

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



ESTIMATED TIME  
16 HOURS

DATE: May 31, 2000

SUBJECT: American Fisheries Act (AFA)

**ACTION REQUIRED**

- (a) Final action on inshore co-op structure, definition of qualified catcher vessel, and allocation of pollock to open access/co-ops.
- (b) Initial review of analysis of groundfish processing sideboards and pollock processing excessive share caps.
- (c) Review of crab processing caps.
- (d) Review methods for calculating P. cod sideboards and crab harvest vessel exemption.
- (e) Status report on AFA EIS.

**BACKGROUND**

The Council is scheduled to address seven AFA issues at this meeting. Five issues are scheduled for final action. Final action issues include (1) inshore co-op structure (the Dooley-Hall proposal); (2) the definition of a qualified catcher vessel; (3) treatment of pollock catch history made by vessels that are not eligible to join cooperatives in the inshore sector; (4) calculation of catcher vessel Pacific cod sideboards; and, (5) a proposed exemption to crab harvesting sideboards. Scheduled for initial review at this meeting are groundfish processing sideboards and the pollock processing excessive share cap. We have separated these issues into three groups to allow similar issues to be commented on and deliberated at the same time, while keeping the number of issues on the table at one time to a manageable number. First will be the three items related to inshore co-op structure (we will also get a report from Dr. Scott Matulich on his latest research for related AFA issues). Second are the processing sideboard issues, both groundfish and crab, and the pollock processing excessive share caps. Third are the proposed harvest sideboard adjustments and a report on the EIS progress.

**C-3(a): Inshore cooperative structure, definition of qualified catcher vessel, and calculation of the open access/co-op pollock allocations**

Inshore co-op structure: A revised analysis of the "Inshore Sector Catcher Vessel Cooperatives in the Bering Sea/Aleutian Islands Pollock Fisheries" was submitted by Drs. Halvorsen, Khalil, and Lawarree. Their report was mailed to the Council on March 9, 2000. The executive summary from the report is included as Item C-3(a)(1). The report is often referred to as the analysis for the proposed Dooley-Hall amendment. Based on information provided in that report, and other available information, the Council is scheduled to make a final decision regarding whether catcher vessels should be required to deliver to the same processor that they delivered the majority of their catch to the previous year. Implementing the Dooley-Hall proposal would remove that restriction and allow catcher vessels to negotiate contracts with the AFA processor of their choice each year. Essentially, the Dooley-Hall proposal would give catcher vessels more freedom to determine where they want to deliver the pollock they harvest. If approved, that proposal or other options identified by the Council could be included in the current AFA amendment package and would be scheduled for implementation in 2001. Dr. Halvorsen will provide an overview of his analysis.

Definition of a Qualified Catcher Vessel: The Council is also scheduled to consider the issue of defining a qualified catcher vessel. Kent Lind developed a discussion paper on this issue that was distributed at the February meeting. That discussion paper is provided again here as Item C-3(a)(2). In general, the issue revolves around the treatment of vessels that do not deliver pollock in a year. Currently if a vessel does not deliver pollock in a year, it is not eligible to join a cooperative the following year. This means each vessel must make at least one BSAI pollock delivery during a year to remain eligible to participate in an inshore cooperative, or for its catch history to remain with the co-op (i.e., there is no ability to permanently retire that capacity). The discussion paper outlines several options for the Council to change this aspect of the AFA. If approved, this change would be expected to be in effect for the 2001 fishing seasons.

Open Access Quota Share Pool: BSAI pollock, in the directed inshore AFA pollock fishery, are either assigned to cooperatives or the open access pool. Pollock assigned to the open access pool is currently either from vessels that opted not to join a cooperative, or was the catch of vessels that are not eligible to harvest pollock allocated to the inshore sector. The portion of the open access pool that resulted from the catch of vessels that are not eligible to participate in the inshore pollock fishery are the focus of this discussion. Item C-3(a)(3) shows that in 2000 a total of 29,921 mt was allocated to the open access pool. If the catch history of the vessels not eligible to participate in the inshore pollock fishery is excluded, the open access pool would drop to 10,852 mt, a decrease of 19,069 mt, from the status quo. The calculation to reassign the catch history of vessels not eligible to participate in the inshore fishery, distributed the previously unassigned catch history to all vessels in the inshore sector. Therefore, some of the catch would be assigned to vessels in cooperatives and some vessels in the open access pool, based on their percentage of pollock catch during the qualification period.

Distributing the catch that is currently automatically assigned to the open access pool may have significant impacts on vessels that choose to spend a year in the open access fishery in order to switch cooperatives. During the 2000 fishery, the argument was made that the "cost" of spending a year in the open access fishery was not substantial. However in future years, if this amendment is passed, the cost of spending a year in open access will increase and may be quite large. Given the current conditions, about two-thirds of the pollock would be removed from the open access portion of the fishery if this proposal is approved, and reallocated to the various co-ops. Written comments received on these issues are provided under Item C-3(a)(4).

Discussion Paper on  
  
Inshore Sector Catcher Vessel Cooperatives in the  
Bering Sea/Aleutian Islands Pollock Fisheries

Prepared for the  
  
North Pacific Fishery Management Council

February 7, 2000

by

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## Executive Summary

In October 1999 we presented to the Council an analysis of three issues: whether implementation of inshore American Fishery Act (AFA) cooperatives will have beneficial or adverse effects on inshore independent vessel owners, which features of the AFA rules or characteristics of the inshore sector increase the probability of adverse results, and the effects of three alternative proposals on the participants in the inshore sector.

In November 1999 we were requested to prepare an expanded analysis addressing four questions: the qualitative effects of the AFA with the existing rules on net benefits in each sector of the fishery, whether implementation of AFA cooperatives will have beneficial or adverse effects on inshore independent vessel owners, the effects of an expanded set of alternative proposals, and the long-term economic viability of inshore sector independent vessel owners. We were requested to also address nine other related issues, and to focus principally on the effects within the inshore sector.

We begin our analysis with the expected qualitative effects of the AFA on the aggregate net benefits of each sector. Two aspects of the AFA are considered: the reallocation of total allowable catch (TAC) among the sectors, and the rationalization made possible by the formation of cooperatives.

The catcher/processor sector's share of the total BSAI TAC was decreased by approximately one third, and this decrease in allocation was only partially compensated by a buyback of some of the sector's catching and processing capacity. However, the sector has received large benefits from the rationalization made possible by the AFA, and there appears to be a consensus that the overall net benefits of the AFA to this sector were positive.

The mothership sector's share of TAC was decreased by approximately one-sixth, and this sector did not receive any direct compensation for the decrease in its allocation. The mothership sector is expected to benefit from rationalization, but not by as much as the catcher/processor sector. Therefore it is not clear whether the AFA will result in positive net benefits to this sector.

The inshore sector's share of TAC increased by approximately one-third, and the benefits from this increase in allocation were only partially offset by the requirement that it repay a loan for part of the compensation paid to the catcher/processor sector. Therefore the inshore sector received a net benefit from the reallocation aspect of the AFA. In addition, the sector will receive benefits from rationalization, either under the existing AFA rules or alternative rules.

We conclude that the balance of net benefits among the sectors is in favor first of the inshore sector, then the catcher/processor sector, and last the mothership sector. One of the issues we were asked to address is whether the balance of net benefits among sectors would be eliminated if one sector were unable to receive the benefits of rationalization. Because all sectors have now formed cooperatives, they will all be able to receive benefits from rationalization, making this issue moot.

Our primary focus is on the distribution of net benefits within the inshore sector. The processing sector is highly concentrated and the harvesting sector can legally negotiate under the umbrella of a bargaining association. The participants are keenly aware of their strategic interdependence, and that necessitates the use of tools from game theory. Our analysis is based on the implications of bargaining theory, which deals with the division of rent between game players. We define three types of players: independent catcher vessels (ICVs), processor-controlled catcher vessels (PCVs), and processors.

We employ the tools of both cooperative and non-cooperative bargaining theory. We conclude from our analysis of the circumstances in the inshore fishery that the most plausible model is one based on moderate, but not cutthroat, competition. In reaching this conclusion we specifically address the issues of excess capacity, asymmetric information, and the results of price negotiations in the catcher/processor sector. We also discuss several alternative models that have been suggested for the analysis of the inshore fishery, including monopsony and bilateral monopoly, and explain why they are inadequate. Although we do not believe that either cutthroat competition or the alternative models are appropriate characterizations of the fishery, we analyze the results obtained under the extreme alternatives of cutthroat competition and bilateral monopoly in order to examine the implications of varying the degree of competition.

We have been instructed to use different benchmarks for each of the first three questions we have been asked to address. Analysis of the qualitative effects of the AFA on the net benefits of the three sectors compares the situation in the period immediately prior to the passage of the AFA, the "pre-AFA" benchmark, with the anticipated situation after cooperatives are implemented under the existing AFA rules. In considering whether implementation of inshore AFA cooperatives will have beneficial or adverse effects on inshore independent vessel owners, we use the "AFA without cooperatives" benchmark as in our earlier discussion paper. The qualitative effects of alternative rules are analyzed relative to the benchmark of the cooperatives implemented under the existing AFA rules, the "AFA cooperatives" benchmark.

The first question was addressed above with respect to the aggregate net benefits to each sector. Analysis of the disaggregated net benefits to ICVs and processors in the inshore sector involves two steps. The first is the net benefits from going from the first, pre-AFA, benchmark to the second, AFA without cooperatives, benchmark. The difference between these two benchmarks is equal to the net benefits that ICVs and processors received from the reallocation aspect of the AFA. The second step evaluates the effects on the net benefits of ICVs and processors of the rationalization and distributional effects of implementing cooperatives under the existing AFA rules by comparing the situation under the AFA without cooperatives benchmark with the situation after the cooperatives are implemented.

As already noted, the inshore sector as a whole received a substantial positive net benefit from the reallocation aspect of the AFA. It is unlikely that the increase in allowable catch would alter the participants' relative bargaining strengths significantly, and therefore both ICVs and processors would be expected to do at least as well under the AFA without cooperatives benchmark as it had done in the pre-AFA fishery. However, determining what the relative bargaining strengths actually were, and therefore what the distribution of rents would be under the AFA without cooperatives benchmark, is difficult.

Processors have a number of important bargaining advantages. Their ownership of catching vessels reduces their reliance on supply from ICVs, while also providing them an informational advantage given that ICVs do not own inshore processing plants. Because the processing sector is highly concentrated, entry is prohibited, and the situation in the fishery is a repeated game, processors are expected to realize that aggressive tactics yielding short-term gains are unlikely to be profitable in the long-run, and capacity constraints under the benchmark would help them refrain from engaging in such tactics. Although the ICVs do have the advantage of being able to legally bargain as a group, we conclude that on balance the processors have substantially more bargaining power than ICVs. Therefore, we expect outcomes under the AFA without cooperatives benchmark to favor processors over ICVs.

Unlike the AFA without cooperatives benchmark, the actual AFA includes provisions for the formation of harvesting cooperatives. To the extent that the cooperatives are implemented, the race for fish will abate. The resulting rationalization will increase both the total rents in the fishery and the effective amount of

capacity in harvesting and processing. The expected large increase in the effective amount of processing capacity will provide more opportunities for processors to engage in aggressive competition, but the long-term incentives for refraining from doing so will remain. The existence of PCVs will continue to provide the same bargaining advantages as under the benchmark, and in addition will now provide the processor influence over its cooperative's decisions.

If an ICV does not join a cooperative, or chooses to change the processor it is assigned by the AFA rules, it has to compete for the fish not allocated to cooperatives. The term "open access fishery" will be used to refer to this part of the inshore pollock fishery, with the understanding that access of catcher vessels and processors will be limited by the AFA. The "outside option" for an ICV is the return it can obtain in this open access fishery and then possibly joining another cooperative.

If the open access under the AFA were the same as open access under the benchmark, then ICVs could not be adversely affected by the AFA provisions for cooperatives. However, open access would be the same in the two cases only if no cooperatives were in fact formed under the AFA, which would not be an equilibrium outcome. Under most plausible scenarios for open access under the AFA, ICVs would do worse in open access under the AFA than in the benchmark case. Therefore, we conclude that there is a significant probability that ICVs will be adversely affected by the AFA's provisions for cooperatives.

Taking into account the positive net benefits most likely received by ICVs from the reallocation aspect of the AFA, that is, in going from the pre-AFA benchmark to the AFA without cooperatives benchmark, decreases the likelihood that the ICVs would be adversely affected by the implementation of the AFA cooperatives, relative to the situation pre-AFA. However, the possibility that they would be cannot be dismissed. We also note that, whatever the results for the ICVs collectively, the results for individual ICVs will vary, with some likely to benefit even if the results at the aggregate level are adverse, and vice versa. In particular we expect that, other things equal, an ICV will do better the less influential that PCVs are in its cooperative. Lastly, it should be noted that because the AFA without cooperatives benchmark is not the ICV's outside option under the AFA, the decision to join a cooperative does not imply that an ICV is better off under the AFA than under this benchmark.

Economic characteristics of the inshore sector that substantially increase the probability of adverse effects are the degree of concentration in the processing sector, the number and importance of PCVs, the existence of catcher vessels whose share of catch history is substantially less than their relative catching power, and the difficulty of specifying long-term price contracts. The most important features of the AFA cooperative rules are that a catcher vessel can only join the cooperative for which it qualifies based on the prior year's fish deliveries, implying that it must go through open access to change processors, and the restriction that a cooperative can sell no more than 10% of its catch to a processor other than the one for which it is qualified.

In analyzing the qualitative effects of each of the alternatives to the AFA, we have been instructed to use a third benchmark, namely the expected outcomes under implementation of the existing AFA rules for cooperatives. One of the alternatives that we evaluated, the Dooley-Hall proposal, would remove the qualification requirements, so that a cooperative could deliver to any processor, and any eligible catcher vessel could join any cooperative. Except for the requirement of belonging to a cooperative with at least five members, the Dooley-Hall proposal is equivalent to an individual fishing quota (IFQ) program.

There is little doubt that ICVs would be better off, and processors worse off, under the Dooley-Hall proposal than under the AFA cooperatives. The most critical factor determining the outcomes for both ICVs and processors under the Dooley-Hall proposal would be how aggressively processors would compete. The

presence of a large amount of excess capacity would provide opportunities for short-term gains from aggressive competition, but the factors that can be expected to cause processors to refrain from aggressive competition would remain.

More importantly, even if processors engaged in cutthroat competition, they would not be much worse off under the Dooley-Hall proposal than under the AFA, because cutthroat competition would also result in an adverse outcome for them under the AFA. Similarly, under the opposite extreme assumption that the processors are able to act as a monopsony, the outcome under the Dooley-Hall proposal would be adverse for ICVs, but not as adverse as under the AFA. Accordingly, whatever the degree of competition, ICVs would be expected to be somewhat better off, and processors somewhat worse off, under the Dooley-Hall proposal than under the AFA.

Another alternative that we evaluated would raise the limit on the amount of its deliveries that a cooperative could sell to a processor other than the one for which it was qualified. Raising this limit would facilitate rationalization under the AFA. Whether or not it would reduce the probability of adverse effects on ICVs would depend in part on whether they could exercise the transfer option without hindrance from processors. Determining the magnitude of the benefits to ICVs of increases in the transfer limit would require more information than is currently available on the value of incremental supplies.

The remaining alternatives are intended to eliminate or reduce the cost of open access to ICVs. One of these alternatives, which was also analyzed in our earlier discussion paper, would eliminate the qualification requirement for cooperative membership, so that a catcher vessel could change processors without having to go through open access. There are several ambiguities concerning the interpretation of this proposal. The most important is whether it would apply only when a new cooperative agreement was signed, or every year. Under the former interpretation the proposed change would have no effect.

If this alternative would apply in every year, it would enhance the bargaining power of ICVs by greatly improving their outside option. This alternative would not be equivalent to the Dooley-Hall proposal because of two important differences. First, the organization of the cooperatives would be less favorable to ICVs, and more favorable to processors, under this alternative than under the Dooley-Hall proposal. Second, and cutting the other way, ICVs would retain the potentially important bargaining advantage conferred by the 80% rule, which we understand would apply in every year of the cooperative's existence. This advantage would not exist under the Dooley-Hall proposal. Under the conditions of moderate competition, which we consider to be the most likely to prevail, the proposal to eliminate the qualification requirement for cooperative membership can be expected on balance to be more favorable to ICVs than the AFA rules, but less favorable than the Dooley-Hall proposal.

At the October 1999 Council meeting, the AP recommended a modified version of the proposal to eliminate the open access requirement. The most important new provision in the modified proposal is that the 80% rule would apply only in the first calendar year in which the cooperative received its allocation pursuant to the AFA. Because the cooperatives have now been formed, and the duration of the cooperatives has been defined as the effective life of the AFA, the AP proposal would effectively result in the elimination of the 80% rule. The importance of the 80% rule depends on the degree of competition. Under the conditions of moderate competition, the AP proposal would be clearly less favorable to ICVs than simply eliminating the qualification requirement, but would be likely to be more favorable for ICVs than the AFA rules for cooperatives.

At the October 1999 meeting, the Council added three new options that could be used singly or in combination to modify other alternatives. The first option would allow a catcher vessel to change cooperatives without having to go through open access. Two sub-options would be to allow such a change once every calendar year, or once every other calendar year. We interpret the first sub-option as being identical to the original proposal to eliminate the qualification requirement for cooperative membership.

The second sub-option would make it more costly for an ICV to switch two years in succession. Indeed, an ICV that had just joined a cooperative could find itself in a difficult bargaining position at the beginning of its second year when negotiating its ex-vessel price. The ICV could protect itself by requiring a two-year price contract, but it is our understanding that multi-year price contracts are often considered unfeasible. Therefore we conclude that the two-year option is worse for ICVs than the one-year option, but more favorable to ICVs than the AFA rules.

Another option suggested by the Council would prohibit a processor-owned catcher vessel from entering the open access portion of the inshore fishery unless the processor for which it was qualified, which would usually be the one that owned it, did not have a cooperative. The most likely case in which the rule would be binding is that of a processor that had one or more under-vested PCVs but that would also gain significantly from having a cooperative. If enough of the qualified CVs were in favor of the cooperative to satisfy the 80% rule without some of the under-vested PCVs, the processor could prefer to have them in open access to harvest more than their allocation under the cooperative.

Prohibiting such vessels from entering open access would reduce the potential costs of open access to ICVs, and therefore improve their outside option. There are two ways in which this could benefit ICVs. First, to the extent that the proposed rule reduced the actual cost of open access, it would improve the outside option for ICVs in general. Second, the proposed rule could affect the bargaining power of the specific ICVs qualified for a processor for which the rule was binding, because it would eliminate the ability of the processor to obtain a bargaining advantage over ICVs by threatening to send its under-vested PCVs into open access if an ICV did not join its cooperative.

The third option would prohibit a mothership catcher vessel (MSCV) from entering the open access portion of the inshore fishery unless the processor for which it was qualified did not have a cooperative. Because all the inshore processors for which MSCVs are qualified did form cooperatives, the proposed rule would exclude all MSCVs from the inshore open access fishery. This would reduce the cost of open access to inshore ICVs and therefore enhance their bargaining power. However, this benefit for inshore ICVs would be attained only at significant cost to the mothership sector, which is already receiving the least net benefits from the AFA.



**Discussion Paper on "Qualified Catcher Vessel" Issue  
March 9, 2000**

**Definition of "qualified catcher vessel"**

Paragraph 210(b)(3) of the AFA defines "qualified catcher vessel" for the purposes of determining which vessels are eligible to be in a particular inshore cooperative:

*(3) QUALIFIED CATCHER VESSEL.—For the purposes of this subsection, a catcher vessel shall be considered a "qualified catcher vessel" if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.*

**Why is a definition of "qualified catcher vessel" necessary?**

The AFA definition of qualified catcher vessels effectively ties individual vessels to a specific processor and prevents catcher vessels from joining any co-op during any year. This provision, along with the requirement that a co-op deliver at least 90 percent of its catch to its designated processor, "locks in" a vessel's catch history for the processor to which it delivered the previous year. As a consequence of these two provisions of the AFA, any time an inshore co-op forms, the associated processor receives a market share guarantee equal to at least 90% of the previous year's deliveries from co-op vessels.

The definition of "qualified catcher vessel" is also the provision of the AFA that has the effect of requiring that catcher vessels "spend a year in open access" before switching co-ops. Nothing in the AFA specifically prohibits vessels from switching co-ops from year to year without spending a year in the open access fishery. However, as a practical matter, it may be difficult or impossible for a vessel to participate in a co-op and deliver to one processor during one fishing year while at the same time "qualifying" to join a co-op associated with a different processor for the subsequent fishing year. To do so most likely requires that the vessel spend a year fishing in the open access fishery while delivering to the processor of its choice so that the vessel becomes a qualified catcher vessel for the new co-op for the subsequent fishing year.

**How NMFS emergency regulations treat the "qualified catcher vessel" definition**

The emergency interim rule published January 5, 2000 (65 FR 380) established an inshore co-op permit application process whereby each inshore co-op must apply for its allocation of pollock on an annual basis. Co-op contracts may be single-year or multi-year as the case may be. However, the co-op must apply for its allocation annually and must certify annually that the co-op meets all the requirements contained in the AFA and regulations.

A definition of "qualified catcher vessel" was set out in regulation at paragraph 679.4(l)(6)(ii)(C) of the emergency interim rule to implement this provision of the AFA. The definition contained in the emergency interim rule mirrors the statute as closely as possible. The regulatory definition is as follows:

*...For the purpose of this paragraph, a catcher vessel is a qualified catcher vessel if:*  
*(i) it delivered more pollock harvested in the BSAI inshore directed pollock fishery to the AFA inshore processor designated under paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the year prior to the year in which the cooperative fishing permit will be in effect; [50 CFR 679.4(l)(6)(ii)(C)]*

## **Defining the term “more pollock”**

Under the emergency interim rule, “more pollock” simply means more than zero. The AFA does not establish any minimum amount of pollock that must be delivered to a processor for a vessel to qualify to join the co-op that is associated with that processor and NMFS has not established any minimum threshold level. A vessel owner wishing to join a co-op must simply certify in the annual co-op application that the vessel in question “delivered more pollock harvested in the BSAI inshore directed pollock fishery to the [designated] AFA inshore processor than to any other shoreside processor or stationary floating processor during the year prior to the year in which the cooperative fishing permit will be in effect”

However, the regulations do make two clarifications to the term “more pollock” to clarify ambiguities in the statute. First, the regulations specify that only BSAI pollock is used to determine a vessel’s qualification to join a co-op (as opposed to including GOA pollock landings as well). Second, the term “directed pollock fishery” is added to the term “more pollock” to clarify that, for the purpose of co-op qualification, we are concerned with amounts of pollock taken in the directed pollock fishery and not incidental catch of pollock caught in other fisheries. This clarification is necessary to prevent a vessel’s pollock bycatch in other fisheries from inadvertently affecting its co-op qualification.

To count pollock bycatch could create the unintended effect of restricting the ability of catcher vessels to deliver non-pollock groundfish to other markets. Under the IR/TU program, catcher vessels are required to retain all incidental catch of pollock in other groundfish fisheries up to the 20 percent MRB for pollock. As pollock is a common bycatch species in the Pacific cod fishery and other groundfish fisheries, AFA catcher vessels fishing for Pacific cod may land significant amounts of pollock as incidental bycatch which will be counted against the pollock incidental catch allowance not the vessel’s co-op quota. To count this pollock towards an AFA catcher vessel’s co-op qualification could have significant unintended consequences.

The AFA makes no restrictions on either the delivery or processing of non-pollock groundfish species in the BSAI. Consequently, AFA catcher vessels fishing for Pacific cod are free to deliver their Pacific cod and associated incidental catch of pollock to any processor, not just one of the eight AFA processors that are authorized to receive pollock harvested in the directed pollock fishery. If an AFA vessel’s co-op qualification is based on all catch of pollock and not just pollock harvested in the directed fishery, then an AFA catcher vessel fishing for Pacific cod and delivering to a processor other than its AFA pollock processor could inadvertently find itself qualified for the wrong co-op in the next fishing year, especially if the vessel has arranged or “leased” its pollock shares to other members of the co-op. In the absence of this clarification, an active AFA catcher vessel delivering sideboard species to a non-AFA processor could inadvertently find itself ineligible to join any inshore cooperative because the processor to which it delivered more pollock than any other processor may be a non-AFA processor.

If NMFS had interpreted the qualified catcher vessel definition in the AFA to refer to all pollock and not just pollock harvested in the directed pollock fishery, then cautious co-ops and AFA processors may feel compelled to require that AFA catcher vessels deliver all non-pollock groundfish to their designated AFA processor just to prevent inadvertent pollock bycatch from affecting the vessel’s co-op qualification. If this occurs, then non-AFA processors could be severely disadvantaged because they will be unable to compete with AFA processors for Pacific cod deliveries by AFA catcher vessels. Nothing in the AFA to suggest that Congress intended to place restrictions on the harvest or processing of species other than pollock. Furthermore, section 210 of the AFA is concerned only with the allocation of the directed fishing allowances of pollock and not management of incidental pollock bycatch in other fisheries.

## **Why existing regulations prevent vessels from retiring while maintaining co-op membership**

Under the emergency interim rule, co-op permits are issued annually and each co-op must qualify annually for its allocation of pollock. Under the AFA and under the emergency interim rule, a vessel's qualification to join a particular co-op is based on its having delivered more BSAI pollock to the co-op's designated inshore processor than to any other inshore processor during the year prior to the year in which the cooperative fishing permit will be in effect. A vessel that has retired and that did not make any deliveries during the year prior to the year in which the co-op permit will be in effect is, therefore, not qualified to join the co-op.

## **Possible changes to the "qualified catcher vessel" definition**

Alternative 2: Eliminate the qualified catcher vessel definition. If the objective is to provide greater flexibility to all vessels (both active and retired) then the qualified catcher vessel definition could simply be eliminated. This would have the effect of allowing any AFA inshore catcher vessel to join any inshore co-op regardless of where the vessel delivered (or if the vessel even fished) during the previous year. If this definition is simply eliminated then membership in each co-op would be completely open prior to each fishing year, however once formed, co-ops would still be governed by the requirement that at least 90% of the pollock harvested by the co-op be delivered to its designated processor. Furthermore, if the definition of qualified catcher vessel is eliminated, then the 80 percent requirement must also be revised because the 80% threshold would no longer have meaning.

Alternative 2: Establish separate standards for "active" and "inactive" vessels. If the objective is to allow inactive vessels to retire from the pollock fishery while still maintaining membership in a co-op, while at the same time continuing to restrict active vessels to membership in the co-op associated with the processor to which they delivered more pollock in the previous year, then the Council must establish separate co-op qualification standards for "active" and "inactive" vessels. To do so requires that the Council establish definitions of "active" and "inactive" vessels and then establish separate qualification criteria for these two classes of vessels.

## **Possible options for defining "active" and "inactive" vessels**

The following are some possible options for defining "inactive" vessels. The Council would have to decide what type of fishing activity (if any) would be allowed in order for a vessel to qualify as "inactive"

- Option 1: "Inactive vessel" means the vessel did not participate in the BSAI directed pollock fishery in the previous year
- Option 2: "Inactive vessel" means a vessel that did not participate in any fishery under the jurisdiction of the North Pacific Fishery Management Council in the previous year.
- Option 3: "Inactive vessel" means a vessel that did not participate in any commercial fishery in the US EEZ in the previous year.
- Option 4: "Inactive vessel" means a vessel that has been lost or scrapped.

## **Possible options for determining co-op qualification for “inactive” vessels**

If the Council wishes to establish separate qualification criteria for “inactive” vessels then several possible options are available.

- Option 1: An inactive vessel is a qualified vessel if it delivered more pollock harvested in the BSAI inshore directed pollock fishery to the co-op’s designated AFA inshore processor than to any other AFA inshore processor during the last year in which the vessel participated in the BSAI pollock fishery
- Option 2: An inactive vessel is a qualified vessel if it was a member of the same co-op during the previous year.

Under option 1, a vessel would be permanently eligible to maintain co-op membership in the co-op associated with the processor to which it delivered “more pollock” during the last year in which it fished for pollock in the BSAI.

Under option 2, a vessel could maintain membership in a co-op during subsequent years. However if the co-op is dissolved for whatever reason, then the vessel would be ineligible to join any new co-op, even a new co-op affiliated with the same processor.

### **Sideboard implications**

Any change to the definition of “qualified catcher vessel” has implications for the participation in sideboard fisheries. Clearly a vessel that does not have to actually fish for pollock in the BSAI to maintain co-op membership will have greater flexibility to participate in other fisheries. This is most obvious with respect to the GOA pollock fishery. Under the Steller sea lion regulations recommended by the Council, a seasonal exclusive area requirement is in place that prohibits vessels from fishing in both the BSAI and GOA during the same season. Since the BSAI fishing seasons have been grouped into two seasons, this means that a vessel that fishes even one pollock tow in the BSAI to “qualify” for a co-op becomes ineligible to fish for at least two GOA pollock seasons during the same year. Consequently under existing regulations, BSAI pollock vessels are effectively precluded from fishing in at least two out of the four GOA pollock seasons. Changing the definition of qualified catcher vessel to allow inactive vessels to participate in BSAI inshore co-ops means that these vessels would have the opportunity to fish in all four GOA pollock openings rather than just two or zero. If the Council wishes to prevent potential increases of effort in other fisheries as a result of changing the “qualified catcher vessel” definition then a more restrictive definition of “inactive” vessel could be chosen that would preclude fishing in other Alaska fisheries.

### **LLP Implications**

Under existing regulations, a catcher vessel must have both a valid LLP and a valid AFA permit to participate in the BSAI pollock fishery. This means that any vessel wishing to “qualify” for participation in an inshore co-op must have both permits and indeed, must have an LLP permit in order to make qualifying BSAI pollock landings.

However, if the definition of “qualified catcher vessel” is revised to allow “inactive” vessels to participate in co-ops, then additional restrictions on the transfer of LLP licenses from AFA vessels could be implemented to prevent the re-entry of such licenses back into Alaska fisheries on new vessels. Otherwise, a vessel owner could retire an AFA catcher vessel from fishing in Alaska while maintaining membership in an inshore co-op

and then sell the LLP license from that vessel or place it on a new vessel that could then enter the Alaska groundfish or crab fisheries without sideboards. If significant numbers of AFA catcher vessels are retired, this could mean the addition of significant numbers of new trawl vessels into the groundfish fisheries off Alaska. Several options exist to deal with this potential problem.

- Option 1: Prohibit any transfers of LLP licenses from AFA vessels except to designated replacement vessels. Under this option, all transfers of LLP licenses from AFA vessels would be prohibited unless the transfer was to a replacement vessel designated under subsection 208(g) of the AFA. This would effectively prevent vessel owners from retiring AFA vessels and then transferring the LLP license to a new vessel for reentry into Alaska fisheries and would affect all sectors of the AFA fleet.
- Option 2: Require that the vessel owner "surrender" the vessel's LLP license to NMFS in order for the vessel to qualify as an "inactive" vessel. This option would prevent the transfer of LLP licenses from inshore co-op vessels. However, it is less broad sweeping as option 1 which would affect all AFA vessels including catcher vessels delivering to catcher/processors and motherships as well as AFA catcher/processors.

Cooperative name and member vessels	Status Quo co-op allocation formula			Alternative co-op allocation formula		
	Sum of official catch histories in mt.	Percent of 95-97 inshore landings	2000 co-op allocation in mt.	Percent of 95-97 AFA insh. landings	Revised 2000 allocations in mt.	Difference from status quo in mt.
<b>Akutan Catcher Vessel Association:</b> ALDEBARAN, ARCTIC I, ARCTIC VI, ARCTURUS, BLUE FOX, COLUMBIA, DOMINATOR, DONA LILIANA, DONA MARTITA, DONA PAULITA, EXODUS, FLYING CLOUD, GOLDEN DAWN, MAJESTY, PACIFIC VIKING, VIKING EXPLORER, GOLDEN PISCES, LESLIE LEE, MARCY J, MISS BERTIE, PEGASUS, PEGGIE JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER	258,508	28.257%	137,590	29.436%	143,330	5,740
<b>Arctic Enterprise Association:</b> ARCTIC III, ARCTIC IV, OCEAN ENTERPRISE, PACIFIC ENTERPRISE	50,008	5.466%	26,615	5.694%	27,727	1,112
<b>Northern Victor Fleet Cooperative:</b> NORDIC FURY, PACIFIC FURY, GOLDRUSH, EXCALIBUR II, HALF MOON BAY, SUNSET BAY, COMMODORE, STORM PETREL, POSEIDON, ROYAL ATLANTIC,	62,545	6.837%	33,291	7.122%	34,678	1,387
<b>Peter Pan Fleet Cooperative:</b> AMBER DAWN, AMERICAN BEAUTY, OCEANIC, OCEAN LEADER, WALTER N	6,584	0.720%	3,506	0.750%	3,650	144
<b>Unalaska Cooperative:</b> ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,714	11.665%	56,799	12.151%	59,168	2,369
<b>UniSea Fleet Cooperative:</b> ALSEA, AMERICAN EAGLE, ARCTIC WIND, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE, STARWARD	220,361	24.087%	117,285	25.092%	122,179	4,894
<b>Westward Fleet Cooperative:</b> A.J., ALASKAN COMMAND, ALYESKA, CAITLIN ANN, CHELSEA K, HICKORY WIND, FIERCE ALLEGIANCE, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, VIKING, WESTWARD 1	153,917	16.824%	81,920	17.526%	85,339	3,419
<b>Open access inshore AFA vessels:</b> ANITA J, MARK I, PACIFIC CHALLENGER, MAR-GUN, ELIZABETH F, MARGARET LYN, NORTHWEST ENTERPRISE, MORNING STAR <sup>1</sup> , OCEAN HOPE 1, TRAVELER, and CAPE KIWANDA.	19,572	2.139%		2.229%	10,852	(19,069)
<b>Non-AFA vessels:</b> 95-97 best 2 out of 3 inshore landings by vessels without AFA inshore endorsements	36,643	4.005%				
<b>Current Open Access Quota:</b> (based on total non-coop 95-97 landings)	56,215	6.145%	29,921			
<b>Total based on AFA inshore catcher vessel landings</b>	<b>878,208</b>			<b>100.000%</b>	<b>486,922</b>	
<b>Total based on all 95-97 inshore landings</b>	<b>914,851</b>	<b>100.000%</b>	<b>486,922</b>			

<sup>1</sup>Designated replacement vessel for the PACIFIC ALLIANCE

## F/V HAZEL LORRAINE

202 Center Street  
Suite 315-274  
Kodiak, AK 99615

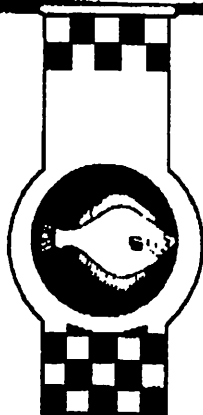
Tel: 907-486-7599

**RECEIVED**

MAY 23 2000

N.P.F.M.C

May 21, 2000



Mr. Richard Lauber  
Chairman, NPFMC  
605 West 4th Avenue  
Anchorage, Ak 99501-2252

Subject: For the Council Record, S2432, technical correction to the AFA

Dear Richard,

I testified in front of you November 8, 1998 at the special council meeting called after the passage of the AFA. My vessel remains the only vessel with a substantial physical record of deliveries, that fell through the "crack" created by the generic language requiring a minimum shore base landing of at least 250 metric tons. In 1998 I was a very early supporter of the original AFA and my vessel was named in the early drafts of the bill....throughout 1999 my Senators made several attempts to attach technical corrections to larger pieces of legislation to amend the AFA. They never made it because no one wanted to touch the "new" legislation until the dust settled, S2432 is a bill framed to make the Hazel Lorraine eligible under the AFA. At the April Advisory Panel meeting in Anchorage, I was amazed to hear them talk about 20,000 to 30,000 tons of "slop" (dust) in the open access pollock fishery tonnage, that had come to light, as the records for the catch came into NMFS.

The single hardest element for me to endure is the fact that my vessel is 100% American owned and I made all off my Bering Sea deliveries to 100% American owned processors 1991-96 & 1999 and I'm blocked out of the AFA. My place of delivery was determined by the market (Tyson's plans put my effort inshore/offshore) with my consent, lacking a crystal ball, there was no way I could know that supporting the AFA would jeopardize the economic future of the vessel and its crew. Meanwhile this year many of the foreign owned processors, catcher boats, and catcher processors will have 2000 as a free ride to reorganize their cooperate structure to come up to 75% American ownership, or not, if they have Korean partners!!

To stand by and watch as other catcher vessels that I have worked with for two decades make preparations to fish in the Bering Sea for pollock, is next to unbearable. I hold in my hands my new for 2000 Federal Fisheries Permit and License Limitation Certificate with endorsements to fish in the Bering Sea....for me in my position of struggling to hold onto my pollock fishing rights (I fished cod from 1985 to 1996 and I've lost that also), this defines the deadly unconscious logic of Joseph Heller's Catch 22.

Respectfully,

*Albert Heiser*  
42277 GARRISON LK RD.  
PORT ORFORD, OREGON  
97465

**A.J. FISHERIES, L.L.C.**1116 NW 51<sup>st</sup>  
Seattle, WA 98107

May 30, 2000

North Pacific Fishery Management Council  
605 W. 4th Street, Suite 306  
Anchorage, AK 99501Re: Vessel AJ  
Official No. 599164  
ADF&G No. 57934**RECEIVED**

MAY 30 2000

N.P.F.M.C.

Dear Council:

We are the owners of the fishing vessel AJ, Official No. 599164, ADF&G No. 57934 ("Vessel"). The Vessel is an AFA qualified vessel with a modest amount of pollock allocation. We purchased the Vessel in July of 1999 with the intention of bringing the vessel to an east coast under-utilized United States fishery.

In August of 1999 we leased out our pollock quota to a shoreside processor and began arrangements for preparing the vessel for transit away from the West Coast of the United States. However, in late fall we were informed that the National Marine Fisheries Services chose to interpret the AFA such that an AFA vessel has to requalify each year to remain an AFA qualified vessel. If that interpretation is ratified by this council, it would result in our decision to leave the vessel on the West Coast to participate in the Alaska fisheries and to give up our opportunities elsewhere.


We urge the council to revise the AFA such that it would allow for the permanent retirement of AFA vessels from the Bering Sea and Aleutian Island pollock fishery. It is our understanding that there is no serious opposition to this revision among any industry sectors. Our source, in February 2000, indicated that it was not the legislative intent of the bill to prevent AFA vessels from retiring from the fishery once they have leased their pollock quota. We believe along with others that the legislative intent of the bill was to reduce the capitalization of the Alaska fisheries and get boats out of the Bering Sea.

The council may limit vessels in other Alaskan fisheries. However, they should be allowed to be used in a fishery that is under-capitalized in other areas of the U.S. Therefore, there should be no adverse impacts, at least in AJ Fisheries' regard, over the revision of the AFA's "requalification" rule.

Thank you for your attention to this matter.

Very truly yours,

AJ FISHERIES, L.L.C.

  
Neil Anderson  
Member



**YOUNG,  
deNORMANDIE  
& OSCARSSON**

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JOHN G. YOUNG\*  
PER E. OSCARSSON  
KARIEN L. BALLUFF\*\*  
ROBERT L. deNORMANDIE, JR.  
ROBERT S. OVER†  
MARK SCHEER  
SHANNON D. BRADEN\*\*  
DEAN G. VON KALLENBACH  
MARTHA D. SIDLO

\* ALSO ADMITTED IN ALASKA  
\*\* ALSO ADMITTED IN CALIFORNIA  
\*ALSO ADMITTED IN MARYLAND  
\*ALSO ADMITTED IN DISTRICT OF COLUMBIA  
\*\*ALSO ADMITTED IN IOWA

May 30, 2000

Mr. Rick Lauber, Chairman  
Dr. Clarence Pautzke, Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

Re: Independent Catcher Vessel Association  
"Dooley - Hall Proposal"

Dear Sirs:

As you know, we are assisting the Independent Catcher Vessel Association in presenting to the Council its position on certain changes which are proposed to be made to the American Fisheries Act.

The core issue is that of the ability (or lack of ability) of inshore catcher vessels to move from one inshore cooperative to another without going through an "open access year." This issue was first brought before the Council in February 1999 by two vessel owners, John Dooley and Margaret Hall. The original proposal, which came to be known as the "Dooley - Hall Proposal" would have allowed the owners of more than 3 catcher vessels to form an inshore cooperative and to sell their fish to any processor of their choosing. Under that original proposal, boats would not have been tied to a single processor but could have changed markets at any time, as often as they liked, depending on need and market conditions.

Needless to say, the original proposal represented a significant departure from the present provisions of the AFA which tie inshore catcher vessels to the single processor to which they sold the majority of their catch in the proceeding year. While it would have given the boats a high degree of market freedom, it became clear that it was too much like an IFQ to be palatable to the processors.

After considerable debate and with the input of some of the processors (and in particular, Terry Shaff and John Iani of Unisea), we put together a compromise proposal which was reviewed by the AP in October and which the AP overwhelmingly recommended to the Council for adoption (by a 19-1-1 margin). That compromise reduces the Dooley - Hall proposal to one

Mr. Rick Lauber, Chairman  
May 30, 2000  
Page 2

single element: Inshore catcher vessels would be permitted to move from one co-op to another at the end of any calendar year without having to spend a year in open access.

Pursuant to Section 213 of the AFA, the Council may recommend changes to the AFA for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fisheries. To determine whether this test is met in this instance, the Council directed NMFS to undertake an economic analysis of the issues raised by this proposal. That analysis was performed under contract by a team of economists from the University of Washington lead by Professor Robert Halvorson. Dr. Halvorson's report found that "under most plausible scenarios for open access under the AFA, independent catcher vessels would do worse in open access" and concludes that "there is a significant probability that independent catcher vessels will be adversely affected by the AFA's provisions for cooperatives." [Emphasis added].

The Council therefore has the authority to recommend changes to the AFA to mitigate the adverse impact of requiring boats to spend a year in open access as a condition of changing markets. The AP compromise on Dooley - Hall is the minimum effective action that the Council can take to rectify the situation and we urge the Council to follow the recommendation of the AP when this issue comes before the Council for final action at this meeting.

In addition, along with the AP proposal on Dooley - Hall, there are at least three other issues in the inshore cooperative package which will come before the Council. The position of ICVA on each is as follows:

1. The 80% Rule. Along with its recommendation on Dooley-Hall, the AP in October recommended that the "80% rule" be limited to the initial co-op formation. As you know, the AFA requires that 80% of the vessels qualified to form a co-op actually agree to join the co-op as a condition of co-op formation. It is unclear, however, whether that 80% requirement must be met only in the year that a co-op is formed or whether it must be met annually. The question is an important one because of all the inshore co-ops except Unisea are effective for 5-year terms. If the 80% requirement need only be met in the year of formation, they will all be good for their full five-year terms regardless of whether boats come or go. On the other hand, if they must meet the 80% threshold each year, the existence of the smaller co-ops could be threatened every time a boat enters or leaves the market.

The issue could become important due to the number of boats which are likely to join the open access fleet next year. As co-op members, we don't want to stand in the way of those boats obtaining a market. On the other hand, if the 80% rule be met *each year*, a co-op could be threatened if a processor takes on too many open access boats which may not want to join the co-op.

Mr. Rick Lauber, Chairman  
May 30, 2000  
Page 3

The AP recommendation, which we support, would restrict the application of the 80% rule to the year of co-op formation only. Any co-op which is effective for a term of more than one year would not have to address the issue until the expiration of its term. Of course, if a co-op was dissolved for any reason, the 80% rule would apply when the co-op was re-formed.

2. "The Inactive Vessel". As you know, one of the anticipated benefits of the AFA was to allow a reduction in effort by retiring obsolete or inefficient vessels and stacking their catch history on more effective vessels. However, this goal is being frustrated by NMFS' interpretation of the AFA that each and every AFA "inshore qualified vessel" must make at least one delivery every year in order to retain its right to participate in a co-op.

The problem arises out of the AFA definition of a "qualified catcher vessel" as one which "during the year prior to the year in which the fishing co-operative will be in effect delivered more pollock to the shoreside processor to which it will deliver pollock under the fishing co-operative... than to any other processor."

This problem can be rectified by a minor addition to the AP recommendation on Dooley-Hall simply stating that all vessels will have the right to participate each year in a co-op of their choosing, *whether or not they harvested pollock in the directed pollock fishery in the previous year.*

Our proposed language for the Dooley-Hall compromise which includes the solution to this problem is as follows:

210(b)(7) *Accepted Catcher Vessel.* *In addition to the rights of those catcher vessels defined as Qualified Catcher Vessels, all 208(a) inshore catcher vessels, (whether such vessels harvested pollock in the directed pollock fishery in the previous year or not, and if the vessel did harvest pollock in the previous year, regardless of to whom it delivered) shall be eligible to join any existing AFA onshore cooperative provided:*

1. *The processor purchasing pollock from the inshore cooperative which the vessel wishes to join has agreed to purchase the pollock caught by the vessel; and*
2. *Prior to the calendar year in which the vessel participates in the inshore cooperative, which shall not be before the year 2001, the owner of the vessel becomes a party to the contract which implemented the inshore cooperative under the same terms and conditions as were accepted by the owners of "qualified catcher vessels which are members of that inshore cooperative."*

Mr. Rick Lauber, Chairman  
May 30, 2000  
Page 4

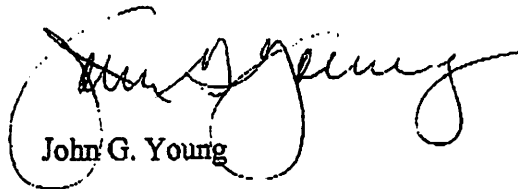
3. The LLP Issue. Council staff and NMFS have raised the concern that the owner of an inactive inshore vessel might sell the vessel's LLP license or place it on another vessel which could then enter the Alaska groundfish or crab fisheries without sideboard restrictions. We agree that this should not be allowed and propose that language should be adopted to prohibit transfers of LLP licenses from AFA vessels except to designated replacement vessels.

The members of the Independent Catcher Vessel Association believes that a resolution of these issues in the manner suggested in this letter will be beneficial to both vessel owners and processors. Adoption of the AP compromise on Dooley-Hall, the clarification of the 80% rule and the resolution of the inactive vessel issue will provide the bases for the rationalization of the catching effort that was a principal goal of the AFA while at the same time providing a basis for effective bargaining between the boats and the processors leading to the long-term health of both sectors of the industry.

We urge the Council's adoption of the AP's recommendation on these issues.

Sincerely,

YOUNG, deNORMANDIE & OSCARSSON, P.C.



John G. Young

JGY:ejf

cc: John Doolcy  
Margaret Hall

**INDEPENDENT CATCHER VESSEL  
RECOMMENDATION FOR  
RESOLUTION OF AFA INSHORE CO-OP ISSUES**

1. **Dooley-Hall Compromise Position.** That the AFA be amended to allow inshore catcher vessels to changed cooperatives without going through an open access year and specifically, that Section 210(b) relating to catcher vessel cooperatives be amended by adding the following new subsection as subsection 210(b)(7):

210(b)(7) *Accepted Catcher Vessel.* In addition to the rights of those catcher vessels defined as *Qualified Catcher Vessels*, all 208(a) inshore catcher vessels, (whether such vessels harvested pollock in the directed pollock fishery in the previous year or not, and if the vessel did harvest pollock in the previous year, regardless of to whom it delivered) shall be eligible to join any existing AFA onshore cooperative provided:

- a. *The processor purchasing pollock from the inshore cooperative which the vessel wishes to join has agreed to purchase the pollock caught by the vessel; and*
- b. *Prior to the calendar year in which the vessel participates in the inshore cooperative, which shall not be before the year 2001, the owner of the vessel becomes a party to the contract which implemented the inshore cooperative under the same terms and conditions as were accepted by the owners of "qualified catcher vessels which are members of that inshore cooperative."*

2. **80% Rule.** The AFA should be amended to add a new subsection 210(b)(1)(c) to the effect that it is only in the first calendar year in which an inshore cooperative receives its allocation pursuant to the AFA that 80% or more of the qualified catcher vessels agree to participate (In the case of a new cooperative being formed hereafter, the 80% rule should continue to apply to determine eligibility of the co-op to receive its first annual allocation.)

210(b)(1)(c) *In the case of inshore co-operatives which have a term of more than one year, the requirement that the contract implementing the cooperative be signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishing in the year prior to the year in which the fishing cooperative will be in effect will only apply in the first calendar year of the term and in the first calendar year of any renewal term.*

3. **Inactive Vessel Issue.** A qualified vessel shall not be required to make a delivery in each calendar year so as to continue to be qualified in the following year. This change is covered in the language of the new subsection 210(b)(7) as stated above.
  
4. **LLP Issue.** Prohibit any transfers of LLP licenses from AFA vessels except to designated replacement vessels. (Under this option, all transfers of LLP licenses from AFA vessels would be prohibited unless the transfer was to a replacement vessel designated under Subsection 208(g) of the AFA. This would effectively prevent vessels from retiring AFA vessels and then transferring the LLP license to a new vessel for re-entry into Alaska fisheries free of sideboard restrictions and would affect all sectors of the AFA fleet.)



RECEIVED  
MAY 30 2000  
N.P.F.M.C

26 May, 2000

Mr. Rick Lauber, Chairman  
Dr. Clarence Pautzke, Executive Director  
North Pacific Fishery Management Council  
605 W 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252

RE: Enclosed White Paper relating to BS/AI inshore pollock cooperatives/Dooley-Hall

Dear *Rick & Clarence* Sirs:

I am aware since October 1999 that the Council has received large volumes of information and some in-depth presentations of what, if anything, they should do about the structure of the inshore pollock cooperatives being formed in response to the passage of the American Fisheries Act.

Having reviewed the material presented for my client, the Independent Catcher Vessel Association, it does not seem to me that there would be any marginal benefit from adding yet another analysis. The work presented by Professor Halvorsen and his associates at the University of Washington appears to be thorough and comprehensive.

However, I can't resist adding a few comments of my own, as a white paper attachment to this letter. I hope members of the Council will find them helpful as they sort through the competing presentations and testimonies on this issue.

Individuals focused on one particular issue often overlook the broad view and perspective that the Council must take. The Council has embarked on a long process of "rationalization" and has to deal with a complex intertwining of legal constraints, policy objectives, and limits imposed by the nature of the physical or social environments these fisheries inhabit. *Any* action can not be viewed as an optimization but rather should be evaluate as to whether it is more or less likely to be a marginal improvement.

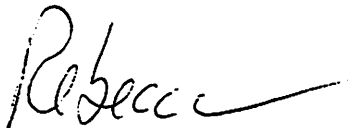
In its October 14, 1999 minutes, the SSC when evaluating the first Halvorsen report noted, "Whether one agrees with the document's conclusions depends on whether one agrees with its assumptions." I think this is an important point to remember, as the Council has to weigh the different approaches, and have gone a step further to suggest

three ways to evaluate the various analytical presentations made. In addition, I have provided some background on game theory and some references that help explain why this approach captures this industry so well.

And finally, given that the Council has a limited set of choices in choose from, I have provided a brief summary of the characteristics and implications of each (drawn from Halvorsen's latest report) within a table format which should add in ranking the desirability of each alternate approach.

I look forward to seeing you at the Council meeting in Portland.

Regards,

A handwritten signature in cursive script that reads "Rebecca". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Rebecca Tuttle Baldwin  
Resource Economist



**White Paper**  
**On Cooperatives in**  
**The Bering Sea/Aleutian Islands Pollock Fisheries**

**Prepared by**  
**Rebecca Tuttle Baldwin**  
**Economic & Environmental Analysts**

**At the Request of**  
**Independent Catcher Vessel Association**

**May 2000**

## Preface

As the composition of the participants in Bering Sea/Aleutian Islands pollock fisheries has evolved rapidly since the advent of the Magnuson Fishery Conservation and Management Act of 1976, so too has the North Pacific Fishery Management Council (Council) adjusted and expanded their concept of management and searched out new approaches and techniques for addressing the issues.

There has been a growing awareness that the Council must move these fisheries along a path where the outcome is consistent with social goals and yet takes advantage of the efficiencies and other desirable aspects of employing market forces. The Council has thus embarked on a process of rationalizing these (and other) fisheries under its management. While this process consists of many intertwined actions, one recent development that substantially impacts the composition of these fisheries is the American Fisheries Act, AFA, (1998).

One key feature of the AFA was the framework for developing inshore catcher vessel cooperatives. Observations from other fishery cooperatives indicate the advent of such an arrangement will significantly modify these fisheries. And so the Council has appropriately requested "a qualitative analysis of the economic and policy issues associated" with the formation of these cooperatives.

Because the Council must repeatedly make decisions that influence future conditions but base their decisions on data and inferences from past behavior, they run the risk of unanticipated consequences and undesirable outcomes in response to their action. Taivo Laevastu, writing in conjunction with Dayton Alverson and Rich Marasco, notes that humans have inherent limitations on their ability to make sound decisions. Specifically, the authors list 3 key concerns:

- 1.1 Each manager can at one time mentally only consider a limited amount of information.
- 1.2 The amount of information available to managers is only a small fraction of information needed and potentially available.
- 1.3 Information on future aspects of events has not been available to managers, who have to make decisions without them.

In order to reduce the related risk inherent in making a decision on this issue, the Council may want to pursue the alternative most likely to preserve all components of the fishery as viable entities until a clearer consensus on the desired composition is reached. In addition, as always with issues associated with allocations, it is important the process is perceived as fair and equitable to the parties most impacted.

"The need for consistent social welfare accounting will become even more pressing as allocation questions increasingly dominate management of nation's fishery resources."

Sam Herrick et al (*North American Journal of Fisheries Management*, 1994)

## Economic Models

A model, by definition, is an abstract representation of the real world. The real world is full of messy, complex, and complicated linkages within and among the physical, biological, and socio-economic structures of our environment. *Any modeling exercise* is a simplification of the "real" world and thus will employ some assumptions to make the exercise more tractable.

Models are usually based on accepted theories, principles and hypotheses of a given discipline or sciences. In order to be employed within an analysis or to provide insight for a policy action, a model must usually be combined with data on the specific issue(s) being addressed.

An economic analysis is a structured way of investigating and explaining or evaluating the alternative consequences when combining data on a specific set of economic agents with a framework model grounded in economic theories. When employing this type of analysis to applied fisheries issue, one critical type of data that needs to be incorporated within a modeling framework is information on how fishers respond to changes in fish availability (often a policy allocation), and economic conditions (Marasco and Aron, 1991).

In recent years, several economic analyses have been presented to the Council on aspects of these pollock fisheries. A wide range of data sets and economic models have been included within those analyses and it sometimes seems that each one leaves out an aspect crucial to someone within this decision-making process. Application of economic analysis within this arena is very much an evolving and untidy affair.

Yet decisions must be made and these analyses, however limited, can contribute in a positive way to improving the process and reducing the risk of government failure. In order to decide to which competing analysis the most weight should be given, a manager must evaluate three features of the analysis:

- What benchmark or reference point is the modeler using to describe the data or initial conditions
- How clearly stated are the model's assumptions and how closely do they mesh with our understanding of the crucial aspects of the issue
- How accepted is the modeling approach or how deeply rooted is it within the principles of its discipline

"The study of economics does not seem to require any specialized gifts of unusually high order. Yet good, or even competent, economists are the rarest of birds. An easy subject, at which very few excel! The paradox finds its explanation, perhaps, in that the master-economist must possess a rare combination of gifts. He must reach a high standard in several different directions and must combine talents not often found together. He must be mathematician, historian, statesman, philosopher—in some degree."

John Maynard Keynes (Essays in Biography)

### Further Reading:

- Marasco, Rich and William Aron. *Explosive evolution-The changing Alaska groundfish fishery*. 1991. In Review of Aquatic Sciences, 4(4)-313.

## Game Theory

The primary source of economic analysis of inshore pollock co-ops has been the discussion papers developed at the University of Washington by Halvorsen et al. They choose to utilize the framework of game theory for their analyses.

John von Neumann set the foundations of game theory in 1928, with the minimax theorem. Since the 1940s, with the publication of *Theory of Games and Economic Behavior*, this approach has been applied to a wide variety of economic, political and social issues. In 1994, the Noble prize for economics was awarded for contributions within this discipline by Nash (Princeton), Harsanyi (UC-Berkeley), and Selten (University of Bonn, Germany).

Game theory is the science of strategy (choices) with the focus on participants' power, the bargaining mechanism, and the degree of cooperation and trust among the participants. It is used to analyze and address interaction among economic agents, such as individuals, firms, and government agencies. A strength of this approach is the recognition of interdependence among the participants in the game.

An analysis employing game theory, as the model, attempts to account for the full range of possible options and the format can vary depending on whether the interaction is viewed as cooperative or a zero-sum game (conflict). Strategies can be identified as "dominant" (an agent's best choice irrespective of other participants' actions) or as "dominated" which represents a uniformly bad choice. The ultimate goal of game theory is to understand why existing arrangements are stable (or not) and what alternative outcome(s) may arise.

Recent research in the area has attempted to deal with this issue of many potential stable outcomes (multiple equilibria) which can make predictions difficult. From a policy perspective, the key question arising from this non-cooperative repeat game process is whether it will lead to a desirable outcome compatible with the goals and objectives of rational fishery management without additional intervention by the regulatory decision-makers.

### Further Reading:

- Neumann, John von, and Oskar Morgenstern. *Theory of Games and Economic Behavior*. 1947.
- Shubik, Martin. *Game Theory in the Social Sciences*. 1982.
- Riker, William. *The Art of Political Manipulation*. 1986.
- Dixit, Avinash, and Barry Nalebuff. *Thinking Strategically: A Competitive Edge in Business, Politics, and Everyday Life*. 1991.
- Davis, Morton. *Game Theory: A Nontechnical Introduction*, 1997. (an unabridged and unaltered republication of the 1983 2<sup>nd</sup> edition).
- Van Dijk, Eric and Riel Vermunt. *Strategy and fairness in social decision making: Sometimes it pays to be powerless*. January 2000 in Journal of Experimental Social Psychology.
- Schmitt, Pamela, and Kurtis Swope, James Walker. *Collective action with incomplete commitment: Experimental Evidence*. April 2000 in Southern Economic Journal.

"Sometimes the problem with our economy is that there are multiple equilibria, and we're fixed on a bad one,"  
Larry Samuelson (University of Wisconsin, 1994)

Option	Characteristics	Implications	Conclusion/Ranking
AFA	<ul style="list-style-type: none"> <li><input type="checkbox"/> Built on "inshore-offshore" history</li> <li><input type="checkbox"/> Entry of new processors prohibited</li> <li><input type="checkbox"/> Abates "race for fish" by establishing co-ops so successful movement towards desired goal of rationalization</li> <li><input type="checkbox"/> Definition of 'qualified' catcher vessel effectively ties individual vessels to a specific processor</li> <li><input type="checkbox"/> Requires 80% agreement to form wrt to bylaws &amp; membership agreement</li> <li><input type="checkbox"/> Requires co-op delivers <i>at least</i> 90% of its catch to designated processor</li> <li><input type="checkbox"/> Requires a year in open-access between co-ops when switching<sup>1</sup></li> <li><input type="checkbox"/> Page 42, Table 1 for complete description</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Inshore improved, C/P sector likely to, motherships may due to rationalization</li> <li><input type="checkbox"/> Favors processors over catcher vessels</li> <li><input type="checkbox"/> Lessen power of ICVs as co-op have to have approval of processors and may include vessels owned/directed by processors</li> <li><input type="checkbox"/> Definition of "qualified" reduces options for catcher vessels</li> <li><input type="checkbox"/> AFA rules about open-access may prevent further rationalization by restricting harvest allocation from less to more efficient</li> <li><input type="checkbox"/> Processors can transfer unlimited amounts of harvest among facilities but vessels limited to 10%</li> </ul>	Page 31, "significant probability that ICVs will be adversely affected by the AFA's provisions for cooperatives."
Dooley Hall	<ul style="list-style-type: none"> <li><input type="checkbox"/> Would remove qualification requirements, focus on "eligible" instead</li> <li><input type="checkbox"/> Just need five eligible vessels</li> <li><input type="checkbox"/> Page 43, Table 2 for comparison</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Wouldn't switch balance among sectors</li> <li><input type="checkbox"/> Strength position of catcher vessels, especially subcategory of ICVs</li> </ul>	
AP October recommendations	<ul style="list-style-type: none"> <li><input type="checkbox"/> Page 45, Table 3</li> <li><input type="checkbox"/> Recommends vessels can change processor without going through open access year.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Effectively eliminates 80% rule because duration of co-ops defined at effective life of AFA</li> </ul>	
Council October proposals	<ul style="list-style-type: none"> <li><input type="checkbox"/> Summarized on page 46</li> <li><input type="checkbox"/> Allows eligible CV to change co-ops w/out open access restriction (every year or two)</li> <li><input type="checkbox"/> Prohibition on mothership CVs to enter open access unless no co-op formed</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Every other year less attractive given nature of fishery operations</li> <li><input type="checkbox"/> Prohibition on mothership CVs impose additional hardship on one of the most disadvantage groups</li> </ul>	

American Fisheries Act (AFA) passed in Congress Fall of 1998 and implemented under emergency rules for this year (2000). Final rule making will occur late 2000. Contracts agreements for various pollock co-ops formed are available. This set-up is scheduled to expire at the end of 2004.

Established allocations of BSAI pollock among offshore, inshore, and motherships. Goal is to have both processors and harvesters benefit from rationalization of pollock fishery (from problem statement of this issue).

- Key concerns:
- 1) what happens to excess capacity brought about by rationalization;
  - 2) who had more power prior to Act and does this 'tilt' it "too much";
  - 3) implications/insights from other sectors or actions

<sup>1</sup> Discussion paper on "Qualified Catcher Vessel" issue notes on page 1 "However, as a practical matter, it may be difficult or impossible for a vessel to participate in a co-op and deliver to one processor during one fishing year while still qualifying to join a co-op associated with a different processor.

Tippett  
C-3u

**TABLE 1. CATCH HISTORY OF AFA 'FULL-TIME POLLOCK VESSELS' AND THEIR ASSOCIATED PERCENT INCREASE IN SHARE OF OVERALL BERING SEA POLLOCK TAC UNDER THE COOP STRUCTURE.**

VESSEL	1995 CATCH	% OF 1995 TAC	1996 CATCH	% OF 1996 TAC	1997 CATCH	% OF 1997 TAC	ALL YEARS CATCH	% OF 3 YEAR TAC	% OF COOP	2000 ALLOCATION	% OF 2000 TAC	% INCREASE**
A	7,281	0.58%	7,461	0.63%	6,362	0.56%	21,104	0.59%	13.60%	7,723	0.68%	14.70%
B	8,038	0.64%	7,105	0.60%	6,436	0.57%	21,579	0.60%	13.97%	7,933	0.70%	15.23%
C	10,685	0.85%	7,874	0.66%	8,165	0.72%	26,724	0.75%	17.39%	9,875	0.87%	15.82%
D	5,507	0.44%	5,317	0.45%	4,426	0.39%	15,250	0.43%	9.98%	5,670	0.50%	16.54%
E	7,706	0.62%	7,162	0.60%	6,210	0.55%	21,078	0.59%	13.71%	7,789	0.68%	15.82%
F	7,334	0.59%	5,949	0.50%	5,580	0.49%	18,863	0.53%	12.25%	6,959	0.61%	15.63%

TACs	1995	1996	1997	2000
	1,250,000	1,190,000	1,130,000	1,139,000

\*\* % Increase = (% 2000 TAC - % 3 year TAC) / (% 3 year TAC)

## UNISEA FLEET COOPERATIVE

June 5, 2000

Mr. Richard Lauber  
Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue  
Anchorage, AK 99501  
(Submitted to the Council at its Meeting in Portland)  
RE: American Fisheries Act/ Agenda Item C-3 (a)&(d).

Dear Chairman Lauber:

We are writing on behalf of the members of the UniSea Fleet Cooperative (UFC). The members of the UFC are the owners of the catcher vessels AMERICAN EAGLE; AURIGA; AURORA; ARCTIC WIND; ALSEA; ARGOSY; DEFENDER; GUNMAR; NORDIC STAR; PACIFIC MONARCH; STARLITE; STARWARD; STARFISH; and SEADAWN. We have formed the UFC pursuant to the provisions of the American Fisheries Act. (AFA). Our members pioneered the delivery of pollock to the inshore sector.

The UFC unanimously supports the proposed amendments contained in the proposal advanced by John Dooley and the Independent Catcher Vessel Owners Association. All members of the UFC are independent vessel owners and the UFC is the only inshore coop with no vertical integration of vessel ownership by its processing partner. Our processing partner, UniSea Inc. supports the UFC in taking this position.

We agree that AFA catcher vessels who have formed coops should be able to transfer to a different cooperative without having to fish pollock for a year in open access. We also support an amendment of the AFA that would only require that 80% of the eligible vessels vote to form a coop for the initial formation of a pollock cooperative. We support the objective of the AFA to require a high threshold of vessel acceptance of a coop at the initial formation. We are concerned, however, that the AFA's rigid requirement of needing 80% of the qualified vessels to vote will **jeopardize** flexibility when different vessels join a coop after its initial formulation.

The UFC endorses the proposed recalculation of the Bering Sea open access pool for the pollock fishery.

The UFC supports amending the AFA's definition of a qualified vessel to not require that each vessel land pollock in each year prior to the year in which the coop is in effect. This requirement, as it has been interpreted by the NMFS, will thwart rationalization and decapitalization in the inshore sector. By requiring every coop vessel to make a landing, owners cannot retire such vessels. This will almost certainly result in more gear being fished causing more pressure on the fishery and could result in safety problems because some vessels will have to make a single landing to remain qualified for its coop. The UFC members purchased such a vessel and divided its catch history throughout the coop with the intention of retiring the vessel. Because of the current AFA interpretation that vessel will have to make a pollock landing in the Bering Sea. We believe that is counterproductive to the aims of the AFA and of the Council.

Thank you for considering the views of the UFC. We look forward to working with the Council to make the pollock fishery in the Bering Sea a model for all the nations's fisheries.

Sincerely,  
UNISEA FLEET COOPERATIVE

Jeff Hendricks



# **American Fisheries Act (AFA)**

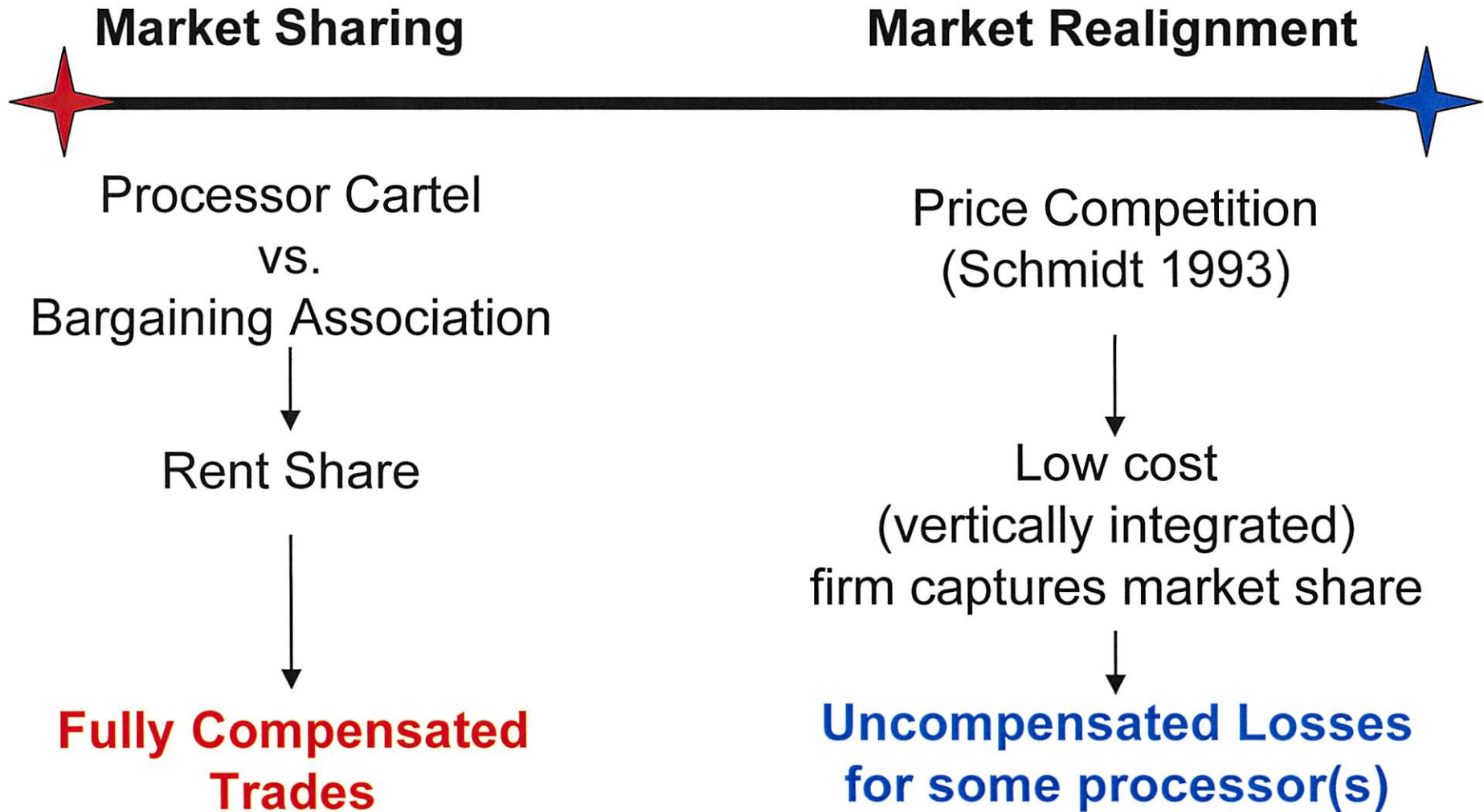
## **Legislative Intent**

"The purpose of the legislation was to rationalize, Americanize, and decapitalize the Bering Sea pollock fishery. The [hybrid] cooperatives established in the AFA were designed to ensure that both harvesters and processors benefited from the rationalization" (Senators Stevens and Gorton, 1999).

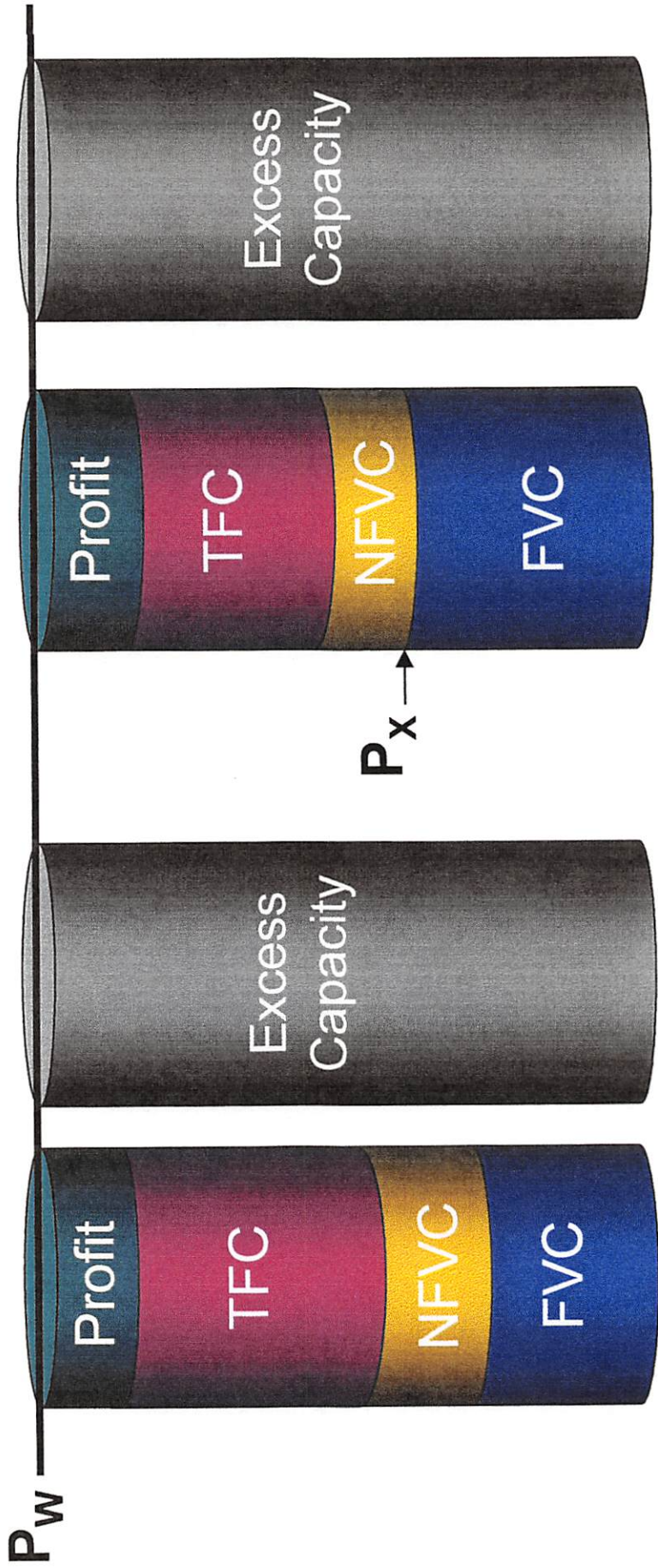


The market structure in which [agricultural cooperative] bargaining emerges is generally oligopsony, not monopsony (Iskow and Sexton 1991), but the advent of bargaining often converts the environment to one approximating bilateral monopoly (Sexton p198, 1994).

# Repeated Game & Folk Theorem

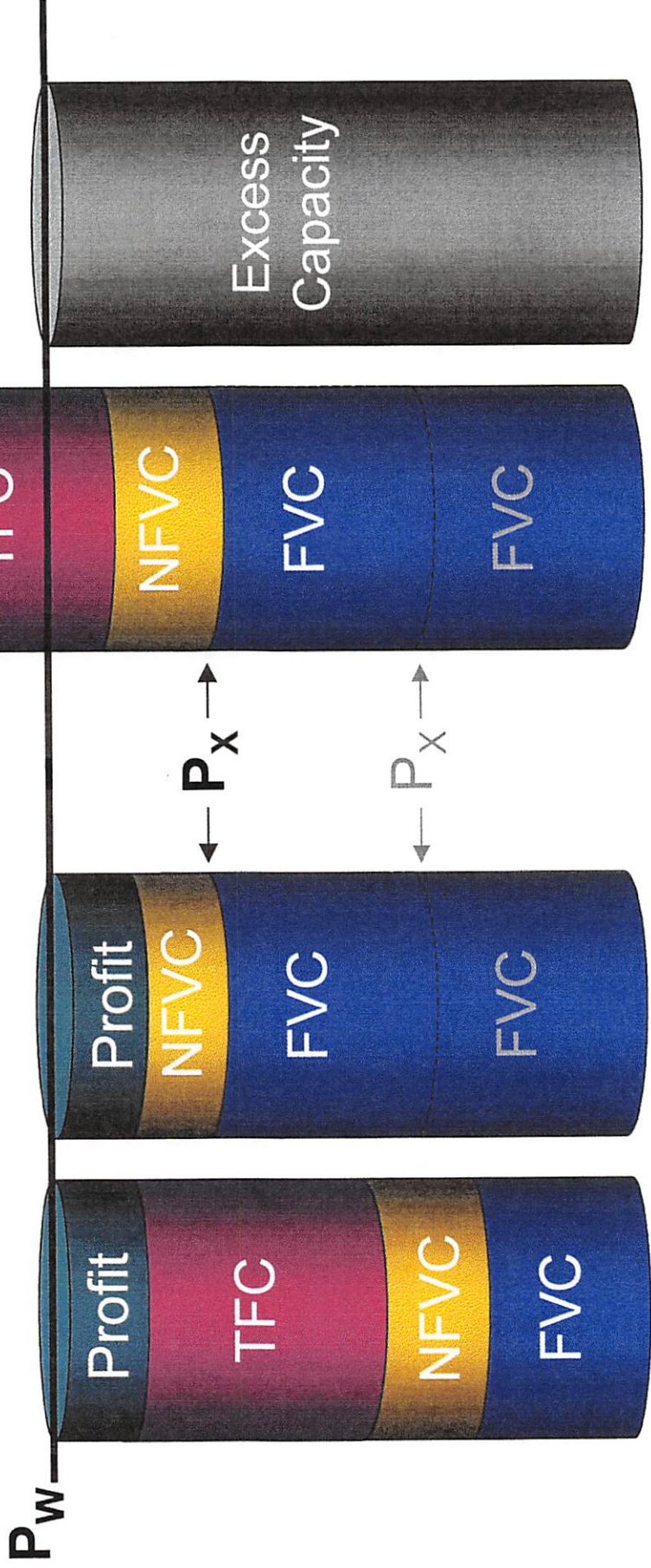
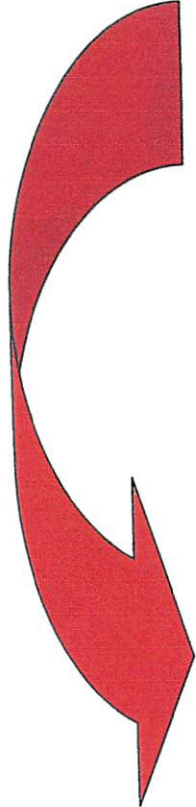


"... considerable suspicion is called for if anyone puts too much emphasis on a particular equilibrium for an infinitely repeated game" (Sexton 1994a, p. 19.) without carefully addressing fishery details.



**Integrated Processor**

**Non-integrated Processor**



$P_w$

TFC

NFVC

FVC

FVC

Excess  
Capacity

Profit

NFVC

FVC

FVC

Profit

TFC

NFVC

FVC

$P_x$

$P_x$

Integrated Processor

Non-integrated Processor

## **MARKET STRUCTURE MATTERS**

One should expect voluntary agreements to alter market structure in ways that are difficult to anticipate, even by those participants involved in the agreement. In the absence of near perfect homogeneity, the only viable property-based mechanism to assure efficient, win-win rationalization appears to be a "two-pie" allocation of individual transferable fishing and processing quotas (Matulich and Sever).

## **AFA-Induced Market Failure**

In its attempt to eliminate the Open Access market failure, AFA appears to have introduced a new market failure by effectively creating differential raw fish prices.