is intrinsic, and will manifest clearly at some future time. There are indications that at least one pollock shore plant, located on a ship, is attempting to relocate, so as to capture some of the benefit which is presently available only to the offshore processors. The historic distribution of deliveries which is preserved in the 'regionalizaton' proposal is a direct analog of this tactic, applied to the BSAI crab fisheries.

The more precise utilization of the roe season carries benefits, by increasing the supply of this product. The longer-term meaning of the increase in roe supply is not yet clear, however - whether the benefits shall be greater to the consumers, as lower product cost, or to the producers, as higher margin, is not yet known. In either case, the intentional restriction of the supply of roe in order to support the price of the product, would probably constitute a rationale for a finding of "market allocation" and would severely undermine the legal basis for the establishment of the cooperatives.

The major benefit to processors of the advent of the shore side pollock cooperatives, has been a *financial* benefit. This program was conceived and implemented in a time of freely available credit. Rather than "decapitalizing the fisheries," the capital has been flowing in, at high volumes. A note of caution is appropriate. The expansion of capital in fisheries occurs in response to the perception of opportunities for profit. Rational quota systems, which provide increased malleability to capital, are also excellent facilitators of the flight of capital in the event of a downturn of underlying fishery stocks, or of the ability to exploit them.

Resource benefits available under an AFA modeled BSAI crab fishery presumably would occur from the reduction of fleet size which such a program may make possible. Since the BSAI crab fisheries are already in a state of severe downturn, the financial benefits enjoyed by AFA pollock processors are unlikely to occur, for the BSAI crab processors, in the short term. This would

indicate that the possibility of windfall to either processors or to retired independent harvester vessel owners is unlikely to occur until significant rebuilding of stocks occurs, if ever. This would likely result in a lower net benefit to both processors and harvesters, than an option which more nearly balances the incentives of conservation and the participants in the industry, such as those previously considered.

VII. The "two-pie" quota share hypothesis

In addition to the questions raised for the models considered above, the 'two-pie' model poses a number of analytical challenges. This theory posits that processing company interests are compromised when quota shares are allocated to harvesting vessels, alone. As an example of the sort of disadvantage that is expected by the theory to occur, Dr. Matulich, the inventor of the plan, asserts that, before 1987, crab harvesters in the BSAI snow crab fishery received ex-vessel prices amounting to ". . . about 15% of the processor's sale price. After that, the fleet organized for collective bargaining of price, and the processors were prevented from organizing similarly [due to anti-trust regulations]. Consequently, the percentage of the processor's price paid to the vessels doubled, and has probably increased significantly since then."[29]

Whether this increase in the percentage of processor sale price paid to vessels for the harvest of the snow crab actually represents a compromise of the processing company interests, to the advantage of harvester vessel owners, is far from evident. Neither has there been a demonstration that any damage to processors has occurred due to the allocation of quota shares to harvesters alone, under either the halibut/sablefish model or the SCOQ model.

To amply demonstrate the relative merit of these assertions requires an extensive analysis, which may be accomplished if the requisite data is provided by the ostensible beneficiaries of a 'two-pie' quota allocation, the processors. Without the data, and the analysis, this program should not be allowed to proceed, because objective justification for it will be lacking. The analysis must necessarily examine the internal cost structures of both harvesters and processors, the ex-vessel and wholesale price structures, as well as the downstream prices received by processor affiliated companies involved in the reprocessing and marketing of the products. These would need to be understood, over a significant time series, and with respect to changes that have occurred in the size of the harvesting fleet, the number of processors and their locations, the level of investment per unit of production required in the harvest as well as the processing sectors, the changes over time of these investment levels, together with the relative flexibility of use for the capital invested, within the context of the applicable regulations, such as the timing of seasons, the diversity of products and product forms handled within the plants, and the amounts of catch allowed. The changes in market share and therefore in control over the market which processors and their affiliates may exert, at given levels of operation, must also be considered.

Then, the issue of ownership and control of harvester vessels by processors, and the inverse, of processors by harvesters, must be considered. What is the range of control over harvesters exhibited by the various processing companies? How does this experience differentiate between companies, and their relative success? For instance, what are the benefits, in increased market share or otherwise, that have been derived by processing companies, through the attraction of fleets of harvester vessels which are not owned by the processor, or its affiliates? What has been the distribution of benefits, assuming such, resulting from the "collective bargaining" of grounds price, between vessel owners (including processor affiliates), vessel operators, crewmen and municipalities (in the form of landing taxes)? In each case, these benefits derive in direct relation to the ex-vessel price. To what extent have the revenues collected by municipalities been reinvested in infrastructure that favorably affects the business of the harvester or processor? Has either (harvester or processor) received a greater share of such benefit?

Although there is a prevalent assumption that capital invested in vessels is less stranded than that invested in shore plants, the assumption needs to be tested, and has probably been rendered invalid by restrictions on the use of harvester vessels. The assumption is based upon the observation that vessels are designed to move, and shore plants are not. This is certainly not always the case. Many "shore plants" meet the definition under Alaska and other regulations despite their installation on ships or barges. Many of the regulations designed to control fishing effort and slow harvest, consist in mandates for inefficiency. A common form is the vessel length limit. Fishing opportunities which would otherwise occur, are often limited by such regulations. While different vessels are required to fish salmon and BSAI crab, the same processing platform can suffice for both.

Furthermore, in this era of limited access, the capital required to purchase fishing rights and permits significantly diminishes the portability of the harvester vessel asset, and the ability of the vessel to transfer between fisheries. The creation of fishing rights may create benefit to the recipients of those rights, assuming continued viable fisheries, against which must be measured the cost that results as extension of these systems becomes general. The LLP, for instance, creates capital requirements and relatively high investment thresholds to movement of vessel capital. The LLP also presents increased opportunities for capital invested in permits and rights to become stranded, in the event a licensed fishery stock declines.

On the other hand, discharge permitting and environmental protections may be understood to be a form of entry limitation upon processors. It is certain that most communities in Western Alaska which already support processing plants, offer little opportunity for the introduction of new plants, because of the permitting requirements. Once such permitting is accomplished, however, there is less impediment to transition between fisheries within the plant, so long as discharges are not significantly increased. Thus, the buildings and equipment, tied in position, represent a locus of varied opportunity, unmatched by vessel opportunities in the limited entry or rationalized fishery

context.

One of the contradictions which is overlooked by processor advocates for the 'two-pie' system results from the additional capital cost and risk to capital which the institution of processor shares will bring. If a processor desires to increase market share, enter a new fishery, or expand operations, new costs will be created by this program. The oversight is understandable, since the present landscape is being examined through the lens of the expectation that initial receipt of shares will produce a windfall to the recipients. In the diminished state of the crab processing industry, dreams of an exit strategy are appealing. This must be particularly true for those companies which have already written off, disposed of or mothballed processing capacity - that is, latent processors. These latent processors would be rewarded with a bonus, value received for processing history. One company, which has paid the very high cost of entry into the rationalized pollock processing industry, paradoxically, is an avid proponent of the even more expensive 'two-pie' system.

It is imperative that the consideration of the costs and benefits of a 'two-pie' model be very carefully considered, from perspective not only of the effects upon the communities and the harvesters, but upon the processors as well. In addition to the mitigation of effects required to protect community and harvester interests, which will add a great deal of complexity to the program, as well as cost, there are impacts upon processors. The disappearance of Borden's from the Ocean Quahog fishery occurred even with an established, commanding position in a fully rationalized fishery, by a vertically integrated harvesting, processing and marketing entity, possessed of respected national brands.

If, in a 'two-pie' quota regime, there happens to be a fishery collapse, or severe reduction in the ability to harvest due to legal, economic or other factors, the sale of such a highly integrated entity becomes even more problematic. As a result of the additional burden created by the necessity to match units of harvest capacity to units of processing capacity, dismantling for sale of components is inhibited, and 'two-pie' may well depress, rather than enhance, liquidated values. There is certainly legitimate ground for concern that the additional restraint of trade represented by the constraints of the 'two-pie' system may be destabilizing to fishery management, as well as business, in conditions of a severe resource downturn, a tight capital market, or fundamental change in demand or marketing of product.

According to the 'two-pie' theorem, the establishment of a single class of quota shares for harvest vessel owners in the BSAI crab fisheries, would lead to a demonstrable change in the "symmetry" of relationships between harvest vessel owners and processing companies. Symmetry, in this sense, refers to a special requirement that the relationships of power and wealth between the harvest vessel owners and the processors would emerge, after imposition of a quota share system, without fundamental change. An unproven assertion of the 'two-pie' model, is that symmetry

would be violated in such fashion that the new relationships would be more favorable to the harvester vessel owners, and detrimental to the processors. This assertion does not bear much weight.

In the affirmative, some conjecture that, under the status quo, harvester vessel owners have been compelled to deliver their product to processors within a tightly bounded window of opportunity, and that a wider window, that is a more extended operating season, would invite more competition into the processing sector. This window is framed within the wall of the 'Olympic' fishery management system, which consists in a set starting-point for a fishery, and an upper bound on catch (or a guideline harvest level) that determines the point at which fishing will cease - thus, the race for fish. The expectation of profit, a primary motivation for entry into processing competition, is enhanced by the opportunity represented by a longer season in the Olympic fishery management regime, primarily because such increased seasonal length occurs as a function of larger fishery stocks, which represent increased opportunity to defray fixed costs. A management regime that extends the potential operating season within the bounds of a lower harvest level, provides no such incentive.

Rather, the potential benefit is to increase efficiencies within the context of a fixed catch. The potential efficiency gains are clear: the Olympic fishery management system has been reasonably credited with establishing a set of incentives which are wasteful of capital, destructive to fishery stocks, and dangerous to fishers. The implication of the 'two-pie' argument is that processors are benefitted under the conditions of the Olympic management system, or at least, that processors suffer less of the Olympic management system's indirect cost than the harvesters. Thus, 'two-pie' tenets imply that the end of this system spells a relative disadvantage to processors.

One must concede that were this so, the Olympic management system's costs of waste, destruction, and danger, must be less than the system's benefits to processors. Analysis is not likely to support this conclusion, with the sole exception of danger - it is the case that fish harvesters are more at peril than shore side process workers and plant managers. There are substantial safety dividends available in both processing and harvesting sectors, however, from rationalized fishery management. Other cost factors, such as transport and support of additional manpower for short-term employment, dedicated facilities required to handle massive intermittent product overflow, and inventory carrying costs (or their internalized equivalent, lower sales prices as a result of customer's carrying costs), discard and handling mortality of stocks aggravated by the race for fish, and the decline and closure of fisheries that can result, bear cruelly upon both processors and harvesters - indeed, upon the whole market structure. The benefits of ending this waste, destruction, and danger accrue equally to harvesters and processors.

The institution of quota share will end the collective bargaining of price for crab, since this has depended on assembly of the fleet for the Olympic season's start. In the status quo, vessel owners

have proven too conflicted to bargain price collectively, price has been set, instead, by action (or inaction, rather) of the Captains and crews of the harvest vessels. The halibut/sablefish quota system provides an example of how the extended season has dispersed a fleet, and ended collective bargaining for price. An auction system, which predated the implementation of halibut/sablefish quota shares, has adapted to the new system, with auction activity moving from Seattle to Homer. Such an auction would be forbidden under 'two-pie' constraints, except for some portion of catch allowed to be freely delivered.

These observations indicate that the symmetry of the 'two pie' model is flawed, *to the detriment of harvesters*. If analysis bears this out, the strictures necessary to remove this apparent imbalance, introduce an even greater level of complexity and cost to the program. There is much anecdotal evidence that processors resent their perceived exclusion from the benefits of the halibut/sablefish ITQ program. The suggestion that a 'two-pie' quota system will provide for redress of this resentment is ironic, if it results in the failure to consider simpler, more balanced models of rationalization, which include the possibility of relatively high levels of processor ownership and control of fishing quota. The examination of these alternatives makes it clear that a thorough analysis of the impacts of the 'two-pie' model upon harvesters, processors and communities is likely to show very high levels of cost and complication *to the processors*. This becomes necessary to provide a program that is even moderately workable.

VIII. Monopoly

A monopoly of the sea otter trade between Alaska and China was granted to the Russian American Company by the Russian Imperial Government, in 1799. The Company was built on a model that provided infrastructure and encouraged permanent settlement, that is, development of the communities of Russian Alaska. The monopoly grant required that the company perform many of the functions of government, including support of the communities, education, care of orphans, aid of the Church, and expansion of imperial influence.

The monopoly structure provided for gains in efficiency in the take of sea otters. Shareholders received an annual return of 55%, on average, for the first five years of the company. This was followed by a collapse of the resource. A 5% return, on average, prevailed for the following fourteen years, and then profits disappeared completely.

In 1805, Imperial Chamberlain N.P. Rezanof found that sea otter were being "overkilled" and began a program of conservation. The rebuilding program failed to restore populations of sea otters, and the Company became a drag on the Imperial economy, resulting in the eventual sale of the territory to the U.S. and failure of the imperial effort.[30]

IX. Conclusion

The BSAI crab fisheries are in a state of crisis. Despite innovative, responsive and informed management, there has been a series of resource failures. Rebuilding of the fisheries is mandated by the MSFCMA, and rebuilding programs have been implemented, yet rebuilding remains problematic. Reduced exploitation of the stocks is an essential element of rebuilding; this has added to the dimensions of the crisis. The fishing capacity of the fleet, that is, the ability of the fleet to catch crab, is vastly greater than the available resource. In a typical winter week of the mid-1990s, the fleet delivered as much product as was available for the entire 2000/01 BSAI crab fishery. Despite incremental progress over the past ten years, there is no management system in place which will allow for these limited fisheries to be more efficiently shared among the fleet. The result has been intensified problems of competition: egregious waste of resources and capital, increased peril to life and limb, and aggravated difficulties of management of the fisheries. Those dependent upon the fisheries have suffered catastrophic losses of income; crewmen, vessel owners, processors, suppliers and communities have all experienced levels of increased hardship.

The crisis has created response from those impacted. There has been considerable effort to find solutions to the crisis, with much well intentioned discussion, and there has been the threat of obstruction by powerful interests.[31] An ad-hoc industry committee failed to reach consensus. A subset of the committee concluded that a particular form of rationalization of the fisheries would provide the solution to the crisis. The subset committee requested action by Congress to immediately impose a solution on the fishery, its participants and the managers of the fishery. Congress responded with an extension of the national moratorium on IFQs, and with the mandate to the NPFMC that appears in the introduction to this paper, and is before you for further action.

The NPFMC has recognized the acute need for solutions to the crisis in the BSAI crab fisheries. You empaneled a committee to study rationalization and recommend a range of considerations for analysis, received the report of this committee and its advisors, and identified a program of action. This includes completion of the incremental steps necessary to bring rationalization to date, through implementation of the BSAI capacity reduction program, and completion of a regulatory review process parallel to the Congressional study, to streamline further development, and sooner implementation, of rational management for the BSAI crab fisheries. It is not only an imperative of the Congressional mandate that a broad range of possibilities for rationalization be considered, it is also an imperative of the regulatory review process, and the urging of precaution, that this consideration take into account the breadth of experience available, and depth of insight. The investigation presented here strongly indicates that the implementation of a rationalization program based upon the 'two-pie' model, will result in a costly and complex program that is not in the best interests of processors, harvesters or communities. Modification of a harvester ITQ or producer cooperative based model, will provide the best solution for all the affected groups.

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TABLE 1	HARVEST, BSAI FMP CRAB FISHERIES (lbs.)								
ADF&G TABLE	4-6	3-2	4-4	5-12	5-7	5-2	5-21	5-28	
Year\Fishery*	Adak RKC	DH BKC**	Adak BKC**	St. Matthew	Pribilof ++	BB RKC	Bairdi	Opilio	Total
1976	no fishery	no fishery	no fishery	no fishery	6,600,000	63,000,000	22,200,000	no fishery	91,800,000
1977	900,000	no fishery	no fishery	1,100,000	6,300,000	69,200,000	51,200,000	no fishery	128,700,000
1978	800,000	no fishery	no fishery	1,900,000	6,300,000	86,400,000	66,400,000	1,700,000	163,500,000
1979	450,000	no fishery	no fishery	210,000	5,700,000	104,200,000	4,250,000	31,400,000	146,210,000
1980	1,400,000	no fishery	50,000	****	10,700,000	128,089,795	36,500,000	39,300,000	216,039,795
1981	1,600,000	100,000	1,200,000	4,600,000	9,100,000	32,880,079	29,600,000	50,500,000	129,580,079
1982	1,700,000	1,100,000	7,800,000	8,700,000	4,400,000	2,905,376	10,900,000	28,300,000	65,805,376
1983	1,900,000	1,800,000	8,000,000	8,600,000	2,200,000	no fishery	5,200,000	24,800,000	52,500,000
1984	1,400,000	1,500,000	3,100,000	3,700,000	300,000	4,146,805	1,200,000	26,000,000	41,346,805
1985	900,000	1,900,000	11,100,000	2,400,000	500,000	4,168,517	3,100,000	64,900,000	88,968,517
1986	700,000	1,800,000	12,500,000	1,000,000	300,000	11,109,807	no fishery	96,600,000	124,009,807
1987	1,200,000	1,400,000	7,800,000	1,100,000	700,000	12,168,679	no fishery	100,900,000	125,268,679
1988	1,600,000	1,500,000	9,000,000	1,300,000	no fishery	7,364,258	2,200,000	130,800,000	153,764,258
1989	1,100,000	1,800,000	10,100,000	1,200,000	no fishery	10,183,457	7,000,000	147,600,000	178,983,457
1990	700,000	1,700,000	5,100,000	1,700,000	no fishery	20,245,815	64,200,000	160,000,000	253,645,815
1991	900,000	1,400,000	6,200,000	3,200,000	no fishery	17,058,224	31,500,000	325,200,000	385,458,224
1992	1,300,000	1,300,000	4,800,000	2,500,000	no fishery	8,034,018	35,100,000	313,000,000	366,034,018
1993	700,000	920,000	4,600,000	3,000,000	2,600,000	14,500,000	12,800,000	229,200,000	268,320,000
1994	200,000	1,700,000	6,400,000	3,700,000	1,300,000	no fishery	7,600,000	148,000,000	168,900,000
1995	38,941	2,000,000	4,900,000	3,100,000	2,100,000	no fishery	4,200,000	74,000,000	90,338,941
1996	no fishery	3,200,000	2,600,000	3,100,000	1,100,000	8,380,000	1,800,000	64,400,000	84,580,000
*1997****	no fishery	5,300,000	**	4,600,000	1,270,000	8,700,000	no fishery	117,100,000	136,970,000
1998	15,000	5,940,000	**	2,870,000	1,030,000	14,300,000	no fishery	243,300,000	267,455,000
1999	no fishery	5,420,000	**	no fishery	no fishery	11,100,000	no fishery	184,500,000	201,020,000
2000	no fishery	*3,630,000*	*ongoing*	no fishery	no fishery	*8,108,108*	no fishery	*33,583,466*	45,321,574

TABLE 3	VESSELS DELIVERING: BSAI FMP FISHERIES								Registrations	Largest
Year\Fishery*	Adak RKC	DH BKC**	Adak BKC	St. Matthew	Pribilof	BB RKC	Bairdi	Opilio	TOTAL (r)	Fleet (f)
1986	33	17	62	38	16	159	no fishery	103	428	159
1987	71	22	46	61	38	236	98	171	743	236
1988	73	21	74	46	no fishery	200	98	168	680	200
1989	56	13	64	69	no fishery	211	179	189	781	211
1990	7	16	13	31	no fishery	240	255	220	782	255
1991	10	11	16	68	no fishery	302	285	250	942	302
1992	12	10	18	174	no fishery	281	294	254	1,043	294
1993	12	4	21	92	112	292	261	254	1,048	292
1994	20	14	34	87	104	no fishery	183	273	715	273
1995	4	17	25	90	127	no fishery	196	253	712	253
1996	no fishery	14	13	122	66	196	135	234	780	234
1997	no fishery	13	6	117	53	256	no fishery	226	671	256
1998	NA	14	3	131	57	275	no fishery	229	709	275
1999	no fishery	15	NA	no fishery	no fishery	257	no fishery	241	513	257
2000	no fishery	15	NA	no fishery	no fishery	244	no fishery	231	490	244

10 YEAR AVERAGE INCOME, 1990 through 1999 =>	$253,592,688
10 YEAR AVERAGE INCOME, 1989 through 1998 =>	$239,956,704
10 YEAR AVERAGE INCOME, 1986/7 through 1995/6 =>	$241,819,414

TABLE 5 FLEET GROSS REVENUES, BSAI FMP ($)

Year\Fishery*	Adak RKC	DH BKC**	Adak BKC	St. Matthew	Pribilof	BB RKC	Bairdi	Opilio	Total (l)
1976	NA	no fishery	NA	NA	3,828,000	36,540,000	4,218,000	NA	>45,000,000
1977	NA	no fishery	NA	NA	6,993,000	76,812,000	15,360,000	NA	>100,000,000
1978	NA	no fishery	NA	NA	7,749,000	106,272,000	25,232,000	646,000	>140,000,000
1979	NA	no fishery	NA	NA	5,757,000	105,242,000	2,210,000	9,420,000	>123,000,000
1980	1,288,000	no fishery	50,000	NA	9,600,000	115,300,000	19,000,000	82,500,000	>230,000,000
1981	3,216,000	200,000	2,400,000	NA	13,600,000	49,300,000	17,200,000	13,100,000	>100,000,000
1982	5,848,000	3,300,000	23,400,000	NA	13,400,000	8,800,000	11,500,000	20,700,000	>87,000,000
1983	6,517,000	5,500,000	23,200,000	25,800,000	6,600,000	no fishery	6,200,000	8,700,000	82,517,000
1984	2,940,000	2,000,000	6,100,000	6,500,000	100,000	10,800,000	1,100,000	7,800,000	37,340,000
1985	1,935,000	3,800,000	27,800,000	3,800,000	1,400,000	12,100,000	4,300,000	19,500,000	74,635,000
1986	2,695,000	5,100,000	37,600,000	3,200,000	1,200,000	45,000,000	no fishery	60,000,000	154,795,000
1987	4,800,000	4,000,000	23,500,000	3,100,000	2,800,000	48,700,000	no fishery	75,700,000	162,600,000
1988	8,000,000	4,500,000	28,700,000	4,000,000	no fishery	37,600,000	4,800,000	100,700,000	188,300,000
1989	4,620,000	6,300,000	30,200,000	3,500,000	no fishery	50,900,000	20,300,000	110,700,000	226,520,000
1990	2,800,000	5,100,000	15,200,000	5,700,000	no fishery	101,200,000	89,800,000	102,400,000	322,200,000
1991	2,700,000	2,800,000	15,400,000	9,000,000	no fishery	51,200,000	47,300,000	162,600,000	291,000,000
1992	6,565,000	3,300,000	9,900,000	7,400,000	no fishery	40,000,000	58,800,000	156,500,000	282,465,000
1993	2,709,000	1,900,000	11,200,000	9,700,000	13,000,000	55,100,000	31,600,000	171,900,000	297,109,000
1994	1,100,000	6,900,000	20,400,000	15,000,000	8,600,000	no fishery	28,500,000	192,400,000	272,900,000
1995	105,141	5,000,000	9,600,000	7,100,000	6,800,000	no fishery	11,700,000	180,000,000	220,305,141
1996	no fishery	6,592,000	5,798,000	7,533,000	3,290,000	33,520,000	4,734,000	86,296,000	147,763,000
1997***	no fishery	11,925,000	**	10,166,000	3,700,000	28,362,000	no fishery	92,509,000	146,662,000
1998	NA	12,474,000	**	5,366,900	2,400,000	37,752,000	no fishery	134,650,000	192,642,900
1999	no fishery	16,693,600	**	no fishery	no fishery	69,486,000	no fishery	162,360,000	248,539,600
2000	no fishery	12,886,500	*ongoing*	no fishery	no fishery	39,324,324	no fishery	*62,129,412*	114,340,236

* All data conforms to latest available presentations - Regional Information Report No. 4K97-41, July 1997 & appended material (enclosed) This material differs in presentation from earlier versions, particularly in the manner in which it is tallied to a given year.

** After 1985, the Aleutian brown king crab districts were redefined, with a shift in the boundary between the districts. Total area (and total of catch data) coverage remain the same.

*** The Western Aleutians (formerly Adak) brown king crab fishery begins in August, and typically continues into July the following year. Data not yet available.

NOAA GC-AK 6/01 C-2

National Marine Fisheries Service

Alaska Region

INFORMATION BULLETIN (99-8) January 22, 1999
Sustainable Fisheries Division 3:15 p.m.
907-586-7228

THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL WILL NOT CONSIDER 1999 HARVEST ACTIVITY FOR PURPOSES OF FUTURE LIMITED ACCESS PROGRAMS

The National Marine Fisheries Service (NMFS) announces the filing with the Office of the Federal Register a Notice to express the intent of the North Pacific Fishery Management Council (Council) NOT to consider 1999 harvest activity as "traditional harvest levels" when developing American Fisheries Act protection measures or other limited access programs for the year 2000 and beyond, according to Steven Pennoyer, Administrator, Alaska Region, NMFS.

On January 13, 1999, NMFS filed an advanced notice of proposed rulemaking establishing this date for use as a basis for determining historical or traditional participation in non-salmon fisheries under jurisdiction of the Council, including the crab fisheries. Participants in these fisheries during 1999 will not receive participation credit for future access to those fishery pursuant to section 211 of the American Fisheries Act (AFA) or under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) if a management regime that limits the number of participants is developed and implemented under those authorities. This notice is intended to promote public awareness that potential eligibility criteria for future access to the affected fisheries may be developed and to discourage new entrants into those fisheries based on economic speculation while the Council considers further controls on access to those fisheries. The notice is scheduled to be published in the Federal Register on January 19, 1999.

For further information contact the Sustainable Fisheries Division, NMFS, at 907-586-7228.

[Federal Register: January 19, 1999 (Volume 64, Number 11)]
[Proposed Rules]
[Page 2870-2871]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr19ja99-35]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990112009-9009-01; I.D. 010899A]
RIN 0648-AM18

Fisheries of the Exclusive Economic Zone Off Alaska; Fishing Participation in 1999

AGENCY: National Marine Fisheries Service (NMFS); National Oceanic and Atmospheric Administration (NOAA); Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: NMFS announces that anyone participating in any non-salmon fishery under the authority of the North Pacific Fishery Management Council (Council) during the calendar year 1999, will not be assured of receiving participation credit for future access to that fishery pursuant to section 211 of the American Fisheries Act (AFA) or under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) if a management regime that limits the number of participants is developed and implemented under those authorities. This document is necessary to publish the stated intent of the Council that participation credit would not be granted for fishing in a non-salmon fishery in 1999. This document is intended to promote public awareness that potential eligibility criteria for future access to the affected fisheries may be developed and to discourage new entrants into those fisheries based on economic speculation while the Council considers further controls on access to those fisheries.

DATES: Comments must be received by February 18, 1999.
ADDRESSES: Comments should be addressed to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Sustainable Fisheries

[[Page 2871]]

Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228

SUPPLEMENTARY INFORMATION: The AFA, Pub. L. 105-277, was signed into law on October 21, 1998. The stated objectives of the AFA are (1) to give U.S. interests a priority in the harvest of U.S. fishery resources and (2) to significantly reduce fishing capacity in the Bering Sea pollock fishery. The AFA provides the ability to eligible participants in the Bering Sea pollock fishery to form fishery cooperatives to optimize harvesting and processing opportunities. Enhanced efficiencies in the Bering Sea pollock fishery resulting from fishery cooperatives

could lead to increases in participation and/or capital investments in other fisheries. The U.S. Congress recognized and provided for this potential result. Section 211 of the AFA directs the Council to recommend for approval by the Secretary of Commerce such conservation and management measures as it determines are necessary to protect other fisheries under its authority and the participants in those fisheries, including processors, from adverse impacts caused by the AFA or fishery cooperatives in the directed pollock fishery.

During the Council's December 1998 meeting, various sectors of the fishing industry voiced their concern about the potential for speculative entry into fisheries in 1999. The primary cause of this concern was that fishing operations eligible to participate in the Bering Sea directed pollock fishery under fishery cooperatives allowed under the AFA could have greater flexibility to enter other fisheries in an effort to establish ``traditional harvest levels'' for future access to those fisheries. In an effort to address this concern, the Council stated its intent that it would not use participation in a fishery in 1999, as an indicator of a fishing operation's ``traditional harvest'' in that fishery. Further, the Council recommended that NMFS publish a notice in the Federal Register that participation in 1999 would not be taken into account by the Council in determining catch histories for any future limited access programs under the AFA and/or the Magnuson-Stevens Act.

The Council intends to address whether and how to further limit access to the non-salmon fisheries under its authority. Further, section 211(c)(1) of the AFA requires the Council to recommend to NMFS, by July 1, 1999, conservation and management measures to prevent Bering Sea pollock fishing operations from exceeding in the aggregate the traditional harvest levels of those fishing operations in other fisheries under the authority of the Council as a result of fishing cooperatives. This document is intended to discourage speculative entry into the non-salmon fisheries while potential management regimes to further control access into those fisheries are discussed and possibly developed by the Council. In developing future limited access programs, the Council may choose different and variably weighted methods to qualify participants based on the type and length of participation in the subject fisheries or other methods of determining dependence on those fisheries. The potential eligibility criteria may be based on historical participation. Therefore, current participants in non-salmon fisheries under the authority of the Council should locate and preserve records that substantiate and verify participation in those fisheries. These fisheries include, but are not limited to, the groundfish fishery of the Bering Sea and Aleutian Islands Management Area, the groundfish of the Gulf of Alaska, the scallop fishery off Alaska, and the commercial king and Tanner crab fishery in the Bering Sea and Aleutian Islands Area.

This notification establishes January 13, 1999 for potential use as a basis for determining historical or traditional participation in any non-salmon fishery in 1999. This action does not commit the Council to develop or adopt any particular management regime or to use any specific criteria for determining entry into any of those fisheries. Any further action by the Council on this issue will be taken pursuant to the requirements of the AFA and/or the Magnuson-Stevens Act.

Authority: 16 U.S.C. 1801 et seq., and Pub. L. 105-277.

Dated: January 12, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99-1105 Filed 1-13-99; 4:04 pm]

BILLING CODE 3510-22-F

JOHN GARNER
C-2 6/9/01

Aleutian Islands crab rationalization motions:

1.3.4 Regional categories – QS/IFQs for the CV and C/P sectors may be assigned to regional categories if Regionalization is included in the program. The regions would be defined as follows:
(a) Northern Region – All areas on the Bering Sea north of 56 degrees, 20 minutes N. Latitude
(b) Southern Region – All areas South of 56 degrees, 20 minutes N. Latitude
(c) Aleutian Islands Region – All areas West of 174 degrees West Longitude

2.2.2 Regional categories – processing quota shares will be categorized into the following regions:
(a) Northern Region – All areas on the Bering Sea north of 56 degrees, 20 minutes N. Latitude.
(b) Southern Region – All areas south of 56 degrees, 20 minutes N. Latitude.
(c) Aleutian Islands Region – All areas west of 174 degrees West Longitude.

2.3.4.(g) 1996/97, 1997/98, and 1998/99 for brown king crab. IPQ will be issued only for that portion of the GHL actually processed in the qualifying years. Any portion of the GHL unprocessed in the base period will be available for processing by any entity in the future.

3.1 "The following regions are proposed."
(a) Northern Region – All areas on the Bering Sea north of 56 degrees 20 minutes North Latitude
(b) Southern Region – All areas South of 56 degrees 20 minutes North Latitude
(c) Aleutian Islands Region – all areas West of 174 degrees West Longitude."

3.4 Option 1. 50% of the Adak red crab and Aleutian Islands brown crab C/V IFQ and IPQ shall be processed on shore in the Aleutian Islands Region

Alternative Motion:

For Adak red crab and Aleutian Islands Brown Crab only:

1. Any portion of the Aleutian Islands brown crab GHL not harvested during the base period shall remain "free quota" for processing by any processor in the future.

2. Processor and harvester shares derived from the portion of the Aleutian Islands brown crab GHL actually harvested (whether 90/100, 80/100 or any other variation of shares finally adopted) will apply only to that share of the GHL in the future.

3. 50% of the Adak red crab and 50% of the Aleutian Islands brown crab IPQ or CV IFQ shall be processed onshore in the Aleutian Islands Region.

City of St. Paul
C-2
6/9/01

MEMORANDUM

TO: DAVID BENTON, CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNSEL

FROM: TONY SMITH/SUZANNE SANFORD
ATTORNEYS, CITY OF ST. PAUL, ALASKA

RE: CRAB RATIONALIZATION PROGRAM
AFFECTED FISHING COMMUNITY PARTICIPANTS

DATE: JUNE 6, 2001

This memo addresses the question whether there is a constitutional prohibition against a provision under a crab rationalization program that live crab deliveries be to processors in specific regions within Alaska in accordance with recency requirements and historic delivery rates. The Port Preference Clause is a constitutional limitation on authority, but, for a number of reasons, does not prohibit the requested action.

I. Limits of Congressional Authority Under the Port Preference Clause

Article I, section 9, clause 6 of the U.S. Constitution provides that:

> No preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

The Port Preference Clause Construed. The intent of the Port Preference Clause is to prohibit preference as between States in respect of their ports of entry and clearance of vessels. "What is forbidden is, not discrimination between individual ports within the same or different states, but discrimination between States." State of Pennsylvania v. Wheeling & Belmont Bridge Co., 59 U.S. 421, 435 (1856).

The clause does not prohibit Congressional action in which a preference is given one port in a state that incidentally results to the disadvantage of other ports in the same state or neighboring states. "Congress, acting under the commerce clause, causes many things to be done that greatly benefit particular ports and which incidentally result to the disadvantage of other ports in the same or neighboring States." Alabama Great Southern R. Co. v. United States, 340 U.S. 216, 71 S.Ct. 264, 271-272 (1951). The establishing of ports of entry, erection and operation of lighthouses, improvement of rivers and harbors and the providing of structures for the convenient and economical handling of traffic are examples of acceptable activities which have the incidental affect of port preference. Louisiana Public Service Commission v. New Orleans R.R. Co., 284 U.S. 125, 52 S.Ct. 74 (1931).

Thus, legislative enactments do not offend the Port Preference Clause 'even if they result in some detriment to the port of a state, where they occur . . . as an incident to some other legitimate government act regulating commerce." City of Houston v. FAA, 679 F.2d 1184, 1197 (5th Cir. 1982).

Finally, a preference that arises as the result of geography does not run afoul of the clause. In Alabama Great Southern R. Co. v. United States, 340 U.S. 216, 71 S.Ct. 264 (1951), the U.S. Supreme Court upheld an ICC order that allegedly gave a preference to a port in New Orleans over ports in other states, stating that "whatever preference there is to New Orleans is a result of geography and not of any action of the Commission.

The law does not attempt to equalize fortune, opportunities or abilities." 71 S.Ct. at 272. See also City of Houston v. FAA, 679 F.2d 1184, 1197 (5th Cir. 1982), upholding a federal action limiting nonstop flights to airports within 1000 miles of Dulles/National on the grounds that "[t]he accident of geography, not any deliberate discrimination against the western states, underlies the FAA's rule. "

II. Application to a Crab Rationalization Program

There is a concern that crab processing communities, such as St. Paul, be protected as affected fishing communities under the crab rationalization program. Such fishing communities need to be assured that crab processing will continue to take place.

St. Paul's Harbor has a historic delivery rate of 40%, which needs to be grandfathered as part of any crab rationalization plan (1) to protect the $30 million federal investment in the Harbor project,[1] and (2) to ensure that the fishing community of St. Paul remains a viable part of the Bering Sea fisheries.

The question is presented whether requiring delivery of a percentage of the catch to St. Paul, based on recency requirements and historic delivery rates, would result in preference as between States. The proposal is to continue historic patterns of crab delivery, patterns which have been established based on their proximity to the crab grounds. Therefore it is the geographical location of the resource, which must be delivered live for processing, that requires delivery in certain areas. There is no historical basis for delivery of Bering Sea crab to another state.

These factors distinguish the case from actions taken by the Secretary in the Halibut/Sablefish IFQ program. The Secretary added Bellingham, Washington as an IFQ inspection/clearance port because of a concern that the Port Preference Clause might be violated if all fish were required to be cleared at an Alaskan port. Significantly, Bellingham, Washington

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[1] The proximity of St. Paul to the crab grounds and groundfish fisheries was the cost justification behind the federal project. Phase II of the Harbor Project, an $18.1 million federal project to widen and deepen the Harbor and construct a breakwater, to allow the crab industry greater access to the Harbor, is underway.

was a historic port for selling halibut and sablefish. See Alliance Against IFQs v. Brown, 84 F.3d 343, 350 (9th Cir. 1996), cert. denied, 520 U.S. 1185 (1997). This is not true for the Bering Sea crab fishery.

As in the case of Alabama Great Southern R. Co. v. United States, 74 S.Ct. at 271-272, "whatever preference there is to [St. Paul] is a result of geography and not of any [federal] action.

Rationalization of the fishery will need to include crab processing on St. Paul if the federal investment in the St. Paul Harbor is to be protected and the valuable resource of the community of St. Paul preserved as part of the Bering Sea fishery.

DN9i2394

C-2

F/V ERLA-N

Alan Bing Henkel, Owner/Operator
1736 205th Place N.E. Sammamish, WA 98074
Tel: 425 868 8870 Fax: 425 868 7574

ALEUTIAN ISLANDS BROWN CRAB, COMMENTS ON ADVISORY PANEL MOTIONS TO NPFMC

A. Brown king crab qualifying years:

1. Section 1.4.2.7. Recent changes made by advisory panel could result in allocating over 50% of the brown crab GHL to four individuals owning six vessels.
    a. catch history based on calendar year ending 12/31/2000, this was changed to a biological year
    b. Option # 2 to 92/93 to 98/99
    c. Option # 3 to 95/96 to 98/99
    d. Option # 4 to 96/97 to 98/99
2. The options above inappropiately eliminated the biological years starting in 1999 and 2000 will greatly impact our vessels that have progressively strengthened their catch history in the recent year
    a. Including the biological years 2000/2001will provide the basis for allocating the Brown crab in a much more fair and equitable manner to all sixteen current participants.
    b. Brown crab qualifying years do not need to be consistant with the other spieces of crab.
        1. Completely separate and distinct fishery then Opilio and Red crab.
        2. There were no AFA sideboards in effect.
        3. No icing conditions
        4. No strikes
        5. Unlike other fisheries GHL/S have remained strong and stable.
3. NEPA requires a broad range of options to evaluate.
4. NOAA GC
    a. States the use of stale qualification criteria has the potential to award QS to persons no longer in the fishery but also fails to consider the present participation of relatively new entrants.
5. Proposed options: ADD BIOLGICAL SEASON OF 2000/2001 TO ALL OPTIONS, REPLACING 1999
    a. 1996/1997 to 2000/2001
        1. Rewards older participant's their older history
        2. Compensate vessels for their more competitive recent history
        3. Excludes "stale" history
        4. Eliminates allocation problems associated with the line change between Dutch Harbor and the Western Aleutian Is. areas which occured in 1996
6. Quota share should be based upon a vessel's area of historical participation.
    a. Staff included in their draft to the council.
        1. A single category for QS would not be reflective of catch history earned by participants who decided where to fish based on economic and safety reasons.
        2. A single category of QS may result in most of the GHL being harvested in the Eastern Aleutian Islands where it is less costly to fish which may have biological implications
7. Vessels represented: Ten
    1. F/V Erla-N:Bing Henkel
    2. F/V Aleutian No. 1: Ron Peterson
    3. F/V Alaska Sea: Ozzie Nordheim
    4. F/V Ballyhoo: John Sjong
    5. F/V Shishldin: John Sjong
    6. F/V Lady Alaska: Kevin Suydam.
    7. F/V Western Viking : Gordon Rush
    8. F/V Early Dawn: Rick Mezich
    9. F/V Arctic Dawn: Ole Helgevold
    10. F/V Alaska Trojan: Ted Painter

Table 4-5. (Page 2 of 2)

Year		Value		Season Length	
		Exvessel[a]	Total[b]	Days	Dates
1994/95	East of 171° W.	$4.00	$6.88	57	09/01-10/28
	West of 171° W.	$3.33	$20.43	288	11/01-08/15
	Total	**$3.48**	**$27.31**		
1995/96	East of 171° W.	$2.60	$5.15	38	09/01-10/09
	West of 171° W.	$2.10	$9.57	289	11/01-08/15
	Total	**$2.25**	**$14.72**		
1996/97	East of 174° W.	$2.23	$6.93	115	09/01-12/25
	West of 174° W.	$2.23	$5.60	365	09/01-08/31
	Total	**$2.23**	**$12.53**		
1997/98	East of 174° W.	$2.25	$7.58	84	09/01-11/24
	West of 174° W.	$2.10	$4.96	365	09/01-08/31
	Total	**$2.19**	**$12.54**		
1998/99	East of 174° W.	$1.87	$5.92	68	09/01-11/07
	West of 174° W.	$2.04	$3.41	365	09/01-08/31
	Total	**$1.92**	**$9.33**		

[a]Average price per pound.

[b]In millions of pounds.

1999/00 East of 174° W — 09/01 – 10/25
West of 174° W — *09/01 – 8/14

2000/01 East of 174° W — 8/15 – 9/24
West of 174° W — 8/15 – 5/28

* In 1999 the Board of Fisheries changed the season opening date from 9/1 to 8/15. The season in the Western Aleutians never officially closed because the entire GHL was not taken.

ACC
5/9/01
206 547 7560

NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL

BSAI CRAB CO-OP AND BUY-BACK DEVELOPMENT

October 8, 2000
Sitka, Alaska

Mr. Benton, Chairman, North Pacific Fisheries Management Council
Ms. Behnken
Mr. Austin
Dr. Fluharty
Mr. O'Leary
Mr. Bundy
Mr. Duffy
Dr. Balsiger
Mr. Samuelson

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ANCHORAGE, ALASKA 99501

P R O C E E D I N G S

CHAIR BENTON: We have four individuals that wish to comment on item D-2, crab management. First up is Linda Kozak and company. After Ms. Kozak is Gordon Blue.

MS. KOZAK: Good morning. Thank you, Mr. Chairman. For the record, my name is Linda Kozak, and with me today is Dick Powell, Terry Cosgrove and Gordon Blue as well as Jeff Stephan and Lynn Walton should be here as well.

We're asking Helen to hand out an item that we originally itemized as under agenda D-3, and we're asking now that we address it under D-2(b), and then when you get to your staff tasking, that hopefully this item will be recalled. And I will very briefly read the statement, and then a few comments.

Number 1. To begin a full BSAI crab rationalization analysis by initially tasking the Council's staff to develop a discussion paper that outlines the elements and options to be considered in the full analysis, and to present this discussion paper to the Council at the February 2001 meeting.

Number 2. Formally establish a BSAI crab rationalization committee.

And, number 3, direct the committee to assist the Council staff to identify the elements and options of an analysis for BSAI crab rationalization.

Mr. Chairman, the paper that is attached to this statement are the vessels who have contracted with me to present the crab rationalization issues to you today.

Just a brief history. In October of last year industry came to the Council and asked the North Pacific Council to begin work on rationalizing the crab fishery. At that time we were talking about co-ops. And Kevin O'Leary and Dave Fluharty volunteered to serve as facilitators to industry meetings that would be held to begin flushing out options that might be needed to be reviewed by the Council in an analysis. And we met nearly monthly until this spring when a formal ad hoc committee was decided that it was needed, because there were just too many people coming to the meetings. It was very well attended, very high interest in the crab fleet. And the consensus among the crab fleet at that time, and still is, something needs to be done.

When the ad hoc committee was approved by members of industry, there were several additions to make sure that everyone's views were represented, and with alternates to the individuals, there were over 20 people that served on this committee. And the committee initially began to address elements that might be needed to be reviewed in analysis.

The last couple of meetings the committee moved into attempting to reach a consensus agreement on a legislative package, or an agreement between members of industry to

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finalize something very quickly for the crab industry. That was not a co-op, that was more of an IFQ that was being addressed, as the staff report indicated to you.

Many of us were not comfortable with agreeing to different allocations or issues that were being addressed in this arena without an analysis. We wanted to see what the potential impacts might be. That's why we're here today. We believe it's time for the Council to begin formally putting this into the cycle, and begin something with relation to crab rationalization. We don't know if co-ops would be best, we don't know if IFQs would be best, we don't know what kind of system would work best for this fleet, but we do know that we need something in order to provide some relief.

In that regard, those of us who are here have also been very actively working with the buy-back effort as well, and we'd be happy to answer any questions in regard to the status of that, if you would like to ask those.

But today what we are going to ask you to do is to formally establish a committee, and we're going to ask you to please put on your staff tasking something that we believe is doable between now and February, and that is for elements and options to be considered for analysis and to be included in a discussion paper to the Council at the February meeting. We'd like to ask for a full-blown analysis to begin at this meeting, but we do recognize time constraints and other constraints on

the staff with expense and people moving around, so we're going to ask that at least you get started, and if anyone else has any comments here? All right. We'd be happy to answer any questions, Mr. Chair.

CHAIR BENTON: Okay. Thank you very much. Any questions? Mr. O'Leary?

MR. O'LEARY: Linda, then is it my sense that it -- the folks that are at the table now feel that the Council is the better forum to -- or is the appropriate forum to develop an analysis and for a program for IFQs, or crab co-ops, if that would.....

MS. KOZAK: Well, Mr. Chairman, Mr. O'Leary, it's our belief that it's the only forum.

MR. O'LEARY: Okay.

CHAIR BENTON: Mr. Bundy?

MR. BUNDY: Thank you, Mr. Chairman. Linda, you're asking the Council to appoint a committee now. I mean, very -- now. Do you have any comments, does the group have any comments as to what that committee ought to look like in terms of who's represented?

MS. KOZAK: Well, Mr. Chairman, Mr. Bundy, I think that it's important to recognize that the ad hoc committee has really fleshed out a lot of things, and that -- but it's just very bulky, and I think maybe the committee should be streamlined a bit. And the committee has not ever

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FOR YOUR INFORMATION
From: Arni Thomson

Squabbles endanger crab buyout

HARD TIMES: Industry should settle its differences, Stevens says.

By Wesley Loy
Anchorage Daily News

(Published June 1, 2001)

A $100 million buyout of Bering Sea crab boats could be in jeopardy unless the fractious crab industry finds more agreement on how to permanently solve its problems, U.S. Sen. Ted Stevens said.

Stevens, R-Alaska, last year won authorization for a buyout of some boats, with the government paying $50 million and the remaining crab fishermen financing the rest. But no money has been released, and further action by Congress is necessary for that to happen.

Supporters say a buyout would allow perhaps a third of the nearly 300 crab boats to bow out of the fishery, allowing the remaining vessels to catch more crab and make more money at the dock.

That's critically important, say crab fishermen, because of the sorry state of crab stocks in the Bering Sea. The mainstay snow crab catch is only about 15 percent of what it was in 1999, when it was one of Alaska's most lucrative fisheries with some 194 million pounds of crab caught worth about $190 million.

Many fear that biologists will determine that snow crab stocks are too low to allow any fishery at all next year, and that bankruptcies could decimate the fleet. Other commercially important crab species like bairdi, red and blue king crab also have either low catch limits or are closed to fishing.

Stevens said he believes crab fishermen and packers need to find agreement this year on measures to stabilize the fishery. Otherwise, they court business failures and not accomplishing the buyout, he said.

Most industry players believe the ultimate solution for a smaller crab fleet is assigning individual catch shares to boats. This would end the current expensive and dangerous race for crab, bringing more stability.

Leonard Herzog of Anchorage said the buyout is a vital prelude to individual quotas. He said he and his partner in the 86-foot, Homer-based crab boat Anna Marie would benefit whether they decided to sell out or stay in a crab fishery with fewer competitors.

He believes the fishery can't continue as it is, with too many boats hunting too few crab. He said his boat, small for a Bering Sea crabber, braved storms to catch a slim 26,000 pounds of snow crab this winter.

"My boat is going backwards financially," he said. "The crew didn't make money, the boat didn't make money."

But internal squabbling is hurting chances not only for the buyout but for individual quotas. Such buyouts have been attacked as an improper use of taxpayer dollars by organizations like Citizens Against Government Waste. Individual quotas also are controversial and would require congressional permission.

The central issue is whether crab processors, as well as fishing boats, would receive guaranteed shares of crab. The processors say they have made investments in their packing plants just as fishermen have invested in boats, and they need some guarantee that a share of crab will continue to flow into their plants.

In another twist, important crab ports like St. Paul are demanding that a certain share of crab be delivered to packing plants in their towns.

Some crabbers are deeply wary of the packers, saying that giving them a hold on crab deliveries might also give them the power to short fishermen on prices.

Stevens, who helped author some of the nation's most important fishing laws, said the division within the crab industry could hurt chances of a buyout. He noted that packers themselves own some of the crab boats, and that they would play an important role in financing the industry's half of the $100 million buyout.

"If you think that just the crab fleet has the money for a buyout, you're wrong," he said.

Stevens said some packers have told him that if they can achieve some of their goals on stabilizing the industry, they can support reducing the size of the fleet.

Reporter Wesley Loy can be reached at wloy@adn.com or 257-4590.

Close Window

Opinion

Response to Dick Powell's 'limited entry plus' column

GUEST OPINION

By Jeff Steele

This is a response to "Processors want 'limited entry plus,'" a guest opinion column by Dick Powell in the Mirror last week.

There are two basic issues that need to be clarified in Mr. Powell's article: The first is Mr. Powell's fishing operation; and second, misrepresentations and clarifications about the proposed Bering Sea-Aleutian Islands crab two-pie ITQ system, with an overlay of regional landings. I also wish to point out some very pressing reasons for rationalizing the crab fisheries.

To begin, it is necessary to clarify a few things about the understated Mr. Powell. Mr. Powell is not just a "boat owner." He is the owner of the most successful Aleutians brown king crab fishing company in Alaska, with his at-sea crab catcher-processor Patricia Lee, and the catcher vessel Icelander.

Although Mr. Powell expresses highly exaggerated fears about processors' ownership and control of up to 30 percent of the fishing and processing history in some crab fisheries, he himself has a vertically integrated fishing company that reportedly has controlled 25 percent of the Aleutians brown king crab quota for several years running — this year worth an estimated $4 million to $5 million in revenues.

There are currently only 17 vessels operating in this fishery that has a dockside value of more than $20 million dollars. The average gross stock of these vessels from the fall of 2001 and the winter of 2001 exceeds that of the average Bering Sea crab vessel by a ratio of 3 to 1.

At the North Pacific Fisheries Management Council, Mr. Powell's representative has proposed that if the NPFMC rationalizes the Aleutians brown crab fishery into a quota program, that the individual or company ownership cap on fishing and processing history be no less than 30 percent of the quota, (or GHL) while IFQ fishing history caps of 1 percent to 5 percent of the quota are being contemplated for the Bering Sea crab fisheries. The 30 percent cap will give the Patricia Lee company room for growth in the future.

In addition, although not mentioned in the article, Mr. Powell is a major owner in the Kodiak shore-based plant Island Seafoods, pictured in the article. Although he and his partner have invested substantially in the plant in the last two years, the plant has virtually no processing history in crab or groundfish. Therefore, they will receive virtually no processor quota shares under the proposed two-pie regionalization program for the Bering Strait and Aleutian Islands crab fisheries.

Myself, I have been involved in the Bering Sea crab fisheries for 20 years and like many others, I have experienced the prosperous years of resource abundance, when Alaska fisheries were akin to the last frontier in world fisheries. Those days are gone and under the present limited-entry system and the archaic race for fish, I am truly concerned the resources will not rebound without the assistance of a rational quota based program.

I see three major reasons we need to rationalize the BSAI crab fisheries: safety, resource management, and economic stability. The rationalization plan must take into account the interests of harvesters, processors and communities — as directed by the U.S. Congress in Public Law 106-554 last year.

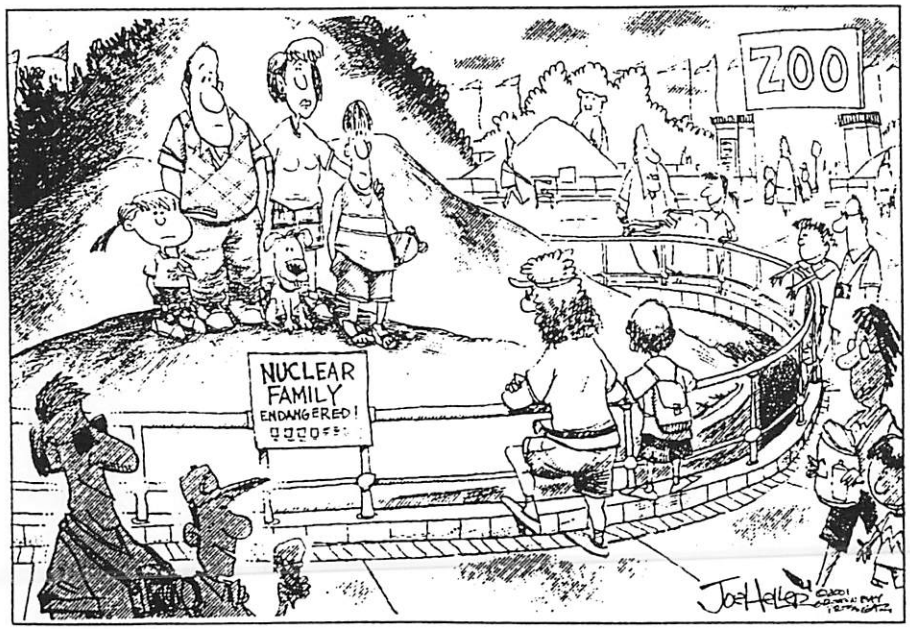
The Chairman of the NPFMC recently sent a letter to the Secretary of Commerce expressing his intent to follow through with the Congressional direction this year. The processors and communities we live in are as much a part of this industry as the fishermen and the boats they work on, and they should command equal respect and consideration in the development of the program.

The processor quota concept developed in response to the halibut and sablefish IFQ program, advocated by fishermen. Processor quotas puts both sectors on a more level playing field. Fishermen are granted their historical allocations and processors allocated their historical allocations. Both types of allocations are illegal at this time, and the moratorium on IFQs has just been extended for two more years with no reassurances that it will not be extended again, unless a political compromise is negotiated with the processors and communities.

In closing, I would like to respond to Mr. Powell's hypothetical example of the market problem with the "last trip of crab" brought into Dutch Harbor, or any other Alaska port, under the two-pie system, and a fisherman being forced to sell to the last buyer with processing quota for less than the going market price. As a member of the NPFMC Advisory Panel and the NPFMC Crab Rationalization Committee, I have worked long and hard over the last 18 months with fishermen, crab organizations, processors and community representatives, on the issue of maintaining a fair market price. We have come up with three key elements that have been accepted into the NPFMC analysis for crab rationalization in a two-pie/regionalization program. If properly implemented, these mechanisms will more than adequately address market concerns and pave the way for additional benefits that could materialize from a better relationship among fishermen, processors and communities.

- A provision mandating a private sector binding arbitration process, on a company-by-company basis, in the case of failed price negotiations between fishermen and processors. The process would have a deadline, and be initiated about eight weeks before the opening of the season. It has worked successfully in the Newfoundland snow crab industry for the last four years.
- The 80/20 to 90/10 proposed guaranteed and open access portions of processing quotas-allows for 10 percent to 20 percent of each fishing vessel's IFQs to be sold outside of the pool of initial processing quota share (IPQ) holders, to any licensed crab buyer in the State of Alaska. The 10 percent to 20 percent open access share in each of the BSAI crab fisheries will provide the vessel owners with bargaining leverage. Hopefully, it also will stimulate growth in the number of Alaskan small buyers, just as the sablefish and halibut IFQ program generated growth in small buyers in that industry.
- Mandatory program review after one or two years of operation — with a focus on the issue of market competition, and other priority concerns that fishermen, processors and communities feel should be reviewed. If the final decision on rationalization comes down to where I have to deliver 80 percent to 90 percent of my product, to the same companies I have been selling 100 percent of my product to for the past 10 years, so be it. It is a cost of doing business, in order to achieve my three major goals of safety, resource management and economic stability. Only with rationalization does this industry have a chance to survive and prosper. In regards to the processors, I have respect for them all, and I look forward to doing business with them in the future.

(Kodiak resident Jeff Steele is owner of the Obsession and Pacific Mist Fisheries L.L.C.)



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BSAI Crab Rationalization
Community Protection Issues and Alternatives

Introduction

On December 15, 2000 the NPFMC appointed a Crab Rationalization Committee and tasked it with the development of elements and options for analysis. At that time the NPFMC also stated that the Committee "...should build off the previous work of the ad hoc Industry Committee".

From a community perspective, the work of the ad hoc Industry Committee and the NPFMC-sanctioned Crab Rationalization Committee has been nearly seamless. In an attempt to link the work of these two groups, and to build the Administrative Record from a community perspective, we offer this report.

Overview

In late 2000 Congress gave the crab rationalization process specific direction by passing, as a rider to an appropriation measure, the following (only the relevant language has been quoted here):

... The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner.

The communities (and the majority of the Crab Rationalization Committee members) believe that Congress has left the door open for BSAI crab rationalization to be implemented before the two-year ITQ moratorium expires, and perhaps as soon as Q1 2002.

Philosophical Framework

The community representatives have considered a wide range of issues and alternatives throughout this process, but at the same time we established a simple philosophical framework from the beginning of the adhoc Industry Committee process: that the harvesting and processing sectors needed to work out their issues and develop a mutually-agreeable list of alternatives; and only then would/could the communities overlay their proposed "community protection" features.

The communities recognize the need for consolidation of private sector investments (in the short run) and the movement of private capital to achieve operating efficiencies (in the long run). Therefore, we deliberately chose to allow the industry to develop it's short-list of alternatives before introducing alternatives for community protection.

Options Considered by the Communities and/or the Committee

Preferred Alternative: Regionalized Two-Pie ITQ System

Other Alternatives: **Community Ownership of Quota (CFQ's)**
Increased CDQ Allocations
Broad-based Tax Re-distribution Schemes
Individual and Specific Port Landings
Regionalized IFQ's
AFA-Style Co-ops
Other Regionalization Schemes

Preferred Alternative: Regionalized Two-Pie ITQ System

Recently, the majority of the Crab Rationalization Committee signed an independent Majority Report in support of a Regionalizaed Two-Pie ITQ System for rationalization. Both community representatives have signed the Majorty Report[1].

The Regionalized Two-Pie proposal is well documented at the Crab Rationalization Committee level. All of the elements necessary to analyze and implement this scheme are included in the Crab Rationalization Committee's March 22-23 Minutes/ Elements and Options for Analysis, which the communities also support.

We have attached the Majority Report documents as Appendix A.

Other Alternatives: Community Ownership of Quota (CFQ's)

When the ad hoc Industry Committee began is work in late 1999, the communities first began looking at community ownership of transferable fishing quotas (CFQ's) as the cleanest alternative. Thanks to the efforts of several individuals and organizations representing other fisheries in the Gulf of Alaska, there is already a considerable body of reference material on this issue.

In particular we reviewed "Community Purchase of Halibut and Sablefish IFQ Shares" and "Community Set-Aside of Halibut Charter IFQ Shares", both prepared by the GOA Coastal Communities Coalition and published May 30, 2000. We also spoke with several of the authors and/or proponents of these proposals.

We identified several very good concepts in this process. However, we ultimately concluded that CFQ's would not be the best solution for BSAI crab dependant communities for these reasons:

1. Halibut and sablefish fisheries can be prosecuted using small vessels and local fleets; further, processing halibut and sablefish can be a low-tech, low investment activity. The BSAI crab fisheries are, by contrast, very industrial and capital intensive; further, the majority of BSAI crab landings occur in relatively few

[1] Unalaska/Dutch Harbor and St. Paul Island.

ports because of the large investments and volumes.[2] Therefore, the primary goals of a CFQ-system (to support development of a local fleet and local processing) were deemed to be out-of-synch with the BSAI crab rationalization goals (equitable decapitalization, increased safety, better resource management).

2. Unlike the Halibut and Sablefish CFQ discussion wherein communities are focused on ownership of fishing rights, crab dependent communities are primarily concerned with resource landings. Therefore, it would be difficult (but possible) to devise an equitable method to divide up IFQ , IPQ and CFQ amongst shareholders.

3. One could also arguably eliminate IPQ's in favor of CFQ's and achieve the goals of rationalization, but we concluded that there were several problems with this approach: (1) it is not politically possible in the current environment and (2) the substitution of CFQ's for IPQ would probable delay and confuse processor decapitalization, which is urgently needed.

4. The industry itself was still focused on Co-ops at the time that we analyzed CFQ's. In the midst of our CFQ review, the industry started shifting towards an early Two-Pie ITQ proposal. We were able to identify better alternatives (than CFQ's) within the context of these two industry preferences.

In conclusion, we believe that CFQ's are a less-preferable alternative, but that they could work to protect communities.

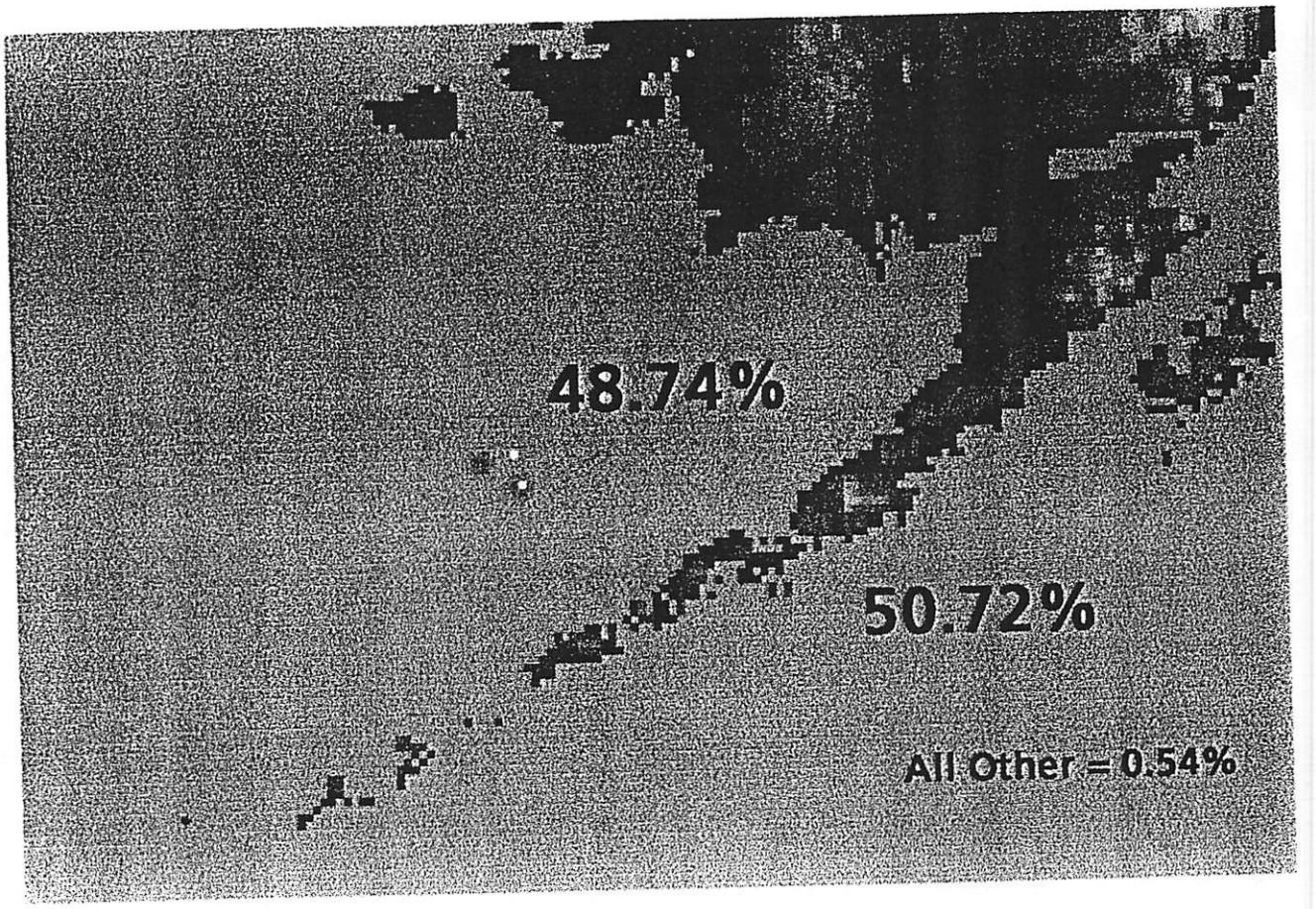
[2] See *Table One*, **Community Landings, 1995-1999**. Table One applies to c. opilio only, but it is indicative of the type of concentrated activity that occurs in the BSAI crab fisheries.

Table One: **C. Opilio Landings, 1995-1999**[3]

Community	Pounds	% Landings
Aleutians East Borough	29,030,997	4.39%
Akutan	44,336,564	6.70%
Juneau	37,847	0.01%
King Cove	36,035,796	5.45%
Kodiak	916,876	0.14%
St George	48,632,428	7.35%
St. Mathews	2,492,814	0.38%
St. Paul	264,722,362	40.02%
Togiak	6,535,277	0.99%
Unalaska	225,102,051	34.03%
Outside	381,600	0.06%
Unknown	3,205,676	0.48%

[3] See *Appendix B*; **BSAI Crab Landings Data** for a more detailed analysis.

Map One: **Regionalized C. Opilio Landings, 1995-1999**



Other Alternatives: Increased CDQ Allocations

Although there is a certain inherent beauty and simplicity to this alternative, it does not work for crab-dependent communities for several reasons:

1. There are some crab-dependent communities which are not members of any CDQ group – most notably Unalaska/Dutch Harbor. In addition, many CDQ groups do NOT include communities that are traditional ports of landing. Therefore, to allocate additional crab to the CDQ program as the primary "community protection" measure would violate one of the fundamental goals of rationalization: to protect historic rates of participation by specific communities and regions. We believe that over time the CDQ program would inevitably reallocate the BSAI crab resource to communities with little or no historic participation in the fishery.

2. Several communities including Unalaska, St. Paul, St. George, King Cove, Akutan and others have a significant dependence on the crab fisheries. To equitably compensate these communities for their investments, it would be necessary to dramatically increase CDQ allocations beyond anything that is politically or economically justifiable.

3. Currently, CDQ resource allocations are made through a competitive CDP process amongst six CDQ groups. Fisheries resources are therefore reallocated between groups every few years. This competitive allocations system runs counter to the goal of rationalization: to specifically recognize and protect historic rates of community and industry participation.

Other Alternatives: Broad-based Tax Re-distribution Schemes

Several times throughout the ad hoc Industry Committee and the Crab Rationalization Committee process it has been suggested that the communities consider allowing unfettered private-sector consolidation in return for a tax distribution scheme. Under this alternative, all crab landing taxes would be pooled and distributed to communities based on their historic rates of participation, regardless of where the crab is actually landed.

This alternative was deemed unacceptable by the communities early in the process. Although it addresses one component of a communities dependency (local government tax receipts) it fails to meet several other public-policy and economic development goals including:

1. The creation of real living-wage jobs throughout rural (western) Alaska.

2. A fair return on the tens of millions of dollars in public infrastructure that has been built to specifically support the BSAI crab industry.

3. The relatively high value of crab justifies other (less valuable) processing investment and activities in many communities. Therefore, the loss of crab processing puts all other processing activities at risk.

Crab processing and crab fleet support services have a significant multiplier impact on local economies which is not addressed by tax redistribution schemes. We have not established the specific local economy crab "multiplier" (because the tax-distribution alternative fails on so many other points) but we are sure that the crab industry has a large multiplier impact on local economies through the creation of jobs, increased fuel sales, increased air- and ocean-freight volumes, etc.

Other Alternatives: **Individual and Specific Port Landings**

Another early favorite alternative which was dropped after analysis is "Individual and Specific Port Landings", whereby each community receives specific landings quotas assigned to it. A quick look back at Table One illustrates the problem with this alternative using C. Opilio as an example, more than half the Alaska communities with recent landings history have less than 1% of the annual landings.

Processing and public infrastructure investments have become highly concentrated, making the "award" of very small landings impractical for several reasons:

1. Requiring very small community landings - most less than 1% - you defeat one of the goals of rationalization – a well ordered decapitalization and reorganization of investments and effort.

2. Many of the very small community landings have been made as a direct result of the race for fish in the open access fishery. It is unlikely they would continue under any economically reasonable rationalization scheme.

3. If very small individual and specific port landings are required, certain private sector participants will have to be penalized through a draconian requirement that they serve those ports.

It should be noted however that our study of individual and specific port landings requirements lead to the Regionalization concept as a more practical solution.

Other Alternatives: **Regionalized IFQ's**

From a very narrow perspective, Regionalized IFQ's could arguably deliver the same benefits to communities as the Regionalized Two-Pie system. If industry had chosen this path[4] we believe that the Regionalization framework would have still been the best alternative for community protection.

Having said that, we have also come to feel that the Regionalized Two-Pie system is preferred over Regionalized IFQ's for these reasons:

[4] See "Philosophical Framework", page 1.

1. The Regionalized Two-Pie scheme, with it's 90/10 or 80/20 (or binding arbitration) provisions and excessive share caps equitably recognizes the investments of harvesters, processors and communities; whereas an IFQ system does not.

2. The industry has spent nearly two years in open and active debate and negotiations, and a majority seems to have accepted Regionalized Two-Pie as a preferred alternative. As difficult as it is to reach consensus on any fishing issue, we should all take advantage of the opportunity to move forward with this preferred framework. Not to do so will prolong the crisis for all sectors and communities.

Other Alternatives: AFA-Style Co-ops

When the original ad hoc Industry Committee was put together, it was in fact referred to as the "Crab Co-op Committee" and AFA-style co-ops received almost exclusive attention for at least the first six months of the Committee's work.

There is a strong paper trail on this subject. Ultimately, the industry rejected this alternative in favor of the Two-Pie model, which was then married to the Regionalization concept to protect communities.

Other Alternatives: Other Regionalization Schemes

Once Regionalization emerged as the preferred community alternative, there was consideration both inside and outside the Crab Rationalization Committee process for various boundaries and organizational schemes. For awhile the Gulf of Alaska communities seemed to be moving towards a three-region model; but ultimately the two-region model was chosen for these reasons:

1. The North/South regional split allows for movement of capital within fairly large areas, which meets the decapitalization / reorganization needs of industry.

2. Industry and community participants all feel that the North/South boundary (and resulting delivery requirements) are consistent with recent harvesting, landings and processing behavior.

3. Because the processors have agreed to provisions which allow for new entrants, and there are several "endorsed ports" in each region (including communities with less than 1% of the annual landings), there are long-term development opportunities for communities throughout both regions – if they want to compete for them.

Appendix A:

Regionalized Two-Pie System as defined in the Majority Report document

Crab Rationalization Committee – Majority Report

The Crab Rationalization Committee and it's predecessor, the (ad hoc) Crab Co-op Committee, have worked for more than 18 months to develop a framework for rationalization. We believe that Senator Stevens (in the 2001 Consolidated Budget Act) has given us a specific opportunity to rationalize the Bering Sea crab industry in early 2002, and we encourage the North Pacific Fisheries Management Council to expedite it's Options and Analysis consistent with the industry and community endorsed Preferred Framework incorporated in this Majority Report.

This report and the recommended framework that it includes is endorsed by the following 14 (out of 21) Crab Rationalization Committee members:

Arni Thomson
Tom Casey
Joseph Plesha
Steve Minor
Tom Suryan
Kevin Kaldestad
Dale Schwarzmiller
Don Giles
Gary Painter
John Garner
John Iani
Leonard Hetrzog
Frank Kelty
Jeff Steele

Preferred Framework

A Regionalized Two-Pie System

The majority of committee members agree that any rationalization program must accomplish these goals:

1. Recognize and protect the investments of current participants, including harvesters, processors and communities.
2. Provide for a rational decapitalization of the industry
3. Maintain a competitive balance between harvesters and processors
4. Create opportunities for crew members to become equity participants
5. Provide for a better resource management regime
6. Allow for new entrants – but not new vessels – into the industry
7. Create a safer fishery

We believe that the Preferred Framework outlined in this Majority Report, combined with the Crab Vessel Buy-back program, meets all of these goals in a manner that is economically and politically viable. There are several issues within this framework which remain unresolved and that will require Council analysis. We believe that the industry is largely committed to accepting the Council's final decisions regarding those issues identified for analysis within this framework.

On the following pages, we outline our Preferred Framework, and the critical Options and Analysis that we recommend the Council undertake. All of these elements are also embedded in the Crab Rationalization Committee meeting minutes dated March 22 and 23, which we fully accept and endorse.

Preferred Framework

Overview

Purpose: To assist the NPFMC and the U.S. Congress to implement individual fishing quotas in 2001 for Bering Sea crab fishermen, crab processors and coastal communities

Individual Fishing Quotas (IFQ's)

A crab LLP license holder will receive IFQ's for the exact percentage of the total catch that his vessel landed during the qualifying years for each crab species and area.

Over 150 Bering Sea crab vessel owners have signed a Two-Pie IFQ legislative petition supporting the principle that 80% to 90% of their IFQ's will be delivered to IPQ-processors operating inside the 3-mile limit.

For the purposes of this example only, assume that 85% of the IFQ's will be delivered only to IPQ-processors under the regionalization plan described below. These IFQ's shall be classified as "**A-share IFQ's**".

For the purposes of this example only, assume that 15% of the IFQ's can be delivered to any crab buyer licensed by the State of Alaska. These IFQ's shall be classified as "**B-share IFQ's**".

The final determination of exactly how many "A-share IFQ's" (80%-90% of the vessel owner's total ITQ's) will be delivered to IPQ-processors inside 3-miles will be made by the NPFMC or by the Congress after receipt of the IFQ-IPQ analysis from the NPFMC mandated by the 2001 Consolidated Budget Act.

Brown king crab and Adak red king crab IFQ's will require additional analysis as outlined in the Committee minutes dated March 22-23.

Individual Processing Quotas (IPQ's)

Each crab buyer which processed crab in 1998 or 1999 (which qualifies under a new recency requirement) will receive IPQ's for 80-90% (final determination to be made by NPFMC/Congress during 2001) of the total pounds he purchased (on a regional basis) during processing history years, which will be specified for each fishery as the last three years that the fishery was open or, for Bairdi, processing history shall be based on a 50/50 combination of processing history of Bristol Bay red king crab and opilio crab. Processing shares shall be awarded to the processing entity that owned the crab during the processing phase. The crab processing caps enacted by Section 211(c) (2) (A) of the American Fisheries Act are terminated upon implementation of the processor provisions recommended above.

For the purpose of this example only, assume that a qualified crab processor receives IPQ's for 85% of the total pounds purchased during the qualifying years.

Catcher-Processor IFQ's-IPQ's

Each catcher-processor will receive an equal amount of IFQ's and IPQ's based on their catch history during the qualifying period, with no regionalization requirements. These shares shall be classified as "C-share IFQ's".

Regionalization of live crab deliveries

Regions are protected to assure that future landings are consistent with recent, pre-rationalization landings. A regional endorsement would be added as an umbrella to IFQ's and IPQ's. Regions may be discounted, say 15%, in this example, consistent with IPQ's.

If a Bering Sea crab IFQ-owner delivered 40% of his Opilio catch (during the qualifying years) in the region that includes the Pribilof Islands and to floaters inside that region's 3-mile limit, for example, and 60% to processors in the region that includes Unalaska, under the terms of this example, he would deliver his Opilio IFQ's as follows

15% to any crab processor anywhere in Alaska = 15% of his total IFQ

40% of 85% to IPQ-processors in any endorsed port in the region that includes the Pribilof Islands = 34% of his total IFQ

60% of 85% to IPQ-processors in any endorsed port in the region that includes Unalaska = 51% of his total IFQ

Transferability of catcher vessel IFQ's

1. Catcher-vessel IFQ's may be sold, leased or transferred (with all regionalization requirements maintained) to other catcher-vessels and to catcher-processors when they are operating within 3 miles of an endorsed port.

2. A "first right of refusal" QS-purchase program for qualified crew members (along with a parallel financing program) is being developed and will be submitted to the Council for analysis. This program is supported as an important part of this framework.

Transferability of 3-mile limit IPQ's

1. IPQ's may be sold, leased or transferred to any crab buyer licensed by the State of Alaska for use within the 3-mile limit, including catcher-processors, with all of the regionalization requirements maintained.

Transferability of Catcher-Processor IFQ's-IPQ's

1. Catcher-processor "C-shares" may be sold, leased, or transferred to any eligible person.

2. If "C-shares" are sold, leased, or transferred to a catcher-processor, the shares will remain as "C-shares".

3. Catcher-processor "C-shares" may be transferred to catcher vessels, with no regionalization requirements, but will automatically convert to and remain as catcher vessel IFQ "B-shares" afterwards.

Transfer Eligibility

1. All harvesting shares (IFQ "A-shares" and "B-shares" and catcher-processor "C-shares) established under this proposal may be transferred only to a "person", who is an individual citizen of the U.S., or to any entity that is a citizen of the U.S. eligible to document a vessel for the fisheries under the laws of the U.S.

Excessive Share Caps

For harvesters, we agree that (a) initial issuees that exceed the ownership cap should be grand-fathered in and (b) caps must apply both individually and collectively, as outlined in The Committee minutes. Further, we also concur that the Council analysis include all of the percentage cap options outlined in the Committee minutes dated March 22-23, 2001.

For processors, we agree that the Council analysis should include both Ownership caps (Maximum share plus 5%, 10% or 15%) and Annual Use Caps ranging from 30% to 50% of the GHL (or TAC) by fishery as outlined in the Committee minutes.

ENDORSEMENT

I have read the attached Majority Report and agree with the statements and Preferred Framework included in that report. I support the Regionalized Two-Pie framework as defined in this document, and ask that the Council expedite it's Options and Analysis so that the Bering Sea Crab Industry might be rationalized prior to the 2002 seasons.

(signed by all members identified on page one)

_____ _____

Name Date

Appendix B:

BSAI Crab Landings Data

1993

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	2,038,605	119,561		42,697	1,687,604	
	Couesi	***	***	NF	***	***	***
	Multispina	***	***	ND	***	***	***
	Red	311,213				525,541	CF
	Tanner**	139,779					
Bering Sea	Brown	49,265					
	Couesi	***	***	NF	***	***	***
	Multispina	***	***	ND	***	***	***
	Opilio	35,546,716	12,694,462		118,152,396	39,908,304	CF
	Tanner**	6,777,376	580,009		5,914,397	473,567	CF
Bristol Bay	Red	4,869,606	365,393		5,277,817		CF
Pribilofs	Blue	***	***	CL	***	***	***
	Red	958,096	68,836		671,769		CF
St. Matthew	Blue	496,524	307,171		1,464,233		

* may include Akutan, King Cove and Adak

** includes *Chionoecetes bairdi, angulatus, and tanneri*

CL - closed

CF - confidential

NF - no fishing

ND - no data available

1995

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	5,699,805			759,815	1,152,976	
	Couesi	26,428			30,135	302	
	Multispina	292					
	Red	19,910				11,875	
	Tanner**	1,179,454			15,587		
Bering Sea	Brown	289,463	37,745				CF
	Couesi	15,328	1,968				CF
	Multispina	***	***	NF	***	***	***
	Opilio	15,356,590	10,397,185	573,154	32,247,427	8,314,558	CF
	Tanner**	2,051,149	330,903	1,175,467	270,958	364,210	CF
Bristol Bay	Red	***	***	CL	***	***	***
Pribilofs	Blue	374,258	193,516	40,282	322,228	24,205	CF
	Red	224,028	328,712	63,602	115,502	12,129	CF
St. Matthew	Blue	768,287	274,927		2,035,082	38,805	CF

* may include Akutan, King Cove and Adak
** includes *Chionoecetes bairdi, angulatus, and tanneri*
CL - closed
CF - confidential
NF - no fishing

1996

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	6,762,197				CF	
	Couesi	39,272				CF	
	Multispina	***	***	NF	***	***	***
	Red	CF					
	Tanner**	493,938	CF				
Bering Sea	Brown	160,032	CF	CF			CF
	Couesi	***	***	CF	***	***	***
	Multispina	***	***	CF	***	***	***
	Opilio	13,085,542	10,260,051	213,210	26,406,290	10,751,511	CF
	Tanner**	956,954		326,849	92,133	CF	CF
Bristol Bay	Red	3,286,471		385,174	1,491,311	231,522	CF
Pribilofs	Blue	353,707	302,869	CF	189,968		CF
	Red	88,571	73,492	4,647	30,254		CF
St. Matthew	Blue	551,951	599,532	CF	1,653,758	72,287	CF

* may include Akutan, King Cove and Adak
** includes *Chionoecetes bairdi, angulatus, and tanneri*
CL - closed
CF - confidential
NF - no fishing

1997

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	4,262,101				1,352,781	CF
	Couesi	5,219				1,831	CF
	Multispina	***	***	NF	***	***	***
	Red	***	***	CL	***	***	***
	Tanner**	***	***	CL/NF	***	***	***
Bering Sea	Brown	155,072	24,105				
	Couesi	***	***	NF	***	***	***
	Multispina	***	***	NF	***	***	***
	Opilio	26,284,937	18,491,950	108,210	49,918,694	13,413,122	CF
	Tanner**	***	***	CL	***	***	***
Bristol Bay	Red	3,950,194	233,929	396,011	1,586,354	295,151	CF
Pribilofs	Blue	65,710	260,045	CF	202,263		CF
	Red	86,892	355,320	CF	219,050		CF
St. Matthew	Blue	933,759	482,187		3,046,795	CF	CF

* may include Akutan, King Cove and Adak
** includes *Chionoecetes bairdi, angulatus, and tanneri*
CL - closed
CF - confidential
NF - no fishing

1998

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	3,652,401			440,607	CF	CF
	Couesi	***	***	CF	***	***	***
	Multispina	***	***	NF	***	***	***
	Red	***	***	CL/CF	***	***	***
	Tanner**	***	***	CL/NF	***	***	***
Bering Sea	Brown	CF	CF				
	Couesi	***	***	NF	***	***	***
	Multispina	***	***	NF	***	***	***
	Opilio	66,059,694	43,748,434	374,533	103,418,356	16,330,088	CF
	Tanner**	***	***	CL	***	***	***
Bristol Bay	Red	6,419,950	391,011	288,686	2,037,503	1,388,303	CF
Pribilofs	Blue	116,246	185,296		150,816		CF
	Red	109,237	189,010		106,989		CF
St. Matthew	Blue	291,088	229,629		2,009,642	CF	CF

* may include Akutan, King Cove and Adak
** includes *Chionoecetes bairdi, angulatus, and tanneri*
CL - closed
CF - confidential
NF - no fishing

1999

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	3,468,175			CF	CF	CF
	Couesi	***	***	CF	***	***	***
	Multispina	***	***	NF	***	***	***
	Red	***	***	CF/CL	***	***	***
	Tanner**	***	***	CL/NF	***	***	***
Bering Sea	Brown	177,108					
	Couesi	***	***	NF	***	***	***
	Multispina	***	***	NF	***	***	***
	Opilio	42,346,327	42,078,111	203,526	77,289,324	9,719,648	CF
	Tanner**	***	***	CL	***	***	***
Bristol Bay	Red	5,145,645	199,716	540,208	1,571,320	565,773	CF
Pribilofs	Blue	***	***	CL	***	***	***
	Red	***	***	CL	***	***	***
St. Matthew	Blue	***	***	CL	***	***	***

* may include Akutan, King Cove and Adak

** includes *Chionoecetes bairdi, angulatus, and tanneri*

CL - closed

CF - confidential

NF - no fishing

2000

Area	Species	Dutch Harbor	St. Paul	Kodiak	F/P	C/P	Others*
Aleutian	Brown	3,456,997				CF	CF
	Couesi	***	***	CF	***	***	***
	Multispina	***	***	NF	***	***	***
	Red	***	***	CL	***	***	***
	Tanner**	***	***	CL/NF	***	***	***
Bering Sea	Brown	124,586				CF	
	Couesi	***	***	NF	***	***	***
	Multispina	***	***	NF	***	***	***
	Opilio	9,700,538	3,384,367	1,451,842	10,605,513	1,346,649	4,263,666
	Tanner**	***	***	CL	***	***	***
Bristol Bay	Red	3,495,382		874,252	702,687	177,680	CF
Pribilofs	Blue	***	***	CL	***	***	***
	Red	***	***	CL	***	***	***
St. Matthew	Blue	***	***	CL	***	***	***

* may include Akutan, King Cove and Adak

** includes *Chionoecetes bairdi, angulatus, and tanneri*

CL - closed

CF - confidential

NF - no fishing

DAVE FRASER
C-2
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Policy Basis FOR Two Pie Processing Shares

Possible Goals:

Goal 1 – Appropriate Distribution of Rents

Objectives

Option A: Equal Division of Rents (50:50)
Option B: Pre-existing Division of Rents ("status quo ante")
Option C: Division of Rents Relative to Capital Investment
Option D: Equitable Division of Rents (in the eye of the beholder)

Goal 2 – Compensation for Capital Investment

Objectives

Option A: Compensation of Original Investment
Option B: Compensation Based on Depreciated Cost
Option C: Compensation for Capital Plus Interest
(Appropriate future rate of return adjusted for risk)

Which Objective Will Be Fulfilled by Adopting Two Pie Processing Shares?

- At 100% A shares?
- At 110% A shares?
- At 90% A shares?
- At 80% A shares?
- At 70% A shares?
- At 50% A shares?

Analytical Requirements:

1 - Knowledge of relative levels of capital investment by both harvesting and processing sectors.

2 - Knowledge of cost structures of both harvesting and processing sectors.

3 - Knowledge of how effective QS is as a rent extraction tool.

Comments on various goals and objectives for rent sharing.

Goal 1 – "Appropriate" Distribution of Rents

Option A: Equal Division of Rents (50:50)

At first blush this seems like an intuitively "fair" way for rents to be shared in a negotiated settlement or a transaction between buyer and seller. Whether that is really "fair" depends on the specifics of the circumstances. Should one processing company get 50% of the rents associated with its transactions with each of 10 different harvesting companies. Or should the 11 combined harvesting and processing companies each get $1/11^{th}$ of the rent associated with the combined transactions?

Option B: Pre-existing Division of Rents ("status quo ante")

This objective is the one often promoted by Professor Matulich. It is indifferent to what the pre-existing distribution of rent is prior to rationalizing a fishery. It only seeks to preserve that distribution, even if one party was essentially capturing all the rent in the "status quo ante." Unfortunately it begs the question of how the "status quo ante" came about, whether it was a conscious policy decision or a state that arose from failure to act by policy makers.

It will be difficult to know whether one has successfully preserved the "status quo ante" with respect to rent distribution due to lack of cost information about either the harvesting or processing sectors.

Option C: Division of Rents Relative to Capital Investment

Another possible standard for "fairness" in the sharing of rents, is that they be distributed in proportion to capital investment. Again the ability to determine whether a particular policy achieves this objective is dependent on knowing what the relative capital investment is by a company and whether that capital is specific to the crab fishery.

Option D: Equitable Division of Rents and/or "Symmetrical" Division of Rents

There is a range from 0% to 100% that could go to either side. In Matulich's special definition of "symmetry" as long as each side gets something above 0% of the rents, it is possible that symmetry has been achieved.

Likewise, equity is in the eye of the beholder, so as long as each party gets some of the rents, it is possible that equity has been achieved. However, policy makers will not know if their personal vision with respect to equitable rent distribution has been achieved due to lack of cost information about either the harvesting or processing sectors

Goal 2 – Compensation for Capital Investment

There is a second general goal that may provide an alternative justification for adopting processor shares that is not specifically concerned with rent sharing per se. That goal is based on providing compensation for stranded or non-malleable capital. Under that goal policy makers would be seeking to provide for a fixed amount of revenue to go to processors to compensate their investment, rather than seeking a particular balance in rent sharing.

Option A: Compensation of Original Investment

This option requires knowledge of the capital investment by processors at the time of purchase.

Option B: Compensation Based on Depreciated Cost

This option requires knowledge of the extent to which that investment has been amortized. Under both options A and B, one could justify a time limited two pie processor allocation, that would skew the relative bargaining power for a period of time until the processors had been compensated for their investment.

Option C: Compensation for Capital Plus Interest

This option seeks to not only compensate for the non-malleable capital, but it assumes that there is a reasonable expectation of entitlement to a continuing return on the invested capital - adjusted for risk – that should continue on into the future.

Notes on How to Play "Processor Poker"

The need for a two pie system rests on the assumption that holding Quota Share (QS) in a one pie system is the equivalent of holding a "rent extraction card" that allows the holder to capture all the rents associated with both harvesting and processing of crab. This probably overstates the reality, but certainly QS allows rents to be created where there none may have existed beforehand (at least in the harvest sector), and tends to direct those rents toward the holder of the QS card.

Prof. Matulich has suggested that under a symmetric two pie system that two equal cards are created that balance each other off, and result in an appropriate division of the rents. It is theoretically possible that he might be correct.

Who Has the Trump Card?

On the other hand it is possible that the F-QS card and the P-QS card are not created equal. They may even both be "aces" – but what happens if one ace is in the right suit to fill out a royal flush and the other is not? In a poker game only one player wins the pot.

It seems possible that P-QS is a better "rent extraction card" than F-QS in a two pie system, since P-QS is the one closer to consumer demand. While it is unlikely that either F-QS in a one pie system (equivalent to B shares in a two pie system), or the P-QS corresponding to A shares in a two pie system, are perfectly efficient "rent extraction cards," they may be equally efficient. In that case, all the rents associated with the efficiency of A share cards would flow to the harvester, while all the rents associated with the efficiency of B share cards would flow to the processor. **If the goal of policy makers is equal division of rents, it would then make sense to set up a two pie system that allocates IFQ as 50% A shares and 50% B shares**.

Who Can Bluff?

Even if the two aces are of the same suit, only one player wins the pot – the one who is best at bluffing. The question then becomes, "who is in a better position to bluff?" An owner of a single crab vessel with no other fishery endorsements? Or, a processor who does salmon, herring, pollock, cod, etc., in addition to crab?

Who Has the Joker?

If one does assume that Matulich style two pie system (with no A shares and equal amounts of P-QS and F-QS) is perfectly balanced and will result in an appropriate division of rents (whatever one considers that to be) consider the following scenario. What happens when a 3rd party such as a "Conservation Trust Foundation" or a "Competition Enhancement Association" enters the system and purchases and retires some amount of the total pool of F-QS? Suddenly the theoretical equilibrium of the system is destroyed, and option 2.4.1 becomes option 2.4.2.

This is equivalent to a game of musical chairs in which someone hides a chair. If a significant amount of F-QS is hidden in this way, it seems the result would be enhanced competition amongst processors due to the uncertainty that any particular processor would be able to use all of their P-QS. Some have suggested that this would result in a "race to process," however, since harvesters would still have the ability to chose when they wish to do their fishing, it is more likely to result in a "race to sign contracts" with harvesters.

Conversely, if processors were able to hide a chair, there would be a "race to deliver" first that would shift bargaining power to processors.

Who Ends Up with the Pot?

The size of the pot and how it is divided depends on the rules of the game.

If the council has a particular policy objective with regard to the division of rents, the analysis needs to address the three questions concerning:

1 - the relative levels of capital investment by both harvesting and processing sectors.
2 - the cost structures of both harvesting and processing sectors.
3 - how effective is QS as a rent extraction tool under any particular set of rules?

Likewise, the Council should clearly identify its policy objective about the division of rents.

Paul Peyton
(DID NOT APPEAR)
Copy to Rotn
not handed
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C-2

June 6, 2001

David Benton, Chairman
North Pacific Fishery Management Council
605 W. 4th Ave, Suite 306
Anchorage Alaska 99501-2252

RE: CDQ Percentage for Crab Species

Dear Mr. Chairman,
The six CDQ groups respectfully request that the NPFMC add the following options to the Crab Rationalization analysis:

1 Status Quo 7.5%
2 Increase CDQs to 10%
3 Increase CDQs to 15%

The inclusion of these options is appropriate as the Council considers options for rationalizing the crab fisheries. CDQ communities are stakeholders in the crab fisheries, and it is appropriate to consider increasing their participation in the fishery in the context of strengthening the other participants in the fishery.

Sincerely,

APICDA	BBEDC	CBSFA
CVRF	NSEDC	YDFDA

C-2

FOR YOUR INFORMATION
From: Arni Thomson

adn.com
Anchorage Daily News

Squabbles endanger crab buyout

HARD TIMES: Industry should settle its differences, Stevens says.

By Wesley Loy
Anchorage Daily News

(Published June 1, 2001)

A $100 million buyout of Bering Sea crab boats could be in jeopardy unless the fractious crab industry finds more agreement on how to permanently solve its problems, U.S. Sen. Ted Stevens said.

Stevens, R-Alaska, last year won authorization for a buyout of some boats, with the government paying $50 million and the remaining crab fishermen financing the rest. But no money has been released, and further action by Congress is necessary for that to happen.

Supporters say a buyout would allow perhaps a third of the nearly 300 crab boats to bow out of the fishery, allowing the remaining vessels to catch more crab and make more money at the dock.

That's critically important, say crab fishermen, because of the sorry state of crab stocks in the Bering Sea. The mainstay snow crab catch is only about 15 percent of what it was in 1999, when it was one of Alaska's most lucrative fisheries with some 194 million pounds of crab caught worth about $190 million.

Many fear that biologists will determine that snow crab stocks are too low to allow any fishery at all next year, and that bankruptcies could decimate the fleet. Other commercially important crab species like bairdi, red and blue king crab also have either low catch limits or are closed to fishing.

Stevens said he believes crab fishermen and packers need to find agreement this year on measures to stabilize the fishery. Otherwise, they court business failures and not accomplishing the buyout, he said.

Most industry players believe the ultimate solution for a smaller crab fleet is assigning individual catch shares to boats. This would end the current expensive and dangerous race for crab, bringing more stability.

Leonard Herzog of Anchorage said the buyout is a vital prelude to individual quotas. He said he and his partner in the 86-foot, Homer-based crab boat Anna Marie would benefit whether they decided to sell out or stay in a crab fishery with fewer competitors.

He believes the fishery can't continue as it is, with too many boats hunting too few crab. He said his boat, small for a Bering Sea crabber, braved storms to catch a slim 26,000 pounds of snow crab this winter.

"My boat is going backwards financially," he said. "The crew didn't make money, the boat didn't make money."

But internal squabbling is hurting chances not only for the buyout but for individual quotas. Such buyouts have been attacked as an improper use of taxpayer dollars by organizations like Citizens Against Government Waste. Individual quotas also are controversial and would require congressional permission.

The central issue is whether crab processors, as well as fishing boats, would receive guaranteed shares of crab. The processors say they have made investments in their packing plants just as fishermen have invested in boats, and they need some guarantee that a share of crab will continue to flow into their plants.

In another twist, important crab ports like St. Paul are demanding that a certain share of crab be delivered to packing plants in their towns.

Some crabbers are deeply wary of the packers, saying that giving them a hold on crab deliveries might also give them the power to short fishermen on prices.

Stevens, who helped author some of the nation's most important fishing laws, said the division within the crab industry could hurt chances of a buyout. He noted that packers themselves own some of the crab boats, and that they would play an important role in financing the industry's half of the $100 million buyout.

"If you think that just the crab fleet has the money for a buyout, you're wrong," he said.

Stevens said some packers have told him that if they can achieve some of their goals on stabilizing the industry, they can support reducing the size of the fleet.

Reporter Wesley Loy can be reached at wloy@adn.com or 257-4590.

Close Window

Opinion

Response to Dick Powell's 'limited entry plus' column

GUEST OPINION

By Jeff Steele

This is a response to "Processors want 'limited entry plus,'" a guest opinion column by Dick Powell in the Mirror last week.

There are two basic issues that need to be clarified in Mr. Powell's article: The first is Mr. Powell's fishing operation; and second, misrepresentations and clarifications about the proposed Bering Sea-Aleutian Islands crab two-pie ITQ system, with an overlay of regional landings. I also wish to point out some very pressing reasons for rationalizing the crab fisheries.

To begin, it is necessary to clarify a few things about the understated Mr. Powell. Mr. Powell is not just a "boat owner." He is the owner of the most successful Aleutians brown king crab fishing company in Alaska, with his at-sea crab catcher-processor Patricia Lee, and the catcher vessel Icelander.

Although Mr. Powell expresses highly exaggerated fears about processors' ownership and control of up to 30 percent of the fishing and processing history in some crab fisheries, he himself has a vertically integrated fishing company that reportedly has controlled 25 percent of the Aleutians brown king crab quota for several years running — this year worth an estimated $4 million to $5 million in revenues.

There are currently only 17 vessels operating in this fishery that has a dockside value of more than $20 million dollars. The average gross stock of these vessels from the fall of 2001 and the winter of 2001 exceeds that of the average Bering Sea crab vessel by a ratio of 3 to 1.

At the North Pacific Fisheries Management Council, Mr. Powell's representative has proposed that if the NPFMC rationalizes the Aleutians brown crab fishery into a quota program, that the individual or company ownership cap on fishing and processing history be no less than 30 percent of the quota, (or GHL) while IFQ fishing history caps of 1 percent to 5 percent of the quota are being contemplated for the Bering Sea crab fisheries. The 30 percent cap will give the Patricia Lee company room for growth in the future.

In addition, although not mentioned in the article, Mr. Powell is a major owner in the Kodiak shore-based plant Island Seafoods, pictured in the article. Although he and his partner have invested substantially in the plant in the last two years, the plant has virtually no processing history in crab or groundfish. Therefore, they will receive virtually no processor quota shares under the proposed two-pie regionalization program for the Bering Strait and Aleutian Islands crab fisheries.

Myself, I have been involved in the Bering Sea crab fisheries for 20 years and like many others, I have experienced the prosperous years of resource abundance, when Alaska fisheries were akin to the last frontier in world fisheries. Those days are gone and under the present limited-entry system and the archaic race for fish, I am truly concerned the resources will not rebound without the assistance of a rational quota based program.

I see three major reasons we need to rationalize the BSAI crab fisheries: safety, resource management, and economic stability. The rationalization plan must take into account the interests of harvesters, processors and communities — as directed by the U.S. Congress in Public Law 106-554 last year.

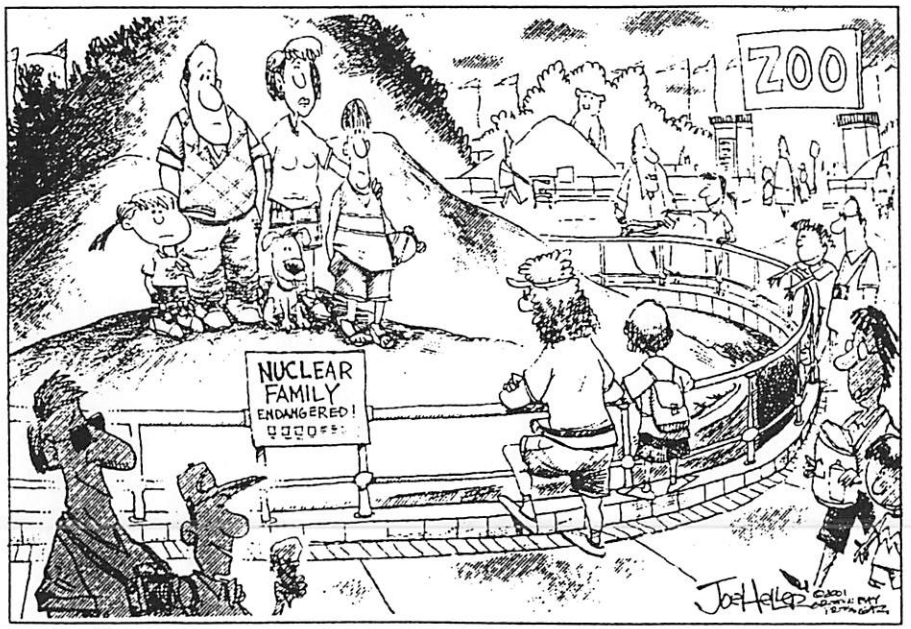
The Chairman of the NPFMC recently sent a letter to the Secretary of Commerce expressing his intent to follow through with the Congressional direction this year. The processors and communities we live in are as much a part of this industry as the fishermen and the boats they work on, and they should command equal respect and consideration in the development of the program.

The processor quota concept developed in response to the halibut and sablefish IFQ program, advocated by fishermen. Processor quotas puts both sectors on a more level playing field. Fishermen are granted their historical allocations and processors allocated their historical allocations. Both types of allocations are illegal at this time, and the moratorium on IFQs has just been extended for two more years with no reassurances that it will not be extended again, unless a political compromise is negotiated with the processors and communities.

In closing, I would like to respond to Mr. Powell's hypothetical example of the market problem with the "last trip of crab" brought into Dutch Harbor, or any other Alaska port, under the two-pie system, and a fisherman being forced to sell to the last buyer with processing quota for less than the going market price. As a member of the NPFMC Advisory Panel and the NPFMC Crab Rationalization Committee, I have worked long and hard over the last 18 months with fishermen, crab organizations, processors and community representatives, on the issue of maintaining a fair market price. We have come up with three key elements that have been accepted into the NPFMC analysis for crab rationalization in a two-pie/regionalization program. If properly implemented, these mechanisms will more than adequately address market concerns and pave the way for additional benefits that could materialize from a better relationship among fishermen, processors and communities.

- A provision mandating a private sector binding arbitration process, on a company-by-company basis, in the case of failed price negotiations between fishermen and processors. The process would have a deadline, and be initiated about eight weeks before the opening of the season. It has worked successfully in the Newfoundland snow crab industry for the last four years.
- The 80/20 to 90/10 proposed guaranteed and open access portions of processing quotas-allows for 10 percent to 20 percent of each fishing vessel's IFQs to be sold outside of the pool of initial processing quota share (IPQ) holders, to any licensed crab buyer in the State of Alaska. The 10 percent to 20 percent open access share in each of the BSAI crab fisheries will provide the vessel owners with bargaining leverage. Hopefully, it also will stimulate growth in the number of Alaskan small buyers, just as the sablefish and halibut IFQ program generated growth in small buyers in that industry.
- Mandatory program review after one or two years of operation — with a focus on the issue of market competition, and other priority concerns that fishermen, processors and communities feel should be reviewed. If the final decision on rationalization comes down to where I have to deliver 80 percent to 90 percent of my product, to the same companies I have been selling 100 percent of my product to for the past 10 years, so be it. It is a cost of doing business, in order to achieve my three major goals of safety, resource management and economic stability. Only with rationalization does this industry have a chance to survive and prosper. In regards to the processors, I have respect for them all, and I look forward to doing business with them in the future.

(Kodiak resident Jeff Steele is owner of the Obsession and Pacific Mist Fisheries L.L.C.)



C-2

K. Anthony Lara
P.O. Box 8093
Kodiak, AK 99615
(907) 486-4303
(907) 486-2649 Fax

JUNE 9, 2001

PROPOSAL FOR ANALYSIS
OPTION FOR SECTION 1.8.1
ALLOTTING QUOTA SHARE TO CREWMEMBERS

Purpose: To allot quota share to those participants of the fishery who have made a substantial contribution to the earned catch history of a vessel.

Reasoning: A major goal of the rationalization of the crab fisheries to reduce the over-capitalized fleet to a more manageable and economically efficient size. This will inevitably lead to some professional crewmembers being displaced from the industry. To protect these individuals, some provision must be made to give them a foothold in the industry and allow nonowners and minority owner/operators the opportunity to become second generation owners under the proposed system. This option will be based on the same percentage formula that these businesses have established without legislation and have succesfully operated for the entire course of the industry.

Fundamentals: Each crew member will be awarded points for each season of a qualifying year fished aboard a vessel (or company vessels if multi-boat owners). The points will be based on the crewshare of the applicant. ie. A captain who was paid 14% of net proceeds will be awarded 14 points for each season fished.

If the crewmember was aboard the vessel for only 60% of the total crab catch for a season, he will be awarded 60% of the points for that season.

Each vessel will have a total of possible points for the qualifying period. This will be calculated by totaling the non-management crew shares of that particular vessel for each of the qualifying years. To eliminate the award of quota share to part time fishermen, a crewmember must document points totaling a minimum of 10% of an individual vessel's possible points.

A crewmember will be defined as a person who has purchased a commercial fishing landing permit or crew license.

These points will not be transferable from the qualifying vessel or company.

If a crewmember meets the minimum requirements, he will be awarded quota share based on his point percentage of the available shares for that vessel.

Any available quota shares not awarded to crewmembers will be awarded directly to the vessel.

The quota share earned by owner/operators may be awarded directly to owner instead of to the vessel

Points will be fishery specific.

The burden of documenting points will be the responsibility of the crewmember.

If lease restrictions are placed on QS, it may not be nessesary to create a separate class of QS for crewmembers as the nature of the lease restrictions would essentially make these small blocks "owner on board" QS.

If the qualifying years are defined as "best years", the qualifying years for crewmembers will be the same as used for calculating the vessel's QS.

Vessel has first-right-of-refusal on transfers.

Maximum Quota Based on Historical Crew Shares

Maximum crew quota is based on the historical crew shares of the vessel during the qualifying years. Because the initial allotment of quota to a vessel is based on the performance of the crew during the qualifying years, long term employees would receive their contractual percentage of net proceeds from the qualifying years.

Example 1

This is an example of the largest possible percentage of quota share being allotted to a nonowner crew. A vessel that has operated in this fashion for the past five years is an example of an absentee owner where the crew is responsible for the majority of the awarded quota share. This is an extreme example and there would be no vessels that fall into this category.

Sum of crewshares: 39.0%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - nonowner	14%	5	70	35.9%	14.0%
Engineer	7%	5	35	17.9%	7.0%
Deckhand #1	6%	5	30	15.4%	6.0%
Deckhand #2	6%	5	30	15.4%	6.0%
Deckhand #3	6%	5	30	15.4%	6.0%

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 195

Total Awarded to Crew: 39.0%

Example 2

The increased quotas during the qualifying period led most vessels to add an extra crew member to allow around the clock operations and/or increased efficiency. The deck percentage remained the same or possibly 1% higher. The addition of half share crew led to lower percentages. Even if the entire crew remained the same for the entire qualifying period, half share crew members would not be eligible to receive quota share.

Sum of crewshares: 40.0%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - nonowner	14%	5	70	35.0%	14.0%
Engineer	7%	5	35	17.5%	7.0%
Deckhand #1	6%	5	30	15.0%	6.0%
Deckhand #2	6%	5	30	15.0%	6.0%
Deckhand #3	4%	5	20	10.0%	4.0%
Deckhand #4	3%	5	15	7.5%	Not Eligible

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 200

Total Awarded to Crew: 37.0%

Example 3

In reality, most crew members do not stay on the same vessel for more than a few seasons. A full share deckhand would need to stay on the same vessel for more than 3 of the 5 qualifying years in order to receive any initial allocation. This further lowers the real world maximum crew quota to 27%. There are very few boats which could possibly fall into this category. Any boat that has operated in this fashion for the past five years is an example of an absentee owner where the crew is responsible for the majority of the awarded quota share.

Sum of crewshares: 40.0%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - nonowner	14%	5	70	35.0%	14.0%
Engineer	7%	5	35	17.5%	7.0%
Deckhand #1	6%	5	30	15.0%	6.0%
Deckhand #2	6%	3.3	19.8	9.9%	Not Eligible
Deckhand #3	4%	4	16	8.0%	Not Eligible
Deckhand #4	3%	5	15	7.5%	Not Eligible

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 200

Total Awarded to Crew: 27.0%

Example 4

In a situation where the vessel was owner operated, the owner would be awarded the captain's percentage of quota and the crew would receive a percentage of quota based on their historical crew percentage. In many cases, vessel are operated by minority owners. This would transfer a portion of the vessel's quota directly to the minority owner and begin the process of establishing the second generation ownership.

Sum of crewshares: 40.0%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - owner	14%	5	70	35.0%	Owner
Engineer	7%	5	35	17.5%	7.0%
Deckhand #1	6%	5	30	15.0%	6.0%
Deckhand #2	6%	3.3	19.8	9.9%	Not Eligible
Deckhand #3	4%	4	16	8.0%	Not Eligible
Deckhand #4	3%	5	15	7.5%	Not Eligible

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 200

Total Awarded to Crew: 13.0%

Example 5

This is an example where the entire quota share is allotted to the vessel. There have been no long term crew responsible in part for the quota share and the owner does not have to allot any quota to temporary crew. This also illustrates the maximum sea time of crew at a given percentage without receiving quota. There would be several owner operated vessels that fall into this category.

Sum of crewshares: 40.0%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - nonowner	14%	1.4	19.6	9.8%	Not Eligible
Engineer	7%	2.8	19.6	9.8%	Not Eligible
Deckhand #1	6%	3.3	19.8	9.9%	Not Eligible
Deckhand #2	5%	3.9	19.5	9.8%	Not Eligible
Deckhand #3	4%	4.9	19.6	9.8%	Not Eligible
Deckhand #4	3%	5	15	7.5%	Not Eligible
Deckhand #5	1%	1	1	.5%	Not Eligible

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 200

Total Awarded to Crew: 0.0%

Example 6

This example illustrates what would be a common situation for many vessels. A relief captain is responsible for part of the catch history and there was a fairly stable crew and some long term crew that have worked the way up through the ranks lowering their average percentage. Some quota share is allotted to these crewmen and the remainder goes directly to the vessel.

Sum of crewshares: 40.0%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - nonowner	14%	2	28	14.0%	5.6%
Engineer	7%	2	14	7.0%	Not Eligible
Deckhand #1	6%	3	18	9.0%	Not Eligible
Deckhand #2	5%	5	25	12.5%	5.0%
Deckhand #3	4%	4.9	19.6	9.8%	Not Eligible
Deckhand #4	3%	5	15	7.5%	Not Eligible
Deckhand #5	1%	1	1	.5%	Not Eligible

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 200

Total Awarded to Crew: 10.6%

CP Examples

Catcher processors base their total crew percentage on the same system as catcher vessels but because of the processing crew, the deck percentage is approximately half that of a catcher vessel. A crew member will be defined as a holder of a commercial fishing permit card or license so processing crews will not be eligible for quota allocation. Any processing shares would go directly to the vessel.

Example 1

Below is an example of a crew breakdown on a catcher processor. This illustrates that if the entire crew remained the same during the entire qualifying period, only the key crewmen of the operation would be eligible to receive quota share, effectively limiting the maximum possible crew allocation to 16.5%

Sum of crew shares: 23.9%

Crew Position	Crew Share	YEARS	Points	Percent of Total	Awarded to Crew
Captain - nonowner	6.00%	5	30	25.1%	6.0%
Mate	2.50%	5	13	10.4%	2.5%
Engineer #1	3.00%	5	15	12.5%	3.0%
Engineer #2	2.50%	5	13	10.4%	2.5%
Deckhand #1	2.50%	5	13	10.4%	2.5%
Deckhand #2	1.93%	5	10	8.1%	Not Eligible
Deckhand #3	1.75%	5	9	7.3%	Not Eligible
Deckhand #4	1.75%	5	9	7.3%	Not Eligible
Deckhand #5	1.00%	5	5	4.2%	Not Eligible
Deckhand #6	1.00%	5	5	4.2%	Not Eligible

Total Vessel Points (Total of Crew Shares During 5 year qualifying period) 120

Total Awarded to Crew: 16.5%

This crew member who stayed aboard the same vessel for all of the qualifying years, working his way up through the ranks would have earned 18% of the vessels total points. This would entitle him to 7.02% of the vessels allotted IFQ.

SAMPLE POINT BREAKDOWN
For a crew member

	Percent	Points
Year 1	3%	3
Year 2	5%	5
Year 3	6%	6
Year 4	7%	7
Year 5	14%	14
TOTAL CREW MEMBER POINTS		35

SAMPLE VESSEL POINT TOTAL

	Total crew Percentage	Points
Year 1	39%	39
Year 2	40%	40
Year 3	39%	39
Year 4	40%	40
Year 5	41%	41
TOTAL VESSEL POINTS		199

If this same crew member were to switch vessels after year #3. He would have only earned 7% of Vessel A's total vessel points and would not be eligible to receive any portion of Vessel A's allotment. He would however have earned 11% of Vessel B's total vessel points and would receive an initial allocation equal to 4.29% of Vessel B's IFQ.

SAMPLE POINT BREAKDOWN
For a crew member on Vessel A

	Percent	Points
Year 1	3%	3
Year 2	5%	5
Year 3	6%	6
Year 4		
Year 5		
TOTAL CREW MEMBER POINTS		14

VESSEL A

	Total crew Percentage	Points
Year 1	39%	39
Year 2	40%	40
Year 3	39%	39
Year 4	40%	40
Year 5	41%	41
TOTAL VESSEL POINTS		199

SAMPLE POINT BREAKDOWN
For a crew member on Vessel B

	Percent	Points
Year 1		
Year 2		
Year 3		
Year 4	7%	7
Year 5	14%	14
TOTAL CREW MEMBER POINTS		21

VESSEL B

	Total crew Percentage	Points
Year 1	39%	39
Year 2	40%	40
Year 3	39%	39
Year 4	40%	40
Year 5	41%	41
TOTAL VESSEL POINTS		199

Joe Childers
Western GOA
Fishermen
C-2
6/11

DRAFT

WGOAF GOA Groundfish Rationalization Plan

Purpose: To design a *two year test program* to implement ITQ-like rationalized fishery management regime for groups in the Gulf of Alaska (GOA) groundfish fisheries.

This proposed rationalization program is a test:

This program is intended to expire two years after implementation unless it is ratified prior to that date by holders of 66 2/3%of the IFQ eligible poundage for each species and 66 2/3% of the IPQ eligible poundage holders for each species.

Assumptions:

1. The GOA is home to a large and diverse fishing fleet and processing facilities
2. There is a relatively large resident coastal population existing in many towns and villages across the GOA.
3. The GOA groundfish fishery is the largest fishery in the GOA in terms of volume, value and capital investment, but not in terms of numbers of fishermen.
4. Due to the diversity that exists in the GOA, it is unlikely that a broad program designed to rationalize the entire groundfish fishery can ever be designed.
5. GOA fishing groups and processing facilities that display great affinity do exist.
6. These smaller fishing and processing groups that exist regionally across the GOA should be allowed to identify themselves and seek rationalization individually.

Plan Overview:

The pertinent aspects to this rationalization plan are:

1. A voluntary (opt in/ opt out) cooperative proposal that includes harvesters and processors.
2. Co-op eligibility for harvesters and processors established by a recency requirement
3. Co-op formation hinges on successful establishment of :
4. A profit sharing plan contract
5. A fishing plan
6. No closed classes established
7. Co-op eligibility open to all gear types
8. A trial (2 year program)

DRAFT

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8. A trial (2 year program)

Proposed Plan Elements:

Individual Fishing Quota (IFQ) Eligibility.

- LLP license holders will receive IFQ eligibility based on their *individual* harvest percentages of P-cod and pollock harvests in areas 610, 620, and 630 of the GOA.

1. **Minimum criteria for IFQ eligibility by area.**
   a. **Area 610**
      i. Landing requirement = 20 landings of p-cod and / or pollock during the years 1994-2000
      ii. IFQ allocation based on straight average calculation for the years 1994-2000
   b. **Area 620**
      i. Landing requirement = 20 landings of p-cod and / or pollock during the years 1994-2000
      ii. IFQ allocation based on straight average calculation for the years 1994-2000
   c. **Area 630**
      i. Landing requirement = 20 landings of p-cod and / or pollock during the years 1994-2000
      ii. IFQ allocation based on straight average calculation for the years 1994-2000

Individual Processing Quotas (IPQs) Eligibility

IPQ eligibility is awarded based upon where IFQ eligible fish were landed. If, for example, an IFQ eligible participant landed half of its catch to Trident and half to Peter Pan, each processor would receive IPQ eligibility for half of the vessel owners IFQs.

- **Qualifying years**
  1. All GOA areas
     a. 1994-2000

- **IFQ ownership and usage by IPQ processors.**
  - At least 20% of IFQ owned by IPQ processors must be available for lease to non-IPQ owned IFQ harvesters at prevailing market lease rates.
  - IPQ eligible processors cannot increase their IFQ ownership by more 15% beyond their initial allocation.

Price Negotiations.

- Harvesters and processors are both concerned that rationalization will diminish their current respective bargaining positions.
- Therefore:.
  a. Prior to deciding whether or not a fishing vessel owner will enter into this IFQ program for a particular year, a price formula for all IFQ harvested fish must be agreed upon by the potential IFQ recipients and the potential IPQ recipients.
  b. As part of this same agreement, the potential IFQ recipients and the potential IPQ recipients must sign a fishing plan for IFQ harvest.

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      ii. IFQ allocation based on straight average calculation for the years 1994-2000
   c. **Area 630**
      i. *Landing requirement* = 20 landings of p-cod and / or pollock during the years 1994-2000
      ii. IFQ allocation based on straight average calculation for the years 1994-2000

Individual Processing Quotas (IPQs) Eligibility

IPQ eligibility is awarded based upon where IFQ eligible fish were landed. If, for example, an IFQ eligible participant landed half of its catch in Kodiak and half in Petersburg, each processor would receive IPQ eligibility for half of the vessel owners IFQs.

- **Qualifying years**
  1. All GOA areas
     a. 1994-2000

- **IPQ ownership and usage by IPQ processors.**
  - At least 20% of IFQ owned by IPQ processors must be available for lease to non-IPQ owned IFQ harvesters at prevailing market lease rates.
  - IPQ eligible processors cannot increase their IFQ ownership by more than 1% by end their initial allocation.

Price Negotiations.

- Harvesters and processors are both concerned that consolidation will diminish their current respective bargaining positions.
- Therefore:
  a. Prior to deciding whether or not a fishing vessel owner will enter into the IFQ program for a particular year, a price formula for all IFQ harvested fish must be agreed upon by the potential IFQ recipients and the potential IPQ recipients.
  b. As part of this same agreement, the potential IFQ recipients and the potential IPQ recipients must sign a fishing plan for IFQ harvest.

c. IFQ owned by IPQ eligible processors cannot participate in price negotiations.
d. IFQ owned by IPQ processors must participate in IFQ fisheries.

Transferability of IFQ and IPQ Eligibity:

- IFQ eligibility can be sold, leased, or transferred, but can only be leased to other IFQ holders.
- IPQ eligibility can be sold, leased, or transferred to anyone.
- IFQ holders who are not also IPQ holders will have first right of refusal in any IFQ sales.

Community ownership.

- Gulf of Alaska communities are eligible to acquire, own, and distribute IFQ and IPQ as they see fit under this program.

Sideboards for protection of non-rationalized fisheries.

- IFQ eligible harvesters participating in co-ops under this rationalization program will be ineligible to participate in any other Federal open access fishery for Pacific cod or pollock in any other GOA area, in any year that they receive IFQs under this program.

Quota shifted to Shelikof Strait.

- IFQ history earned in any area of the GOA that was later shifted to Shelikof Strait CHA shall continue to be considered part of the IFQ rights of the holder and shall belong to and be available for harvest to the IFQ holder.

Requested Action by the NPFMC:

1. Pass a council motion that describes this rationalization plan as having merit, and therefore warrants further analysis, including:
   a. Direct staff to assemble the data sets necessary to design a **Fishing History Assignment Program (FHAP)** for GOA groundfish.
   b. Direct the GOA Rationalization Committee to begin designing a **Fishing History Assignment Program (FHAP)** for GOA groundfish fisheries.
   c. Direct the GOA Rationalization Committee to explore and analyze options for the allocation of PSC caps in the GOA.

c. IFQ owned by IFQ eligible processors cannot participate in price negotiations.
d. IFQ owned by IFQ processors must participate in IFQ fisheries.

Transferability of IFQ and IFQ Eligibles:

- IFQ eligibility can be sold, leased, or transferred, but can only be leased to other IFQ holders.
- IFQ eligibility can be sold, leased, or transferred to anyone.
- IFQ holders who are not also IFQ holders will have first right of refusal in any IFQ sales.

Community or severity:

- Gulf of Alaska communities are eligible to acquire, own, and distribute IFQ and IFQ as they see fit under this program.

Safeguards for protection of non-rationalized fisheries:

- IFQ eligible harvesters participating in co-ops under this rationalization program will be ineligible to participate in any other federal open access fishery for Pacific cod or pollock in any other GOA area in any year that they receive IFQs under this program.

Quota shelled to Shelikof Strait:

- IFQ history earned in any area of the GOA that was later shifted to Shelikof Strait GHA shall continue to be considered part of the IFQ rights of the holder and shall belong to and be available for harvest to the IFQ holder.

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   a. Direct staff to assemble the data sets necessary to design a **Fishing History Assignment Program (FHAP)** for GOA groundfish.
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   c. Direct the GOA Rationalization Committee to explore and analyze options for the allocation of PSC cops in the GOA.

C-2

C.R.A.B. GROUP

Crab Rationalization and Buyback Group

907-747-7967 · P. O. Box 1064 · Sitka, Alaska 99835

June 9, 2001

David Benton
Chairman
North Pacific Fishery Management Council

Re: Comments of the C.R.A.B. Group on the White Paper and AP Recommendations

The C.R.A.B. Group submits these written comments to supplement our public testimony.

First and foremost, the C.R.A.B. Group would like to commend the Council staff for the excellent White Paper prepared to assist the Council in addressing crab rationalization issues. The White Paper clearly illustrates the scope of the issues raised by many of the proposed elements for crab rationalization, and completion of the proposed analysis will greatly enhance both the Council and Congress' deliberations on how to proceed with these difficult issues.

The C.R.A.B Group continues to support a comprehensive analysis of all proposed options for crab rationalization. To this end, the Group supports the use of nationally recognized economists to assist the Council staff in preparing the detailed analysis, particularly for those items identified in the White Paper as key elements, for example the suggested analysis of competition, bargaining power, and vertical integration in crab fisheries discussed on pages 33 and 34 of the White Paper. This type of economic analysis is critical to an adequate understanding the impacts of some of the more novel elements of the rationalization proposals, particularly those elements like the two-pie approach that have national implications and have never been done anywhere before.

Given the potential anti-competitive impacts of the processor elements of the crab rationalization proposals, the C.R.A.B. Group supports retaining the analysis of an alternative two-pie approach, namely the allocation of processor quota shares equal to 105 to 130 percent of the IFQs issued. As noted on page 27 of the White Paper, the use of a percentage greater than the amount of IFQ issued in fact presents a different way of structuring the processor portion of the rationalization program, and would result in different impacts. By analyzing this alternative, even theoretically, it will provide the Council and Congress with a greater understanding of the impacts of the processor portions of the rationalization proposals.

The C.R.A.B. Group also would like to see a more detailed consideration of cooperatives included in the White Paper analysis. The AP has recommended including an analysis of AFA-style cooperatives and AFA-style cooperatives modified by the Dooley-Hall proposal. The C.R.A.B. Groups supports this recommendation, and believes that a third alternative should also be analyzed, namely a harvester only cooperative that may deliver its catch to any processor. This third alternative would have two sub-options, one in which the delivery is restricted to a closed class of processors and the other in which there is no closed class. By analyzing this third cooperative option, with its two sub-options, the Council would then have before it the full range of cooperative options. This analysis would allow both the Council and Congress to clearly understand the competitive impacts of these different approaches.

The C.R.A.B. Group also believes that the analysis of the various processor options, be it two-pie, AFA-style cooperatives, or simply a closed class, should include a discussion of the impacts of these processor rationalization approaches on other fisheries, and in particular fisheries that are not yet rationalized. As has been pointed out in past testimony by other groups with respect to the AFA, there are spill-over effects. The processor rationalization schemes impact the market opportunities for non-crab fishermen, who often depend on the very same processors for markets for salmon, herring, and cod. When only certain processors can process pollock and/or crab, those processors have a distinct competitive advantage over other processors who can no longer compete in those fisheries. Since the vast majority of processors are involved in buying and processing multiple species of fish, the cumulative impacts of these "closed class" processing provisions should be considered.

On the same note, the C.R.A.B. Group would like to remind the Council that much of the justification advanced by the processing sector for these various processor rationalization provisions is that the processing sector is "overcapitalized" and needs to be compensated for the claimed adverse impact of fishing rationalization proposals. In the aftermath of the AFA, in which inshore processors successfully obtained a closed class and significant control over the fishing cooperatives, the immediate result was the investment by those processors of hundreds of millions of dollars in new capital. The vast majority of this new investment was for the purpose of buying harvesting vessels and consolidating processing operations, without any benefit for communities or the fishermen who remained. The C.R.A.B. Group believes this investment behavior will likely be repeated under a two-pie or other closed class approach to processing, and that the White Paper should carefully analyze this actual behavior in light of the claimed need to "decapitalize" the "overcapitalized" processing sector.

Finally, the C.R.A.B. Group intends to send out requests to all of its members for vessel and processing facility ownership information. As the White Paper accurately points out, this information is critical to the ability of staff to adequately analyze the impacts of the various rationalization proposals. The C.R.A.B. Group intends to work hard to see that this information is submitted quickly in a useful format, and would like to remind that Council that all of the processors and fishermen who participated in the crab

rationalization committee discussions publicly committed at those meetings to provide such information.

Thank you for considering these comments.

Respectfully,

Earl Comstock
Counsel for the C.R.A.B. Group

C-2

CRAB RATIONALIZATION
KODIAK JUNE 4, 2001
Leonard Herzog
Homer Crab Group

RATIOANALES FOR RECENT PARTICIPATION

We have recently held two open meetings in Homer. All of the crab boat owners in Homer are in favor of pushing forward as fast as possible with the crab buyback and rationalization.

I will limit my remarks to the issue of recency because many of our boats did not exist or were not fishing competitively during 1990 and 1991. Several of the Homer crab vessels were built or purchased during or after 1991. This is probably due to the influx of funds into the local community from the oil spill and diversification from the declining salmon industry. Almost all of the boats are under 125 feet and built shallow to work as herring and salmon tenders in the summer.

THE DRAFT WHITE PAPER REPEATEDLY SUPPORTS RECENT PARTICIPATION

The Council has asked the staff to "where possible, identify ways to make the analytical task more manageable." (Draft White Paper "WP" p.1)

NOAA GC told staff states that using older stale years to award QS presents two problems: it has the negative potential of awarding quota to persons no longer in the fishery and 2, fails to consider the present participation of relatively new entrants. (WP p.5)

(WP p.17 BOLD) Another approach that could also reduce the potential for disputes would be to limit the qualifying years for each crab fishery to a more recent period." This is because the farther we go back in time the qualifying period extends, the more vessels there are which participated during the qualifying period but are no longer eligible to participate.

WP p.25 Processing shares "Using the three most recent years (through 1999) for each fishery is more likely to result in a distribution of processing quota shares that reflects the status quo.

WP p.37 Further reduce options for qualifying years (effort expands for each year analyzed).

WP p.38 Conclusion "Staff notes that the further back the qualifying period extends, the larger the impact will be from past participants (harvesters or processors) that have left

the fishery. In addition NOOA GC has emphasized the importance of not using "stale" qualification criteria that could result in granting of QS to persons no longer participating and excluding more recent entrants. Thus the analysis could be streamlined by using a more recent qualification periods and by reducing the number of options and suboptions.

CRAB RATIONALIZATION COMMITTEE ALSO NOTED PROBLEM OF STALE HISTORY

The Crab Rationalization Committee discussed the problem of the impact of stale catch history. P. 6 of the revised minutes from March 22-23 state:

"The Committee discussed the fact that significant amounts of catch history from vessels that have left the crab fishery are known to be assigned to vessels that are currently active in the crab fishery. This reassigned history could increase QS pools if it is counted as qualifying catch history. In order to make the analysis of the potential QS distribution more realistic, the Committee requested that the analysis reflect the actual catch history for each qualifying period rather than including only the catch history of vessels that meet the recency requirements."

P.7 [Note: the Committee discussed at length whether 1990 and 1991 should be dropped for Opilio and red king crab. The Committee could not reach consensus although the large majority of members were agreeable to dropping 1990 and 1991]

ECONOMIC DEPENDENCE AND FAIRNESS

A quota or coop should provide a recent snapshot of activity and investments. One should expect to be able to catch the percentage share of crab caught the last couple of years.

THE DANGER OF AWARDING QUOTA TO OLD PLAYERS

Opilio effort has been stable recently: from 1997 to 1999. An average of 234 vessels fished (1997 226, 1998 229, 1999 241). The fleet was much larger from 1992 to 1994 when an average of 260 vessels fished. This is similar to Red King Crab where 1997-1999 averaged 263 vessels and 1992-1994 averaged 292 vessels. The number of vessels that left is actually probably much greater than thirty because of the entry of newer vessels.

For example the owners of a large mudboat that was sold into the oilfield in 1997 could receive a huge quota, probably one of the largest in the fleet if 1990 to 1999, was allowed with the drop two-year option.

ALL PRECEDENTS ARE FOR RECENT PARTICIPATION

AFA Pollack chose best 2 of last three years
PCOD last five years
Halibut Charter 2 to 5 years

Gulf Groundfish Proposals 5 years
Crab Buyback Program 5 years
Halibut 5 of 7 (Discussed negatively by NOOA GC and staff in White Paper)

VESSEL HISTORY SHOULD BE SIMILAR TO PROCESSOR AND REGIONALIZATION

Processor proposal Three Years
St Paul Proposal Five Years

GOING BACK 10 YEARS CREATES SERIOUS LOSERS WITH LITTLE BENEFITS

This is a zero sum game and any boats that hope to get more quota than their five year average can only gain what they take from other vessels that are present participants. Vessels which fished all 10 years may get an additional 5 or 10 % of quota while vessels which fished the last three to five years could lose 50 to 75 % of their history, bankrupting them.

RUN SOME NUMBERS: Assume 240 present Opilio participants. Assume 40 vessels entered during last 5 years and assume that they have an average of 5 years of history. The entire history of the recent participants (40 boats for 50% of the time) is equivalent to 20 boats with 10 years of history. Thus if the losses of all these vessels is redistributed back to the older participants (20 to 200) there is only a @ 10% net gain to the older participants while newer consistent participants lose 50% of their history.

Because there are fewer boats participating in the 1997-1999 time period the older participants would actually be better off using recent history because so much of the gains would actually be taken by boats that no longer participate. Because the losses to newer dependent boats are so great those vessels will fight the quota process tooth and nail, including filing lawsuits, because they would be bankrupted by a QS or coop whose history goes back 10 or 11 years.

DROP OPTIONS WHICH INCLUDE 1990 AND 1991

Staff found that one of the only ways to reduce the analysis is to reduce the years analyzed. Specifically under 1.4 Initial allocations of QS 1.4.2.1 Opilio Option 1 1990 to 1999; 1.4.2.2 Bristol Bay Red Crab Option 1 1990 to 1999; and 1.4.2.3 Bairdi Option 3 (1990 to 1997).

By the time the Council reaches final action on this matter, 1990 and 1991 will be over ten years old and clearly stale.

Respectfully Submitted by Leonard Herzog for Homer Crab Group June 9, 2001

Math Examples

Boat R Assume 1995 to 1999 1% quota each year
Boat O Assume 1990 to 1999 1% quota each year

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
R:	0	0	0	0	0	1%	1%	1%	1%	1%
O:	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%

Boat R has 5% Divide by 10 years gets .5%
Boat O has 10% Divide by 10 gets 1%

O gets Twice R although for last five years competed equally

Effect of Stale History

AP properly recommends using total catch as denominator. Using only "qualified history" as denominator weights older years over more recent years. Assume from 1990 to 1995 half the landings by nonqualified vessels. Assume from 1995 to 1999 all crab caught by present participants. Because the denominator is cut in half by using only qualified history, although the older vessel caught 1% of total catch it is awarded 2%.

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
R:	0	0	0	0	0	1%	1%	1%	1%	1%
O:	2%	2%	2%	2%	2%	1%	1%	1%	1%	1%

O gets Three times the QS of boat R. Boat R gets only about .25% while Vessel O gets about 1.75%.

AP Properly Recommended Averaging % for Each Year

Unlike Halibut, crab quotas vary wildly and averaging would weight large harvest years much more heavily than small quota years.

AP Properly Recommended Using Total Harvest as Denominator

Effect is to reapportion stale history, landings caught by nonqualified vessels, proportionally to all remaining participants. Does not weight older years higher than recent years.

C-2
Tom CASEY
6/01

Statement of

JOSEPH T. PLESHA
GENERAL COUNSEL
TRIDENT SEAFOODS CORPORATION

May 2, 2001

SUBCOMMITTEE ON OCEANS AND FISHERIES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Introduction

My name is Joe Plesha and on behalf of Trident Seafoods Corporation I want to thank you for the opportunity to testify on S. 637, the IFQ Act of 2001.

Trident was founded in 1973 by its president, Chuck Bundrant. Trident has never declared a dividend for its shareholders, instead reinvesting its earnings back in the seafood industry. Most of Trident's investments have been in seafood processing and we now have ten shorebased processing plants that provide markets for fishing vessels. Our shorebased plants are located in the states of Oregon, Washington and Alaska. In addition to these shorebased facilities, Trident owns floating processing vessels, catcher/processing vessels, fishing vessels and secondary processing facilities.

The subcommittee has heard about the potential benefits of Individual Fishing Quota ("IFQ") fishery management. I would like to talk about the enormous impact that adoption of an IFQ program has on the value of fishing vessels and primary processing plants. If IFQ programs are authorized by Congress, I respectfully request the Magnuson-Stevens Act be amended to require that owners of processing plants be allocated privileges in the IFQ fishery on an absolutely equal basis with vessel owners.

1:1

The reasons for allocating privileges in an IFQ fishery to those with processing history are the same as the reasons for allocating privileges in an IFQ fishery to vessels with catch history.

1.0 – 1.0
– 0.9
– 0.8

Crab Rationalization Committee – Majority Report

The Crab Rationalization Committee and it's predecessor, the (ad hoc) Crab Co-op Committee, have worked for more than 18 months to develop a framework for rationalization. We believe that Senator Stevens (in the 2001 Consolidated Budget Act) has given us a specific opportunity to rationalize the Bering Sea crab industry in early 2002, and we encourage the North Pacific Fisheries Management Council to expedite it's Options and Analysis consistent with the industry and community endorsed Preferred Framework incorporated in this Majority Report.

This report and the recommended framework that it includes is endorsed by the following Crab Rationalization Committee members:

(will paste in list after signatures are gathered)

Preferred Framework

A Regionalized Two-Pie System

Individual Processing Quotas (IPQ's)

Each crab buyer which processed crab in 1998 or 1999 (which qualifies under a new recency requirement) will receive IPQ's for 80-90% (final determination to be made by NPFMC/Congress during 2001) of the total pounds he purchased (on a regional basis) during processing history years, which will be specified for each fishery as the last three years that the fishery was open or, for Bairdi, processing history shall be based on a 50/50 combination of processing history of Bristol Bay red king crab and opilio crab. Processing shares shall be awarded to the processing entity that owned the crab during the processing phase. The crab processing caps enacted by Section 211(c) (2) (A) of the American Fisheries Act are terminated upon implementation of the processor provisions recommended above.

For the purpose of this example only, assume that a qualified crab processor receives IPQ's for 85% of the total

ENDORSEMENT

I have read the attached Majority Report and agree with the statements and Preferred Framework included in that report. I support the Regionalized Two-Pie framework as defined in this document, and ask that the Council expedite it's Options and Analysis so that the Bering Sea Crab Industry might be rationalized prior to the 2002 seasons.

Joseph T. Peskin 4/5/01

Name Date

Source: Tom Casey (206) 849-6752

C-2
TOM CASEY
6/01

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Joseph T. Perdue 4/5/01

Name Date

Source: Tom Casey (206) 849-6752

Statement of

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GENERAL COUNSEL
TRIDENT SEAFOODS CORPORATION

May 2, 2001

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