


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: August 30, 2000

SUBJECT: American Fisheries Act - Crab Processing Sideboards

ESTIMATED TIME
6 HOURS

ACTION REQUIRED

Review discussion paper and options and take final action.

BACKGROUND

In the spring 2000 opilio fisheries, NMFS implemented crab processing limits for AFA processors as prescribed by the Act, which limited those entities to their historic (1995-1997) processing levels of BSAI crab. In April and June the Council heard from both harvesters and processors citing adverse, unintended consequences of those crab processing limits. At the June meeting you requested additional information, and identified alternatives to mitigate potential adverse impacts, including (1) a 10-20% overage allowance, (2) adding 1998 to the baseline historical period, which would increase the percentage cap for AFA processors, and (3) eliminating the caps. In the discussion paper staff identify some additional options, including lifting the caps a specific number of days after the fishery closes. The pros and cons of these options are discussed in the paper (Item C-3(a)).

In order to alter the caps as stipulated in the Act, or to repeal them, the Council will need to justify such changes in light of the Section 213 allowances for superceding the provisions of the Act. Those are summarized on page 1 of the discussion paper. Depending on the Council's direction at this meeting, changes to the crab processing limits could be in place for year 2001 through the AFA rulemaking currently being prepared by NMFS. Staff will summarize the points of the discussion paper at this time.

Crab Processing Sideboard Caps

A Discussion Paper

Prepared by the staffs of the
North Pacific Fishery Management Council
and
Alaska Department of Fish and Game

August 7, 2000

1 Introduction

Crab processing sideboard caps were implemented for the 2000 fishing seasons in the BSAI to protect non-AFA processors from adverse impacts caused by the implementation of cooperatives. The structure of the crab processing caps followed the formula outlined in the AFA. That section of the AFA indicated that the 10 percent ownership and control standard should be used to determine which facilities should be capped. The specific language defining crab processing caps is found in Section 211(c)(2)(A) of the AFA. That language is as follows:

“Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, and 1997”

The above section of the Act applies only to processors owned or controlled by AFA motherships and shorebased processors. Motherships that are owned by AFA catcher processors are currently exempt from crab processing caps. Because AFA catcher processors can buy motherships to process crab, some individuals have expressed concern that profits earned in the pollock fishery could be used by catcher processors to create an advantage under the system as it is currently implemented.

The first crab fishery to be prosecuted after the processing caps were implemented was the 2000 opilio fishery. The purpose of this paper is to describe how the fishery changed because of the caps, and provide information on alternatives the Council is considering to modify the program. As the Council considers changes to the crab processing caps, they will need to make their recommendations in light of section 213 of the AFA. Section 213 states that:

“...The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act--
1) that supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery.”

Therefore to change any aspect of the crab processing sideboards that are currently in place, the Council will be required to justify such changes in terms of mitigating adverse effects on the crab fishery which were caused¹ by processing caps.

¹It is unclear whether this section of the AFA implies that only harm already shown to have occurred may be mitigated, or whether this section of the Act can be interpreted in a broader sense to mitigate perceived harm which may occur as a result of the Act.

Should the Council elect to alter the current crab processing sideboard program at the September meeting, those changes could be implemented in the final AFA rule. The final rule is expected to be in place for the 2001 fishing season.

1.1 Document Outline

This discussion paper is divided into four sections. The first section introduces the problem that the Council is facing (whether or not to alter the crab processing sideboards). The second section describes the BSAI crab fisheries in an historical context. Section three describes the current fisheries and outlines some possible changes to the program. Section four is the summary and conclusion section.

1.2 Summary of the Alternatives Proposed by The Council

The Council requested that four alternatives be considered in this discussion paper. The first option would be the no action alternative. After reviewing this discussion paper the Council may decide that there is insufficient justification to modify the crab processing sideboards as required under section 213. The second option would be to allow AFA processors to exceed the cap by 10 to 20 percent without being subject to any penalty. The third option would be to change the years used to calculate the caps. Currently the processing history during the years 1995-97 is used to calculate the caps. The Council has added an alternative that would also include the processing history from the 1998 fishing seasons. Because the AFA sector processed a higher percentage of the opilio crab in 1998, they would be granted a higher cap in future years if that year was added. The fourth and final alternative requested by the Council would be the complete elimination of the crab processing caps. Elimination of the caps would allow AFA processors in the inshore and mothership sectors to compete directly with the non-AFA processors for the right to process the entire GHL. AFA pollock catcher processors would still be banned from participating in this fishery, but they could use other floating processors² to process crab.

2 History of the BSAI Crab Fisheries

This section of the document will provide a summary of crab fisheries in the BSAI from 1995-98³. Emphasis will be placed on historical catch by fishery during those years and the current fishery opening dates. The first issue is important because that information is used to calculate the crab processing sideboard caps. Season dates are important because they provide insights into which fisheries are open at the same time, as well as how long vessels may have between seasons to off-load their crab harvests before they must return to the fishing grounds for the next fishery opening.

2.1 Seasons and Fisheries

The current opening dates for the BSAI crab fisheries are reported in Table 1. Some of the fisheries will not open this year due to low GHLs. The *C. bairdi* fishery has not been open since 1997, and the Pribilof and St. Matthew king crab fisheries were not opened in 1999. These fisheries are not expected to be opened to fishing

²The Highland Light is an AFA catcher processor. The owners of the Highland Light also own at least 10 percent of a floating crab processor, which under current regulations is not subject to crab processing sideboards.

³A list of the opilio crab processors from 1995-2000 is included as Appendix 2 to this document.

in 2000. There is also concern for the 2001 *C. opilio* fishery. It has been speculated that the GHL will once again be very low or the fishery will not open. However, the status of *C. opilio* and other crab fisheries will not be decided prior to release of this document.

Table 1. Summary of BSAI Crab Season Dates

BSAI Crab Fisheries	Date Fishery Opens
Aleutian brown king crab	August 15
Pribilof king crab (red and blue)	September 15
St. Matthew king crab (blue)	September 15
Bristol Bay red king crab	October 15
Bering Sea <i>C. bairdi</i> Tanner crab	Concurrent to Bristol Bay red king crab, Oct. 15 -If no Bristol Bay king crab fishery, opens Nov. 1
Bering Sea <i>C. opilio</i> snow crab	January 15
St. Matthew brown king crab	Open by Commissioner's permit
Pribilof brown king crab	Open by Commissioner's permit

Source: ADF&G Staff supplied summary of crab seasons.

2.2 Amounts of Crab Processed

Processing data from the 1995-98 BSAI crab fisheries are reported in Table 2. The data are derived from ADF&G fishtickets. Only commercial processing of crab harvested in the open access fishery is included. Data from the 1999 BSAI crab fisheries and the 2000 opilio fishery have not been included in Table 2. The focus of the paper is to provide information to the Council which will aid them in deciding whether to change the crab processing sideboard caps. Options to change the caps which are under consideration by the Council include the years 1995-98. Therefore, information on the 1999 and 2000 fisheries may have been useful as background information, but they are not being considered as years to be included when calculating processing caps. Using 2000 as a year to determine opilio caps would not make much sense anyway, because that fishery was prosecuted under the processor sideboard system currently in place. Therefore, the processing levels were artificially constrained by the caps.

2.3 Overages and Underages in the Preseason GHL

One of the dilemmas facing managers of the crab fisheries is to have an estimate of total harvest in a timely manner. GHLs are set as prior to the start of the fishing season. Then as the fishery takes place managers track the CPUE in addition to the total harvest to determine when the fishery should be closed. This management strategy often results in the preseason GHL being over or under-harvested (Table 3)⁴. This causes a problem for AFA processors trying to achieve, and yet stay within their caps. AFA processors are forced

⁴Smaller GHLs are generally more difficult to manage inseason. A small GHL for the opilio fishery is considered to be less than 100 million pounds, for BB red king crab it is about 15 million pounds.

to try and estimate what the total harvest will be at the end of the season. If they estimate that the GHL will be exceeded, they will want to process additional crab. However, the processors must be cautious when they make this decision, because going over the cap could lead to severe penalties. Perhaps the most serious of which would be the loss of AFA status, meaning they would lose their rights to participate in the BSAI pollock fishery.

Table 2: Processing of BSAI crab by AFA and Non-AFA processors

Crab Species	Year	AFA	Non-AFA	Grand Total	AFA % of Total
Blue King	95	2,849,530	1,734,680	4,584,210	62.16%
	96	2,590,357	1,428,188	4,018,545	64.46%
	97	3,193,715	1,968,319	5,162,034	61.87%
	98	2,078,087	1,408,679	3,486,766	59.60%
Blue King (1995-97)		8,633,602	5,131,187	13,764,789	62.72%
Blue King (1995-98)		10,711,689	6,539,866	17,251,555	62.09%
Brown King	95	4,897,107	3,667,617	8,564,724	57.18%
	96	5,586,570	2,809,930	8,396,500	66.53%
	97	2,075,350	3,954,711	6,030,061	34.42%
	98	2,697,793	3,273,345	5,971,138	45.18%
Brown King (1995-97)		12,559,027	10,432,258	22,991,285	54.63%
Brown King (1995-98)		15,256,820	13,705,603	28,962,423	52.68%
Red King	95	731,420	599,424	1,330,844	54.96%
	96	6,489,994	2,456,661	8,946,655	72.54%
	97	7,657,342	2,103,882	9,761,224	78.45%
	98	12,121,625	3,406,497	15,528,122	78.06%
Red King (1995-97)		14,878,756	5,159,967	20,038,723	74.25%
Red King (1995-98)		27,000,381	8,566,464	35,566,845	75.91%
Tanner (bairdi)	95	2,875,057	1,368,479	4,243,536	67.75%
	96	1,285,759	520,664	1,806,423	71.18%
Tanner (bairdi) (1995-97)		4,160,816	1,889,143	6,049,959	68.77%
Tanner (bairdi) (1995-98)		4,160,816	1,889,143	6,049,959	68.77%
Tanner (opilio)	95	42,563,046	32,746,141	75,309,187	56.52%
	96	36,355,881	29,414,894	65,770,775	55.28%
	97	72,621,833	46,921,191	119,543,024	60.75%
	98	176,245,213	75,943,718	252,188,931	69.89%
Tanner (opilio) (1995-97)		151,540,760	109,082,226	260,622,986	58.15%
Tanner (opilio) (1995-98)		327,785,973	185,025,944	512,811,917	63.92%

Source: ADF&G Fishticket data 1995-98.

Note:

- 1) The bairdi fishery was not open in 1997 or 1998, therefore the 1995-97 and 1995-98 options yield identical results.
- 2) The processor reported on the ADFG fishticket was used to determine AFA and Non-AFA amounts. If custom processing has taken place, that would likely alter the above results. Information on custom processing is required to be reported in the Commercial Operator's Annual Reports (COAR). That data was not researched to determine how the above numbers may be impacted.

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AFA 51.14
AFA 76.57
AFA 65.9

Table 3. GHLS and harvest of opilio and Bristol Bay red king crab by year

Year	Opilio			Red King Crab		
	GHL	Harvest	% over GHL	GHL	Harvest	% over GHL
1990	139.8	161.8	15.7	17.1	20.4	19.3
1991	315.0	328.6	4.3	18.0	17.2	-4.4
1992	333.0	315.3	-5.3	10.3	8.0	-22.3
1993	207.2	230.8	11.4	16.8	14.5	-13.7
1994	105.8	149.8	41.6	0.0	0.0	n/a
1995	55.7	75.3	35.2	0.0	0.0	n/a
1996	50.7	65.7	29.6	5.0	8.4	68.0
1997	117.0	119.5	2.1	7.0	8.7	24.3
1998	225.9	243.3	7.7	15.8	14.2	-10.1
1999	186.2	184.5	-0.9	10.1	11.0	8.9
2000	26.4	30.8	16.7			

Source: ADF&G Annual Management Reports

3 Current Fisheries

Section 3 will describe the current system for managing processing caps and the impacts that the program has had on the fisheries. Because only the 2000 *C. opilio* fishery has taken place when processing caps were in effect, our experience is limited⁵. Also the crab fisheries take place at different times of the year and are different lengths (and GHL's). These factors may cause the processing caps to vary by fishery. However, until more information is available the impacts will be speculative.

3.1 Structure of the Processing Caps

Processing caps are currently based on the AFA processing sector's⁶ 1995-97 processing history expressed as a percentage of total processing over those years. Processing caps are then calculated for each BSAI species (bairdi, opilio, red king, blue king, and brown king). Because the caps are based on the amount of a species processed and not the amount of a fishery processed, it leaves room for AFA processors to, for example, move some of the history they earned from processing king crab in the Pribilofs and use that cap to process Bristol Bay red king crab. In other, words AFA processors could potentially take advantage of price and quality differentials among fisheries to increase profits under the current system. ADF&G ex-vessel price data from 1996-98 shows that there is often a 5 to 12 percent price difference in the two fisheries. Some years the price paid in the Bristol Bay fishery is higher and some years the prices are higher in the Pribilof fishery. These price differences may be enough to cause effort to switch from one fishery to another. It may also be more cost efficient for a plant to only open for one fishery instead of two, if they can process their entire cap during that opening.

⁵Appendix 1 to this document is a report to the Council from ADF&G on the impacts processor caps had on the 2000 *C. opilio* fishery.

⁶Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered the same entity as the other individual or entity for the purpose of determining which processor's catch history will be included in the AFA sector when calculating caps.

3.2 Impacts on Catcher Vessels

The processing caps seem to represent a tradeoff between protections for non-AFA processors and market considerations for catcher vessels. Both of these groups are potentially negatively impacted by the AFA. The non-AFA processors requested that crab processing caps be included in the AFA when it was being developed by Congress. They were concerned that AFA processors would be allowed to take advantage of changes in the pollock fishery to increase their participation in the crab fisheries. Therefore, crab processing sideboards were specifically structured in the Act, and NMFS implemented those caps as defined by Congress.

Catcher vessel owners have voiced strong concerns at recent Council meeting and during past processor sideboard committee meetings that implementation of processing caps would negatively impact their businesses.

Their concerns focused in two primary areas. The first is that they would either lose their existing market because the processor did not have enough cap to take their deliveries or the processor would reach their cap part way through the season and be forced to turn catcher vessels away. The second concern dealt with undermining their ability to negotiate an acceptable ex-vessel price. Catcher vessels indicated after the 2000 opilio fishery that they felt they would have received a higher ex-vessel price had processing caps not been in place. Their logic was that because the AFA processors had a limited amount of crab they could process they had no reason to competitively bid for additional crab deliveries. The non-AFA processors had less competition, because the AFA processors role in the market was reduced, and they could offer a lower price under those market conditions than then would have if the AFA processors were more active in the market for crab. It is possible that this was the case. However, the difference in price that was actually paid during the 2000 opilio fishery, and what would have been the ex-vessel price with no processing caps, cannot be determined.

A low GHL during the 2000 opilio fishery also resulted some processors electing not to buy and process crab. Fewer processors in the market may have reduced competition and, as a result, ex-vessel prices for opilio. If catcher vessels received a lower price during the 2000 opilio fishery than they felt they should have, it may be attributable to both few processors caused by a low GHL⁷ and processing sideboard caps.

3.3 Management Alternatives Proposed by the Council

Four basic management alternatives are being considered for the crab processing caps. Those options are discussed below. The options selected by the Council for consideration range from keeping the current cap structure to completely removing the processing caps. Other alternatives being considered by the Council fall between those two options, in terms of their impacts on AFA processors, non-AFA processors, and catcher vessels.

As mentioned earlier in the document, the Council must justify any changes to the structure of the current crab processing caps in terms of Section 213 of the AFA. It is likely that the SOC and NMFS will look closely at that justification when determining whether or not to implement any changes recommended by the Council.

⁷The price for opilio was higher than it was in previous years, because of reduced product supply, but fishermen felt the price should have been even higher than it was in 2000. Most fishermen attributed the price being lower than expected to reduced competition for their product.

3.3.1 Status Quo

The status quo alternative was described in section two of this document. Should the Council choose not to make any changes to the existing program, the impacts are those presented in that part of the document and other analyses used to implement the program.

3.3.2 Allow 10 to 20 Overage of Cap

This option would allow processors to exceed their processing caps by a set percentage each year without any penalty. The range under consideration by the Council is 10 to 20 percent. If approved the members of the AFA sector would be allowed to exceed their processing caps (based on the preseason GHL) by between 10 and 20 percent each year. Allowing overage takes into account fisheries managers inability to exactly estimate the appropriate harvest levels and then shut the fishery down once that level of harvest is taken.

To show how the overage allowance works we will provide a couple of examples. All of the examples will use the 10 percent overage level. This alternative was selected simply because it makes the math easier, and not because it is a better alternative than the other percentages being considered.

Assume that the mid-point of the preseason GHL is 100 million pounds. For simplicity, we will also assume that the AFA sector's cap is equal to 50 percent of the GHL. That means the AFA cap is 50 million pounds. Allowing a 10 percent overage without penalty means that the AFA processors can actually process up to 55 million pounds. The amount of the cap is now set and will not vary, even if the GHL is exceeded. Now, we can walk through three different scenarios. The first assumes that the GHL is exactly harvested, the second assumes the GHL was exceeded by 10 percent, and the third assumes the GHL is exceeded by 20 percent.

When the fishery is closed down exactly when the 100 million pound GHL is taken, the AFA processors are basically given a 10 percent increase as a result of management uncertainty. Recall that AFA are not guaranteed any amount of crab under the sideboard caps. They must offer prices which attract owners of catcher vessels to deliver to their plant, in order to process up to the amount allowed under the cap. Under the original program they would have been required to stop processing at 50 million pounds, but they were allowed to process up to 55 million pounds, in this example. In essence, the 10 percent overage effectively results in a larger cap for the AFA processors.

If the GHL is exceeded by 10 million pounds (10 percent), the AFA sector would be allowed to process up to 55 million pounds, or exactly their 50 percent of the GHL. In this case the 10 percent overage actually allowed the AFA sector to process their original cap, in percentage terms. Finally, if the GHL were exceeded by 20 percent (120 million pounds harvested), then the AFA sector would only be able to process 55 million pounds, with the overage rules, but they would have been allowed to process 60 million pounds under the current regulations⁸. This assumes that with the overage rules in place there would be no in-season adjustments of the total catch. Processors would base their processing cap on the preseason mid-point of the GHL plus the buffer added to the cap for management imprecision.

⁸This assumes that the processors would have been able to work with ADF&G to determine what the actual catch would be in-season. Precise in-season estimates are not likely in the near future, so while processors would technically be allowed to process 60 million pounds they probably would choose to process less to ensure they did not exceed their processing cap.

In summary the overage rule provides AFA processor some relief from the management uncertainties, in that they know the maximum amount of crab they can process as a sector before the start of the season. Under these rules the AFA sector is constrained less if the GHL is not exceeded or exceeded by a percentage less than their overage percentage. They are thus better off under the AFA cap with the built in buffer for management imprecision. If the GHL is exceeded by a percentage greater than the overage percentage then AFA processors are better off under the current system of determining processing sideboard cap amounts, if they are able to make in-season adjustments for the overage. It should be noted that any scenario that makes AFA processors better off will likely make non-AFA processors worse off.

3.3.3 Basing the Caps on 1995-98 Processing History

Adding 1998 to the years that are used to determine the AFA processing caps will increase the AFA sector's cap amounts in the red king crab (1.66 percent of GHL) and opilio fisheries (5.77 percent of GHL). Processing caps would be reduced in the blue (0.63 percent of GHL) and brown (1.95 percent of GHL) king crab fisheries and be unchanged in the bairdi fishery (Table 2). The opilio and red king crab caps increase because the AFA sector processed a larger percentage of the crab fisheries in 1998 relative to their 1995-97 average.

Adding 1998 will likely make AFA processors relatively better off when compared to the current cap and make non-AFA processors relatively worse off. The processors would be expected to be better off because processing sideboard caps increase in the opilio and red king crab fisheries. These are the most valuable fisheries and therefore the fisheries of most concern.

Catcher vessels would be better off adding 1998 if it increases competition for delivers. As stated earlier increased competition among processors is expected to improve the bargaining position of catcher vessels.

3.3.4 Abolish Crab Processing Caps

This option would completely remove the crab processing sideboard caps. AFA processors would then once again be allowed to compete for the right to process any amount of the GHL. If the AFA has economically advantaged the AFA segment of the processing sector, removing processing caps would place these processors in a better position, relative to the non-AFA processing sector, than they were in prior to the implementation of the Act. Therefore removal of the processing caps would benefit AFA processors and catcher vessels. Non-AFA processors would be in a worse position relative to the status quo and may be worse off than they were prior to the implementation of the AFA. The changes may even be larger over time if the fears of the non-AFA processors are realized. In that case, AFA processors would alter their operations as a result of rationalizing the pollock fishery to increase the relative amount of crab that they could process.

Removal of the caps may benefit catcher vessels. The catcher vessel sector has advocated the elimination of processing caps. The harvesting sector feels that they will be better off if they have more processors to negotiate with over the price of their product (Halvorsen et. al., 2000)⁹.

⁹Halvorsen et al, 2000. Inshore Sector Catcher Vessel Cooperatives in the Bering Sea/Aleutian Islands Pollock Fisheries, North Pacific Fishery Management Council, February 7, 2000.

3.4 Other Potential Management Alternatives

Four other potential structural changes to the management of these caps are presented in this section. Changes that the Council may wish to consider making to the program include allowing the caps to be lifted a given number of days after a fishery closes, changing the caps from entity caps to aggregate caps, changing the caps from being species based to fishery based, or revising the cap at the end of the season based on the methodology used to estimate CDQ harvest amounts.

3.4.1 Lifting Processing caps a given number of days after the fishery closes

Lifting the caps a given number of days after the season closes is offered as a suggestion to help reduce off-load waiting times. It is a well know fact that crab mortality increases the longer crab are held on-board the vessel. Concerns were expressed at the June Council meeting that AFA processing sideboards had increased the wait time for vessels to off-load, and that if the opilio fishery had taken place during the winter as it normally does, dead-loss may have increased much more than was actually realized. To provide a relief valve for extraordinarily long off-load times the Council could allow AFA processors to resume processing (above the cap) a given number of days after a fisheries closes. This would allow catcher vessels to get crab off their boats before the rate at which crab start dying increases, or in some cases perhaps before the next fishery opens. The number of days that AFA processors would be excluded would depend on what is considered normal off-load time, how long crab can survive in the hold under the weather conditions, and when the next fishery is scheduled to open. If by using these factors a number of days can be determined, non-AFA processors would be give that length of time to get the fleet off-loaded before the AFA processors would be allowed to re-start their processing.

Allowing the AFA Sector to start processing after a given number of days does provide the potential for AFA processors to try and keep vessels from off-loading until after the cap is lifted. The extent to which this strategy could be employed is unknown. It also may encourage catcher vessels to sit and wait for the AFA processing cap to be lifted with the hopes they will receive a higher price, if they feel that dead-loss will not be a substantial problem.

3.4.2 Aggregate vs Entity Caps

There has been a substantial amount of discussion at past meetings regarding aggregate and entity level processing caps. Currently there is insufficient real time data to manage aggregate caps in-season. The current reporting system would need to undergo substantial changes before the management of aggregate caps could be enforced in-season.

Given these management constraints, it is still possible that at some point in the future the Council may wish to move to aggregate processing caps. However, aggregate caps also may carry with them their own set of problems for the industry. For example when the aggregate cap is reached, all AFA processors would need to stop taking deliveries at the same time. Removing all of the AFA processors at once may cause a larger disruption to the fleet than if processors left the fishery one at a time as they each reached their cap. There are also questions about what to do with vessels that are partially offloaded when the closure is issued. Would these vessels be allowed to continue offloading or would they be required to move to a non-AFA processor? If they are allowed to finish offloading, would that provide incentives for processors to partially offload several vessels as the cap is approached, so after the closure is announced they could continue offloading all of the boats and increase their percentage of the processing totals?

Under aggregate caps there is also the issue of who will be prosecuted if the cap is exceeded. No enforcement actions will be taken if the overall cap is not exceeded even if some firms process more than they would have been allowed under entity caps. However, if the aggregate cap is exceeded then all entities that exceeded their allocation would be subject to enforcement action.

These are just a few of the problems associated with aggregate processing caps. As additional experience is gained operating under the caps, other issues will undoubtedly be raised.

3.4.3 In-season Adjustment of Catch Estimates

Another way to deal with potential differences between the preseason GHL and the actual catch in a year, might be to request that ADF&G provide their estimate of the total catch about three days after the fishery closes. ADF&G currently uses this system to determine CDQ harvest amounts and members of their staff have indicated the results are usually fairly close to the final catch. This system will be used to estimate final sideboard amounts in the Bristol Bay red king crab fishery. The estimate is made by requesting vessels to hail their approximate catch before they off-load. ADF&G already requires vessels that are leaving the BSAI to off-load (in Kodiak for example) to hail in their catch. When hailing in their catch they are required to be within a given percentage of the actual weight. Currently the regulation to hail in weights only apply when a vessel is checking out of an area. If the fishery managers determine that similar regulations are necessary to obtain accurate hail weights, that regulatory change would need to be pursued through the Alaska Board of Fish.

Implementing this procedure could provide AFA processors a better estimate of the final cap, and would be beneficial to AFA processors under either the aggregate or entity caps. If this system were implemented the processors would need to agree to abide by the final estimate once made by ADF&G, even if the final harvest estimates ultimately are determined to be larger.

3.4.4 Caps by Fishery vs Species

If the Council wishes they could change the calculation of processing caps from a species based system to one that is fishery based. However either system presents its own set of problems that would need to be overcome. Consider the Pribilof red and blue king crab fishery. Currently the processors get separate credit for the deliveries of red crab and blue crab. The red crab could be used to process red king crab from the Bristol Bay fishery and blue crab from St. Matthew if the processor elected to take deliveries from those fisheries instead.

Under a fishery based system, the Council would likely need to allow processors to process their cap amount of the Pribilof fishery treating red and blue landings as if they were a single species. Having separate caps for red and blue crab in this fishery does not appear to make sense. With separate caps, it is possible that a processor would reach their red king crab cap and be allowed to only take deliveries of blue crab. Creating a situation where they would need to stop processing before their cap is reached, or requiring a processor to only take deliveries of one species in a mixed fishery, does not seem to be practical.

Another alternative may be to combine fisheries into a single cap. The Pribilof and St. Matthew king crab fisheries are the most obvious candidates. Both of these fisheries, when open, start on September 15. Concurrent openings have been used to divide harvest effort between these fisheries. This management strategy has forced fishermen to choose the fishery in which they wish to participate, these choices likely impact processors whose vessels fish these fisheries. Given how closely related the two fisheries are, combining the

processing caps appears to be a logical consideration. Under this scenario processors would have a king crab cap for the combined Pribilof and St. Matthew fisheries.

4 Conclusions

The basic conclusion in this discussion paper is that crab processing caps were mandated by the AFA, but the Council was given latitude in the Act to make changes so long as they can justify the changes under Section 213 of the Act. Given that latitude, the Council is considering changes that would make the processing caps less restrictive to the AFA sector. Any changes that make the caps less restrictive would likely benefit the AFA processing sector and crab catcher vessels, well at the same time making non-AFA processors relatively worse off.

Fishery managers have expressed concerns regarding offload times and their impacts on removing gear from the grounds, allowing vessels to enter other fisheries, and dead-loss. From the perspective of fishery managers within the State of Alaska, regulatory changes to the processing sideboard caps that are contemplated by the Council should take these issues under consideration.

Changes to the crab processing sideboard caps that the Council is considering include two alternatives that would increase the cap and one that would completely remove the processing caps. Increasing the caps might either be accomplished by adding 1998 to the years that were used to calculate processing sideboard caps, or by allowing the AFA sector to exceed the caps by 10 to 20 percent without penalty. The increase would be based on the preseason GHL. That is an important consideration, because depending on how much the GHL is exceeded determines whether the AFA sector is made relatively better or worse off under the proposal that would allow overages. If the percentage by which the GHL is exceeded is less than the overage percentage the AFA sector is relatively better off. If the percentage by which the GHL is exceeded is greater than the overage percentage the AFA sector is relatively worse off. In this context worse off means they would have technically been allowed to process more under the status quo. It is also important to note that alternatives making the AFA sector better off will also likely make the non-AFA sector relatively worse off.

Other potential changes to the crab processing cap program were also discussed in this paper based on discussions among staffs of NMFS, ADF&G, and NPFMC. Alternatives presented in that section include changing the caps from being species based to fishery based, changing the enforcement of the caps from being entity to aggregate based, and allowing for the removal of the processing caps a given number of days after the season closes in an attempt to reduce the potential for dead-loss and excessive off-load wait times.



ALASKA DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES

At the April 2000 NPFMC meeting, the Council posed a series of questions to the department regarding the AFA processing caps and their impact on the 2000 snow crab fishery. The following are a synopsis of the department's response to these questions.

1. Was the waiting time for vessels to offload in 2000 different than 1999 or 1998 when no processing caps were in place?

At the conclusion of the 2000 snow crab fishery, both floating processors (FP) and shoreside processing plants (Shore) experienced increased processing time. The below table indicates number of days by processing type.

<u>YEAR</u>	<u>NUMBER OF DAYS PROCESSING AFTER FISHERY CLOSURE</u>		
	<u>CP</u>	<u>FP</u>	<u>SHORE</u>
1998	1	8	6
1999	5	3	4
2000	4	14	10 (Dutch)

2. Was the percentage of crab deadloss substantially different in 2000 verses the five previous years when no processing caps were in place?

It appears from the table below that the percentage of deadloss in the 2000 open access snow crab fishery was not significantly different than values observed in the period 1995-1999.

<u>YEAR</u>	<u>DEADLOSS (lbs.)</u>	<u>PERCENT OF OPEN ACCESS HARVEST</u>
1995	1,287,196	1.7
1996	1,333,014	2.0
1997	2,351,555	2.0
1998	2,893,945	1.2
1999	1,828,313	1.0
2000 (preliminary)	310,656	1.0

3. Was the percentage of crab going to locations requiring check-out (Kodiak, Adak, etc.) different during the 2000 fishery when AFA processing caps were in place verses 1999 and 1998 when no processing caps were in place?

As shown in the table below, the number of vessels which delivered outside the standard ports was higher in 2000 than in the prior two years. While this increase may have been driven in part due to higher prices offered in Kodiak, the price differential offered in Kodiak over Dutch Harbor in 1998 and 1999, 19.6% and 28.4% respectively, was greater than the differential offered in Kodiak over Dutch Harbor in 2000 (+8.1%). For this reason, there may be other extenuating reasons that caused the percentage to increase.

<u>YEAR</u>	<u>NUMBER OF VESSELS</u>		<u>EXVESSEL PRICE</u>			<u>PRICE DIFFERENTIAL OVER DUTCH</u>
	<u>CHECKING OUT TO</u>		<u>PAID TO FISHERS*</u>			
	<u>KODIAK</u>	<u>ADAK</u>	<u>KODIAK</u>	<u>ADAK</u>	<u>DUTCH</u>	
1998	6	0	\$0.67	—	\$0.56	19.6%
1999	2	0	\$1.13	—	\$0.88	28.4%
2000	12	1	\$2.00	\$2.05	\$1.85	8.1%

*price for number 1 bright shell crabs.

More vessels delivering to Kodiak in 2000 may have been partially driven by the fact that vessels were carrying their entire seasons catch, so any price differential would have been applied to their entire seasons harvest. Also, the closure of the Bering

Sea/Aleutian Islands fixed gear Pacific cod fishery, several weeks prior to the start of the 2000 snow crab fishery, may have resulted in fewer fishery opportunities available for some vessels after the snow crab fishery closed.

4. Why did some processors choose not to operate, or not operate at certain locations, in the 2000 snow crab season?

Processor decisions regarding which plants and/or how many crews to operate were probably based largely on economics. AFA processor caps likely had economic impacts on all processors participating in the 2000 snow crab fishery. Of equal importance, however was the relatively small guideline harvest level (GHL) of the 2000 fishery. Even in the absence of any type of processing caps, processors were facing dramatic reductions in the quantity of crabs available for processing in 2000, consequently decisions on operations would have most certainly been, in part, driven by the small GHL available in 2000.

5. What was the price per pound in 2000, verses 1999 and 1998? See question # 3.

In addition to these questions, the department noted a number of issues that arose in conjunction with the AFA caps in the 2000 Snow crab fishery. The department was able to address these through inseason adjustment authority. These were:

- Adjustment to processor caps based on harvest exceeding GHL and ADF&G's limitations in providing an accurate harvest revision in a timely manner to be of value to processors seeking to process their percentage of any harvest over the GHL.

Current AFA regulations allow certain processors a percentage of the harvest, including any harvest in excess of the GHL. Due to significant penalties established for processors exceeding their cap percentage, processors need to know the exact amount of the overage when determining how much they can exceed their original allocation, which is based on the preseason GHL.

Immediately after the close of the 2000 snow crab fishery, representatives from most processors began calling the ADF&G office in Dutch Harbor requesting a solid estimate of the actual harvest. Several processors were frustrated that actual harvest, based on processor's actual production reports, would not be available in time to allow processors to accurately adjust processing to the amount actually harvested. Information on the actual (not projected) harvest was not available to ADF&G until April 24, when processors' production reports for the week ending April 22 were due and submitted to the department. Current data collection procedures do not provide

for a definitive catch estimation of the GHL to alter crab caps inseason (most harvest is still on vessels at sea or waiting to be offloaded).

- Inability of vessels waiting to offload to comply with 10-day interim wet gear storage regulations; and how it could affect the CDQ vessels.

In 2000, 16 vessels contacted the department and indicated that, due to a late offload, they would be unable to clear their gear from the fishing grounds in the 10 days immediately following the closure as allowed by regulation. In 1999, processing did not extend beyond 10 days following the closure, however due to extremely bad weather at the time of the closure, the department issued an exemption to the 10-day rule. In 1998, processing was concluded within 8 days of the fishery closure. No vessels reported having difficulty clearing the grounds within the 10 days following the closure.

Several vessels planning to participate in the 2000 Community Development Quota fishery, which were not offloaded until April 17, were given a waiver of observer coverage to return to the fishing grounds to convert their open access gear to CDQ gear to avoid violation of the 10-day post-fishery gear storage regulations.

- Current ADF&G policy provides opportunity to reduce deadloss from excessive processing wait times. Additionally, it provides for vessel movement as a result of processors reaching their AFA caps.

Under current landing restrictions, a vessel which has participated in the Bering Sea snow crab fishery may not freely move between ports or processors with crabs on board after a specified period not exceeding 72 hours following the fishery closure.

Prior to the 2000 season, industry representatives voiced concern that vessels, delivering to AFA processors which reached their cap, would be unable to move to another port or processing location. Also of concern was anticipated wait times longer than normal at non AFA processors, as AFA processors reached their caps and ceased processing.

As a result of these concerns, ADF&G developed policy which allowed vessels, unable to deliver because their processor reached an AFA cap, or vessels which were beginning to experiencing abnormally high deadloss problems due to long wait times, to move to a new port and or processing location. Under this policy, vessel movements were coordinated by the department and check-out and check-in with a department representative was required. ADF&G records indicate 3 vessels requested and were granted permission to move to another processor. In all cases, the original processor had reached their AFA cap.

In summary, crab fisheries are managed based on inseason information to achieve the preseason guideline harvest level. However, the department does not have the tools

necessary to accurately manage the fleet to achieve the GHL target. Although harvest may be close to the GHL, in some years the GHL may be over or under by a substantial amount.

Appendix 2

Processors of Opilio crab by year							
PROC NAME	AFA	YEAR					
		95	96	97	98	99	00
Adak Seafoods Llc	Non-AFA						1
Alaska Fresh Seafoods Inc	Non-AFA						1
Alaskan Fisheries Company	Non-AFA	1					
Alyeska Seafoods Inc	AFA	1	1	1	1	1	1
American Champion LLP	Non-AFA	1					
Aquatech	Non-AFA		1	1			
Baranof Fisheries	Non-AFA	1	1	1	1	1	1
Blue Dutch Lcc	Non-AFA					1	1
Blue Wave Seafoods Inc.	AFA	1	1	1	1	1	
Cannery Row Inc	Non-AFA			1			
CJW Fisheries	Non-AFA			1	1		
Cold Sea International	Non-AFA	1					
Courageous Fisheries	Non-AFA	1	1	1			
Courageous Seafoods	Non-AFA			1	1	1	1
Deep Creek Custom Packing	Non-AFA				1		
Deep Sea Harvester Inc.	Non-AFA	1	1	1			
Dutch Harbor Seafoods Ltd	Non-AFA	1	1				
East Point Seafood Company	Non-AFA	1					
East Point Seafood Company	Non-AFA	1					
East Point Seafood Company	Non-AFA	1					
Golden Shamrock Inc/Pro Surveyor	Non-AFA			1	1	1	1
Icicle Seafoods Inc. - Coastal Star	AFA	1	1	1	1	1	
Icicle Seafoods Inc.- Arctic Star	AFA	1	1	1	1	1	1
Icicle Seafoods Inc.- Bering Star	AFA	1		1	1	1	1
Jacquelyn R.	Non-AFA			1			
Karla Faye Co-ownership	Non-AFA	1					
King Fisher	Non-AFA				1		
Kiska Enterprise	Non-AFA				1		
M/v Westward Wind/Highland Light Sfds LLC	Non-AFA				1	1	1
Malezi Kwasi DbA Fisherman Of Alaska	Non-AFA					1	
Norquest Seafoods Inc.	Non-AFA				1		
Norquest Seafoods Inc.	Non-AFA	1					
Norquest Seafoods Inc.	Non-AFA	1	1	1	1	1	1
Norquest Seafoods Inc	Non-AFA						1
North Alaska Fisheries Inc.	Non-AFA		1	1	1		
North Pacific Processors Inc	Non-AFA	1	1		1		1
Northern Victor Partnership	AFA				1	1	
Northland Fisheries Inc.	Non-AFA	1	1	1			
Norton Sound Economic Developm	Non-AFA					1	
Ocean Beauty Seafoods (F/P Ocean Pride) Inc	Non-AFA	1	1				
Ocean Beauty Seafoods (King Crab) Inc-KOD	Non-AFA	1	1	1	1	1	1
Olympic Co-ownership	Non-AFA	1					
Osterman Fish	Non-AFA	1	1	1	1	1	

PROC NAME	AFA	YEAR					
		95	96	97	98	99	00
Pavlof Inc.	Non-AFA	1	1	1	1	1	
Peter Pan Seafoods Inc. - King Cove	AFA	1	1	1	1	1	
Pioneer Food Corporation	Non-AFA	1	1				
Prime Alaska Seafoods Inc.	Non-AFA		1	1	1	1	
Pro Surveyor Partnership	Non-AFA	1	1	1			
Royal Aleutian Seafoods Inc	Non-AFA	1	1	1	1	1	1
Royal Enterprise	Non-AFA				1		
Sanko Fisheries Llc	Non-AFA					1	1
Seawind Fisheries Group Llc	Non-AFA			1	1		
Snopac Products Inc	Non-AFA	1	1	1	1	1	1
South Atlantic Fisheries Llc	Non-AFA				1	1	1
Stellar Seafoods Inc.	Non-AFA	1	1	1	1	1	1
Trident Seafoods Corporation - Akutan	AFA	1	1	1	1	1	1
Trident Seafoods Corporation - Alaska Packer	AFA	1	1	1	1	1	
Trident Seafoods Corporation - Bountiful	AFA	1	1		1	1	1
Trident Seafoods Corporation - Independence	AFA	1	1	1	1	1	1
Trident Seafoods Corporation - Sea Alaska	AFA	1	1	1	1	1	
Trident Seafoods Corporation - South Naknek	AFA			1			
Trident Seafoods Corporation - St. Paul S/B	AFA	1	1	1	1	1	1
Tyson Seafood Group Inc/ Alaskan Enterprise	Non-AFA	1	1	1	1		
Tyson Seafood Group Inc/ Kiska Enterprise	Non-AFA	1	1	1	1		
Tyson Seafood Group Inc/ Royal Enterprise	AFA	1	1	1	1	1	
Tyson Seafood Group Inc (Arctic AK) - Glacier Enterprise.	AFA	1	1				
Tyson Seafood Group Inc (Arctic AK) - Gulf Wind	Non-AFA	1	1				
Tyson Seafood Group Inc (Arctic AK) - Northern Enterprise.	AFA	1	1				
Tyson Seafood Group Inc (Arctic AK) - Pacific Wind	Non-AFA	1	1				
Tyson Seafood Group Inc (Arctic AK) - Southern Wind	Non-AFA	1	1				
Tyson Seafood Group Inc (Arctic AK) - Western Enterprise	AFA	1					
Tyson Seafood Group Inc (Arctic AK) - Westward Wind	Non-AFA	1	1	1			
Unisea Inc. - Dutch Harbor	AFA	1	1	1	1	1	1
Unisea Inc. - Omnisea	AFA	1	1	1	1	1	
Unisea Inc.- Sand Point	AFA	1	1	1	1	1	
Westward Seafoods Inc - Dutch Harbor	AFA	1	1	1	1	1	1
Yamaya Corporation	Non-AFA	1					
Yardarm Knot Fisheries Llc	Non-AFA	1	1	1	1	1	1
Total		53	44	42	43	36	28

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25 August, 2000

Mr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

RECEIVED

AUG 25 2000

Re: American Fisheries Act
Crab Processing Sideboard Caps

N.P.F.M.C

Dear Mr. Pautzke and Council Members:

Established in 1988, Royal Aleutian Seafoods, 100% American owned, has attracted crab fisherman seeking an alternative market to the much larger pollock processors that also process crab. Royal Aleutian has played a pivotal role in establishing fair prices not only for fisherman that deliver to it, but to the crab fleet in general.

This letter examines the framework of evaluating crab processing sideboard caps, comments on the Discussion Paper dated August 7, 2000 on the topic, and finally provides a recommendation for the Council's consideration.

Framework for Evaluating Crab Processing Sideboard Caps
Crab Processing Sideboard Caps, A Discussion Paper, Dated August 7, 2000

The framework to evaluate the alternatives contained in the Discussion Paper arises from the unique decision by Congress to include in section 213(c) of the AFA authority that permits the Council to recommend measures that "supersede" the provisions set forth in the AFA for (1) "conservation purposes" or (2) "to mitigate adverse effects in fisheries or on owners of fewer than three fishing vessels in the directed pollock fishery." Thus, under the terms of the AFA, if the Council desires to modify the crab processing safeguard as directed by Congress, the Council would have to establish for the record two things: (1) that the modification or decision not to implement a provision is necessary to "mitigate adverse effects on fisheries or owners of fewer than three vessels in the directed pollock fishery"; and, in the case of a class identified in the AFA for specific protections, (2) that the recommended action provides the same or greater protection for the protected class (in this case non-AFA processors) as that provided by Congress in the measure being superseded.

Royal Aleutian Seafoods, Inc.

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The Discussion Paper omits comments that NOAA, General Counsel has previously provided to the Council regarding this topic. Please see attached a memorandum directed to the Council dated October 7, 1999 from NOAA, General Counsel, Lisa L. Lindeman, that states,

In our opinion, it would be very difficult to justify superseding measures that totally negate the excessive share and processing sideboard limitations that are expressly prescribed by the AFA. In order to do so, the record would have substantial and unavoidable adverse consequences (either in the form of conservation impacts or other adverse effects per section 213(c)(1)), and that these adverse consequences outweigh the benefits of the protections the prescribed caps would provide.

Comments Regarding: Processing Sideboard Caps, A Discussion Paper

Section 3.3 Management Alternatives Proposed by the Council, outlines the four basic management alternatives under consideration for the crab processing caps. These alternatives need to be judged relative to meeting the aforementioned standards set forth in section 213(c) of the AFA.

3.3.4 Abolish Crab Processing Caps and 3.4.1 Lifting Processing caps a given number of days after the fishery closes

Abolishing crab processing caps, as a stand alone alternative, fails to provide the protected class (in this case non-AFA processors) with the benefits of the protections the prescribed caps currently provide.

Lifting Processing caps a given number of days after the fishery closes would result in gamesmanship on the part of AFA processors to keep vessels from off-loading until after the cap is lifted. Ultimately, the protections to non-AFA processors as prescribed by AFA, would be lost and like prior discussions on throughput caps, this alternative would result in no cap at all.

In Royal Aleutian's opinion the two alternatives that abolish crab processing caps, and lift processing caps a given number of days after the fishery closes represent options that hopelessly fail to meet the mandates of AFA.

This leaves the two alternatives to be analyzed, 3.3.2 Allow 10 to 20 Overage of Cap and 3.3.3 Basing the Caps on 1995-98 Processing History.

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3.3.2 Allow 10 to 20 Overage of Cap

First, let's examine the overage range of 10% to 20% and their impact on the two most important fisheries, Bristol Bay red king crab and opilio. If the Council approved a 10% or 20% overage for example in Bristol Bay red king crab fishery, that would place the AFA processors at a cap of 81.7% and 89.1% respectively, compared with a present cap of 74.2%. It is worth noting that the highest market share recorded by AFA processors was 78.0% in 1998, dramatically below where the new cap(s) would be established in the event the Council adopted either the 10% or 20% overage. **Adoption of an overage of either 10% or 20% would place the AFA processor cap so far beyond historical based levels, the practical results would be no cap at all.**

For the opilio fishery adopting an overage of 10% and 20%, would place the AFA processors at caps of 63.9% and 69.8%, respectively. The greatest market share recorded by AFA processors was 69.9% recorded in 1998. If Congress originally intended to set processing caps at the highest market share levels ever achieved by AFA processors, then that would have been prescribed in AFA. Obviously, this was not the intent of Congress.

Such a generous allowance of 10% to 20% would allow AFA processors to substantially increase market share at the expense of non-AFA processors and would ultimately fail to provide the non-AFA processors with the safeguards included in the AFA by Congress.

3.3.3 Basing the Caps on 1995-98 Processing History

A legitimate concern raised by the AFA processors is the fact that certain processing entities have departed from the crab business since the qualifying years (1995-1997). The modest reduction in overall processing capacity since 1997, has resulted in an elevation of market share for the remaining processors, of which most are AFA processors.

Adding 1998 will benefit AFA processors relative to non-AFA processors, because processing sideboard caps increase in the most valuable fisheries opilio and red king crab. Modifying the caps to include the base year of 1998, would satisfy the concerns of harvesters that deliver to AFA processors with a minimal impact to vessels that deliver to non-AFA processors. **Congress clearly intended to implement caps based on historical market share levels in order to expressly protect non-AFA processors and this modification is in keeping with that standard.**

Section 3.2 Impacts on Catcher Vessels

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As the Discussion Paper reports, catcher vessel owners have concerns focused in two primary areas. The first is that a vessel could lose their existing market because the AFA processor could reach its cap prior to the season closure. The second concern dealt with price formation and a vessel's ability to negotiate an acceptable ex-vessel price.

Addressing the first concern, the 2000 opilio fishery resulted in minimal disruption to the catcher vessel fleet. Prior to the 2000 opilio season, AFA processors asserted that with caps in place; processors would have no way to forecast harvest levels in order to stay within the cap and this would result in chaos for the fishing fleet. Well, the 2000 opilio fishery proved otherwise. The caps were individually assigned to entities, which allowed AFA processors on a pre-season basis to manage fleet size. The ADF&G report, Appendix 1, reported the number of days processing following the fishery closure of the 2000 opilio fishery contrasted with the prior two seasons. **Table 1, under the ADF&G report is misleading in that the 2000 opilio fishery unlike the 1998 and 1999 season represented a single trip season.** The 1999 and 1998 end of the season processing time was based on a clean-up of the quota whereby vessels only had small quantities of crab on board at the time of closure. In 2000, most vessels had their entire seasons catch on board for the final delivery. A more accurate comparison to the processing days following the 2000 opilio closure would be to compare to Bristol Bay red king crab fisheries, that have all been single trip fisheries. Had ADF&G supplied such information, Royal Aleutian believes that the processing days following the 2000 opilio season due to its single trip nature would closely resemble that which occurs following Bristol Bay red king crab fisheries. Following Bristol Bay red king crab fishery closures, Dutch Harbor processors normally process approximately 10 days depending on the size of the quota.

With respect to conservation concerns, there exists no body of evidence to suggest that processor sideboard caps have resulted in any conservation concerns on the part of fishery managers. The ADF&G report, indicated deadloss of 1% from the open access opilio fishery, the only fishery to date governed under the prescribed processor caps, well under the recent historical average.

Because of the unique circumstances of the 2000 opilio fishery (single trip fishery) Table 1 is very misleading. Table 1 reports that FP's (floating processors) processed for 14 days following the fishery closure. Two non-AFA processors the M/V Aleutian Falcon operated by Norquest Seafoods and the M/V Snopac operated by Snopac Products both completed processing in 10 days, which means an AFA floating processor(s) must have processed an additional 4 days following final processing at two non-AFA processors. **This is significant, in that crab vessels made a choice to continue to deliver and wait for a AFA processor when non-AFA processing capacity was idle.** Also, in Dutch Harbor the AFA and non-AFA processors completed processing with 24 hours of one

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another. The 2000 opilio fishery, confirmed what non-AFA processors, and particularly members of Fair Fisheries Coalition had previously testified to the Council, that there exists excess processing capacity in crab fisheries both in the AFA and non-AFA processing sectors. For the 2000 opilio fishery, processing capacity both AFA and non-AFA, available to the fleet was influenced by the economics of the 2000 fishery, namely the very low GHL, not by processing caps.

In summary, almost all of the crab taken in the 2000 opilio fishery was processed in 10 days of the closure (except for a few floating processors according to ADF&G) with no discernible deadloss, with fisherman able to deliver their crab to the port of their choice. ADF&G reported that 3 vessels requested and were granted permission to move to another port following the closure. Also, on April 10, ADF&G alerted the industry via a formal announcement following the closure on April 8, that harvest estimates were approximately 30 million pounds, which allowed AFA companies to adjust and accept additional deliveries. The 2000 opilio fishery, despite its single trip nature could hardly be characterized as overly disruptive (when only a few vessels changed ports) to fisherman or in any way chaotic.

It should be noted that in taking action to "mitigate" a speculative harm that may impact crab vessels that deliver to AFA processors, the Council will most certainly be harming non-AFA processors and the approximately 45 percent of the crab fleet that delivers to those non-AFA processors. **Nothing in section 213 of the AFA gives the Council the authority to decide that mitigating a potential harm to one portion of the catcher vessel fleet justifies reducing the protection provided by Congress to non-AFA processors and the vessels that deliver to them.**

With respect to price formation in the 2000 opilio fishery, the single greatest factor influencing price was the timing of the fishery. The fishery was prosecuted beginning April 1 versus the usual January 15, which resulted in Alaskan crab marketed at a time to coincide with the much larger Canadian opilio fishery. Several processors, Royal Aleutian in particular, advised harvesters that moving the fishery to April 1st would place downward pressure on price due to marketing crab simultaneously with Canadian opilio.

Table 3 of the ADF&G report presents misleading information regarding the price differential offered in Kodiak versus Dutch Harbor. The table incorrectly compares the 1st delivery price in 1999 (\$.88 in Dutch Harbor) to the end of season price in Kodiak of \$1.13. And falsely concludes that the price differential was 28.4%. An accurate table would have compared the end of season price in Dutch Harbor for 1999 of \$1.00 to the end of season or last delivery in Kodiak of \$1.13 and properly concluded the differential was \$.13 per pound. Kodiak only receives opilio crab as the last delivery, therefore a

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proper price comparison is to contrast Kodiak with the final delivery in Dutch Harbor. Table 3 narrative does properly point out that more vessels delivered to Kodiak in 2000 due to the fact that vessels were carrying their entire seasons harvest, so the price differential was applied to their entire seasons harvest. The 2000 opilio fishery was a single trip fishery, the first of its kind, and must be an integral part of any analysis of prior fisheries.

Conclusion

The AFA eligible companies already dominate the crab fisheries, and without the continuation of enforceable, protective restrictions AFA eligible companies will undoubtedly utilize their new-found economic windfall through a protected-class status (that the AFA ensured) to eliminate competition in non-pollock fisheries. The AFA processors now desire to eliminate the very safeguards agreed upon in the formation of AFA and that Congress saw necessary to protect non-AFA processors.

The Discussion Paper fails to address the fact that Congress mandated safeguards in AFA in order to mitigate the adverse impacts to those companies that did not receive benefits of AFA, namely the non-AFA processors. Also, Appendix 1 prepared by ADF&G, fails to thoroughly examine the 2000 opilio season as contrasted with prior years.

Speculative testimony before the Council, prior to the 2000 opilio season, stated that processing caps would cause substantial deadloss due to catcher vessels waiting in long lines in non-AFA processing facilities. These speculative concerns did not materialize in the 2000 opilio fishery. Fisherman were able to deliver their crab to the port of their choice with no discernible deadloss, and AFA processors were processing after non-AFA processors had completed processing.

Royal Aleutian does not believe an adequate record is before the Council, based solely on the results of the 2000 opilio season, to select any alternative other than 3.3.3 of the Discussion Paper. Each of the other alternatives contained in the Discussion Paper fail in some way to meet the provisions set forth in section 213(c) of the AFA for (1) "conservation purposes" or (2) "to mitigate adverse effects in fisheries or on owners of fewer than three fishing vessels in the directed pollock fishery."

To further quote NOAA, General Counsel, memorandum directed to the Council dated October 7, 1999 that states,

We believe it would be less difficult to justify superseding measures that merely modify the prescribed limitations, as opposed to negating them altogether. For example, if the Council developed a record showing that the crab processing

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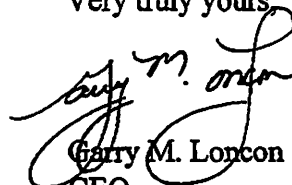
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sideboard limitation scheme prescribed by section 211(c)(2)(B) would have unintended adverse impacts on crab fisherman and that a different approach would mitigate impacts on crab fisherman while providing similar protections for so-called non-AFA processors, then the Council likely could recommend measures implementing the modified approach.

Royal Aleutian continues to support the statutory requirements of the AFA regarding the implementation of crab processing caps for AFA eligible companies based on historical participation. **However, Royal Aleutian recognizes the need for minor modifications to sideboard measures and therefore supports alternative 3.3.3 of the Discussion Paper to include 1998 as a base year in calculating historical based processor caps.**

Please accept these comments from a company that does not benefit from AFA, but wishes to remain in a competitive position in the Bering Sea crab fisheries.

Very truly yours



Garry M. Loncon
CEO

**RECEIVED**

August 31, 2000

AUG 31 2000

Mr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

N.P.F.M.C

Dear Mr. Pautzke:

Snopac Products Inc. was established in 1983 primarily as a salmon and herring processor in Alaska. In the late 1980's we became involved in various bottom fish fisheries, but not pollock. In 1992 we made a substantial investment in St. George, and added crab to our processing species. We are not a large company, but we have stayed in business primarily because we have been able to change with the times and become involved in different fisheries with the ebb and flow of markets and quotas.

Our world has changed with the passage of the American Fisheries Act. The windfall to the AFA members was not available to us. We are competing in the Bristol Bay salmon fisheries with AFA members. We are competing in herring fisheries with AFA members. In addition, we are one of the few non-AFA members participating in the Bering Sea crab fisheries. We have purchased a large volume of cod over the years from draggers and pot boats. It is difficult for us to recruit a fleet for cod as they are invariably tied up with co-op arrangements with AFA members. As you are probably aware, the salmon and herring fisheries are going through some difficult times due to markets in Asia. We are the biggest buyer of Norton Sound herring from native fishermen. It has not been profitable business for several years and doesn't appear to be getting any better. Frankly, profitable fisheries such as crab, have been subsidizing small village fisheries such as the Norton Sound herring fishery.

I attended the meeting in the Senate staff room in the fall of 1998 between the Staffs of Senators Gorton and Stevens along with the AFA members and non-AFA members. An agreement was reached to attempt to protect the non-AFA processors, namely the Crab Processing Caps. It was written into law.

The current proposals to change or eliminate altogether the caps placed on AFA processors are thinly veiled attempt by those members to increase their market share of the crab resource. The dead loss issue, inconvenience to fishermen and lack of price competition simply do not hold water. Dead loss was minimal, fishermen were able to offload in a reasonable time frame and the price was affected due to the delay in the season forcing Alaskan crab to compete with more plentiful Canadian crab. Snopac did not receive any windfall in extra production. In fact, we completed processing prior to many of the AFA members. We received one early delivery from an outside boat who had a market with the largest

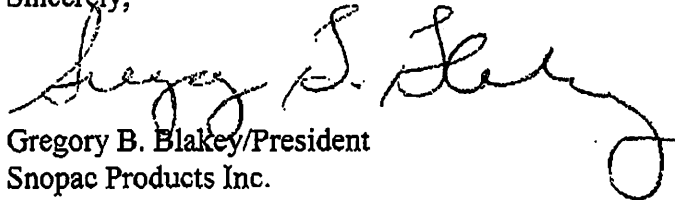
AFA processor. The reason he delivered to us was that the AFA processor did not get their St. Paul plant operational early enough in the season.

The Bering Sea crab fisheries are in a decline. We have to hold on until the quotas return. We do not have bottom fish to fall back on. We have Bristol Bay salmon and the herring fisheries of Togiak and Norton Sound, which must sustain us until crab returns.

There has been a tremendous amount of consolidation that has occurred as a direct result of the American Fisheries Act. The Bering Sea crab fleet has a much better chance of survival if and only if, there is a competitive buying situation among buyers of crab. Removal of the crab processing caps will be the final nail in the coffin of small processors such as Snopac. It will also be the death sentence for St. George as a processing location as we are the only crab processor that has continuously operated in the harbor for the last nine years that the harbor has been operational. Our crab fleet, of primarily smaller vessels need an Island market to be competitive with larger boats operating out of Dutch Harbor.

We strongly urge that the council does not adopt any changes, which will result in taking the teeth out of the crab processing caps. Congress intended protection for the non-AFA crab industry. The AFA members agreed to the caps in Washington D.C. at the time the AFA legislation was written. There has been minimal (if any) disruption for the harvesting sector. There is no reason for the caps to be modified unless it for the express benefit of the AFA members and to the detriment of St. George, our crab harvesting fleet and ourselves.

Sincerely,



Gregory B. Blakey/President
Snopac Products Inc.

**YARDARM KNOT FISHERIES, L.L.C.**

3600 15th Avenue W. Suite 300 • Seattle, WA 98119

Phone: (206) 216-0220

Fax: (206) 216-0988

August 31, 2000

Mr. Clarence Pautzke
Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

RECEIVED
AUG 31 2000
N.P.F.M.C

Re: American Fisheries Act Crab Processing Sideboard Caps

Dear Mr. Pautzke and Council Members:

Yardarm Knot Fisheries, LLC. is a 100% American owned company and has operated our vessel, M/V Yardarm Knot, in crab fisheries since 1987. The vessel has processed in the Pribilof Islands as another market option for the crab fleet. Yardarm Knot has consistently played a key role in establishing fair competitive prices to the fleet.

I understand that there is a movement modify or eliminate crab processing caps. AFA companies already have a distinct competitive advantage due to their financial resources and the fact that entry into their group is barred. Non-AFA companies are constantly in competition with each other, AFA companies and the threat of entry into their ranks of additional processors. The caps were instituted to maintain a somewhat level playing field in the crab fisheries for both AFA and non-AFA companies. I would encourage the Council remain cognizant of this objective during its deliberations to ensure that AFA companies do not gain an unfair competitive advantage.

Very truly yours,

Alan J. Chaffee
President

August 30, 2000

Mr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

RECEIVED
AUG 31 2000
N.P.F.M.C

Re: Crab Processing Caps

Dear Mr. Pautzke,

I own and manage three Bering Sea crab vessels that deliver to a non-AFA processor. I have written to the Council in the past about the impacts the American Fisheries Act will have on my market, and of my support for processing caps. I am re-submitting my comments regarding those impacts, and will focus my comments on the discussion paper regarding processing caps.

The second paragraph of section 3.2 states there has been "strong concerns" from vessel owners regarding caps. While this is true, there is also support for caps from harvesters. Council records show strong support from harvesters who deliver to non-AFA processors from the October 1999 Council meeting. Very few harvesters have actually testified before the Council in opposition of crab processing caps. Many of those that have testified in opposition of crab processing caps have admitted that the caps are important to maintain long-term price negotiations. If no protection is afforded non-AFA processors, competition will decrease in the future, as fewer non-AFA processors remain. The bottom line is that in the long-run, harvesters are better off with meaningful crab processing caps.

Section 3.2 goes on to say, "Catcher vessels indicated after the 2000 opilio fishery that they felt they would have received a higher ex-vessel price had processing caps not been in place". I find it hard to believe that there was less price competition during the 2000 opilio season. AFA processors competed to reach their cap, and non-AFA processors competed for as much crab as possible. If AFA processors where not willing to compete, the non-AFA would have taken market share away from them. In addition, non-AFA processors did not lower prices after the cap was reached, and I think it is ridiculous to think they would do so in the future.

The last paragraph of section 3.2 says that "Fewer processors in the market may have reduced competition and, as a result, ex-vessel prices for opilio." I disagree with this remark. During the 2000 opilio season, there were 3 additional non-AFA processors which processed crab that had not recently been processing opilio crab. This in fact should have increased competition.

Section 3.3.4 states, "Therefore removal of the processing caps would benefit AFA processors and catcher vessels." I believe this is false. From a short-term standpoint, harvesters may be slightly inconvenienced from caps if their traditional market is capped out. However, this inconvenience is small compared to the damages the non-AFA processors will face by removal of caps. In addition, from a long-term standpoint, harvesters will be better off with processor caps, as more non-AFA processors remain to compete. In fact, the paper goes on to say, "The harvesting sector feels that they will be better off if they have more processors to negotiate with over the price of their product." This will happen with the maintenance of processing caps.

Section 3.4.1 states "Concerns were expressed at the June Council meeting that AFA processing sideboards had increased the wait time for vessels to off-load, and that if the opilio fishery had taken place during the winter as it normally does, dead-loss may have increased more than was actually realized." This is false. Processing caps did not increase wait time for harvesters. The 2000 opilio season was a single trip fishery, which can not be compared to any other opilio fishery. Instead, it is similar to a large king crab season. Processing times of 10-14 days are typical of large single trip crab fisheries. In addition, AFA and non-AFA processors finished processing within 24 hours of each other in Dutch Harbor. Lastly, all non-AFA processors completed processing within 10 days, and it was an AFA processor that was processing 14 days after the season closure.

The statement regarding dead-loss is also false. The colder the water temperature, the longer the crab survive in tanks. Water temperature in the Bering Sea is very cold in the winter and early spring, and no discernable difference in dead-loss would be noticed by having an earlier season. Our vessels were the last to be off-loaded in Dutch Harbor and experienced no discernable dead-loss.

In closing, as a harvester, it is very important to see that the processing caps are maintained. Alternative 3.3.2 (10%-20% Overage) and Alternative 3.3.4 (Abolish Caps) will do nothing to maintain the protection afforded non-AFA processors from section 211(a)(2)(A) of the AFA and will damage harvesters in the long-run. However, Alternative 3.3.3 (Including 1998) will provide the non-AFA processors protection, while eliminating the potential for harvesters to be inconvenienced by their market being capped out.

Sincerely,



Kris Poulsen

June 5, 2000

Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, AK 99501-2252

RE: Agenda Item C-3, Crab Processing Caps

Dear Rick,

I am writing the Council in support of the status quo for crab processing caps. I manage three vessels that deliver to a non-AFA processor. The American Fisheries Act created stability and increased margins for the pollock qualified processors. These benefits could be used against the smaller independent non-AFA crab processors, who may find it difficult to compete against the larger AFA processors who do not necessarily need crab to survive. The crab processing caps were negotiated by the AFA and non-AFA processors to find a fair compromise that would balance power between the two groups of processors. By changing the basis years for the crab processing caps, the negotiated compromise is changed, and the balance of power between AFA and non-AFA processors changes.

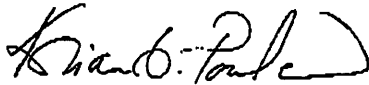
I do support changing the crab processing caps to be managed on the aggregate level, instead of the current company by company level. Managing on the aggregate level will result in a reduction of potential delivery problems for harvesters, as no AFA processors would be capped until the aggregate cap is reached.

A major concern raised regarding crab processing caps prior to the 2000 opilio season was a fear of deadloss from vessels holding crab for extended periods. Deadloss was not a problem during the 2000 opilio season in which caps were in place. Our three vessels were the last vessels to deliver in Dutch Harbor, and experienced no greater deadloss than normal. The amount of time it took for all harvested crab to be processed was not unexpected. Within approximately 10 days, all crab in Dutch Harbor had been processed. As a comparison, during the 1999 Bristol Bay red king crab season, it took 6 days for all crab in Dutch Harbor to be processed during a similar one trip fishery with only about 1/3 of the crab harvested.

The caps also created incentives for better price negotiations, as three additional non-AFA markets began processing, which would not have otherwise. Two of these three had never processed crab in substantial quantities before.

I would also like to point out to the Council that during the October 1999 Council meeting, there was substantial support for processing caps from harvesters. There are many harvesters, like myself, who have substantial fears that our crab market could be forced out of business by the larger and much more powerful AFA processors, if the caps are not maintained as the status quo.

Sincerely,



Kris Poulsen



August 31, 2000

Mr. Clarence Pauzke
Executive Director

And

Chairman and Members of the Council

North Pacific Fishery Management Council
605 West Fourth Ave., Suite 306
Anchorage, Alaska 99501-2252

RECEIVED
AUG 31 2000
N.P.F.M.C.

Dear Mr. Pauzke and Members of the Council

NorQuest Seafoods operates the M/V Aleutian Falcon processing Bering Sea opilio crab. The vessel was also used to process baridi when that fishery was open. We believe that we are currently the smallest floating processor in the fishery. Since 1992, we have operated exclusively in the Pribilof Islands, with St. Paul our location of choice, changing only when dictated by weather or ice conditions.

I am writing you with regards to the proposals to alter or eliminate the caps placed on processors of crab who are also eligible under the AFA to process Bering Sea pollock.

The basis for the cap on crab processing for the AFA pollock eligible processors include the following:

1. Prior to the AFA, the Pollock seasons and the crab seasons frequently overlapped. AFA processors would use their processing capacity, including equipment, space, manpower and capital, for both activities. Prior to enactment of the AFA, both pollock and crab fisheries were prosecuted in a "derby style" manner. The AFA authorized pollock fishery cooperatives; cooperatives allow an AFA pollock processor the opportunity to reprioritize its capacity to better compete in the crab fisheries because the pollock cooperative eliminates the "race for pollock". The AFA recognized that this would disadvantage the non-AFA crab processors, and set out the crab cap to provide protection to them that might result from the pollock fishery cooperatives.
2. Both pollock harvesters and processors received a privilege available only to those named in the AFA, a privilege which has demonstrably become valuable as evidenced by the many transactions (sales and leases) of these harvesting and processing rights. The creation of this valuable transferable privilege resulted in a

NorQuest Seafoods, Inc.

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Telephone: (206) 281 7022 • Fax: (206) 285 8159

Crusader Fisheries • Lafayette Fisheries • Silver Lining Seafoods

capital advantage to the AFA pollock processor, a capital advantage that Congress recognized could be used by the AFA eligible pollock processor in competition with the processors of other fishery resources.

3. Congress was rightly concerned that the many improvements achieved for the pollock fishery as a result of the AFA should not come at the expense of other industry participants. It was an important objective that a healthy, competitive climate remain in the crab fishery. The crab processing caps were aimed directly at protecting the non-AFA crab processors to ensure that they retained the opportunity to be viable competitors to the AFA processors.

We have experienced one crab fishery under the crab caps. As a result of that, the AFA processors, and some fishermen, have requested the Council to significantly modify or eliminate the caps. The basis for these requests seem to be that the price for fishermen was depressed because of the caps, that deadloss occurred, that fishermen could be inconvenienced if the caps prevented delivery to a port of choice and that the caps unfairly penalize AFA processors.

In its report to you, the Alaska Department of Fish and Game comments on each of these factors. I would like to address each of their comments.

Deadloss: The department concluded that the deadloss from the 2000 opilio fishery was normal, and not excessive. Our experience in the 2000 fishery was that deadloss was not an issue of concern.

Price: The department reports that fishermen believe the price was less as a result of the caps. With respect to the price paid to fishermen, the department fails to note the significance of the delay of the opilio season from January until April. This delay resulted in our sales competing head to head with the Canadian production starting in May. Early Asian sales had an advantage by delivery prior to the Canadian production. The difference in value of the early Asian delivered crab and the crab that competed with the Canadian production translated into over 50 cents per pound to the fishermen. If there was any factor that weakened the price of opilio crab this season, it was probably the decision to delay the season.

The Department further points out that the price paid in Kodiak had a lower premium over that paid in "Dutch Harbor", on a percentage basis. They imply this reflects that the price paid in was depressed as a result of the caps. NorQuest does not buy crab in Kodiak, and we do not know what was actually paid, or why, for 2000 opilio in that port (nor any prior year for that matter). However, this implication would seem to be flawed on at least two basis:

1. The data on price paid in "Dutch" for years prior to 2000 appears to be the "in season" price, not the "end of the season price". The Kodiak price data needs to be compared only to the "end of the season price" because the crab run back to Kodiak are "end of the season crab". The year 2000 crab all were priced as "end of the season crab" because of the small quota. Using

NorQuest only pricing information, with "end of the season prices", the Kodiak data offered by the Department would result in the following:

Year	Kodiak Price	NorQuest End of Season Price	% Over NorQuest	\$ Over NorQuest
1998	\$0.67	\$0.58	15.5	\$0.09
1999	\$1.13	\$0.97	16.5	\$0.16
2000	\$2.00	\$1.85	8.1	\$0.15

These percentages are closer than the Department's data shows. Although NorQuest does not have real data to verify the end of the season price in Dutch, it is commonly known that the Dutch end of the season price is at least as high as that paid at St. Paul (where NorQuest operates).

- The risk/reward for running crab to Kodiak may be a function of the premium in absolute terms (e.g., it is not worth it unless the premium is at least ten cents) or percentage over the "Dutch Harbor" price (e.g., it is not worth it unless the premium is at least 10%), times the pounds of crab on board the vessel. By implication the Department's data suggests that a percentage based analysis will explain fishermen behavior, and because the percentage premium received in 2000 is less than in prior years, fishermen must have received less money than they would have had it not been for the caps. This implication is simply based upon an a priori assumption that the Kodiak price must be a certain percentage over Dutch to attract a fisher to deliver to Kodiak. There is no foundation for that assumption, and in fact one could argue that it is the absolute dollars that a fisherman would measure, not some percentage. After all, if one received 100% more for delivery in Kodiak, but had only 100 pounds on board, the percentage premium would be great, but it would never cover the added costs and risk of the run to Kodiak. In the context of the one trip fishery in 2000, the critical factor for a differential between Kodiak and NorQuest would be the \$0.15 differential, not the percentage differential.

Inconvenience to fishermen: According to the ADF&G report to the Council, three fishermen received clearance to deliver to an alternative processor as a direct result of the crab cap. It would seem that fishermen did a very good job of working within the caps to prevent having to change processors at the end of the season, since this represents about one percent of the fleet. Given this was the first fishery ever under a cap of any sort, with a low quota and large fleet, the disruption seemed to be minimal.

ADF&G further reports that the time to process crab after the closure took significantly longer than in prior years. The closure time was noon, April 8. According to my records, the two non-AFA floating processors involved in the fishery, operated by NorQuest and Snopac, finished processing ten days after the closure. According to ADF&G, floating processors took 14 days to finish processing after the closure. Those processing after the tenth day must have been AFA floating processors, not the non-AFA. If in fact it took them 14 days to process as reported by ADF&G, any fisherman who wanted to be offloaded sooner had the opportunity to do so, because NorQuest, Snopac and Royal Aleutian were all done processing before then.

Delivering "late" to an AFA processor is not a result of the crab caps, it is a result of the overall processing capacity available in 2000 and the fisherman exercising his right to wait longer to deliver to that processor. It should have been expected that the processing period following closure would take longer than normal this season. The low quota resulted in significantly less processing effort, the catch rate was high, and virtually all of the crab was processed after the season closed. The crab cap did not cause this, it was a function of the fishery this year.

Crab caps as a penalty: The AFA processors complain that the crab caps unfairly penalize them. They seem to be saying that the base period used to establish the cap does not reflect the "current" share they would have but for the cap, and that results in a windfall to the non-AFA processors. To the extent that the caps are based on an average of years, it is clear that the AFA processors do not have the benefit of a processing cap based on the highest year they ever had. The purpose of the caps was to help preserve the non-AFA crab processing sector. On that basis, Congress elected to set the caps using the average share of the AFA processors over a three year period. That approach takes into account the many changes that occur based on unquantifiable factors that influence where crab is delivered, such as weather influences, the geographic distribution of the harvest, and other factors that Congress could not anticipate.

NorQuest would have no objection to changing the years used to establish the base period for the crab caps, if the Council thought that a fairer approach, but only if the years were broad enough to take into consideration the variables that effect the share of the two sectors. Using years 1995 - 1998 as set out in alternative 3.3.3 would be an acceptable alternative from our perspective. Picking a base period just simply to raise the cap to the highest possible level would seem to fly in the face of the Congressional purpose of the cap.

The Council will also hear a discussion about whether aggregate caps or individual company caps are more appropriate. NorQuest believes that aggregate caps promote more competition among the processors, and would support them so long as the aggregate cap is enforceable.

I appreciate you reviewing my comments.

Sincerely,



John Garner
Vice President
NorQuest Seafoods, Inc.

St. George Office:

P.O. Box 929
St. George, Alaska 99591-0929
Tel: (907) 859-2263
Fax: (907) 859-2212

August 31, 2000

Mr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

VIA: Facsimile

RECEIVED
AUG 31 2000
N.P.F.M.C

RE: Crab Processing Caps

Dear Mr. Pautzke,

The City of St. George is 100% dependent on the Bering Sea Crab Fishery. With the Bering Sea Crab Fisheries in a decline, and closures imminent, the City of St. George can not afford the loss of any crab processing within its boundaries.

The SnoPac has been processing since 1992 here at the St. George Harbor, and has long term plans for future development within our harbor.

The City of St. George *strongly* urges that the North Pacific Fisheries Management Council does not adopt any changes to the Crab Processing Caps. Removal of the Crab Processing Caps would spell disaster to the future of the Community of St. George.

Mr. Pautzke, Thank You and the Council Members for taking the time to address this matter, as the gravity of your decisions weigh heavily upon the future of the City of St. George and this Community.

Sincerely Yours,
CITY OF ST. GEORGE

Alvin Mercurief
Mayor

September 7, 2000

North Pacific Fishery Management Council
605 West Fourth Avenue, Suite 306
Anchorage, AK 99501

RE: AFA Proposed Housekeeping Measure

Dear Chairman and Council Members:

The undersigned support the proposal to **Allow Inshore Coops to Contract with Non-Member Inshore AFA Catcher Vessels to Harvest Coop Allocation**. This problem statement, along with a proposed solution and specific language for consideration, is attached to this letter for your consideration.

We are jointly asking the Council to request NMFS to review this proposal and add it for consideration for the October Council meeting so that resolution of this issue can be part of the overall AFA regulatory package as well as the emergency measures necessary for implementation for the beginning of the 2001 fishery.

Thank you for your consideration.

MTC
by Fred [unclear]

PSFA
by [unclear]

WESTWARD SEAFOODS, INC.
[unclear]

UCB
Burt [unclear]

TRIDENT SEAFOODS
Joe [unclear]
UniSea, Inc.
[unclear]

**PROBLEM STATEMENT AND
PROPOSED SOLUTION FOR NPFMC ACTION
TO ALLOW INSHORE COOPS TO CONTRACT WITH
NON-MEMBER INSHORE AFA CVs TO HARVEST COOP ALLOCATION**

Problem Statement

NMFS' current Emergency Rule implementing AFA and its proposed Final Rule allow only those catcher vessels that are members of an inshore coop to harvest and deliver pollock allocated to that coop. It is not permissible under current NMFS regs for a CV that is a member of a coop to assign its right to harvest its coop shares to another inshore AFA vessel that is not also a member of the same coop, nor is it possible for a coop to contract with non-member AFA CVs to assist in harvesting its coop allocation.

The following are some of the adverse results under status quo:

1. If a coop CV is unable to harvest its coop shares, the universe of available catcher vessels to take its place is very limited under existing regulation and as a practical matter may make it very difficult or impossible for the CV owner to make reasonable arrangements for the harvest of its coop shares. In some coops there may only be processor owned vessels available that have enough capacity to harvest the member's share which will place the independent catcher vessel owner at a substantial disadvantage. In addition, in some coops the remaining member vessels simply may not have the capacity to harvest the coop shares of the member vessel that is not able to harvest its own share for the season in question.
2. In some cases it may not just be that it is impossible for a coop catcher vessel to harvest its share, but it may be very inefficient for it to do so. Some catcher vessels have a relatively small amount of pollock quota and for them to travel to the Bering Sea from the Gulf or West coast to fish in every season, for example, in a Summer/Fall season where the price is low, is extremely inefficient. It would be beneficial to the catcher vessel owner to have the maximum flexibility to allow other catcher vessels already on the grounds to harvest their quota. This would also be consistent with reducing gear and effort on the grounds.
3. Small catcher vessels are particularly at a disadvantage with the SCA now closed even to catcher vessels under 99 feet. For these vessels to now be forced outside the SCA to harvest their own coop shares will increase safety risks. In addition, there may be times that safety could be improved for catcher vessels that are not included within the 99 foot rule. For example, during certain seasons or times of the year safety could possibly be improved in situations where midsize vessels could have additional flexibility to allow other larger catcher vessels to harvest their shares. This flexibility is not always available within the coop under existing regulation.
4. Independent CVs that are unable to make reasonable arrangements for other coop member's CVs to harvest their shares are essentially permanently damaged because of the lack of flexibility in being able to switch to coops where more harvest flexibility may exist. This is because the Council decided under Dooley-Hall that CVs may not switch coops without first fishing open access for a year. As a result, there is no practical solution for a catcher vessel to find another harvesting solution for its vessel except within the captive market of its own coop.

Solution

The solution to these problems and corresponding adverse results is for the Council to recommend that NMFS amend its proposed permanent AFA rule to allow *inshore coops* to contract with non-member inshore AFA CVs to harvest the coop's allocation when one or more member CVs are unable to participate in all or any part of a pollock season. The contracted catcher vessel would be required to be subject to all the same rules and regulations as a member CV, so there would be no adverse results expected of this measure. Furthermore, if necessary to be effective for the beginning of the year 2001 season, that the rule change be implemented by Emergency Rule. In addition, that the regulatory change recommended by the Council supercede the AFA to the extent necessary to fully implement this rule change.

The benefits of adopting this solution will be to increase safety and efficiency especially for independently owned catcher vessels. Coops and catcher vessel owners will have a larger universe in which to find solutions for harvesting coop shares which should greatly help independently owned catcher vessels facing difficult challenges in the future. Some independent catcher vessel owners have partnership interests and many have business relationships with other catcher vessel owners that are members of other coops. This rule change will allow these owners to take advantage of these relationships to achieve greater safety and efficiency in the Bering Sea pollock fishery. This is especially important in light of the adverse decision by this Council under Dooley-Hall eliminating any flexibility with regard to the ability of independent catcher vessels to switch coops.

This proposed rule change does not permit direct assigning of coop harvest privileges by coop members, but rather establishes the authority at the coop level which maintains the integrity of the coop system of management. Individual members would be required to establish by contract, within the coop, rights to take advantage of this rule change consistent with the other rules of the coop.

As a result, no adverse impacts are anticipated by this proposed rule change and, in addition, because the processor for the coop will continue to be guaranteed the right to receive at least 90% of the coop's fish as per the original terms of the AFA. In addition, all of the AFA boats will continue constrained by the same sideboards whether they take advantage of this additional proposed flexibility or not.

Specific language for consideration is as follows:

If an inshore AFA coop CV owner notifies its coop that the coop member's CV will be unavailable to harvest pollock during all or any portion of a pollock season, the coop may contract with other AFA eligible inshore CVs, that are members of another inshore coop, to harvest pollock to which the coop is entitled.

Pollock delivered by a CV pursuant to this provision shall not affect the coop eligibility of the CV.