

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



ESTIMATED TIME  
12 HOURS

DATE: April 4, 2000

SUBJECT: Pacific Cod LLP Endorsements

**ACTION REQUIRED**

Final action on Pacific Cod LLP species and gear endorsements for fixed gear vessels (Amendment 67 to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan).

**BACKGROUND**

In June 1995, the Council approved the groundfish License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Plan Amendment 39). This program went into effect January 1, 2000. Since the LLP was approved, the Council also passed Plan Amendment 46, which allocated 51% of the BSAI P. cod TAC to fixed gear, 47% to trawl gear, and 2% to jig gear. To continue toward the goal of comprehensive rationalization and stabilization of the fishery, the Council passed Amendment 64 in October 1999. This amendment further allocated the fixed gear portion of the BSAI P. cod TAC (51%) among the fixed gear fleets: 80% to freezer longliners; 0.3% to catcher longliners; 1.4% to pot or longline vessels less than 60 feet LOA; and 18.3% to pot vessels.

Given the recent increases in the market value of cod products and the threat of new entrants into an already fully utilized fishery, a follow-up amendment (Am. 67) was initiated in April 1999 to add a P. cod endorsement to BSAI fixed gear licenses for vessels that meet specified qualification criteria. The intent of Amendment 67 is to curb increasing competition for P. cod and protect fishermen with extensive catch histories who are dependent on the resource.

In October 1999, the Council selected the list of alternatives for analysis, including both a years of participation and a harvest amount requirement for each sector of the fixed gear fleet. The alternatives count landings made in the years 1995-99, or a subset of those years. Qualification is based on numbers of landings or poundage minimums during the relevant years. At the December meeting, the Council indicated that a separate qualification criteria may be considered for pot catcher vessels and pot catcher/processors. Therefore, the list of options with regard to pot vessels may be applied differently to the catcher/processor and catcher vessel sectors.

In February 2000, the Council voted to include several new alternatives in the analysis. Firstly, the Council reinitiated a discussion of grandfather clauses for the final review document, adding two possible grandfather provisions to the analysis. The Council also indicated that a separate qualification criteria may be considered

for pot and/or longline catcher vessels <60' and ≥60' LOA. Lastly, two suboptions were added to the alternatives for pot catcher vessels that mirror those originally included for longline catcher vessels. Suboption 1 would allow pot catcher vessels <60' LOA to use their jig landings as part of their catch history to apply towards a minimum landing requirement, and Suboption 2 would allow pot catcher vessels of any length to use their jig landings as part of their catch history to apply towards a minimum landing requirement.

In addition to the new alternatives, the final review document uses two methods to report the numbers of vessels expected to qualify. The first reports the total number of vessels that meet the recent landings criteria, while ignoring whether the vessels were LLP qualified for a general BSAI groundfish license. These numbers are reported because it represents the maximum number of Pacific cod endorsements that could be issued, and there is still a great deal of uncertainty surrounding the total number of vessels that will qualify for a general LLP license once appeals are finalized. The second method reports the number of vessels that meet the recent landings criteria and appear to be LLP qualified at this time. The actual number of vessels that qualify for a Pacific cod endorsement will likely fall between those reported under the two methods, but are expected to be closer to those reported using the second method.

The public review draft of the analysis, which included the new alternatives discussed above, was distributed on March 10, 2000. The public review document includes additional information that was requested by the Council at the February meeting. That request included that staff provide a more detailed discussion of where vessels might fish if they did not qualify for a cod endorsement, further discussion on the bait issue (including would vessels need a license to fish for bait), a discussion of combining catch histories, and a discussion of the number of vessels that accounted for 25%, 50%, 75%, and 90% of a sector's P. cod catch.

The current list of alternatives scheduled for final action is included in the attached executive summary (Agenda C-4 (a)). The Council is scheduled to make a final decision on the Pacific cod endorsements at this April meeting. However, given due process issues and current staff workloads, the program is not scheduled to be implemented until the 2002 fishing season.

## Executive Summary

The groundfish License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Plan Amendment 39) went into effect on January 1, 2000. Since the LLP was approved by the Council, changes have occurred in the fixed gear fisheries which have prompted members of industry to petition the Council to add a BSAI Pacific cod endorsement to fixed gear licenses, if the vessel meets a specific recent landings criteria. This analysis studies the impacts of adding the Pacific cod endorsement to vessels that are currently LLP qualified to participate in Bering Sea or Aleutian Islands groundfish fisheries.

Participants in the BSAI fixed gear Pacific cod fishery include longline and pot fishermen with extensive catch histories. However, given the current economics of the Pacific cod fishery, vessel owners with limited history in the BSAI cod fisheries may be tempted to bring vessels into the fishery. Currently there is no mechanism in place that would limit entry into the fishery by substantial numbers of vessels that hold an LLP endorsement for those areas, but have not participated, or have not participated at a level that could constitute significant dependence on the fishery, in the past.

### Alternatives Considered

#### Alternative 1: No Action

The no action alternative would continue to allow for entry into the BSAI Pacific cod fixed gear fisheries, within the eligibility constraints of the current License Limitation Program for the groundfish fisheries in the BSAI. No mechanism would be in place to control entry of LLP qualified vessels that have limited or no historical dependence on the fixed gear Pacific cod fishery.

#### Alternative 2: Limit entry to the BSAI P. Cod fixed gear fisheries based on historical participation

The Council selected a list of alternatives that have differential qualification criteria for freezer longline, longline catcher vessels, and pot gear vessels. The landings criteria are based on a combination of years of participation and the amount of Pacific cod landed by year. The complete suite of alternatives under consideration for each sector is provided below:

#### Freezer Longline Vessels

##### Qualification Years:

Option 1: Any one year 1996, 1997, 1998

Option 2: Any one year 1996, 1997, 1998, 1999

##### Minimum poundage requirement during any qualifying year:

Option 1: 100 metric tons

Option 2: 200 metric tons

Option 3: 300 metric tons

### **Catcher Longline Vessels**

**(a different criteria could be applied to catcher vessels <60' and ≥60' LOA)**

#### **Qualification Years:**

- Option 1: Any one year 1995, 1996, 1997, or 1998
- Option 2: Any one year 1995, 1996, 1997, 1998, or 1999

#### **Minimum poundage requirement during any qualifying year:**

- Option 1: A landing only (no minimum poundage)
- Option 2: 7.5 metric tons
- Option 3: 15 metric tons
- Option 4: 25 metric tons

- Suboption 1 : Allow catcher vessels less than 60' LOA to use their jig landings as part of their catch history to apply towards a minimum landing requirement.
- Suboption 2 : Allow catcher vessels of any length to use their jig landings as part of their catch history to apply towards a minimum landing requirement.

### **Pot Gear Vessels**

**(a different criteria could be applied to catcher vessels and catcher/processors)**

**(a different criteria could be applied to catcher vessels <60' and ≥60' LOA)**

#### **Qualification Years:**

- Option 1: Any three years of 1995, 1996, 1997, 1998
- Option 2: Any three years of 1995, 1996, 1997, 1998, 1999
- Option 3: Any two years of 1995, 1996, 1997, 1998
- Option 4: Any two years of 1995, 1996, 1997, 1998, 1999
- Option 5: Any two years of 1995, 1996, 1997
- Option 6: Any two years of 1996, 1997, 1998
- Option 7: Any two years of 1996, 1997, 1998, 1999
- Option 8: Any one year 1995, 1996, 1997, 1998
- Option 9: Any one year 1995, 1996, 1997, 1998, 1999
- Option 10: Any one year 1996, 1997, 1998

**AND**

#### **Qualification landings (minimum landing requirements):**

**(A) - Minimum pounds required for delivery during each qualifying year:**

- Option 1: A landing only (no minimum poundage required)
- Option 2: 25,000 lbs. - 50,000 lbs.
- Option 3: 50,001 lbs. - 100,000 lbs.
- Option 4: 100,001 lbs. - 300,000 lbs.
- Option 5: Greater than 300,000 lbs.

**OR**

**(B) - Minimum pounds required for delivery during any of the qualifying years:**

Option 1: A landing only (no minimum poundage required)

Option 2: 25,000 lbs. - 50,000 lbs.

Option 3: 50,001 lbs. - 100,000 lbs.

Option 4: 100,001 lbs. - 300,000 lbs.

Option 5: Greater than 300,000 lbs.

**OR**

(C) - Minimum aggregate pounds required for delivery during the qualifying years (applies only to qualification year options numbered 3, 4, and 5)

Option 1: 200,000 lbs. - 600,000 lbs.

Option 2: Greater than 600,000 lbs.

Suboption 1 : Allow catcher vessels less than 60' LOA to use their jig landings as part of their catch history to apply towards a minimum landing requirement.

Suboption 2 : Allow catcher vessels of any length to use their jig landings as part of their catch history to apply towards a minimum landing requirement.

The Council is also considering two grandfather provisions related to the P. cod endorsement for final action in April. The language outlining the proposed exemptions is provided below:

#### **Grandfather Provision #1**

1. Vessel that sank after June 17, 1995 that was LLP qualified with respect to Pacific cod landings prior to that sinking.
2. A sunken vessel is replaced with a qualified replacement vessel within the normal time allowed by the Internal Revenue Service (IRS).
3. Owner of replacement vessel has demonstrated continued intent to fish for Pacific cod by recent landings (as defined by any landing before December 31, 1999).
4. Consider appropriateness of either:
  - A. Accepting catch history from sunk vessel
  - B. Combining catch histories of sunk vessel and replacement vessel.

#### **Grandfather Provision #2**

Exempt from the recent participation and landings requirements for BSAI Pacific cod species and gear endorsements all catcher/processor vessels that:

1. Met the original LLP general qualifying period and area endorsement period requirements for BSAI groundfish, non-trawl, catcher/processor endorsements and designations;
2. Applied for and received an interim or transferable license for groundfish as a c/p in the BSAI;
3. Were purchased between July 1, 1997 and December 31, 1998 with the express purchaser intent of being employed in the BSAI fixed gear P. cod fishery as evidenced by
  - (a) execution and delivery of a U.S. Coast Guard Bill of Sale and subsequent recording of the Bill of Sale in the U. S. Coast Guard Abstract of Title on or before December 31, 1998, and
  - (b) documented processing equipment and/or vessel modification or improvement investments of not less than \$100,000 that are specific to groundfish (gear purchases would not count for purposes of the \$100,000 threshold); and

4. Were employed as a catcher vessel or a catcher/processor in the BSAI fixed gear P. cod fishery during 1999.

Gear designations for these vessels would be based on the gear employed during the year in which the Council's final decision is made. If both pot and longline gear were used in the P. cod fixed gear fishery, then the gear designations would be determined by the gear with the higher catch volume of Pacific cod.

There are few biological impacts of the alternatives and options being considered by the Council. None of the options will change the amount of cod harvested by a particular gear type within the fixed gear sector. A more restrictive LLP for cod may create a more stable pool of vessels which participate in the directed fishery. If more experience results in better fishing practices, then reductions in bycatch may result. However, other factors impacting where and when vessels fish may further complicate the issue. Therefore, incidental catch of species such as crabs, sharks, skates, and squid may increase or decrease with changes in the number of vessels that can participate in the fixed gear sector for cod, but the totals would still be far below the level of overfishing and would not be cause for any biological concern.

Summaries of cod catch in the directed fishery, bycatch of other species in the cod fishery, bycatch of cod in other fisheries, and ex-vessel and first wholesale price information is provided in Chapter 3. The number of vessels participating in the BSAI cod fishery has varied from a low of 85 to a high of 193 from 1992-99. Most of the vessels used pot gear, but they usually accounted for less than 20 percent of the total fixed gear cod harvest. Freezer longliners generally accounted for over 80 percent of the fixed gear cod harvest, and between 36 and 56 vessels participated annually. Longline catcher vessels have never accounted for more than 1 percent of the fixed gear cod harvest, and since 1995, there has never been as many as 30 vessels in the fishery.

The catch history of vessels using jig gear was also included in Chapter 3. The number of jig gear vessels ranged from 45 (1995) to 10 (1998). These vessels have never harvested their entire 2 percent allocation of the BSAI quota.

Ex-vessel prices in the 1998 fixed gear cod fishery were estimated to be \$0.193 for catcher vessels using longline gear and \$0.192 for catcher vessels using pot gear. First wholesale revenue per metric ton of round cod was estimated for each sector in BSAI Amendment 64. That analysis found that freezer longliners received \$1,010, pot catcher/processors \$1,166, and shorebased/inshore floating processors \$923 per metric ton of round cod. These ex-vessel and first wholesale estimates are used in Chapter 4 to approximate the average cod revenue per qualified vessel.

The alternatives under consideration result in a range of 39 to 43 freezer longline vessels qualifying. All of these vessels appear to be qualified under the current LLP. Currently 67 fixed gear catcher/processors are expected to be issued a license under the current LLP, as passed by the Council. Therefore, 24 to 28 fewer freezer longliners would be allowed to participate in the fixed gear cod fishery if this amendment is implemented. Given the estimated first wholesale value per ton of round cod, the current fixed gear cod split passed by the Council, and the 2000 TAC, this translates into an average gross revenue of about \$1.7 to \$1.9 million per freezer longline vessel.

Between 7 and 126 longline catcher vessels are projected to meet the recent minimum landings criteria for a Pacific cod endorsement, depending on the alternative selected. The number of vessels that are both LLP qualified and meet the minimum landings criteria range from 5 to 85, based on our best estimate of currently LLP qualified vessels. A total of 365 fixed gear catcher vessels are expected to qualify for the LLP as

passed by the Council. Selecting any of the alternatives (other than the no action alternative) would reduce the number of longline catcher vessels eligible for the Pacific cod fishery by at least 239. If the option is selected that allows only seven vessels to qualify, the pool of eligible vessels would decrease by about 98 percent. Given that range of outcomes, the average longline catcher vessel's gross revenue from BSAI cod would range between \$3 and \$55 thousand.

Table E.1 provides a summary of the number of pot catcher vessels expected to qualify under each of the pot gear alternatives ignoring whether they hold a general LLP license for the BSAI. The number of vessels that would qualify under the most restrictive alternative (300,000 lbs. of landings in at least 3 different years 1995-98) is 21, yet 203 vessels would qualify under the most liberal criteria (one landing from 1995-99). The remaining alternatives allow the Council to select almost any number of vessels between those represented by the most and least restrictive options. Table E.2 is the same as E.1 except only the vessels that appear to hold a general LLP license for the BSAI are included. Information in that table shows the maximum number of expected qualifiers decreases from 203 to 119, because it appears that 84 vessels do not hold a general BSAI license. The most restrictive alternative only decreases by two vessels when the general LLP requirements are imposed, from 21 vessels to 19 vessels.

Table E.3 provides information on the number of pot catcher/processors. Between four and 20 pot catcher/processors would qualify depending on the alternative selected. Table E.4 shows that the numbers decrease to three and 14 vessels once the requirement that the vessel is LLP qualified is included. Information on the number of vessels that are expected to qualify when the LLP requirements are included and when they are not have been reported for the pot catcher vessels and catcher/processors because of the uncertainty surrounding the actual number of vessels that will qualify once the LLP appeals process is completed. If the P. cod endorsement program is implemented, the actual number of qualified vessels will fall somewhere between the two numbers, but will likely be closer to numbers in the tables that included the LLP qualification requirements.

Detailed information for each of the alternatives may be found in Appendix A. The Council has indicated that they may select a different qualification criteria for pot catcher vessels and pot catcher/processors. Therefore the tables were separated. The total number of pot vessels that could qualify would equal the sum of the vessels under the alternative selected from the pot catcher vessel table and the pot catcher/processor table.

The total ex-vessel revenue for the pot catcher vessels, as estimated based on 1998 prices and allocation percentages passed under BSAI Amendment 64, is \$5.36 million. Given the number of pot vessels expected to qualify and the total ex-vessel revenue, the average revenue per vessel is expected to range between \$26,000 and \$255,000.

The first wholesale revenue for pot catcher/processors is estimated to be about \$5.4 million per year. Therefore, depending on the alternative selected, the average revenue per vessel would range between \$0.27 million and \$1.35 million.

**Table E.1: Summary of Pot Catcher Vessel Alternatives**

Option (a) <sup>1</sup>	Qual. Years <sup>4</sup>	Years Required	A landing	25,000+	50,001+	100,001+	>300,000
1a	95-98	3	58	38	35	30	21
2a	95-99	3	72	50	43	38	27
3a	95-98	2	99	66	60	54	38
4a	95-99	2	112	78	72	65	45
5a	95-97	2	90	62	53	46	34
6a	96-98	2	72	42	42	38	29
7a	96-99	2	91	62	72	53	38
8a	95-98	1	183	135	116	101	73
9a	95-99	1	203	157	137	118	83
10a	96-98	1	140	104	98	88	68
<b>Option (b) <sup>2</sup></b>	<b>Qual. Years <sup>4</sup></b>	<b>Years Required</b>	<b>A landing</b>	<b>25,000+</b>	<b>50,001+</b>	<b>100,001+</b>	<b>&gt;300,000</b>
1b	95-98	3	58	57	57	55	49
2b	95-99	3	72	72	72	71	61
3b	95-98	2	90	91	85	77	64
4b	95-99	2	112	105	101	92	76
5b	95-97	2	90	83	79	73	60
6b	96-98	2	72	67	65	59	53
7b	96-99	2	91	91	88	80	69
8b	95-98	1	183	135	116	101	73
9b	95-99	1	203	157	137	118	83
10b	96-98	1	140	104	98	88	68
<b>Option (c) <sup>3</sup></b>	<b>Qual. Years <sup>4</sup></b>	<b>Years Required</b>	<b>200,000-600,000 lbs</b>	<b>&gt;600,000 lbs</b>			
3c	95-98	2	74	50			
4c	95-99	2	89	59			
5c	95-97	2	69	47			

<sup>1</sup> Options 1-10a refer to alternatives in which the minimum poundage is required of *each* qualifying year.

<sup>2</sup> Options 1-10b refer to alternatives in which the minimum poundage is required of *any* qualifying year.

<sup>3</sup> Options 3-5c refer to alternatives in which an *aggregate* poundage is required of at least two qualifying years.

<sup>4</sup> Qual. Years refers to the series of qualification years associated with Options 1-10 and the (number) of years the vessel must have participated



**Table E.2: Pot Catcher Vessels Qualified Under the Alternatives for the BSAI P. Cod Fishery and also Qualified Under the Original LLP<sup>5</sup>**

<b>Option (a)<sup>1</sup></b>	<b>Qual. Years<sup>4</sup></b>	<b>A landing</b>	<b>25,000+</b>	<b>50,001+</b>	<b>100,001+</b>	<b>&gt;300,000</b>
1a	95-98 (3)	48	32	30	27	19
2a	95-99 (3)	56	41	36	31	24
3a	95-98 (2)	75	50	45	40	31
4a	95-99 (2)	78	57	54	48	36
5a	95-97 (2)	72	49	42	38	31
6a	96-98 (2)	51	32	32	28	22
7a	96-99 (2)	60	46	52	40	29
8a	95-98 (1)	116	94	80	70	56
9a	95-99 (1)	119	98	86	76	61
10a	96-98 (1)	82	68	65	59	51
<b>Option (b)<sup>2</sup></b>	<b>Qual. Years<sup>4</sup></b>	<b>A landing</b>	<b>25,000+</b>	<b>50,001+</b>	<b>100,001+</b>	<b>&gt;300,000</b>
1b	95-98 (3)	48	47	47	45	42
2b	95-99 (3)	56	56	56	55	51
3b	95-98 (2)	75	70	65	59	52
4b	95-99 (2)	78	74	70	65	58
5b	95-97 (2)	72	67	63	58	50
6b	96-98 (2)	50	48	47	44	42
7b	96-99 (2)	58	58	58	54	51
8b	95-98 (1)	116	94	80	70	56
9b	95-99 (1)	119	98	86	76	61
10b	96-98 (1)	82	68	65	59	51
<b>Option (c)<sup>3</sup></b>	<b>Qual. Years<sup>4</sup></b>	<b>200,000-600,000 lbs</b>		<b>&gt;600,000 lbs</b>		
3c	95-98 (2)	57		42		
4c	95-99 (2)	64		47		
5c	95-97 (2)	55		41		

<sup>1</sup> Options 1-10a refer to alternatives in which the minimum poundage is required of *each* qualifying year.

<sup>2</sup> Options 1-10b refer to alternatives in which the minimum poundage is required of *any* qualifying year.

<sup>3</sup> Options 3-5c refer to alternatives in which an *aggregate* poundage is required of at least two qualifying years.

<sup>4</sup> Qual. Years refers to the series of qualification years associated with Options 1-10 and the (number) of years the vessel must have participated in within the series.

<sup>5</sup> The list of vessels receiving a permanent general LLP license in the BSAI has not yet been finalized by NMFS. The values in this table represent those vessels which applied for a fixed gear LLP license and have an official history in the BSAI.

**Table E.3: Summary of Pot Catcher/Processor Alternatives**

Option (a) <sup>1</sup>	Qual. Years <sup>4</sup>	Years Required	A landing	25,000+	50,001+	100,001+	>300,000
1a	95-98	3	5	5	5	4	4
2a	95-99	3	7	7	7	6	5
3a	95-98	2	9	9	9	8	7
4a	95-99	2	11	11	11	11	8
5a	95-97	2	7	7	7	7	7
6a	96-98	2	8	8	8	6	5
7a	96-99	2	10	10	9	10	7
8a	95-98	1	16	15	15	14	14
9a	95-99	1	20	18	18	16	16
10a	96-98	1	15	15	15	14	14
Option (b) <sup>2</sup>	Qual. Years <sup>4</sup>	Years Required	A landing	25,000+	50,001+	100,001+	>300,000
1b	95-98	3	5	5	5	5	5
2b	95-99	3	7	7	7	7	7
3b	95-98	2	9	9	9	9	9
4b	95-99	2	11	11	11	11	11
5b	95-97	2	7	7	7	7	7
6b	96-98	2	8	8	8	8	8
7b	96-99	2	10	10	10	10	10
8b	95-98	1	16	15	15	14	14
9b	95-99	1	20	18	18	16	16
10b	96-98	1	15	15	15	14	14
Option (c) <sup>3</sup>	Qual. Years <sup>4</sup>	Years Required	200,000-600,000 lbs		>600,000 lbs		
3c	95-98	2	9		9		
4c	95-99	2	11		11		
5c	95-97	2	7		7		

<sup>1</sup> Options 1-10a refer to alternatives in which the minimum poundage is required of *each* qualifying year.

<sup>2</sup> Options 1-10b refer to alternatives in which the minimum poundage is required of *any* qualifying year.

<sup>3</sup> Options 3-5c refer to alternatives in which an *aggregate* poundage is required of at least two qualifying years.

<sup>4</sup> Qual. Years refers to the series of qualification years associated with Options 1-10 and the (number) of years the vessel must have participated in within the series.

**Table E.4: Pot Catcher/Processors Qualified Under the Alternatives for the BSAI P. Cod Fishery and that also Appear Qualified Under the Original LLP<sup>5</sup>**

Option (a) <sup>1</sup>	Qual. Years <sup>4</sup>	A landing	25,000+	50,001+	100,001+	>300,000
1a	95-98 (3)	4	4	4	3	3
2a	95-99 (3)	6	6	6	5	4
3a	95-98 (2)	7	7	7	6	5
4a	95-99 (2)	8	8	8	8	6
5a	95-97 (2)	5	5	5	5	5
6a	96-98 (2)	6	6	6	4	3
7a	96-99 (2)	7	7	7	7	5
8a	95-98 (1)	11	11	11	10	10
9a	95-99 (1)	14	13	13	11	11
10a	96-98 (1)	11	11	11	10	10
Option (b) <sup>2</sup>	Qual. Years <sup>4</sup>	A landing	25,000+	50,001+	100,001+	>300,000
1b	95-98 (3)	4	4	4	4	4
2b	95-99 (3)	6	6	6	6	6
3b	95-98 (2)	7	7	7	7	7
4b	95-99 (2)	8	8	8	8	8
5b	95-97 (2)	5	5	5	5	5
6b	96-98 (2)	6	6	6	6	6
7b	96-99 (2)	8	8	8	8	8
8b	95-98 (1)	11	11	11	10	10
9b	95-99 (1)	14	13	13	11	11
10b	96-98 (1)	11	11	11	10	10
Option (c) <sup>3</sup>	Qual. Years <sup>4</sup>	200,000-600,000 lbs		>600,000 lbs		
3c	95-98 (2)	7		7		
4c	95-99 (2)	8		8		
5c	95-97 (2)	5		5		

<sup>1</sup> Options 1-10a refer to alternatives in which the minimum poundage is required of *each* qualifying year.

<sup>2</sup> Options 1-10b refer to alternatives in which the minimum poundage is required of *any* qualifying year.

<sup>3</sup> Options 3-5c refer to alternatives in which an *aggregate* poundage is required of at least two qualifying years.

<sup>4</sup> Qual. Years refers to the series of qualification years associated with Options 1-10 and the (number) of years the vessel must have participated in within the series.

<sup>5</sup> The list of vessels receiving a permanent general LLP license in the BSAI has not yet been finalized by NMFS. The values in this table represent those vessels which applied for a fixed gear LLP license and have an official history in the BSAI.

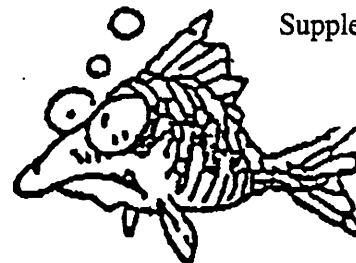
Two grandfather provisions were included in the analysis. The provision for vessels that were purchased during the July 1, 1997 through December 31, 1998 time period appears to allow two freezer longline and one pot catcher/processor to qualify, vessels that would not have qualified under the most stringent qualification criteria. The second grandfather provision for lost or destroyed vessels appears to apply to between five and seven catcher vessels. The exact number cannot be determined with the data that are currently available.

None of the alternatives is expected to result in a "significant regulatory action" as defined in E.O. 12866. None of the alternatives is likely to significantly affect the quality of the human environment, and the preparation of an environmental impact statement for the proposed action is not required by Section 102(2)(C) of the National Environmental Policy Act or its implementing regulations. Relative to the Regulatory Flexibility Act, some of the alternatives could have a significant impact on a substantial number of small entities; however, a definitive assessment cannot be made until the Council identifies a preferred alternative for each sector.

**North  
Pacific  
Longline  
Association**

**RECEIVED**

APR - 4 2000



**N.P.F.M.C**

**Agenda C-4**

**April 4, 2000**

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

**RE: P. Cod LLP**

Dear Rick:

Today our membership met to consider issues under BSAI P. cod LLP.

For freezer-longliner limited entry qualification we prefer Option 2 under Qualification Years, any one year 1996, 1997, 1998, 1999. For Minimum Poundage Requirement during any qualifying year we prefer Option 3, 300 metric tons.

We were unable to reach a consensus on the first grandfather provision for vessels purchased between July 1, 1997 and December 31, 1998.

While we are not aware of any freezer-longliners that sank and were replaced within the time period specified in the second grandfather clause, we are not in favor of it. It is too vague and might be subject to abuse.

We encourage the Council to move forward with Amendment 67 expeditiously.

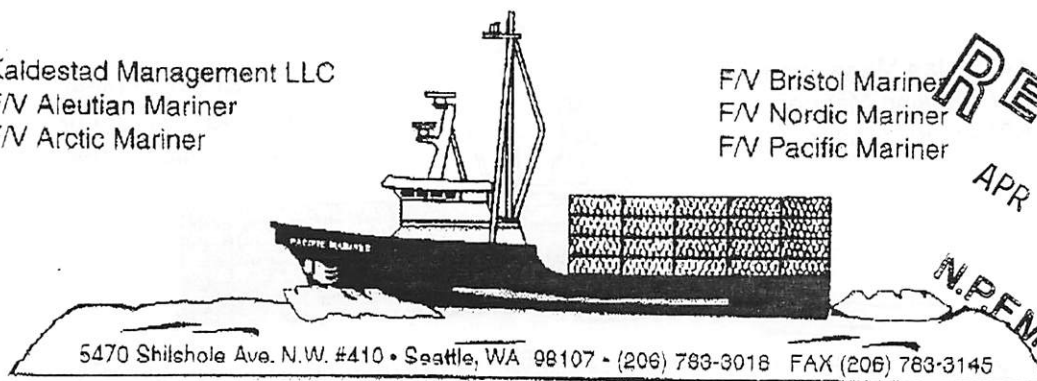
Thank you for your attention.

Sincerely,

Thorn Smith

Kaldestad Management LLC  
 F/V Aleutian Mariner  
 F/V Arctic Mariner

F/V Bristol Mariner  
 F/V Nordic Mariner  
 F/V Pacific Mariner



**RECEIVED**  
 APR - 4 2000  
 N.P.F.M.C.

April 04, 2000

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

Re: Agenda Item C-4, Amendment 67 to the BS/AI License Limitation Program

Dear Council Members,

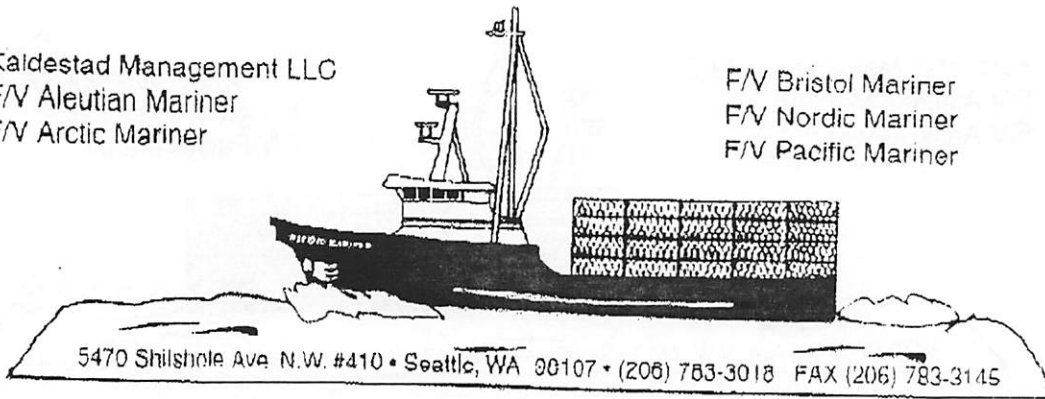
I am writing concerning Amendment 67 for establishing species and gear endorsements for the Pacific Cod fishery. Our vessels have fished Bering Sea/Aleutian Island cod with pots since the early 1990's, being some of the first vessels to actively and regularly participate in the pot cod fishery. Fishing for pot cod has been traditionally a very marginal fishery with low ex-vessel prices, difficulty in finding and keeping a good and stable crew, and operating costs which are equal to or greater than higher value crab fisheries. Only recently has the ex-vessel pot cod price crept above 30 cents per lb., due to higher demand and reduced world wide cod stocks, which has made the pot cod fishery more attractive to participants. The recent reduction in various crab stocks has increased the opportunity for vessels to fish pot cod, including vessels which qualify with minimal landings during the qualifying years for LLP and little or none since.

Recently the Council has acted on a cod split which limits the pot cod fishery to 18.3% of fixed gear TAC. Now the Council needs to stabilize the pot cod fleet for the dedicated pot cod vessels who have built the history for the pot cod split.

The only options which should be considered for adoption are 4a, 7a and 6b, with a minimum poundage for each alternative of 100,001 lbs. These alternatives, with the minimum poundage, leaves the pot cod fleet (including catcher-processors) at 47 to 56 vessels which is a reasonable, manageable fleet size which can operate efficiently and economically given the quota percentage which is allocated to the pot cod fleet. Setting the minimum poundage at 100,001 lbs. is justifiable for the following reasons: 1) There have historically been three semester openings for pot cod and any vessel would have been able to fish one at least one of the semesters throughout the year 2) A vessel could fish up to nine days a year (three per semester) without observer coverage (which requires coordination and expense to obtain) 3) With the high TACs for cod in the past years, catching 100,001 lbs. required relatively little effort for any vessel in the cod fishery 4) To catch 100,001 lbs., a vessel would have to make a modest investment in gear modification and probably have an RSW system which is necessary for a serious cod operation.

Kaldestad Management LLC  
F/V Aleutian Mariner  
F/V Arctic Mariner

F/V Bristol Mariner  
F/V Nordic Mariner  
F/V Pacific Mariner



Page 2

Another issue in this agenda item is the treatment of combining catch histories for the cod fisheries LLP. It is important to note that in the analysis it state that allowing catch histories to be combined for permits will not increase the number of permits beyond what the numbers in the tables used for the analysis shows. Therefore, I feel it is important to allow vessels to combine catch histories (as was done in the crab recency LLP requirement) to qualify for permits to allow for sunk vessel replacements and vessels which have purchased licenses to be able to use original licenses and combine recent catch history to qualify for a permit.

Sincerely,

Kevin L. Kaldestad

Mr. Richard Lauber, Chairman  
North Pacific Fishery Management Council Inc.  
605 West 4th Street, Suite 306  
Anchorage, Ak. 99501-2252

RECEIVED

APR - 4 2000

N.P.F.M.C

Re: BSAI LLP Pacific Cod Species / Area Endorsements: BSAI FMP Amendment # 67

Dear Mr. Lauber,

My husband is an owner / operator in two fishing vessels that qualify to fish pacific cod in the BSAI with pots. During the early to mid 90's, he spent a great deal of time away from his family pot fishing cod in the BSAI. There were sacrifices made by him, myself, and our children, while he took part in a fishery that is a very important part of our yearly income. Not only is it important to ourselves, but the crew members and their families have made sacrifices as well, and are very dependent upon the income made in this fishery.

My observations of the options available in the rationalization of the pot cod fishery are that the Council will adopt a plan that is less than fair for those who have made the efforts and sacrificed the time in this fishery. I urge the Council to take into consideration those who have made the efforts and sacrifices, and adopt a plan that is equitable for them. Option 1a, greater than 300,000 lbs., as seen in the draft for initial review of amendment 67 on page 61, table 4.9, would be a fair plan for those who have a significant involvement in the BSAI pot cod fishery.

I appreciate your time and attention to this matter, and please feel free to contact me with any questions or clarifications needed.

Thank you,

*Betty Bongen*

Betty Bongen  
P.O. Box 3523  
Kodiak, Ak. 99615  
907-486-6245

**From: F/V Pacific Mariner  
c/o Five K Fisheries  
8554 NE Point-No-Point Rd.  
Hansville, WA 98340**

**To: Clarence G. Pautzke  
Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup>; Suite 306  
Anchorage, AK 99501-2252**

**Re: BSAI Pot Cod Endorsements**

**February 2, 2000**

**Dear Council Members,**

I am writing this letter to address the issue of the BSAI Pacific Cod fixed gear allocation to pot catcher vessels. I have fished in the Bering Sea for crab since 1978. Upon seeing the overcapitalization of the crab fishery, we began fishing cod with pots in 1991 and every year since.

At the N.P.F.M.C. October meeting, the council created an allocation split between the fixed gear sectors. To determine this allocation the council used historical catch averages between the gear types for their basis.

It is of my opinion that the vessels that created these historical catch averages are the vessels that should be endorsed to participate in the fishery.

I urge the council to approve Option 1 for qualification years – any three years of 1995, 1996, 1997, and 1998; and option 5 under qualification landings greater than 300,000 lbs.

I believe the council would be making a fair decision in recognizing these vessels for qualification endorsements in the B.S.A.I. Pot Cod Fishery. This decision would also halt the creation of yet another overcapitalized and exploited fishery.

**Respectfully,**

**Ronald Loyd  
Owner/Operator  
F/V Pacific Mariner**



MR. DENNIS DONOHOE  
F/V KODIAK

---

March 22, 2000

Mr. Richard P. Lauber  
Chairman  
NPFMC  
605 West 4th Suite 306  
Anchorage, Ak. 99501-2252

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

Re: BSAI Pot Cod Endorsements Amendment 67

Dear Council Member:

I am writing this letter to address the issue of BSAI Pacific Cod fixed gear allocation to pot catcher vessels. As a vessel operator, I became aware of the allocation split at the NPFMC October meetings. The Council used the historical catch averages between gear types to determine the quota allocation. The vessels who created the historical catch averages, as well as being instrumental in the development of the fishery; are the vessels who should be included in future endorsements for the fishery.

I therefore urge the council to recognize option 1A, for qualifying years 1995, 1996, 1997 and 1998 and landings greater than 300,000 pounds. These options can be found in Table 4.9.

I believe the Council would be making a fair and equitable decision in recognizing these vessels for qualification endorsement in the BSAI Pot Cod fishery.

Respectfully,



Dennis P. Donohoe

F/V Kodiak

**ARCTIC MARINER**  
5470 Shilshole Ave. N.W., #410  
Seattle, WA 98107

February 1, 2000

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

**RECEIVED**  
MAR 29 2000  
N.P.F.M.C

Re: BSAI Pot Cod Endorsements

Dear Council Members,

I am writing this letter to address the issue of the BSAI Pacific Cod fixed gear allocation to pot catcher vessels. The Arctic Mariner has fished cod in the Bering Sea since 1991 and has made cod landings every year since.

At the NPFMC October meeting, the council created an allocation split between the fixed gear sectors. To determine this allocation the council used historical catch averages between the gear types for their basis. It is of my opinion that the vessels who created these historical catch averages, as well as being instrumental in the development of the fishery, are the vessels who should be included in future endorsements for the fishery.

I therefore urge the council to recognize Option 1 for qualification years - any three years of 1995, 1996, 1997 and 1998; and Option 5 under qualification landings greater than 300,000 lbs. These options can be found in Table E 1.

I believe the council would be making a fair and equitable decision in recognizing these vessels for qualification endorsements in the BSAI Pot Cod Fishery.

Respectfully,



Walter Christensen  
Owner/Operator-Arctic Mariner



**Kevleen K LLC  
4241 W Suite 100  
Seattle, WA 98199**

March 28, 2000

Clarence G. Pautzke  
Executive Director  
North Pacific Fisheries Management Council  
605 West 4th Suite#306  
Anchorage AK 99501-2252

**RECEIVED**

MAR 29 2000

RE: BSAI Pot Cod Endorsement

**N.P.F.M.C**

Dear Council Members

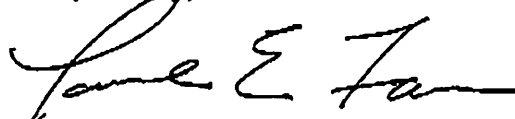
I am writing you this letter about what I believe the qualifying criteria in the pot cod fisheries for a cod endorsement for BSAI fisheries should be. The Kevleen K has fished for cod with pots in the BSAI area since 1988. I believe the vessels that developed the fisheries should be the boats that get endorsements for the fisheries.

When the council made the split between the cod fixed gear groups, they made the split based on the historical catch history of the different gear types. It only seems fair that you should go the next step and give the endorsements to the boats that created the history, that the split was based on. The pot boats that created the history have made long term investment in the fisheries and need protection from others who have little or limited history in the fishery.

I would like to see you adopt Option 1 for Qualification years and Option A2 for Qualification landings. If a boat made a serious attempt to fish pot cod, they would easily qualify under these options. The boats that qualify under these options are the boats that created the catch history for the split.

I believe the council would be making the fair decision and rationalize the pot fishery by choosing these options

Respectfully,



Lance E. Farr  
Owner/Operator  
F/V Kevleen K

To: NMFS North Pacific Council  
605 West 4<sup>th</sup> Ave  
Suite 306  
Anchorage, AK 99501-2252

From: Jim Stone, F/V Retriever  
PO Box 530  
Unalaska, AK. 99685

RECEIVED  
MAR 27 2000  
N.P.F.M.C.

RE: PACIFIC COD LLP ENDORSEMENTS

Dear Sirs

I am part-owner/operator of the Retriever a 135 foot BSAI-Crab Boat.


The Retriever has participated in the Pot Cod fisheries for the last decade. Some years it was an important part of our operation. Other years with the low prices we would make only one or two deliveries to make sure our boat was considered an active player in the Pot Cod Game. We wanted to remain an active participant in the fishery so we could have something to fall back on in the case of an emergency. I do not believe anyone could argue that any vessel involved in the Bering Sea Crab industry is not in a state of Emergency. Now that we really need the income we are facing possibly of being told we can not fish for the only fishery available to us, after making landings every year.

If the qualifying years (95-98) are used with no minimum landings only about 58 vessels qualify. With a large minimum as few as 21 would qualify. While I do agree for the need to maintain a workable amount of vessels in the fishery, however the Pot Cod fishery is certainly not over capitalized at only 58 boats.

We have just finished the first trimester of the Pot Cod fishery. I can not tell you how important this income was to our Vessel, Crew and their families with little or no crab available in the near future.

I urge you to consider using Option 1 or 2, but to make the landing requirements minimal. If a vessel made landings every year it is obvious they valued that fishery enough to try to maintain the rights to that fishery. Please don't take this fishing privilege away, just when we need it the most.

Sincerely

  
Jim Stone- F/V Retriever

**Mattsen Fisheries, Inc.**  
**F/V Shaman**

F/V Shaman  
P.O. Box 920393  
Dutch Harbor, AK, 99692  
USA

Fax 360-697-2551  
Email 430356610@stratosmobile.net

**RECEIVED**

March 24, 2000

North Pacific Council Members  
605 West 4th Avenue  
Suite 306  
Anchorage, Ak, 99501-2252

MAR 27 2000

**N.P.F.M.C**

Dear Council Members:

I am a Bering Sea/ Aleutian Islands crab and cod fisherman, the owner/operator of the F/V Shaman, a 110' catcher vessel. I am writing to comment on the proposed Pacific Cod endorsement for the Bering Sea. Council Members- as I read the proposal, there are 106 different options available to the council- 107 if "no-action" is really an option. Of those 106 options, I qualify under 84 of them. Pretty fair odds, you say? I think my wife Theresa said it best when she told me that our odds are just good enough that it would really suck if we ended up on the outside of the fishery looking in, wondering where our investment went.

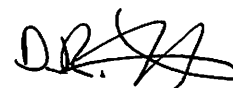
I am writing to hopefully tip those odds a little more in our favor. I think that you should choose an option which mirrors the option chosen for factory longliners. **ANY** 1 year with whatever minimum poundage you decide is necessary to pare down the effort in the fishery. As long as you choose an option from the **ANY** list, I can continue to participate in the fishery..I qualify under all of the **AGGREGATE** options, also, and even under a fair amount of the **EACH** year options, but I feel that the attempt by certain fishers to force one of the **EACH** year options is rather mean-spirited .

As an owner/operator, I have at times had to make choices about how I would allocate my time and effort. Oftentimes, there has been no profit in codfishing. Although my wife and I have over \$150,000 invested in refrigeration and fishing gear for cod, we cannot afford to fish if it means going backwards financially. So our participation in the Bering Sea Codfishery has not been as continuous as I would now like for it to have been. I **DO** have deliveries in every year from 1996 to 2000, and I have two substantial years in the 1997-1999 window, with over one million pounds caught during that time period.

I just finished fishing cod , right in Unimak Pass, in the thick of a lot of gear. There were boats fishing which have never fished cod before, which received "interim" licenses based upon dubious claim. I agree that some course of action needs to be taken which pares down the fleet, and disallows free entry into an already crowded fishery. My hope is that you will choose a course of action which will allow boats with legitimate participation to continue fishing cod in the Bering Sea.

Thank you for your time and consideration.

Sincerely,



Daniel R. Mattsen

F/V Atlantico Partnership  
P.O. Box 69  
Kodiak, AK 99615

March 21, 2000

Clarence G. Pautzke, Executive Director  
North Pacific Fisheries Management Council  
605 W. 4<sup>th</sup> Ave. Suite 306  
Anchorage, AK 99501-2252

RECEIVED

MAR 23 2000

N.P.F.M.C

Subject: BSAI Pot Cod Endorsements

Dear Mr. Pautzke:

I am an owner/operator of the "Atlantico". I am writing this letter to address the issue of the BSAI Pacific Cod fixed gear allocation to pot catcher vessels. The Atlantico has fished cod in the Bering Sea since 1991, and has made cod landings every year since.

I have put a lot of time and effort into this fishery. I believe the vessels that created historical catch averages, and have been instrumental in the development of the fishery, are the vessels that should be included in future endorsements.

I urge the Council to approve Option 1 for qualification years - any three years from 1995 through 1998, and Option 1a for qualification landings - greater than 300,000 lbs.

I believe the Council would be making a fair and equitable decision in recognizing those vessels that have shown consistent and significant participation in the BSAI pot cod fishery.

Respectfully,



Mike Woodley

Mr. Richard Lauber, Chairman  
North Pacific Fishery Management Council, Inc.  
605 West 4th Ave., Suite 306  
Anchorage, Ak. 99501-2252

RECEIVED

MAR 23 2000

N.P.F.M.C

Re: BSAI LLP Pacific Cod Species / Area Endorsements: BSAI FMP  
Amendment # 67

Dear Mr. Lauber,

I am writing to you so that I can express my views and choice of options for BSAI pot cod limited entry. My choice of options is 1a, > 300,000 lbs. as it appears in the draft for initial review of amendment 67, on page 61, table 4.9.

From 1992 to mid 1996 I crewed on pot cod fishing vessels in the Bering Sea and from mid 96 to the present I was operator of the F/V Pacific Venture for the pot cod fishery in Bering Sea. While as a crewman and an operator in the pot cod fishery, I have worked very hard and spend considerable time away from my wife and children while participating in this fishery. I derive a substantial portion of my yearly income from this fishery. During the last six years I have noticed first hand many fishing vessels come into the fishery then quit after a short period of time. It distresses me, that while I have worked hard and become successful in this fishery, others who have little effort and time put into the pot cod fishery will benefit at my expense. Any fishing vessel that could not fish 3 out of 4 years and land at least 300,000 lbs. in each of those years is not dependent on that fishery for there livelihood and contributed very little to the catch history that the pot cod allocation is based.

In closing, I can only encourage the Council to consider the fisherman whose efforts are responsible for the BSAI pot cod allocation we have at present, and implement a plan that will be fair to them.

Yours, *Jose G Landeros*

Jose Landeros  
P.O. Box 2114  
Kodiak, Ak. 99615  
907-486-0881

John Klemzak  
F/V Kodiak - F/V Determined  
P. O. Box 3152  
Kodiak, AK. 99615

March 19, 2000

Clarence G. Pautzke  
Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Suite 306  
Anchorage, AK. 99501-2252

RECEIVED  
MAR 22 2000

N.P.F.M.C

Re: BSAI Pot Cod Endorsements

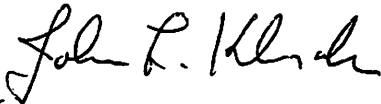
Dear Council Members,

I am writing concerning the qualifying criteria for the BSAI pot cod endorsement. Our two vessels have fished Pacific Cod in the Bearing Sea since 1995. During that time we have made repeated significant investments of money and time in the above-mentioned fishery. The BSAI Pacific Cod fishery has been a significant part (as high as 34% of our gross stock for the Determined in 1997) of our yearly income.

When the Council made the split between gear types the percentage given the pot fleet was based on historical catch. It is my opinion that the serious participants who created the history that the council used to make it's decision, and struggled through the years of low price, should be included in the endorsements for this fishery. I believe that the most restrictive options best define the serious participants.

Therefore, I suggest that the Council adopt the most restrictive options and use the qualifying years of any three years of 1995, 1996, 1997 and 1998 (Option 1) along with the landing qualification of 300,000 lbs. per year (Option 5)

Respectfully,



John Klemzak  
F/V Kodiak - F/V Determined



MR. DENNIS DONOHOE  
F/V KODIAK

---

March 22, 2000

Mr. Richard P. Lauber  
Chairman  
NPFMC  
605 West 4th Suite 306  
Anchorage, Ak. 99501-2252

RECEIVED

MAR 22 2000

N.P.F.M.C

Re: BSAI Pot Cod Endorsements Amendment 67

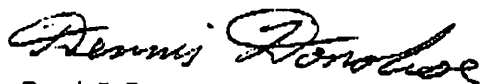
Dear Council Member:

I am writing this letter to address the issue of BSAI Pacific Cod fixed gear allocation to pot catcher vessels. As a vessel operator, I became aware of the allocation split at the NPFMC October meetings. The Council used the historical catch averages between gear types to determine the quota allocation. The vessels who created the historical catch averages, as well as being instrumental in the development of the fishery, are the vessels who should be included in future endorsements for the fishery.

I therefore urge the council to recognize option 1A, for qualifying years 1995, 1996, 1997 and 1998 and landings greater than 300,000 pounds. These options can be found in Table 4.9.

I believe the Council would be making a fair and equitable decision in recognizing these vessels for qualification endorsement in the BSAI Pot Cod fishery.

Respectfully,



Dennis P. Donohoe

F/V Kodiak

RECEIVED

MAR 21 2000

N.P.F.M.C

Mr. Richard Lauber, Chairman  
North Pacific Fishery Management Council, Inc.  
605 West 4th Street, Suite 306  
Anchorage, Ak. 99501-2252

Re: BSAI LLP Pacific Cod Species / Area Endorsements: BSAI FMP Amendment # 67

Dear Mr. Lauber,

This correspondence is to relay my preferred option for pot / catcher vessels, as it relates to BSAI Pacific cod fixed gear limited entry alternatives. Of the alternatives presented in the draft for initial review of amendment 67, on page 61, table 4.9, option 1a, > 300,000 lbs. would be my choice for implementation.

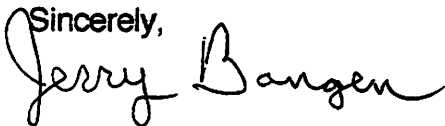
I am an owner \ operator of two fishing vessels that qualify to pot fish for Pacific cod in the Bering Sea under current LLP criteria. My choice of option 1a, > 300,000 lbs. would eliminate one of those vessels from the BSAI pot cod fishery. So it is not without some sacrifice or loss that I favor the above option. I believe that implementing this option is a step towards a stable and economical pot cod fishery for participants who have a significant history in the fishery.

In listening to testimony presented to the AP and the Council, there appears to be a movement favoring liberal qualifications in any limited entry program that may be adopted for the BSAI pot cod fishery. The reasoning behind this push for more liberal qualifications is the poor state of the Bering Sea snow crab fishery, hoping that somehow the BSAI pot cod fishery can bail out this ailing crab fishery. Though not yet enacted, there has been an allocation of BSAI cod among fixed gear groups approved by the Council. These allocations were derived from the historical production of the respective gear groups. To allow the introduction of additional participants in a fishery, who had little or no history in establishing the allocation of that fishery, is unfair to those who have significant effort and history in that fishery and certainly is not sound fisheries management. If the Council is interested in providing relief for crab fishermen through the BSAI cod fishery, perhaps it would be more equitable, if that burden were shared among all user groups of BSAI cod ( trawl, freezer / longline, and pot ), instead of one user group.

The operators and crews of the vessels, that have a significant history in the BSAI pot cod fishery, have made meaningful efforts and sacrifices to make the fishery profitable. The addition of participants would notably effect there livelihood. Using the years 1995 through 1999 in BSAI pot cod fishery, we have derived 30% to 45% of our gross yearly income from the pot cod fishery during those years. Using staff data of \$.192 per pound for cod in 1998 in deriving a gross income for vessels landing 300,000 lbs., a vessel would realize a gross income of \$ 57,600. Though an income of that amount has some consequence, it is hardly vital to the overall profitability of vessels in the class that prosecute the pot cod fishery.

With the addition of a number of freezer / pot vessels and a further split of the pot allocation plus the addition of an undetermined number of participants through a successful appeals process, I feel that my preferred option is both sound and fair.

Sincerely,



Jerry Bongen  
P.O. Box 3523  
Kodiak Ak. 99615  
907-486-6245

To: NMFS North Pacific Council  
605 West 4<sup>th</sup> Ave  
Suite 306  
Anchorage, AK 99501-2252

From: Jim Stone, F/V Retriever  
PO Box 530  
Unalaska, AK. 99685

RECEIVED  
MAR 21 2000  
N.P.F.M.C

Dear Sirs

I am part-owner/operator of the Retriever a 135 foot BSAI-Crab Boat.

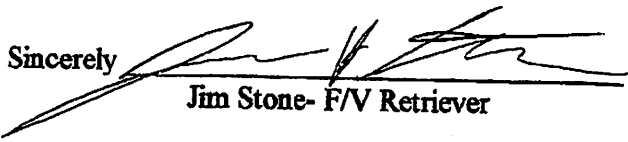
The Retriever has participated in the Pot Cod fisheries for the last decade. Some years it was an important part of our operation. Other years with the low prices we would make only one or two deliveries to make sure our boat was considered an active player in the Pot Cod Game. We wanted to remain an active participant in the fishery so we could have something to fall back on in the case of an emergency. I do not believe anyone could argue that any vessel involved in the Bering Sea Crab industry is not in a state of Emergency. Now that we really need the income we are facing possibly of being told we can not fish for the only fishery available to us, after making landings every year.

If the qualifying years (95-98) are used with no minimum landings only about 58 vessels qualify. With a large minimum as few as 21 would qualify. While I do agree for the need to maintain a workable amount of vessels in the fishery, however the Pot Cod fishery is certainly not over capitalized at only 58 boats.

We have just finished the first trimester of the Pot Cod fishery. I can not tell you how important this income was to our Vessel, Crew and their families with little or no crab available in the near future.

I urge you to consider using Option 1 or 2, but to make the landing requirements minimal. If a vessel made landings every year it is obvious they valued that fishery enough to try to maintain the rights to that fishery. Please don't take this fishing privilege away, just when we need it the most.

Sincerely

  
Jim Stone- F/V Retriever

**Bradley A. Hall**  
P.O. Box 4157  
Bellingham, Washington 98227  
Home Phone 360-734-6275

March 17, 2000

**RECEIVED**

MAR 17 2000

N.P.F.M.C

Mr. Richard P. Lauber  
Chairman  
NPFMC  
605 W. 4th Suite 306  
Anchorage AK. 99501-2252

Dear Council Members,

I am writing this letter to address the issue of the BSAI Pacific Cod fixed gear allocation to pot catcher vessels. I am the Captain of the F/V Determined and we have fished cod in the Bering Sea since 1995.

At the October meeting of the N.P.F.M.C., the council created an allocation split between the fixed gear sectors. To determine this allocation the council used historical catch averages between the gear types for their basis. It is my feeling that the vessels that created these historical catch averages are the vessels that should be endorsed to participate in the fishery.

I therefore urge the council to approve Option 1 for qualification years - any 3 years of 1995, 1996, 1997 and 1998; and Option 5 under qualification landings greater than 300,000 pounds. I feel the council would be making a fair decision in recognizing these vessels for qualification endorsements in the BSAI Pot Cod Fishery.

Respectfully,



Bradley A. Hall  
Captain F/V Determined

Mr. Richard Lauber  
Chairman NPFMC  
605 W. 4th Ave. Suite 306  
Anchorage, AK. 99501-2252

RECEIVED

MAR 17 2000

N.P.F.M.C

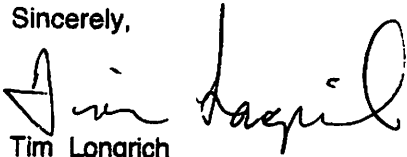
RE: BSAI LLP P. Cod Endorsements ; BASI FMP Amendment # 67

Dear Chairman Lauber,

I am one of owners of the F/V Determined which helped create the 18.3% P. Cod being allocated to the pot cod boats. After fishing the opilio crab season it has been a challenge every year keeping our fishing operation together to participate in the pot cod fishery. The Pot cod fishery has much higher expenses and operating cost compared to the crab fisheries, which is one reason a lot of vessels made only token deliveries and were not serious participants in the Pot Cod fisheries.

I urge the council to adopt option 1 (3 out of 4 years 1995 - 1998) and A5 (a catch of greater than 300,000 lbs in each qualifying year). This would allow the vessels that caught the fish that created the pot cod allocation to be the ones who harvest it.

Sincerely,



Tim Longrich  
F/V Determined

Mr. Richard Lauber  
Chairman NPFMC  
605 W. 4th Ave. Suite 306  
Anchorage, AK. 99501-2252

RECEIVED

MAR 17 2000

N.P.F.M.C

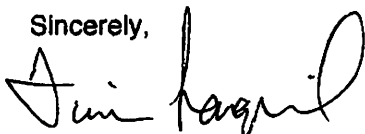
RE: BSAI LLP P. Cod Endorsements ; BASI FMP Amendment # 67

Dear Chairman Lauber,

I am one of owners of the F/V Kodiak which helped create the 18.3% P. Cod being allocated to the pot cod boats. After fishing the opilio crab season it has been a challenge every year keeping our fishing operation together to participate in the pot cod fishery. The Pot cod fishery has much higher expenses and operating cost compared to the crab fisheries, which is one reason a lot of vessels made only token deliveries and were not serious participants in the Pot Cod fisheries.

I urge the council to adopt option 1 (3 out of 4 years 1995 - 1998) and A5 (a catch of greater than 300,000 lbs in each qualifying year). This would allow the vessels that caught the fish that created the pot cod allocation to be the ones who harvest it.

Sincerely,



Tim Longrich  
F/V Kodiak

From : Thomas S. Gibson  
P.O. Box 1464  
Kodiak, Ak. 99615

March 15, 2000

**RECEIVED**

MAR 17 2000

**N.P.F.M.C**

To : Mr. Richard P. Lauber  
Chairman  
North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage, Ak. 99501 -2252

Re: BSAI LLP P. Cod Species / Area Endorsements ( Amendment 67 )

Dear Council Members,

I would like to address the issue of the BSAI p. cod fixed gear allocation to pot catcher vessels. Recently the Council created an allocation split in the BSAI p-cod fixed gear sector, The amount allocated to the pot catcher vessels was based on the historical catch of a small number of vessels. I think it is only right and fair that the vessels that created this history, should be the the only vessels that are endorsed to participate in this fishery.

I ask the Council to approve option 1a. for qualification years (any three years, 1995,1996,1997,and1998.) and the 5th option for qualification landings (300,000 lbs.each qualifing year). These options I found in table 4.9. The pot catcher vessels that have seriously fished BSAI p-cod will easily qualify under these options.

Thank you for for your consideration of my thoughts on this issue.

Sincerely,



Thomas S. Gibson  
Owner / Operator  
F/V Kodiak

March 13, 2000

RECEIVED  
MAR 16 2000  
N.P.F.M.C.

Mr. Richard P. Lauber  
Chairman  
NPFMC  
605 W. 4<sup>th</sup> Suite 306  
Anchorage, AK. 99501-2252

Re: BSAI LLP P. COD Species Area Endorsements Amendment 67

Dear Chairman Lauber and council members;

I am writing this letter to address the issue of the BSAI Pacific Cod fixed gear allocation to pot catcher vessels. I'm an owner and operator of the F/V Determined and have fished the Bering Sea for both crab and cod for many years.

As you know, at the NPFMC October meeting, the council created an allocation split between the fixed gear sectors. To determine that only 18.3% of the BSAI fixed p. cod fishery goes to pot vessels, the council used historical catch averages between the gear types for their basis. It is of my opinion that the vessels who created these historical catch averages, as well as being instrumental in the development of the fishery, are the vessels who should be endorsed to participate in the fishery.

I urge the council to approve Option 1A for qualification years – any three years of 1995, 1996, 1997, or 1998, with catches greater than 300,000 lbs. for each of those years.

I believe the council would be making a fair decision in recognizing these vessels for qualification endorsements in the BSAI pot cod fishery. Doing so would also hopefully prevent another overcapitalized and exploited fishery.

Respectfully:



Bruce D. Nelson  
F/V Determined

B.D.N.  
4806 Dover St.  
Everett, WA 98203

RECEIVED

MAR - 6 2000

N.P.F.M.C

P. O. Box 13  
Kodiak, Alaska 99615  
March 2, 2000

Mr. Clarence G. Pautzke  
Executive Director  
North Pacific Fishery Management Council  
605 West 4th Street, Suite 306  
Anchorage, Alaska 99501-2262

Dear Sir:

Ref. Pot Cod Allocations:

The fishing vessels that created the historical catch averages are the ones that should be the vessels allocated the right to fish. Many of the other vessels were busy in other areas during the qualification years because they were making more money in other fisheries.

The Council should approve Option 1 for qualification years -any three years from 1995 - 1998, and Option 5 under qualification landings greater than 300,000 lbs. per year.

Thank you for your time and consideration in this matter.

Sincerely,



LaQuita Yatsik  
Co-owner  
F/V Katrina-EM





**ALASKAN  
LEADER FISHERIES**  
P.O. BOX 569 KODIAK, AK 99615  
(907) 486-5780 FAX (907) 486-5789

April 5, 2000

Mr. Rick Lauber, Chairman  
North Pacific Fishery Management Council  
P. O. Box 103136  
Anchorage, Alaska 99510

RECEIVED  
APR - 5 2000

SENT BY FAX: 907-271-2817

N.P.F.M.C

RE: Amendment 67 for the Bering Sea/Aleutian Islands

Dear Rick,

Alaskan Leader Fisheries manages two freezer longliners that fish for Pacific cod in the Bering Sea/Aleutian Islands. We are totally dependent on this fishery and I am writing in reference to the Pacific cod license limitation program. I am providing recommendations on several issues addressed in the analysis.

**Freezer Longline Qualification Years & Minimum Poundage Requirements:**

We are in support of *any one year 1996, 1997, 1998, or 1999* and the *minimum poundage of 300 metric tons* of landed Pacific cod during any qualifying year.

We believe that all serious freezer longline vessels will easily qualify under the minimum of 300 metric tons, in at least one of the four years. The analysis states there are 39 vessels which will qualify under this scenario, and this reflects the current participation levels.

The Problem Statement as identified on page 11 of the analysis indicates that some action is necessary to protect those who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries. The Problem Statement further states that this requires prompt action to promote stability in the BSAI fixed gear cod fishery.

**Grandfather Provisions:**

There are two types of grandfather provisions identified in the analysis. The first applies to sunken vessels and the second to those who don't qualify under the recent participation and landing requirements. We are *opposed to both grandfather provisions.*

The analysis clearly states that if vessels are allowed in under some type of special circumstance, that it would treat them differently than other vessels that had similar participation during the years these vessels were active.

In regard to the grandfather provision exempting recent participation, the analysis suggests that two additional freezer longline vessels would be added to the fleet. page 36 of the analysis says, "Vessels in this (freezer longline) class have also exhibited the greatest fishing power in the fixed gear cod fleet. Therefore, adding only a few vessel to the fleet could have substantial impact on the harvesting potential of this sector."

While only one of the grandfather provisions would impact the freezer longline fleet, we believe that creating any type of special circumstance for any segment of the fixed gear fleet is dangerous.

**Vessels Earning Multiple Types of Endorsements:**

According to the analysis on page 80, approximately six vessels would qualify for both freezer longline and pot catcher/ processor endorsements. We wish to simply reiterate, and the Council may wish to re-affirm that these endorsements are not severable.

**Using Jig Harvests to Earn Longline and/or Pot Endorsements:**

If the entire range of years were included, this could lead to an increase of 45 vessels into the pot or longline fisheries. If only 1999 is used as a base year, 13 vessels would qualify. We support some reasonable alternative to this proposal, but cannot support letting 45 new permits into the pot or longline fishery.

Thank you for taking our views and comments under consideration in April when the North Pacific Council takes up this issue for final action.

Sincerely,



Robert J. Wurm  
Managing Partner

From: Maria Painter  
c/o Katrina-Em, Inc  
P.O. Box 3137  
Kodiak, AK 99615  
Fax 907-486-1953

RECEIVED

APR - 5 2000

N.P.F.M.C

To: Clarence Pautzke  
Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Suite 306  
Fax 907-271-2817

Re: BSAI Pot Cod Endorsements

Dear Council Members,

My name is Maria Painter. I manage the F/V Katrina-Em several months a year, while my husband fishes commercially.

I am writing this letter to address the issue of the BSAI Pacific Cod fixed gear LLP Endorsements for pot catcher vessels.

According to the Alaska Department of Fish and Game, a total of 203 pot catcher vessels participated in the BSAI Pacific cod fishery from 1995-1999. Almost half of those vessels (91) fished only 1 year, and 40 vessels fished in 1995. 40 vessels fished 2 years, 22 vessels fished 3 years, 28 fished four years and only 22 fished all five years.

Information from the NPFMC indicate the number of pot vessels that are eligible to participate in the BSAI Pacific cod fishery under the groundfish LLP program as of 4/4/00 is approximately 365.

The pot fishery for Pacific cod in the BSAI is fully utilized. Because of increased effort, we are at great risk of losing our catch shares. We are significantly dependent on this fishery and can not afford to give up our historical share. Competition for this resource will continue to increase until we implement additional LLP Endorsements. Therefore I urge the council to approve (Option 1) for Qualification Years-Any 3years of 95,96,97,98; and (Option 5) for Landing requirements-Greater than 300,000.lbs.

I hope the council will make a fair decision to protect the vessels that created the historical catches for Pacific Cod in the BSAI.

Respectfully,



Maria Painter

April 1<sup>st</sup>, 2000

Katrina-Em, Inc.  
P.O. Box 3065  
Kodiak, AK. 99615  
907-486-2639

Clarence G. Pautzke  
Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup>, Suite 306  
Anchorage, AK. 99501-2252

RECEIVED

APR - 5 2000

N.P.F.M.C

Re: BSAI Pot Cod Endorsements

Dear Council Members;

My name is Ronald Painter and I am writing to you as owner/operator of the 101 foot fishing vessel Katrina-Em. I am 45 years old and a 30 year resident of Alaska. The Katrina-Em is a Gulf Coast style vessel that packs 75 (7x7) crab/cod pots and holds about 105,000 pounds of Opilio crab. As you can quickly see we are one of the smaller vessels competing in the Bering Sea crab/cod fisheries. We have fished in the Bering Sea every year since we purchased the Vessel in 1986 never missing an Opilio, Tanner, or King Crab season. We have fished pot cod every year since 1995 to date.

From 1995 to 1998 we averaged well over 1 million pounds of cod with a catch of 1.8 million pounds in 1998 when the overall pot boat harvest was just 14% of the TAC for the fixed gear fleet. In 1999 and 2000 our harvest level has dropped to approximately 400,000 pounds due to the large in-flux of vessels trying to last minute qualify for a fishery they had not participated in or depended upon.

When the Council decided to split the fixed gear cod allocation between the long line and pot cod vessels based on historical catch it sealed the fate of those who should and should not be allowed to utilize this fishery. I testified at several council meetings as to my total opposition in making this split before we knew how many players the council saw fit to allow in. In making the split first the council obligated itself to the vessels who created this historical average, for without these vessels the vessels who would now like to participate in this fishery would have nothing at all to argue over.

There are approximately 20 pot cod vessels that have utilized this fishery on a continuous and yearly basis since 1995. TWENTY!!! Twenty pot cod vessels that have fished this fishery each and every year. Twenty vessels that saw this fishery as critical to their overall operations. Twenty vessels that spent months executing this fishery year in and year out. Twenty vessels that passed up other opportunities or who had no other opportunities. Twenty vessels that despite breakdowns, low prices and gear conflict with

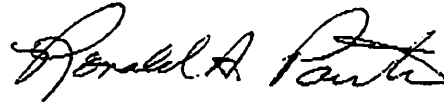
---

draggers continued to work hard and diligently at this fishery. They are the ones who established this historical average that now everyone would like a piece of.

For these reasons and many others that I have testified to before this council, I urge you to do what is right, just, and fair. Adopt Option 1 for qualification years, any three years of 1995, 1996, 1997 and 1998 and Greater than 300,000 pounds in each qualifying year.

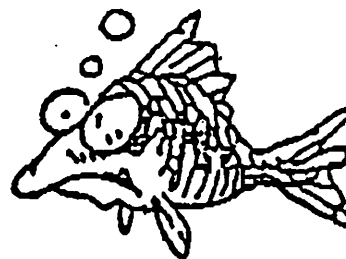
Thankyou for your time and sincere efforts in trying to rationalize this fishery in hopes it will not end up where our crab fisheries are now.

Sincerely;

A handwritten signature in cursive script that reads "Ronald A. Painter". The signature is written in dark ink and is positioned above the printed name.

Ronald A. Painter  
F/V Katrina-Em

**North  
Pacific  
Longline  
Association**



**Agenda C-4**

April 5, 2000

Mr. Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 west 4th Avenue  
Anchorage, AK

**RECEIVED**

APR - 5 2000

**RE: P. Cod LLP**

**N.P.F.M.C**

Dear Rick:

In my letter yesterday I omitted a minor issue. There are a small number of vessels (probably one or two) who qualify for cod endorsements for both pot and longline gear - they fished with both during the qualifying period, and made adequate landings. It is the unanimous view of the freezer-longline industry that those vessels should be qualified to fish with both pot and longline gear. The endorsements should not be severable, however. For example, they should not be able to sell their pot endorsement, adding to the pot fleet, and use their longline gear only.

Thank you.

Sincerely,

Thorn Smith

April 5, 2000

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

RECEIVED  
APR - 5 2000  
N.P.F.M.C

Re: Amendment 67

Dear Rick,

I own three crab vessels which have fished cod every year during the 1990's. Two of the vessels are cod catcher boats and one is a cod catcher-processor. Due to the marginal nature of the cod fishery, some years we fished a substantial amount of cod, while in other years we fished very little. Cod prices and abundance have varied considerably over the time period 1995-1999, and in some years was not profitable for our operation. Over time though, cod fishing has been a vital substitute and necessary diversification for our crab operations.

I oppose any qualification requirement that requires a landing in 1999. Many vessels made speculative landings in 1999 to qualify for the proposed cod endorsement. In fact, Amendment 67 was initiated at the April Council meeting in 1999. Participants in the cod fishery understood this was happening and could easily have made a landing of cod some time in 1999 in order to qualify. In addition, the Problem Statement adopted by the Council for Amendment 67 states, "Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from others who have little or limited history and wish to increase their participation in the fishery." This Problem Statement stresses long catch history periods, and limiting consideration to those who are latecomers. Finally, the Council has previously put the industry on notice that landings in 1999 will not count towards rationalization in the future.

I believe a reduction in the pot cod fleet is necessary at this time. However, I believe the optimal size of the total pot cod fleet is between 80-100 vessels. This is a substantial decrease from the current fleet size of hundreds of vessels. By reducing the fleet size to a level between 80-100 vessels, the fleet size is reduced to less than half the original size. This is a very substantial reduction. A fleet size between 80-100 vessels results in a good balance between reducing effort to a level that makes sense to the remaining participants

and allowing crab fishermen to alleviate the downturn in the crab resource by maintaining their opportunity to fish cod.

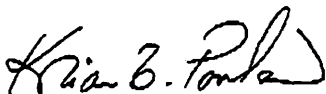
I recommend that the Alternative 3c be used to determine if both pot catcher and pot catcher processor vessels qualify for cod fishing in the future. Alternative 3c requires two landings between the time period 1995-1998. I also recommend minimum poundage of 200,000 pounds for pot catcher vessels and 600,000 pounds for pot catcher processors. This would reduce the fleet size to 83 vessels (assuming all these vessels also qualify for cod under the LLP). This is an optimal size for this fleet.

Alternative 3c uses the best criteria to determine eligibility because it does not include 1999 and it is fairly flexible. A vessel must have landed cod in only two years of the four. In addition, catcher vessels must have caught 200,000 pounds over the four year period. This is enough of a qualification to separate the speculators from the participants. However, it is not overly harsh on vessels which have participated in certain years, but not others for a variety of reasons (price, abundance, crab seasons, etc.). A requirement of 200,000 pounds to be landed over the four year period is a reasonable requirement as well for catcher vessels. This gets rid of vessels which have only token deliveries in a few years.

The requirement of 600,000 pounds may be more useful for the pot cod catcher processor sector, as they are more heavily capitalized in cod and generally can catch more as they don't need to deliver to shore as often. However, 200,000 pounds would be acceptable to this sector as well, since it does not really seem to matter from the analysis.

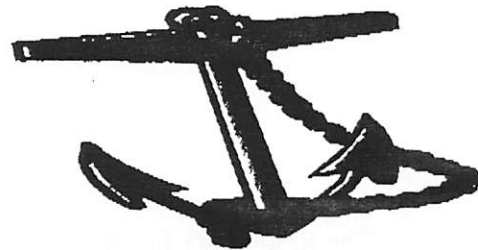
In conclusion, I support Alternative 3c for the pot catcher and pot catcher processor sectors with minimum poundage of 200,000 pounds for catcher boats and 600,000 pounds for catcher processors.

Sincerely,



Kris Poulsen





## **FISHERMEN OF ALASKA**

**P.O. Box 505  
Kodiak, AK. 99615  
(907-486-6008)**

April 4, 2000

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2253

RE: C-4 PACIFIC COD LLP ENDORSEMENTS

Dear Chairman Lauber and Council Members:

I believe you are putting the cart before the horse in making further changes to the LLP while we still have so many pending/interim licenses which could take up to 2 years to finalize.

These proposed cod endorsements, as well as the proposed quota split in the fixed gear sector, do not take much of the E.O.12866, RFA, and National Standards into consideration. Some vessels were aware of the LLP changes planned and thus put their vessels into the fishery to create a history while other small entities were unaware of these proposals and under the impression that they would retain the right to fish cod with their pots. There are mitigating circumstances as to why most of these vessels were unable to fish these years and create their own history. Why should so few (mainly large entities) gain so much while so many small entities lose everything. We are in the middle of a "crab crisis" which should be taken into consideration. You should be investigating alternatives that would afford relief to the affected small entities and communities rather than trying to restrict them from any remaining fishing opportunities. A Buy Back Program is being looked into that would help decrease the existing number of vessels thus relieving the pressure for any further endorsements at this time. Why is it that the problem statement inciting these proposed changes cry that we are overcapacitated in the fishery, yet NEW vessels are still being built and brought into the fishery?

The Regulatory Flexibility Act (RFA) was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to "compete". Two of the major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to encourage agencies to use FLEXIBILITY and to provide REGULATORY RELIEF to small entities. The RFA emphasizes "predicting impacts on small entities as a group DISTINCT from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. The amendments of the Small Business Regulatory Enforcement Fairness Act updated the requirements for a final regulatory flexibility analysis including a description of the steps an agency must take to minimize the significant ECONOMIC IMPACT ON SMALL ENTITIES. There were no steps taken in the final analysis for amendment 67 to minimize these impacts. The analysis can only "GUESS" at the actual number of small entities affected. The greatest total number of small entities exists in the pot sector. Yet, these pot vessels are those that are most affected by this proposed amendment. Governor Knowles has requested that the Secretary of Commerce declare a commercial fishery failure in the Bering Sea regarding the crab crisis and the ensuing ramifications on the small communities and crab fishermen. I saw nothing in the analysis regarding the ADDED IMPACT this would have on pot fishermen who lost the right to fish BSAI cod. In the Regulatory Impact Review for Amendment 67, it is stated that those not receiving endorsements to participate in the BSAI cod fishery "will likely search out other available fishing opportunities" or "put more effort in the crab fisheries." For most of the pot fleet there are no other available fishing opportunities. Any endorsements finalized for the BSAI will eventually be looked at for the Gulf. It is simply a matter of time. There are certainly very few, if any other, crab fisheries that will be available for quite some time. The analysis looks at Grandfather clauses to try to help some of the newer entries into the fisheries, yet fails to help crab vessels and small communities that will be devastated without the BSAI cod fishery. The freezer longline fleet has the fewest number of vessels that could be excluded from this fishery yet all proposed endorsements and quota splits seem to be written solely for their protection. They talk of 67 vessels in the longline fleet, yet they are including pot catcher/processors. These pot vessels were not included in 80% split--this was awarded to "longline freezer vessels". Where is the protection for the majority of the small entities that the RFA demands protection for?

E.O.#12866 Section 1 (a) states: ...Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people..... This statement pertains particularly to the pot fleet who have been crippled by a "commercial fishery failure." Endorsements should be proposed that would protect us not hurt those already losing so much. These proposed amendments are motivated by economics and the need for freezer longliners to maintain their present income. These proposed endorsements are not consistent with National Standard 5 which states, "Conservation and management measures shall where

practicable, consider efficiency in the utilization of fishery resource; except that no such measure shall have economic allocation as its sole purpose.

According to E.O. 12866, a "significant regulatory action" is one that is likely to: "Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities." These endorsements will most definitely affect much of the pot sector in a very material way. They will also greatly affect competition, jobs for crews and communities that could benefit from receiving product from these catcher vessels such as St. Paul who have already filed for disaster funding. These funds are so they may diversify in light of the recent crab crisis. The pot fleet should have this same opportunity to diversify. In this time of a "commercial fishery failure" it is imperative that we consider any sectors and communities that will be adversely affected before making any changes in any of our fisheries.

These proposed endorsements do not conform with National Standard 4 in regard to the following sections:

- (A) ... "fair and equitable to all such fishermen." These endorsements would destroy many small entities while enhancing the livelihood of much of the freezer longline sector—many of them large entities.
- (B) ... "reasonable calculated to promote conservation". In the matter of bycatch, the longline fishery is the "dirtier fishery". Most of the bycatch in the pot fleet is returnable while the majority of the bycatch for the longline fleet results in mortality. Interaction between killer whales and longline fisheries has been an issue as well as incidents involving the short-tailed albatross.
- (C) "carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges." It is unfair that one sector of the fixed gear group should stand to benefit so much while the others are potentially greatly economically impacted.

Section 303 (a)(9) of the Magnuson-Stevens Act requires that ANY management measure submitted by the Council take into account "potential" impacts on the participants in the fisheries. According to the EAR/IR for proposed Amendment 67, "in determining the scope, or "universe", of the entities to be considered in making a significance determination, NMFS generally includes only those entities that can reasonable be expected to be directly or indirectly affected by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, GEAR TYPE, geographic area), that segment would be considered the universe for the purpose of this criterion." The effects of these proposed endorsements would fall primarily on the "pot fleet" therefore they should be considered the "universe" for the purpose of this criterion. Relief should be directed toward this group.

Section 303(b)(6) of the Magnuson-Stevens Fishery Conservation and Management Act states that the Council may prepare a fishery management plan which may:

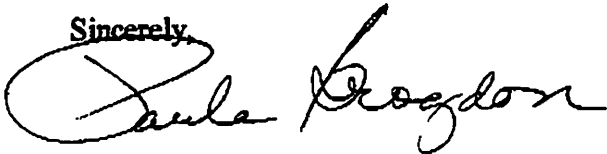
"establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and Secretary take into account---

- (H) the capabilities of fishing vessels used in the fishery to engage in other fisheries,
- (I) the cultural and social framework relevant to the fishery and any affected fishing communities,
- (J) any other relevant considerations;"

Dependence does not simply mean how much income you have derived from this fishery but also how much you depend on this fishery for diversity and survival. These endorsements would not only affect pot fishermen but also small communities such as St. Paul who depend on these catcher vessels for their deliveries. With the crab crisis, they will need all the catcher vessels.

E.O.12866, National Standards and RFA primarily focus on protecting individuals, especially small entities. These intentions would not be served by the proposed cod endorsements. I request that the council decide on status quo—Alternative 1—No Action.

Sincerely,



Paula Brogdon  
Executive Director  
Fishermen of Alaska (FOA)

Cc: Advisory Panel, Science & Statistical Committee

**MUNDT MACGREGOR LLP**  
ATTORNEYS AT LAW

Jay H. Zulauf  
Henry Howard Happel, III  
Wm. Paul MacGregor  
J. David Stahi  
Matthew L. Fick  
Joseph M. Sullivan  
Lisa Riveland Pagan

Janet H. Cheatham  
OF COUNSEL

999 Third Avenue - Suite 4200  
Seattle, Washington - 98104-4082

Telephone (206) 624-5950  
Facsimile (206) 624-5469

April 5, 2000

John H. Chun  
Christopher S. McNulty  
Joe B. Stansell  
Christopher R. M. Stanton  
Melissa A. Weiland  
Libby A. Williams

Mr. Richard Lauber  
Chairman  
North Pacific Fishery Management Council  
605 West Fourth Street, Suite 306  
Anchorage, Alaska 99501-2252

SENT VIA FAX

**Re: Proposed Amendment 67 to the Fishery Management Plan for Bering Sea/Aleutian Islands Groundfish--Pacific Cod License Limitation Requirements for Fixed Gear Vessels and Establishment of Species and Gear Endorsements**

Dear Chairman Lauber:

We represent Horizon Fisheries L.L.C., owner of the F/V HORIZON, and Highland Light Seafoods L.L.C., owner of the F/V WESTWARD WIND. On behalf of Horizon Fisheries and Highland Light, we submit this comment with regard to the North Pacific Fishery Management Council's consideration of proposed Amendment 67 to the BS/ AI FMPs, which provides for Pacific cod gear and species endorsements to be added to the License Limitation Program for P. cod in the BS/ AI.

It is a well-established legal principle that those who have relied on current law while planning and undertaking significant financial commitments should not be adversely affected by changes in the law that they were unable to predict and which were made without adequate advance notice.

It is in light of this principle that we urge the Council to adopt the landings exemption promoted by Horizon Fisheries and Highland Light in connection with Amendment 67 (the "Landings Exemption"). The Landings Exemption would relieve the HORIZON, the WESTWARD WIND, and one other similarly situated vessel from losing their eligibility to participate in the P. cod fisheries as a result of adoption of the more stringent landing requirements being considered in connection with Amendment 67.

Mr. Richard Lauber  
April 5, 2000  
Page 2

MUNDT MACGREGOR, L.L.P.  
ATTORNEYS AT LAW

### Background

As the prior testimony and documents submitted to the Council confirm, both Horizon Fisheries and Highland Light (the "Vessel Owners") invested in the vessels at issue in reliance upon the vessels' L.L.P. qualifications and upon the Council's February 1998 decision not to pursue additional cod landing requirements. At the February 1998 meeting, the Advisory Panel recommended the adoption of additional landing requirements for both groundfish and crab. Although the Council chose to move forward with consideration of additional requirements for crab, the Council rejected the AP's recommendation with regard to groundfish.

Based on the Council's action, the Vessel Owners each made substantial investments in their respective vessels in 1998 in order to participate in the BS/ AI P. cod fixed gear fisheries. Seafirst Bank (now Bank of America) specifically relied on the HORIZON's cod eligibility in financing its acquisition and renovation. See February 11, 2000 letter from Mr. Jim Michaels attached as Exhibit A.

After investing over \$1 million each in their vessels, the Vessel Owners learned at the February 1999 Council meeting that the Council was once again considering additional landing requirements, which ultimately became proposed Amendment 67. Most if not all of the alternatives of Amendment 67 will deprive the HORIZON and the WESTWARD WIND of their eligibility to participate in the P. cod fisheries and, by doing so, make it impossible to operate them on a solvent basis.<sup>1</sup>

### Analysis

The Landings Exemption is intended to prevent the Vessel Owners from suffering an inordinate financial loss consistent with the legal principle referenced above, *i.e.*, allowing one who has relied on existing law in making a significant investment to receive the returns from that investment when an unexpected change in the law would otherwise prevent them from doing so. Further, the notions of fairness and equity underlying this legal principle are also reflected in the underlying purpose of Amendment 67, the Magnuson-Stevens Fishery Management and Conservation Act, and the "Taking" Clause of the Fifth Amendment to the United States Constitution.

---

<sup>1</sup> A more detailed account of the factual background is provided in the proposal previously submitted to the Council regarding the Landings Exemption, which is incorporated by reference and attached hereto as Exhibit B.

Mr. Richard Lauber  
April 5, 2000  
Page 3

**MUNDT MACGREGOR LLP**  
ATTORNEYS AT LAW

Thus, adopting the Landings Exemption would be consistent with each of these relevant laws.

A. Adoption of the Landings Exemption is Consistent with the Purpose of Amendment 67 and the Magnuson-Stevens Act.

The purpose of Amendment 67 is to protect the investment and historical participation of those fixed gear vessels which have a substantial dependence on the P. cod fishery and to prevent those without such a level of dependence from enjoying equal participation. See EA/RIR at 11. Similarly, section 303(b)(6) of the Magnuson-Stevens Act requires the Secretary and Council when establishing a limited access system to take into account present participation and historical dependence in the fishery.

Adopting the Landings Exemption would further these objectives. Both the HORIZON and the WESTWARD WIND had a significant level of historical participation in the P. cod fishery under previous ownership, prior to suspension of their operations. Additionally, the Vessel Owners each made a substantial commitment to participate in the P. cod fishery at a time when there was no question as to the eligibility of their vessels to participate in the fishery. As a result of this good faith commitment, both Vessel Owners are now undeniably dependent upon the participation of their vessels in the fishery. Thus, adopting the Landings Exemption in connection with Amendment 67 is entirely consistent with the fundamental purpose of the Amendment, which is to ensure that those with historical dependence on the P. cod fishery are able to receive the benefit of their commitment. For the same reasons, adopting the Exemption would be consistent with the Magnuson-Stevens Act, which requires that present participation and historical dependence of the vessels be taken into account when adopting a limited access system.

Further, National Standard 4 requires that any allocation of fishing privileges must be "fair and equitable to all [] fishermen." 16 U.S.C. § 1851(a)(4)(A). As the attached financial analysis shows, there are no other viable fishing opportunities for the HORIZON and the WESTWARD WIND other than the cod fishery. See April 5, 2000 memorandum from Mr. Marcus L. Hartley, attached as Exhibit C. Thus, failing to adopt the Landings Exemption would impose a severe financial hardship upon the Vessel Owners. See Id. On the other hand, the financial analysis indicates that the impact of the Landings Exemption upon other vessels participating in the P. cod fishery would be very small. See Id. The range of impact on the remaining vessels in the fleet

Mr. Richard Lauber  
April 5, 2000  
Page 4

MUNDT MACGREGOR LLP  
V I C T O R I A S A L I N A W

would be a 2 percent to 4-5 percent loss of revenue depending on the landing years and amounts adopted. See Id. Further, this impact would probably be fully mitigated if, as the EA/RIR indicates is a distinct possibility, the freezer longliner fleet is able to rationalize its fishery through the formation of a cooperative. See EA/RIR at 78. In light of the above considerations, it appears that adopting Amendment 67 without the Landings Exemption would run afoul of National Standard 4. See 50 CFR 600.325(c)(3)(i)(B) (allocation of fishing privileges imposing hardship on one group should be outweighed by total benefits received by another group).

B. Adopting the Landings Exemption is Consistent with the Notions of Fairness and Equity Underlying the "Taking" Analysis Conducted Under the Fifth Amendment.

"Partial regulatory taking" analysis also demonstrates the importance of honoring the financial commitments the Vessel Owners made in reliance upon the regulatory framework that existed at the time the Owners made such commitments. In deciding whether a partial regulatory taking has occurred, courts balance three factors: (i) the character of the government action (*i.e.*, the purpose and importance of the public interest reflected in the regulation); (ii) the economic impact of the regulation on the claimant; and (iii) the extent to which the regulation has interfered with reasonable investment-backed expectations. See, e.g., Hodel v. Irving, 481 U.S. 704 (1987); Loveladies Harbor, Inc. v. United States, 28 F.3d 1171, 1176 (Fed. Cir. 1994). Each of these factors lend support to the adoption of the Landings Exemption, which would ensure that the Vessel Owners would not be unfairly denied the opportunity to recoup their substantial investments as a result of unanticipated regulatory changes.

The first factor deals with the relative importance of the public versus private interests at stake. Here, the public interest is attenuated. As already discussed, the primary purpose of Amendment 67 is not to protect the cod stocks or to make an unmanageable fishery manageable, but rather to benefit one particular group of fishermen to the detriment of others.

The second factor focuses on the financial loss that would result from the regulation at issue. As the attached documents demonstrate, failing to adopt the Landings Requirements would prevent the Vessel Owners from utilizing their vessels in the fishery for which the vessels were acquired and refurbished. See Landings Exemption Proposal, Exhibit B, and Hartley Memorandum, Exhibit C. Additionally, given the absence of other fishing opportunities, the vessels would be unable to



Mr. Richard Lauber  
April 5, 2000  
Page 5

**MUNDT MACGREGOR** LLP  
ATTORNEYS AT LAW

generate sufficient revenues to remain solvent. See Id. Thus, the financial hardship to both Vessel Owners would be severe.

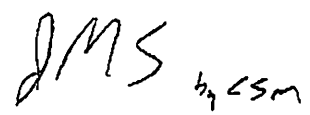
The third factor examines the extent to which the challenged regulation interferes with the reasonable investment-backed expectations of the claimant. In this instance, failing to adopt the Landings Exemption would result in a severe interference. The Vessel Owners are long-time participants in the Council process. When the Council decided not to adopt a recent landing requirement for groundfish at its February 1998 meeting, the Vessel Owners made sizeable investments in newly acquired vessels in order to participate in the P. cod fishery. Additionally, third parties, including the HORIZON's lender, relied upon the vessels' ability to participate in the P. cod fishery in undertaking financial commitments. See, e.g., Michaels Letter, Exhibit A.

Conclusion

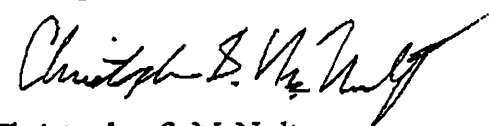
For the foregoing reasons, Horizon Fisheries and Highland Light respectfully request that the Council adopt their proposed Landings Exemption in conjunction with Amendment 67.

Very truly yours,

MUNDT MacGREGOR L.L.P.



Joseph M. Sullivan



Christopher S. McNulty

JMS/CSM:cap  
CSMT\LTRS\LLAUBER18-1773-005A.DOC  
Attachments

# EXHIBIT A



Bank of America  
Maritime Banking Office  
2010 Northwest Market Street  
Seattle, WA 98107

Tel 206.358.1827  
Fax 206.782.0126

February 11, 2000

To Whom It May Concern:

Please allow this letter to serve as a brief history on the F/V Horizon (ex-Pengwin)

The vessel was arrested in September of 1996. After 8 months of resolving a number of legal issues, we (Bank of America fdba Seafirst Bank) were able to schedule a Marshal sale. On May 7, 1997, the Marshal sale took place and the Bank credit bid the vessel. It was not until September of 1998 that we were able to sell the vessel to Aleutian Spray Fisheries.

They, Aleutian Spray Fisheries, immediately began a major reconstruction project on the vessel to bring it up to its former fishing ability. Ultimately Bank of America financed the vessel for Aleutian Spray Fisheries.

Our loan approval was based on the vessel being able to fish both crab and longline and freeze P. cod. Had the vessel not been reconstructed to longline cod, we would not have been able to finance the project due to limited cash flow from crabbing alone.

At all times during the negotiations for the sale of the vessel and the financing of the vessel, it was understood by the Bank that the vessel would qualify for crabbing and longlining.

It would be very unfortunate for the owners of the Horizon if they were denied the ability to longline and process cod. It would be of even greater impact, and would severely restrict lending institutions in general, if, in situations such as this, a vessel is left inactive for several years due to legal and other issues, and that vessel is then unable to re-enter a fishery that it was once involved in.

If I can be of any further service, I can be reached at 206-358-1829.

Sincerely,

A handwritten signature in cursive script that reads "James H. Michaels".

James H. Michaels  
Vice President

JHM:mis

# EXHIBIT B

**A Proposal to Exempt Recently Purchased Vessels from the Recent Participation Criteria  
Under Consideration for the BSAI Fixed Gear Pacific Cod Fishery**

An exemption from recent participation requirements in the BSAI fixed gear Pacific cod fisheries for catcher processor vessels that have been recently transferred is proposed as follows:

Exempt from the recent participation and landings requirements for BSAI Pacific cod species and gear endorsements all catcher processor vessels that—

- (i) met the original License Limitation Program general qualifying period and area endorsement period requirements for BSAI groundfish, non-trawl, catcher-processor endorsements and designations
- (ii) applied for and received an interim or transferable license for groundfish as a C/P in the BSAI
- (iii) were purchased between July 1, 1997 and December 31, 1998 with the express purchaser intent of being employed in the BSAI fixed-gear Pacific cod fishery as evidenced by;
  - (a) execution and delivery of a U.S. Coast Guard Bill of Sale and subsequent recording of the Bill of Sale in the U.S. Coast Guard Abstract of Title on or before December 31, 1998, and
  - (b) documented processing equipment and/or vessel modification or improvement investments of not less than \$100,000 that are specific to groundfish (gear purchases would not count for purposes of the \$100,000 threshold), and
- (iv) were employed as a catcher vessel or a catcher processor in the BSAI fixed gear Pacific cod fishery during 1999.

Gear designations for these vessels would be based on the gear employed during the year in which the Council's final decision is made. If both pot and longline gear were used in the Pacific cod fixed gear fishery, then the gear designation would be determined by the gear with the higher catch volume of Pacific cod.

This proposal is made with the expressed intent of allowing the new owners of two catcher-processor (C/P) vessels to have a chance to recoup the vessel purchase and shipyard investments they made in 1997, 1998, and 1999 pursuant to the rules and regulations of the Council's License Limitation Program (LLP) that were in place or proposed at the time the initial investments were made. The two C/Ps that are known to benefit from this exemption are the F/V Horizon (formerly the F/V Pengwin) and the F/V Westward Wind. Both of these catcher-processors made landings that will qualify them in the original BSAI Groundfish LLP (as approved in June 1995) with C/P designations and with area endorsements for the Bering Sea (BS) and Aleutian Islands (AI). Under the October 1998 Amendments to the LLP these vessels would receive non-trawl gear endorsements. Both vessels were issued interim permits by NMFS to participate in the AI and BS in 2000 as C/P vessels.

The proposed exemption is similar to exemption that was before the Council at its December 1999 meeting with some minor changes for clarification. Changes include the following:

1. Specific guidelines for documenting the vessel transfer have been added. In the new language, the U.S. Coast Guard Bill of Sale must have been completed on or before December 31, 1998, and that Bill of Sale must have subsequently been recorded on the U.S. Coast Guard Abstract of Title on or before December 31, 1998. This language will preclude speculative transfers or post-dated transfers that were not duly recorded from entering the fishery.
2. Participation in 1999 must have occurred in the BSAI Pacific cod fixed gear fishery. This clarifies the earlier version that would have recognized participation in any fixed gear fishery.
3. Participation in 1999 as either a catcher vessel or as a catcher processor will be recognized. This clarifies the earlier version, which may have been interpreted to exclude participation in 1999 as a catcher vessel from qualifying the vessel with its C/P designation intact.
4. The exempted vessels would receive either longline gear designations or pot gear designations but not both. The designation would be based on the dominant gear used in the BSAI fixed gear Pacific cod fishery during

the year in which the Council makes its final decision. It should be noted this language could be changed to reflect the dominant gear used in 2000 through February 5, the week-ending date prior to the beginning of the February Council meeting. In either case the *F/V Horizon* would receive a longline gear designation and the *F/V Westward Wind* would receive a pot gear designation.

5. The other provision stating that \$100,000 dollar worth of additional investments (excluding fishing gear investments) has been left unchanged. This provision makes it clear that significant additional investment in the vessel as purchased must have been made in order that the vessel qualify.

#### **Recent History of the *F/V Horizon* and the *F/V Westward Wind***

Neither the *F/V Horizon* nor the *F/V Westward Wind* would qualify for licenses under most of the recent participation criteria under consideration by the Council. The former owners of both of these vessels chose not to participate in the fisheries during the years 1996 and 1997.

In the case of the *F/V Horizon* (formerly the *F/V Pengwin*), the former owner was a bank that had acquired ownership through a foreclosure. During its tenure as owner from through most of 1998 the bank kept the vessel tied up. The current owner of the *F/V Horizon*, did not receive possession of the vessel until September 1998, at which time it was put into the shipyard to be refurbished. On December 18, 1998 the U.S. Coast Guard Bill of Sale was completed. It was recorded on the U.S. Coast Guard Abstract of Title on December 31, 1998. The business plan of the *F/V Horizon*, with which it was able to secure financing, calls for it to function as a crab catcher vessel and freezer longliner. In 1999, the *F/V Horizon* left the shipyard before it completing its refurbishing and outfitting as a freezer longliner in order to participate in the Opilio fishery in early 1999. In the Opilio fishery it experienced a major leak in the cargo hold, and lost a propeller. The *F/V Horizon* spent the summer of 1999 in the shipyard and returned to the Bering Sea in the fall to participate in the King Crab fishery and the BSAI Pacific cod fixed gear fishery, in which, it participated as a pot catcher vessel. It was not feasible to outfit the vessel with longline gear following the crab fishery in time to participate in the 1999 BSAI fixed gear Pacific cod fishery.

In the case of the *F/V Westward Wind*, the former owner, Tyson Seafoods, elected to keep the vessel, along with several sister ships, out of the fishery following the 1995 fishing season. The *F/V Westward Wind*, was put up for sale and in December 1997 was purchased by Highland Light Seafoods, who intended to the vessel to participate in the crab fisheries and as a catcher processor in the BSAI Pacific cod fixed gear fishery. In January of 1998 the U.S. Coasts database indicates a vessel transfer. Unlike the *F/V Pengwin*, the *F/V Westward Wind* was relatively seaworthy but still required engine and repair work prior to going to sea. The *F/V Westward Wind* was able to participate in the Opilio fishery in the spring of 1998. From April 1998 through August 1998 it was in the Seattle for additional refurbishing and updating of the processing equipment and deck gear. In October 1998 it fished as a freezer longliner in the BSAI cod fishery and then participated in the St. Matthew King Crab fishery in November. In 1999 it fished the Opilio fishery, then returned to Seattle where it was reconfigured to operate as a pot catcher processor in the BSAI Pacific Pacific cod fishery. The *F/V Westward Wind* participated in the cod pot fisheries from April 1999 through June 1999, and from September 1999 through the first week in October 1999. It then fished the Bristol Bay Red King Crab fishery. In 2000 the *F/V Westward Wind* is participating as a pot catcher processor in the BSAI Pacific cod fixed gear fishery.

#### **The Need For Action**

The current owners of the two vessels that are proposing the exemption have participated in and followed the Council process for many years. Both owners knew and understood the regulatory environment and closely followed the Council's actions regarding its LLP program. In December 1997, they noted the Council's intent to examine the idea of requiring recent participation in the crab and groundfish fisheries. In February 1998 they watched as the Council decided to exclude recent participation criteria in the groundfish fisheries from further consideration in its proposed amendments to the LLP program, even after additional requirements were recommended by the Advisory Panel (AP).

For the current owner of the *F/V Horizon*, the Council's decision in February to drop further consideration of recent participation for the groundfish LLP was essentially a green light to commit to the vessel's purchase. Similarly the new owner of the *F/V Westward Wind*, was convinced that additional investments in the cod processing ability of his vessel would not be ill-advised.

In October they watched as the Council approved the amendments to the Groundfish and Crab LLP. While the amendments included an exemption from the recent participation criteria in crab fishery for vessels with transfers of fishing history, the amendments did not even hint of further qualifying criteria for vessels wishing to participate in the BSAI cod fishery. It was not until the February 1999 Council meeting that the specter of additional participation requirements arose. By then however the owners of the *F/V Horizon* and the *F/V Westward Wind* had each invested more the \$1 million in their vessels.

If the Council, approves any of the additional participation criteria for fixed gear catcher processors, the *F/V Horizon* would be excluded from participation as a C/P. The *F/V Westward Wind* would be excluded from participating as a freezer longliner under all of the options, but would possibly qualify depending on the option chosen as a Pot C/P with options that rely on 1999 fishing history.

In summary, the vessel owners that have proposed this exemption have closely followed the Council process over the years, and have made their investment decisions relying on actions and decisions by the Council, NMFS and the Secretary of Commerce. In particular, they relied on the fact that in February 1998, the AP approved a motion to assess additional participation requirements for both the Groundfish and Crab LLP programs. At that meeting the Council chose to limit the analysis of additional participation requirements to the Crab LLP program. The fact that the Council did not ask that additional participation requirements be considered for the Groundfish LLP program was taken by the affected parties to mean that the significant investments they were considering would not be nullified by a Council action affecting their ability to participate in the fisheries in the future.

The Council, NMFS and the Secretary of Commerce must assume that their actions affect the business decisions of affected parties. Furthermore, affected parties must be able to take actions with a reasonable assurance that pronouncements of the Council, NMFS and the Secretary of Commerce will hold. Without this mutual recognition of responsibility, the regulatory process will suffer immeasurably.

#### Questions and Answers Regarding the Exemption

The Council's preliminary assessment of the proposed exemption, which was presented to the Council in December 1999, posed several questions. Answers to these questions are included in this section.

Why must a vessel have been purchased, as opposed to the existing owner making an investment to fish cod? Current owners of vessels, even if purchased just prior to July 1, 1997 are likely to have had ample time to have participated in the fishery, and still qualify under the recent participation criteria, if indeed they planned on participating in the BSAI fixed gear fishery in the future.

Why was the July 1 1997 through December 31, 1998 time period for vessel purchases selected? The two vessels that are sponsoring the exemption were purchased within this time window. Both of these vessels required significant amount of shipyard work to before being able to participate. July 1, 1997 was selected because vessels that were purchased prior to that date are likely to have had ample time to enter the BSAI Fixed gear Pacific cod fishery in 1998. A vessel purchased on June 30, 1997 would have had nine months for shipyard work and nine months to make qualifying landings. Vessels purchased in 1999, are more likely to have been speculative purchases, particularly given indications in February 1999 that the Council would be once again considering additional participation criteria for continued participation in the BSAI fixed gear Pacific cod fisheries.

What documentation will be required to prove at least \$100,000 worth of investment to participate in the fishery? It is anticipated that properly signed invoices and contracts for purchases of goods and services necessary (excepting purchases of fishing gear) to outfit a vessel for participating as a catcher processor in the BSAI fixed gear fishery would be required. Furthermore, it is anticipated that a hearings officer will adjudicate on such matters and will establish criteria for evidence.

Why is \$100,000 the appropriate minimum level of investment? It is reasonable to assume that a vessel owner that can document this level of investment in addition to the full purchase price of the vessel is serious about using the vessels to participate in the fishery. Investments less than \$100,000 are more likely to be considered general maintenance and repairs rather than a serious investment to refurbish the vessel.

Why should these vessels be grandfathered in, when other vessels that have been fishing cod in recent years may get excluded from the fishery, depending on the minimum landing requirements? The vessels that may benefit from the exemption may fail to qualify, not by their current owner's choices and decisions, but by the choices and decisions of persons or institutions outside of their control. A vessel that was not transferred and that would not

qualify, would fail to meet the additional participation requirements because of its owner's business decisions. If vessels that had not been transferred are truly dependent on the BSAI fixed gear C/P Pacific cod fishery, then they would have been participating in that fishery at a level that would demonstrate that reliance. The key point is that vessels that have undergone recent transfers, could fail to qualify because of factors outside of their current owner's control, even though those owners have closely followed and adhered to the actions and decisions of the Council, NMFS and the Secretary of Commerce.

How many vessels would qualify because of the exemption? The answer to this question is not clear. At its December meeting Council staff reported that preliminary information based on the best available information: In discussions during the meeting it was determined that ambiguities in the proposed language led analysts to make assumptions that were unintended by the proposers of the exemption—the analysts assumed that 1999 participation had to have been as a C/P, while the proposers assumed that participation as a CV or as a C/P would be sufficient. Furthermore, a request to the U.S. Coast Guard for Abstract of Title information indicated additional inconsistencies.

In response to the apparent lack of definitive information, Table 1 on the following page has been developed using publicly available information from NMFS. While the table is not definitive provides a set of information that may be useful in discussions of the proposed exemption. Table 1 indicates that there were 42 currently licensed C/Ps that were observed to have targeted Pacific cod with fixed gear in the BSAI in 1999 according to NMFS Vessel Specific Bycatch Data. The 42 vessels include 4 vessels that have not (as of 1/22/00) been observed as participating in the longline fishery for Pacific cod including the *F/V Horizon*, one of the sponsors of the exemption (shown in the shaded cells). As indicated earlier the *F/V Horizon's* business plan calls for it to participate as a freezer longliner if the exemption is approved. Table 1 also indicates there were 5 vessels observed in the fishery that used both hook and line (HAL) and pot gear over the years, including the *F/V Westward Wind*. The *F/V Westward Wind* would continue to participate as a pot catcher processor if the exemption is approved.

The vessel specific bycatch information relies on observer data. Since vessels less than 125 feet do not have 100 percent observer coverage, it is possible that some additional vessels may qualify as C/Ps in the BSAI fixed gear Pacific cod Fishery. According to NMFS records, 30 additional vessels that are less than 125 feet have been issued licenses with C/P designations and endorsements for the BS or AI (See Table 2). Many of these vessels are likely to be trawl vessels. While these vessels were not observed in the BSAI fixed gear fishery in 1999, it is still possible that they might qualify under the recent participation criteria.

It is very likely that knowledgeable members of the industry could make a reasonable estimate of the number of qualifying vessels under the recent participation criteria and the number of vessels that may benefit from an exemption using the vessels listed in Table 1 and Table 2.

*Derivation of Table 1:* Table 1 uses data from the "Vessel Specific Bycatch Rates" postings on NMFS internet site as a proxy for actual catch data. The vessel specific bycatch data was filtered to include all vessels that were observed to have made fixed gear hauls targeting Pacific cod in the BSAI in 1999. The filtered list of BSAI Pacific cod fixed gear vessels from 1999 was combined with the vessel specific bycatch rate data for the years 1996 through 1998 and for 2000 (through 01/22/00). The combined haul data was set then matched to the "List of groundfish LLP licenses" from the NMFS Internet site. The list of groundfish LLP licenses includes all vessels that were issued either an interim or transferable groundfish licenses with endorsements in the BS or AI and C/P designations. Because the application period is closed and because NMFS has issued all interim permits that it intends to issue, it is extremely unlikely that any additional vessels could receive a C/P designation in the future.

It should be noted that 4 vessels that were observed to have made BSAI fixed gear Pacific cod hauls in 1999 were not issued licenses as originally qualifying vessels. However, the owners of these four vessels are listed as having received licenses for other vessels that carry the appropriate designations and endorsements. Table 1 assumes that licenses issued to the qualifying vessels will be used on the vessels that are currently participating. The notes in Table 1 provide additional details regarding this issue.

*Derivation of Table 2:* Table 2 shows all vessels less than 125 feet MLOA, that were not observed participating in the BSAI Fixed Gear Fishery in 1999, but which are included in NMFS list of groundfish LLP licenses. To be included in Table 2 the vessels must have been issued a C/P designation and Area Endorsements for the BS or AI.



**Table 1. Observed BSAI Fixed Gear Pacific Cod Hauls of Licensed C/Ps from 1996-2000;  
A Vessel Must Have Been Observed Targeting Pacific Cod in a Fixed Gear Fishery in 1999 to be Included**

Item	Vessel Name	License Type	Gear	Number of Observed Hauls				
				2000	1999	1998	1997	1996
1	Alaska Mist	Interim	HAL / POT	37 / #NA	332 / 12	373 / 0	317 / 0	246 / 0
2	Alaska Patriot	Transferable	HAL	17	99	165	210	188
3	Alaska Pioneer	Transferable	HAL	18	114	165	203	163
4	Alaskan Leader	Transferable	HAL	34	426	326	356	262
5	Aleutian Lady	Interim	HAL / POT	#NA / #NA	59 / 21	62 / 7	94 / 40	0 / 202
6	Aurous	Interim	HAL	#NA	35	0	28	18
7	Baranof	Transferable	HAL	#NA	200	312	214	256
8	Beauty Bay	Interim	HAL	32	21	0	120	133
9	Bering Prowler	Interim	HAL	#NA	259	17	0	0
10	Blue Fin	Transferable	POT	#NA	13	19	41	40
11	Blue North	Interim	HAL	28 / #NA	128 / 23	300 / 0	328 / 75	325 / 0
12	Blue Pacific	Interim	HAL	19	255	459	383	213
13	Bristol Leader	not listed <sup>1</sup>	HAL	26	544	139	0	0
14	Clipper Endeavor	interim	HAL	12	98	121	198	124
15	Clipper Epic	interim	HAL	26	180	349	216	205
16	Clipper Surprise	transferable	HAL	18	85	169	156	127
17	Courageous	transferable	HAL / POT	15 / #NA	211 / 9	285 / 51	281 / 0	196 / 178
18	Deep Pacific	transferable	HAL	#NA	75	89	153	274
19	Frontier Explorer	transferable	HAL	28	177	323	349	229
20	Frontier Mariner	transferable	HAL	21	198	237	247	229
21	Frontier Spirit	Transferable	HAL	19	169	292	370	322
22	Galaxy	not listed <sup>2</sup>	HAL	49	368	511	0	0
23	Gulf Maiden	Interim	HAL	#NA	8	0	0	0
24	Hessafjord	Transferable	HAL	#NA	203	542	563	306
25	Imperial	Interim	POT	#NA	0	0	0	0
26	Kjevolja	Transferable	HAL	#NA	228	155	149	145
27	Lilli Ann	Transferable	HAL	31	185	276	363	315
28	Melissa Beth	Interim	HAL	#NA	21	31	12	32
29	Mr B	not listed <sup>3</sup>	POT	#NA	12	35	0	0
30	North Cape	Transferable	HAL	26	44	0	57	94
31	Northern Aurora	Interim	HAL	27	206	210	296	293
32	Norton Sound	Interim	HAL	30	408	439	319	241
33	Ocean Prowler	Interim	HAL	36	302	433	322	250
34	Pacific Lady	not listed <sup>4</sup>	HAL / POT	20 / #NA	216 / 37	141 / 0	125 / 0	0 / 0
35	Pathfinder	Transferable	HAL	19	344	275	378	160
36	Pavlof	Transferable	POT	#NA	18	0	14	91
37	Prowler	Interim	HAL	#NA	267	170	145	114
38	Seattle Star	Interim	HAL	17	123	256	288	285
39	Storfjord	Interim	HAL	18	204	371	416	287
40	U.S. Liberator	Interim	HAL	27	342	282	94	0
41	U.S. Marine	Interim	POT	#NA	0	0	0	0
42	Zenith	Transferable	HAL	#NA	162	217	101	167

Sources: NMFS-RAM Listing of Groundfish Licenses (available on the Internet at [www.fakr.noaa.gov](http://www.fakr.noaa.gov)), NMFS-SFD Vessel Specific Bycatch Rates available (on the Internet at [www.fakr.noaa.gov](http://www.fakr.noaa.gov)).

Notes: Shaded cells shows the participation of the exemption sponsors.

1. F/V Bristol Leader appears to have acquired fishing rights from F/V New Star.
2. F/V Galaxy appears to have acquired fishing rights from F/V Northern Empire.
3. F/V Mr B appears to have acquired the fishing rights from F/V Aleutian Enterprise.
4. F/V Pacific Lady appears to have acquired the fishing rights from F/V Northern Lady.

**Table 2. Licensed G/P with BS or AI Endorsements and MLOA < 124 Feet  
That Were Not Observed in the BSAI Fixed Pacific Cod Fishery**

Item	Vessel Name	License Owner	License Type	Endorsements	MLOA
1	Tava	Schafer, Vincent	Interim	BS SE WG	50
2	Cape Falcon	Larson, Kristi	Interim	BS CG SE WG	58
3	Sea Dog	Moilanen, Donald	Interim	BS CG SE	59
4	Spectre	Hubbard, James	Transferable	BS CG SE WG	59
5	Sundancer	McVicker, John	Interim	AI BS CG	74
6	Sunset	Aritan, Murat	Interim	BS CG WG	77
7	Sundancer	Two Parties Applied	Interim	AI BS CG SE WG	79
8	Jessica B	Marathon Fisheries, Inc.	Interim	AI BS CG SE WG	92
9	Rebecca B	Apicda Joint Ventures, Inc.	Interim	AI BS CG WG	94
10	Kema-Sue	Cartwright, Jack	Interim	AI BS CG WG	96
11	Muir Milach	Muir Milach, Inc.	Interim	AI BS CG WG	103
12	Eagle	Eagle, Inc.	Interim	AI BS CG WG	103
13	Augustine	Augustine Partnership	Interim	AI BS CG SE WG	108
14	Pacific Breeze	Nomes, Peder	Interim	AI BS CG WG	108
15	Judi B	Alaska Sablefish, Inc.	Transferable	AI BS CG WG	110
16	Blue Ice	Golden Sable Fisheries Inc	Interim	AI BS CG	113
17	Harmony I	Two Parties Applied	Interim	AI BS CG WG	113
18	St Jude	Malley, Joseph	Interim	AI BS CG	114
19	Wild Thing	Wild Thing Marine Ltd	Transferable	AI BS CG	118
20	Golden Pisces	Golden Pisces, Inc.	Transferable	BS CG	118
21	Arctic Rose	Arctic Sole Seafoods, Inc.	Interim	BS CG WG	122
22	North Star	Mathisen, Richard	Transferable	AI BS	124
23	Alaskan Shores	Two Parties Applied	Interim	AI BS CG	124
24	Vaerdal	Jubilee Fisheries, Inc.	Transferable	AI BS CG WG	124
25	Lady Gudny	Laxfoss, Kristjan	Interim	AI BS CG WG	124
26	Michelle Renee	Farwest Leader, Inc.	Interim	AI BS CG WG	124
27	Silver Spray	Silver Spray Seafoods, Llc	Interim	BS CG	124
28	Beagle	Beagle Enterprises L.P.	Interim	BS CG WG	124
29	Alliance	Alliance Fishing, Inc.	Interim	BS CG WG	124
30	Defender	O'hara Corporation	Interim	BS CG WG	124

Sources: NMFS-RAM Listing of Groundfish Licenses (available on the Internet at [www.fakr.noaa.gov](http://www.fakr.noaa.gov)), NMFS-SFD Vessel Specific Bycatch Rates available (on the Internet at [www.fakr.noaa.gov](http://www.fakr.noaa.gov)).

# EXHIBIT C

## Fax Memorandum

**Date:** April 5, 2000  
**To:** Joe Sullivan  
 Mundt MacGregor  
**Fax:** (206) 624-5469 **Phone:** (206) 624-5950  
**From:** Marcus L. Hartley **Pages:** 3 (including cover)  
 Northern Economics  
**Re:** Pacific Cod Grandfather Provisions

Northern Economics has reviewed the North Pacific Fishery Management Council's analysis of revisions to the license limitation program that would create gear and species endorsements for the fixed gear fisheries for Pacific cod in the Bering Sea and Aleutian Islands. In particular we focused on the assessment of the proposed grandfather provisions. The analysis indicates that only three vessels may benefit from the grandfather provisions—the *Horizon* and the *Westward Wind*, and one other freezer longliner. According to Council staff, the unnamed vessel is between 60 - 125 feet length overall, and it would qualify under every alternative under consideration except the alternative requiring more than 300 metric tons to have been processed in 1996, 1997, or 1998.

### **Other Opportunities for the *Westward Wind* and the *Horizon***

Northern Economics has examined the possibility that the *Horizon* and *Westward Wind* could operate profitably in the event they are not able to participate in the fixed-gear fisheries for Pacific cod in the BSAI. We conclude that it is unlikely that the *Horizon* or the *Westward Wind* will be able operate profitably in the foreseeable future if the proposed grandfather clause is not approved, and the vessels are restricted from operating the fixed-gear Pacific cod fisheries in the BSAI.

Our conclusion is based on participation restrictions in the Groundfish and Crab LLP and the prospects for viable crab fisheries in the future. Table 1 lists the endorsements for which the *Horizon* and the *Westward Wind* would qualify under the License Limitation Program as it currently is implemented by NMFS.

**Table 1: Endorsements and Designations of the *Horizon* and *Westward Wind* under the Current LLP**

Vessel	Designation	Maximum Length	Groundfish Endorsements	Crab Endorsements
Horizon	Catcher Processor	148	Aleutian Islands, Bering Sea, Western Gulf, Central Gulf	Aleutian Brown King, Bering Sea and Aleutian Islands Opilio and Bairdi, Bristol Bay Red King, St. Matthews Blue King
Westward Wind	Catcher Processor	160	Aleutian Islands, Bering Sea	Bering Sea and Aleutian Islands Opilio and Bairdi, Bristol Bay Red King

Source: NMFS-RAM Lists of LLP groundfish and crab licenses at <http://www.fakr.noaa.gov/ram/llp.htm#list>

In addition to the restrictions in the currently implemented LLP, regulations resulting from the changes in

880 H STREET, SUITE 210  
 ANCHORAGE, ALASKA 99501  
 (907) 274-5600 FAX (907) 274-5601  
 e-mail: [marcush@norecon.com](mailto:marcush@norecon.com)  
 Internet:  
[www.northerneconomics.com](http://www.northerneconomics.com)

the LLP approved by the Council in 1998 will restrict the Horizon and the Westward Wind to the use of fixed gear. Other restrictions include Inshore-Offshore regulations in the Gulf of Alaska that prohibit catcher processors from harvesting more than 10 percent of the Pacific cod TAC in the Gulf.

In the future these vessels would be allowed to participate in the crab fisheries for which they have endorsements and in state-water fisheries that occur in parallel with the federal fisheries in the BSAI and GOA. These vessels would not be allowed to fish in state-water Pacific cod fisheries that occur after the federal fisheries are closed because of vessel size limits. It should be noted however, that the Alaska Board of Fisheries has recently taken action to prohibit large vessels from participating in state waters around Adak.

According to David Witherell at the NPFMC, it is likely to be eight year before fishable stocks of Opilio are rebuilt, and 6 years before the St. Matthews Blue King Crab fishery is rebuilt. Witherell believes that the Bairdi fishery may reopen in 3 to 4 years but it is not likely to be able to come close to replacing the Opilio fishery. The Aleutian Island Brown King crab fishery is currently the only productive crab fishery. According to crab industry spokesmen, the Brown King crab fishery is sustainable, but there is only one catcher processor operating there now, and the fishery is unlikely to be able to support many others.

It appears that the Horizon and Westward Wind would be allowed to participate in the state-water fisheries in the BSAI for Pacific cod that run parallel to the federal fisheries and operate on the same TAC. However, according to Dave Jackson ADF&G Area Manager for Groundfish and Shellfish in the Westward Region and the Alaska Peninsula, fishing for Pacific cod in state waters is much less productive than fishing in federal waters particularly in the Bering Sea. Inshore-Offshore restrictions would appear to limit the participation of the Horizon and Westward Wind in the GOA.

In summary if the Horizon and the Westward Wind are not allowed to participate in the fixed-gear Pacific cod fisheries in the Bering Sea, Northern Economics believes these vessels face a very real threat of bankruptcy in the near future.

#### **Revenue Impacts of the Grandfather Provision**

Northern Economics has studied the Council's analysis of the revision to the Groundfish LLP that would add endorsements for Pacific cod. We notes that it includes estimates of average earnings of the freezer longliner fleet under the different qualifying options. These estimated average earnings are reproduced in the left side of Table 2. With the grandfather provisions, the Horizon would be the only additional freezer longliner under 5 of the 6 Council alternatives, including all of the alternative that require landings of 100 or 200 tons and the alternative that requires 300 tons in any year between 1996 and 1999. The addition of the Horizon under the grandfather provisions could result in a 2 percent drop in gross earnings for the average vessel in the freezer longliner fleet under these 5 alternatives. The left side of Table 2 shows the impact on average fleetwide earnings if the grandfather provision is used—average earnings for freezer longliners are estimated to drop by less than \$50,000. If the Council chooses to require 300 tons and to use the years from 1995-1998, then the *Horizon* and the additional unnamed freezer longliner would benefit from the grandfather clause. In that case the fleetwide average revenue is estimated to drop by 5 percent. The estimated earnings under this alternative are not shown in Table 2.

A 2 percent decrease in gross revenues for the average freezer longliner is very unlikely to create significant hardships; even a 5 percent decrease is unlikely to generate significant problems for the freezer longliner fleet. This appears to be particularly true given that the potential cost savings and marketing benefits that are likely to be realized by the freezer longliner fleet as a result of the limitations

on additional vessels entering the freezer longliner Pacific cod fishery, and as a result of the possibilities for cooperatives that these limitations produce.

Table 2: Number of Vessels and Average Earnings With and Without Grandfather Provisions

Landing Criteria	Qualifying Vessels without Grandfather Provisions			Qualifying Vessels with Grandfather Provisions		
	100 tons	200 tons	300 tons	100 tons	200 tons	300 tons
No. of Vessels	43	42	39	44	43	40
Average Earnings	1,711,628	1,752,381	1,887,179	1,672,727	1,711,628	1,840,000

Note: Assumes that the years 1995 through 1999 are used in the Council's qualifying criteria.

Source: Adapted from the Table 4.2. and 4.3 on page 60 of the *EA/RIR/IRFA for Pacific Cod License Limitation Requirements for Fixed Gear Vessels and Establishment of Species and Gear Endorsements*.

The effect on the pot sector with the addition of the *Westward Wind* is not as clearly demonstrable. The ambiguity results from the following factors:

- 1) the Council's recent action allocation action regarding Pacific cod does not create a separate apportionment for pot catcher processors, and therefore the amount of cod going to catcher processors depends on the number of catcher vessels that qualify and participate.
- 2) the Council can choose different options for pot catcher vessels and pot catcher processors, and therefor there are literally thousands of unique combinations of qualifying vessels.
- 3) *Westward Wind* would qualify under several of the alternatives proposed.

Given the uncertainty regarding the number of qualifying vessels and participation levels, we are unable to project impacts on the pot vessel fleet of the grandfather clause.

C-4

**Trinity Fisheries Inc.**

PMB 1122, 2440 E Tudor Road

Anchorage Alaska 99507

Telephone: 907-561-7787 Facsimile: 907-561-7784

TrinityFI@aol.com

April 13, 2000

Mr. Richard B. Lauber, Chairman  
North Pacific Fisheries Management Council  
605 West 4<sup>th</sup> Ave.  
Anchorage Ak.

Dear Mr. Chairman

Now appearing before you is the motion of the LLP species endorsement for Pacific Cod. It is my understanding that the Advisory Panel put forth the options that used years 1996-1999 and the 300-harvest level amounts with regard to this motion.

I had hoped to be able to speak with the Advisory Panel on this issue, but as an owner/operator of my vessel I just missed returning to port in time to appear before the AP on this issue. We trust that the members of the AP will accept our sincere apologies.

Our company respectfully requests that the Council amend the AP recommendation with regard to the 300-ton limit and allow for the slight interpretation that could vary the data by allowing a +/- 10% variable in the cut off point. Our vessel has achieved 291.711 tons in one of the qualifying years and has been in the 260-ton range in other years.

Our vessel is a 120' Longline catcher/processor based out of Homer and Seward. We are a locally owned and operated company (Anchorage, Alaska). We have a very straightforward operation, which involves limited harvest ability. The vessel's harvest history puts it very near the 300-ton harvest level needed to qualify for the species endorsement.

The catch history for the vessel is based on the data received from the records from the vessel, offloading reports, observer data and other input. This blend of data produces the overall catch history for the vessel.

In speaking with the observer division, RAM and other administrative personnel, it appears the data is subject to some interpretation at various points. In a manner of speaking, the +/- 10% we are requesting falls within acceptable interpretation of our data.

Since our vessel is so close to matching the AP's recommendation, we believe and hope that the Council will agree that this +/- 10% allowance is acceptable.

As a smaller harvester, even though we do not harvest large amounts of Pacific Cod in the Bering Sea, it is an extremely critical part of our annual operation, and we would be extremely hurt by the loss of our ability to fish Pacific Cod within the BS/AI.

I have spoken with Council staff on this proposed adjustment in the 300-ton level. According to staff this +/- 10% adjustment would have no impact or change on the analysis done to date other than allowing our vessel to qualify.

Since 300 tons is the top end, the variable amount would have no effect by increasing the level and only lowers the amount to within acceptable deviations of the data interpretation.

Granting our request does not open the door to additional unknown entries ~~into~~ the fishery.

We respectfully request that you agree to enter the 5-10% variable of the 300 threshold limit.

Thank you for your time on this matter.

Joe Gillis

President



## VESSEL OWNER MEMBERS OF THE FREEZER LONGLINE FLEET

April 4, 2000

Mr. Rick Lauber, Chair  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

Agenda C-4

RE: BSAI Amendment 67

Dear Chairman Lauber:

As you know owners, of freezer longline vessels have been working together to rationalize the pacific cod fishery in the Bering Sea while trying to solve some of the problems caused by over capitalization. We came before you last year to request that you split pacific cod harvest between pot and longline gear and that you amend the LLP to provide species and gear endorsements for pacific cod. You have approved the split and now have before you the equally important second part, Amendment 67.

Amendment 67 will create species and gear endorsements for pacific cod while limiting the number of vessel participants to historical levels. The freezer longline owners have met and unanimously urge the North Pacific Fishery Management Council to pass this amendment with the following options:

***Qualification Years:***

Option 2 – any one year 1996, 1997, 1998, 1999

***Minimum Poundage Requirements during any qualifying year:***

Option 3 – 300 metric tons

In reviewing the analysis, we are confident that these options best reflect the structure of our fleet and will address the goals of the Problem Statement identified in the analysis. The Problem Statement says in part:

*“Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries, need protection from others who have little or limited history and wish to increase their participation in the fishery.”*

Thank you for considering our recommendation.

Sincerely,

***The undersigned owners of the freezer longline fleet***

William C. Atkinson

Bill Atkinson  
Alaska Frontier Company  
F/V Frontier Mariner  
F/V Frontier Spirit  
F/V Frontier Explorer

John R. Boggs

John Boggs  
Gulf Mist Inc.  
F/V Alaska Mist

Erling Skar

Erling Skar  
Star Offshore Inc.  
F/V Seattle Star

Mike Burns pro.

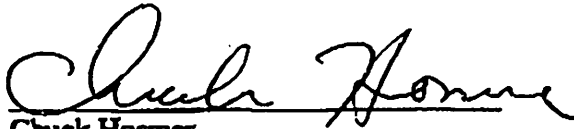
Mike Burns  
Blue North Fisheries  
F/V Blue North  
F/V Blue Pacific

Robert W. Wynn

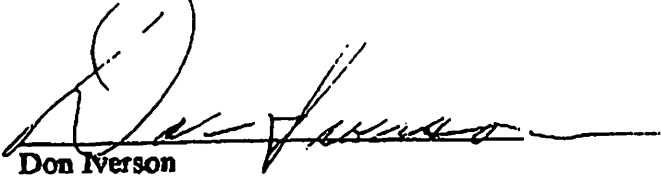
Robert Wynn  
Alaska Leader Fisheries  
F/V Alaska Leader  
F/V Bristol Leader

Dale Dier

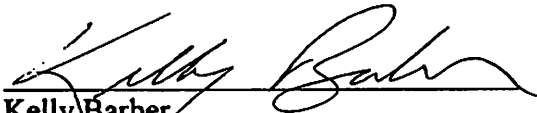
Dale Dier  
Northern Aurora Fisheries  
F/V Northern Aurora




**Chuck Hosmer**  
**Courageous Fisheries**  
**F/V Courageous**  
**F/V Baranof**



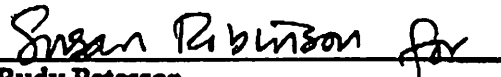
**Don Iverson**  
**Jubilee Fisheries Inc.**  
**F/V Zenith**  
**F/V Kjevolja**



**Kelly Barber**  
**Deep Pacific Fisheries**  
**F/V Deep Pacific**  
**F/V Lilly Ann**



**David A. Little**  
**Clipper Seafoods, Ltd.**  
**F/V Clipper Surprise**  
**F/V Clipper Endeavor**  
**F/V Clipper Epic**



**Rudy Peterson**  
**North Pacific Fishing Inc.**  
**F/V Pathfinder**  
**F/V U.S. Liberator**



**Rick Shelford**  
**Shelford's Boat Ltd.**  
**F/V Aleutian Lady**

*Webiorn Eikrem*

Webiorn Eikrem  
North Cape Fisheries Inc.  
F/V North Cape

*Cory Swasand*

Cory Swasand  
Aleutian Spray Fisheries  
F/V Galaxy

*Mike Szymanski*

Mike Szymanski  
Fishing Company of Alaska  
F/V Alaska Pioneer  
F/V Alaska Patriot

*Mason Williams*

Mason Williams  
"CJW" Fisheries  
F/V Pacific Lady

*John Winther*

John Winther  
Prowler Fisheries  
F/V Prowler  
F/V Bering Prowler  
F/V Ocean Prowler

*Dennis Deaver*

Dennis Deaver  
F/V Beauty Bay

*John Sjong*

John Sjong  
Regal Fish Company  
F/V Hessafjord  
F/V Storffjord

Mr. Chairman, Council Members—My name is Paula Brogdon . I am Executive Director of Fishermen of Alaska—representing approximately 31 vessels at this time. I have a letter in your packets and have passed out additional information today. I will at this time touch on some of the legal issues.

There are 365 potential LLP qualified catcher vessels, or small entities. With the Advisory Panel's recommendations approximately 80 longline and pot catcher vessels, small entities, will qualify for the BSAI cod fishery. There are approximately 4.5 times more small entities that stand to be economically impacted under this alternative. Per the statement in the minutes of the SSC, this is an example of the disproportionate consequences that are poorly defined in the analysis. We do not know how many vessels will actually qualify, as it could take up to two years to get through the appeals process, so we must include all potential LLP qualified small entities in the impact study. The RFA was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts... As Chairman Lauber stated earlier, under the Magnuson Stevens act we must provide protection for our coastal communities which is not being done here. The impact analysis is not a thorough or complete accounting of all communities affected, how they are or potentially could be affected, or what alternatives will offer relief to these communities. We need to postpone any further endorsements until we have a definite number of qualified LLP small entities and a complete impact study on these small communities that can conform to the E. O 12866, Magnuson Act, Small Business Enforcement Act, and the RFA. For a species endorsement in crab, a vessel only needed one landing, no poundage. Why should cod be treated so differently? We are not only eliminating many small entities from fishing cod in the BSAI but also prohibiting them from being eligible to compete in the CDQ fishery as well.

The Magnuson Stevens act does not intend for consolidation of a fishery that would take a public resource and put it in the hands of a few—impacting many small entities.

See APPENDIX A

Under section 609 of RFA subsection (b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct

- (1) a covered agency SHALL notify the Chief Council for Advocacy of the Small Business Administration and provide Chief Council with information on the potential impacts of the proposed rule on small entities and type of small entities that might be affected.
- (2) Not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Council shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule.

- (6) Where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

In Section 603, subsection (c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives and minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss SIGNIFICANT alternatives such as –paragraph (4) an exemption from coverage of the rule, or any part thereof, for such small entities. There was an exemption for vessels UNDER 60 feet noted in the list of alternatives but none for the small entities over 60 feet.

Section 604, subsection (a) Each initial regulatory flexibility analysis states: when an agency promulgates a final rule under section 553 of this title. ....agency SHALL prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis SHALL contain...

(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other SIGNIFICANT alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

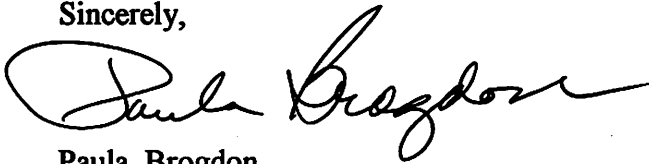
Section 611 of the RFA—Judicial Review—states:

1. for any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605B, 608B and 610. No one wants to deal with this step; therefore, we need to be sure the analysis is complete and all steps to minimize impacts to a substantial amount of small entities have been taken. The present analysis does not do this. I believe the spirit of the Magnuson Act, E.O. 12866, Small Business Act and the RFA is to have this analysis COMPLETE before we choose an alternative that potentially impacts so many small entities. The RFA stresses relief and protection for the substantial amount of small entities involved, not for the large entities or just a handful of small entities. National Standard 6 states, “conservation and management measures SHALL take into account and allow for variations among and contingencies in, fisheries, fishery resources, and catches.” During the present crab crisis this is an extremely important standard to the crab fleet who represent a large portion of the small entities affected. These aforementioned sections of the RFA and Magnuson Act, small business Act and E.O.12866 do not say may but SHALL and MUST or are REQUIRED to take them into consideration.

We, as impacted small entities, are simply looking for required regulatory considerations and relief. We respectfully request that the Council require a complete and thorough analysis before making any final decisions. Such analysis is not available at this time. Therefore we ask that you approve Alternative 1, status quo, until such a time that all required regulations of RFA and other laws can be fully adhered to and we know exactly, without guess work, who will qualify for this fishery. There are groups looking at other methods of rationalization and we do not need to rush into these endorsements before we have all the facts.

Thank you

Sincerely,

A handwritten signature in cursive script, appearing to read "Paula Brogdon". The signature is written in black ink and is positioned above the typed name and title.

Paula Brogdon  
Executive Director  
Fishermen of Alaska "FOA"

## **APPENDIX A**

- 1. Under E.O. 12866 – a significant regulatory action is one that is likely to: Have an annual effect on the economy of 100 Million or more OR adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs. Potential impact to the pot fleet and small entities would certainly designate this a “significant regulatory action”.**
  
- 2. With most of the alternatives suggested, you will not only be giving a limited group of vessels their catch histories, but also any catch histories many small entities have built. How many ways can a small entity be impacted and amendments still conform to the RFA and the intent of the Magnuson Act.**
  
- 3. National Standard # 6 – Conservation and Management Measures SHALL take into account and allow for variations among and contingencies in fisheries, fishery resources, and catches. This is a very important issue to many small entities in light of the recent crab crisis.**
  
- 4. National Standard # 8 – Conservation and Management Measures SHALL...take into account the importance of fishery resources to fishing communities in order to A) provide for the sustained participation of such communities and B) to the extent practicable, minimize adverse economic impacts on such communities. With the crab crisis, many such communities, including Kodiak, will be greatly impacted if the resident fishermen lose their right to diversify in the fisheries.**



C-4

April 15, 2000

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

Dear Mr. Lauber:

RE: Agenda Item C- 4 BSAI Pacific Cod LLP, Pot Vessel Recency Landing Qualifications  
Testimony of Russell Moore, F/V North Pacific  
**Options: 10B and 3B**

My name is Russell Moore. I have been fishing in Alaska for 32 years, beginning as a deckman in the halibut fishery and then moving on to the Bering Sea king and tanner crab fisheries. I have been fishing with pot gear since 1974 and I am totally dependent on pot gear for the F/V North Pacific's vessel revenues.

Pot boats that catch cod are primarily crab boats. Crab has been their main source of income for several years. With the reduction in crab stocks and quotas, but an increase in cod prices from \$.19 USD in 97, 98, 99, to \$.31 USD in 2000, the profit margin on cod has increased to the point where fishing for cod with pots has finally become profitable for the average size Bering Sea crab boats. With the adoption of the October 1998 NPFMC amendment to the LLP, when pot vessels lost the right to fish with trawl or longline gear, fishing for cod with pot gear is the only remaining diversification opportunity for the highly specialized Bering Sea crab boats. Removal of this federal fishing permit during this period of financial crisis for the crab fleet, can make the difference between bankruptcy and economic survival for more than 60 small business entities, the same business entities involved in the NPFMC recency landing requirement for the BSAI king and tanner crab LLP adopted in October 1998.

When the NPFMC adopted the recent landing requirement for the crab fisheries, it was based on a single "landing" only, no minimum poundage requirement, in any of three calendar years. From an industry standpoint, this NPFMC action further established an "economic dependency" standard, that built on the previous NPFMC minimal landing requirements and economic standards established under the original LLP qualifications. Vessel owners such as myself trying to keep up with the evolution of the rationalization program have been trying to stay qualified, in not only marginal crab fisheries with declining crab stocks, but also the only available and viable finfish fishery, Pacific cod. Trying to stay qualified in a marginally profitable fishery, with increasing vessel expenses, manning requirements and observer costs, can mean prosecuting the fishery at a loss for the vessel owner, just to stay qualified in a fishery that one may need for survival in the future.

Following the Advisory Panel's recommendations at this week's meeting, the Council is trending toward reducing the number of qualified vessels in the BSAI Pacific cod fishery from 120+ vessels to possibly 40 or less vessels—a reduction of 66% from the status quo—a startling departure from the established minimum landing and economic dependency standards for the BSAI pot boat fleet.

- In the years 1992 through 1999— an average of 70 catcher vessels have caught a range of 5% to 19% of the fixed gear cod quota, an average of 9.8%; and an average catch of 11,425 metric tons.
- In the recent years, 1995, 1996, 1997, 1998 and 1999, there has been an average of 92 catcher boats making landings of cod in the Bering Sea. These vessels have landed an average of 12.8 % of the fixed gear cod quota and an average of 15,570 metric tons of cod per year.
- In the years 1992, 1993, 1994, 1998 and 1999, five out of eight years, pot vessels have not caught the recent average catch for 1995-1999 of 12.8% of the fixed gear cod quota. (Table 3.1, page 34, EA/RIR, Amendment 67, BSAI Groundfish FMP)
- In any fishery, a small percentage of boats usually catch more than the majority of the fish. However, taking a boat's fishing rights away because he has not been a high producer, particularly during times of economic crisis, does not seem right. For this reason and the fact that one minimal landing, with no poundage requirement established a standard of economic dependence for the Bering Sea pot fleet in October 1998, I wish to request the NPFMC adopt option 10B, 1996-1998, and one landing with no minimum poundage. This will reduce the fleet from 120+ LLP qualified pot boats, to 82 boats, a 31% reduction in boats.
- My second preference would be option 3B, two landings in the years 1995 through 1998, with a landing in each year. This will reduce the fleet from 120+ boats to 75 boats, a 37.5% reduction in boats.

With the reduction in fishing time for crab allowing more time to fish cod, I am certain a smaller fleet will be able to catch the quota. However, what happens when the crab stocks rebuild and the boats are fishing larger quotas? Will 40 boats be able to catch the quota which 92 boats could not catch?

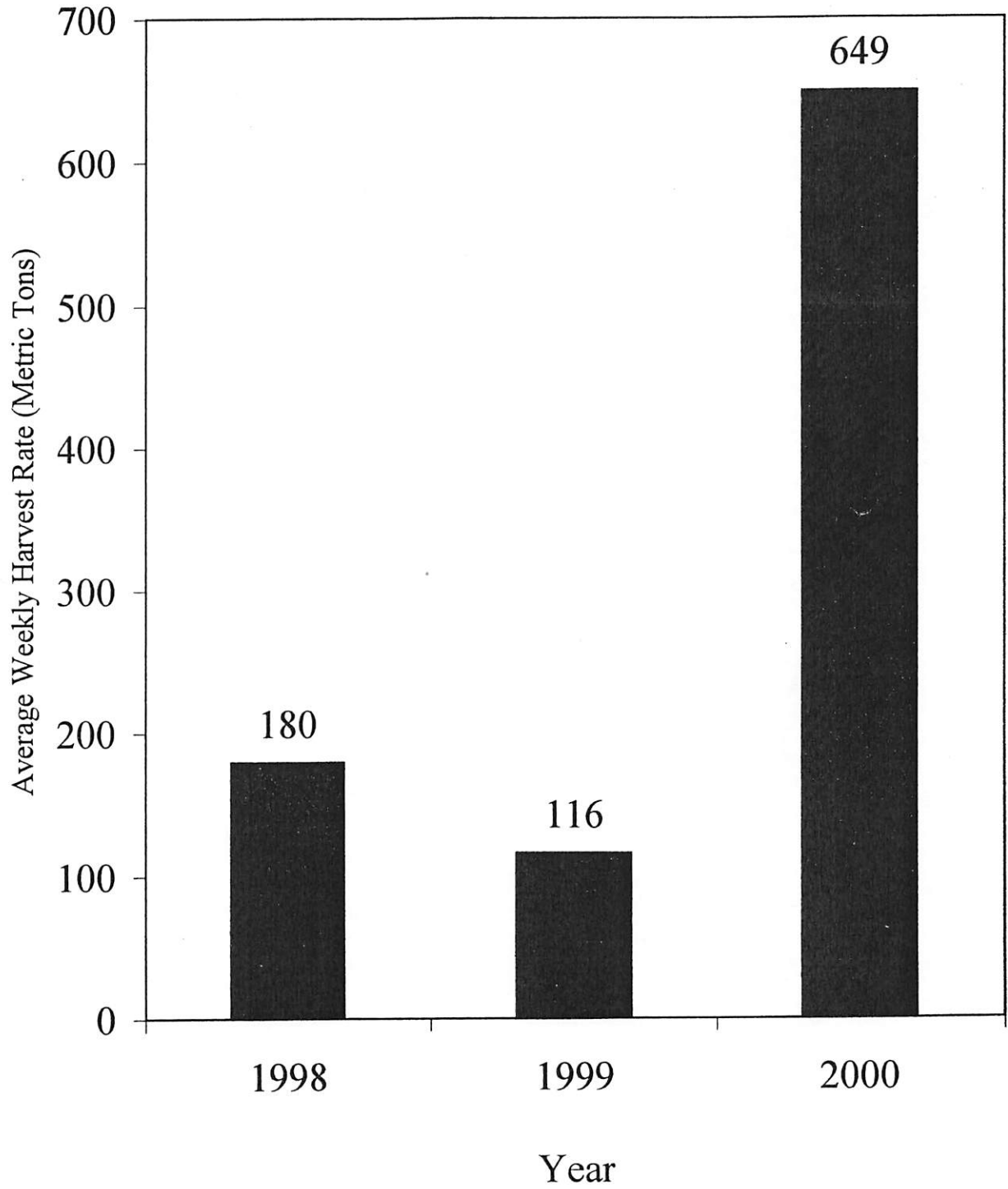
- Although 40 boats may be catching the largest percentage of the pot cod quota in the recent years, it is ridiculous to maintain that the other 52 boats made no contribution to catching the quota and have no economic dependence on the fishery.
- For example, in 2000, if 80 pot catcher vessels caught 12,000 tons of cod (26,400,000 pounds), an estimated 12.8% of the fixed gear cod quota,(based on the cv share of the 18.3% allocation estimate for 2000), vessels would have harvested an average of 330,000 pounds of cod worth @ \$.30 per pound USD, (current price FOB Dutch Harbor)— \$99,000.

- **Given this year's recently concluded *C. opilio* crab fishery worth an estimated \$55 million for 231 vessels, and an average gross stock of \$238,095 per vessel. The average gross stock from the cod fishery for 80 of the same vessels would represent 29.3% of the vessels' gross income to date for the year—a significant contribution for the year, particularly in light of the grim prospects for this fall's Bristol Bay king crab fishery and next year's *C. opilio* crab fishery.**

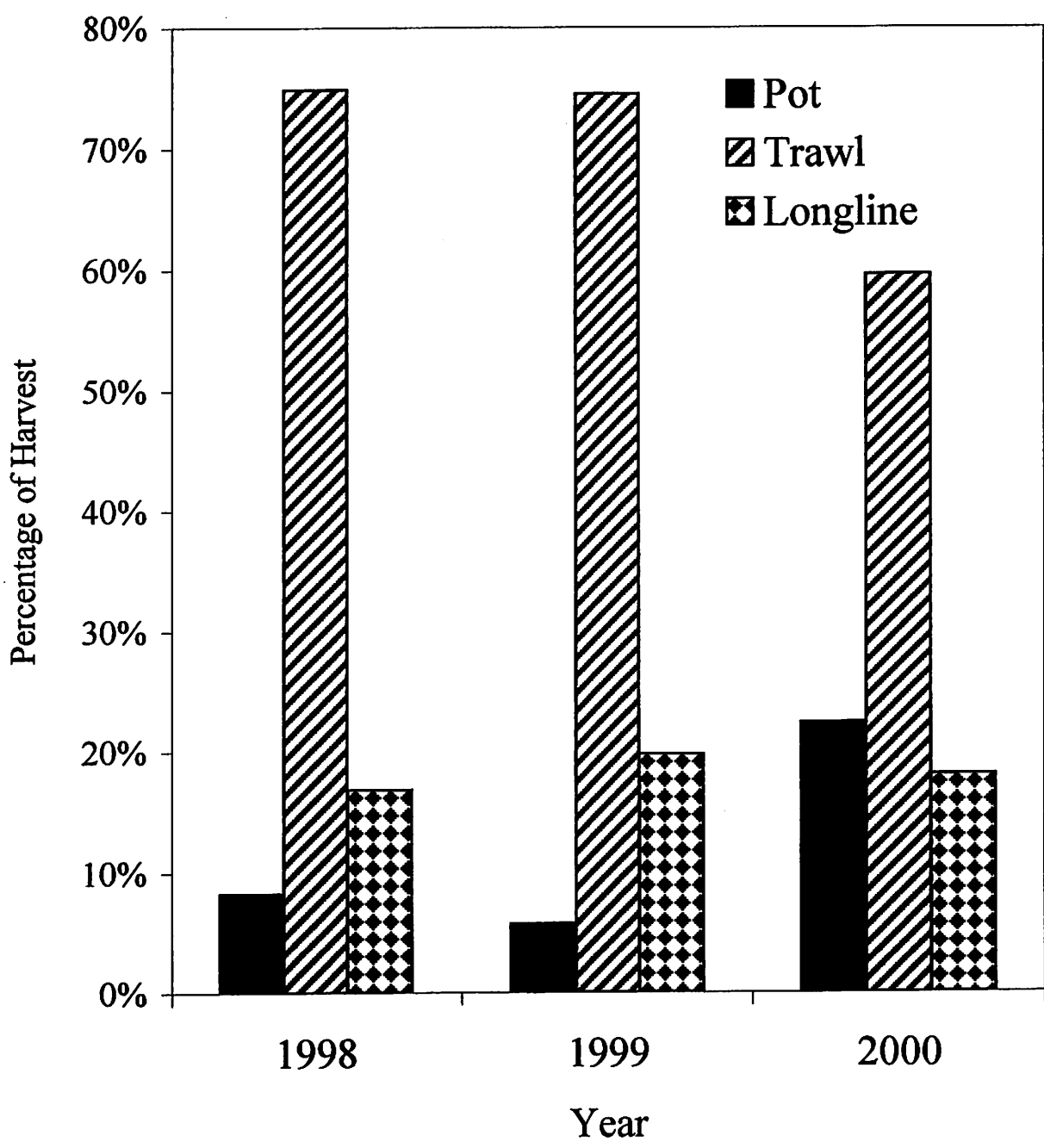
Regards,

Russell Moore  
F/V North Pacific

Average Weekly Harvest Rate by Pot Vessels in the Western Gulf  
(Area 610) Federal Cod Fishery (Metric Tons)



Percentage of Pacific Cod Harvested by Gear Type in the Western Gulf of Alaska (Area 610) Federal Fishery



C-4

**BLUE FIN FISHERIES**  
19829 168th St. SE.  
Monroe, Wash. 98272  
Ph. (360) 863-8453 Fax. (360) 863-1353

**ATT. NORTH PACIFIC FISHERY MANAGEMENT COUNCIL      DATE: 04-06-00**

**MY NAME IS KURT VEDDY. I OWN AND OPERATE THE FV BLUE FIN. I AM A CATCHER/PROCESSOR OPERATING WITH POTS. HAVING DONE THIS FOR 7 YEARS EVERY YEAR I HAVE MADE A MAJOR INVESTMENT BOTH MONEY AND TIME. I AM VERY CONCERNED OF THE FUTURE SINCE ADDITIONAL CRAB BOATS ARE WANTING TO PARTICIPATE. I URGE THE COUNCIL TO CONSIDER A MAJORITY VOTE ON A SPLIT AMONG POT CATCHER/PROCESSORS AND POT CATCHER BOATS. I AM REFERRING TO AMENDMENT 67 TABLE 4-12 TO VOTE ON OPTION 5a ON THE COLUMN THAT GIVES 100,001 AS A MINIMUM DELIVERY. THIS WOULD BE A RESPONSIBLE DECISION IN ORDER TO HAVE A STABILIZED POT COD FISHERY FOR CATCHER/PROCESSORS IN THE FUTURE.**

**THANK YOU VERY MUCH,      KURT VEDDY.**

Leonard Herzog  
F/V Anna Marie  
86' Pot Vessel Working out of Homer Alaska

AGENDA C-4

April 13, 2000

Regarding Amendment 67 Reductions in Cod LLP Licenses

**1. REQUIRING MULTI YEAR LANDINGS IS DISCRIMINATORY  
AGAINST ALASKAN POT VESSELS**

Bering Sea pot vessels home ported in Alaska coastal communities in the Gulf of Alaska have significant economic dependence on Bering Sea Cod. During years of low crab abundance and shorter crab seasons these pot vessels traditionally fish cod in the Bering Sea. For example, our 86 foot vessel delivered over 300,000 pounds of Bering Sea pot Cod in 1994, over 1,000,000 pounds in 1995, (years with no red crab seasons and short opilio seasons) and approximately 300,000 pounds thus far in 2000. The cod was processed in Cold Bay and King Cove. In 1997 the vessel fished cod in state waters and in 1999 fished cod in Federal Gulf Waters and Alaska state waters. Alaska coastal communities pot vessels often fish "at home" in the Gulf during years of long crab seasons or may not fish at all because of other commitments. Moreover, if a similar plan requiring multi year deliveries is later adopted to restrict Gulf Cod LLP licenses Alaskan Gulf vessels could also lose their Gulf endorsement. <sup>the vessel fished the fish</sup> the Bering Sea in a qualifying year. In addition unfairly restricting access of Gulf pot boats to the Bering Sea will redistribute the effort to the Gulf and be unfair to those Gulf boats which are too small to travel to the Bering Sea or do not have Bering Sea LLP licenses..

**2. REQUIRING MULTIYEAR DELIVERIES IS DISCRIMINATORY  
AGAINST SMALLER POT VESSELS (UNDER 100 FEET)**

Smaller pot vessels (under 100 feet) such as the Anna Marie are limited by safety and stability concerns to carrying @ 65 pots or 1/3 their normal compliment of 200 pots. Because of the time involved in moving gear to Bering Sea cod grounds, smaller vessels tend to fish closer to home (the Gulf) during years of long crab seasons and travel to and fish the more lucrative Bering sea cod grounds during years of short or no Bering Sea Crab fisheries. These smaller pot vessels often have strong local ties to their community salmon and herring fleets and processors, and have to return immediately to the Gulf after long opilio seasons to fulfill their herring charters.

**3. 1995 AND SIMILAR YEARS OF LOW CRAB ABUNDANCE SHOULD BE  
INCLUDED IN ANY LLP RESTRICTIONS**

Crab stocks are cyclical. Pot boats have a traditional economic dependence on pot cod when higher valued crab stocks are not available. The 1996-1999 period is an unfair window to gauge pot cod effort because of extraordinarily large opilio seasons which

consistently lasted four months, as well as Pribilof, St. Mathew, and Bristol Bay King Crab seasons.. For example, in 1995 when the Bristol Bay Red Crab season was closed and the Opilio Quota was under 100 million pounds, 119 pot vessels fished for Bering Sea Pot Cod, while in 1998, with the Bering Sea Red Crab season open and Opilio Quota over 200 million pounds, only 73 vessels participated. (Table 3.8)

**4. Requiring multiyear delivery by pot boats but not by larger freezer longliners is discriminatory against small entities.**

Alternative 3A recommended by the AP would require deliveries of 100,000 pounds in each of two of four years for a pot catcher boat to retain its existing LLP license. The AP proposal would result in LLP cod licences being lost by approximately two thirds of the 119 pot catcher boats which participated in the 1995 Bering Sea cod fishery, and over half the average of 91 boats which participated from 1995 to 1999. (Table 3.8). Contrast the AP recommendation for freezer longliners which requires only one landing in four years with a minimum landing of 300 metric tons. The freezer longline proposal would , allowing 42 freezer vessels to retain their LLP licenses, a reduction of only 2% from the 43 boats which participated in 1995, and greater than the average 38 vessels participating in any one year. Curious is the fact that EA/RIR/IRFA does not even include options that require multi year deliveries by longline vessels, be it freezer or catcher vessels. Even more curious is that numerous larger entity freezer longline representatives argued in public testimony before the AP that pot boats be required to make multiyear deliveries to retain their LLP qualifications. (Please note that 200 metric tons @ 440,000 pounds is the hold capacity of some of the larger freezer longliners and can be delivered after only one trip).

Nor is requiring multiyear deliveries consistent with the LLP recency requirements for LLP crab which required the larger entity "crossover" trawlers to make only one landing in one year to retain their LLP qualifications for crab.

**5. Options 8 (one year 95-98) and Option 9 (one year 95-99) are the only equitable and nondiscriminatory options listed.**

Option 8 (a and b are same here) requires a pot vessel to have fished in one qualifying year from 1995 to 1998 to retain its current LLP license. Under table 4.14, if only a landing is required, 116 would retain their LLP licenses, less than the 119 vessels which participated in 1995, a year of low crab abundance, and larger than the average of 91 vessels participating from 1995 to 1999. If the council sees fit to further limit effort a 25,000 minimum poundage would reduce the number of vessels to 94 (the approximate effort from 1995 to 1999). Requiring 50,000 would further reduce the fleet to a maximum of 80 boats, and 100,000 pounds, the poundage requirement recommended by the AP, leaves 70 vessels. Including the year 1999, Option 9, would only add from 3 to 6 vessels depending on the poundage requirement applied. Thus the council could effect a substantial reduction in a more equitable and nondiscriminatory manner.



FAX# 907-271-2817

RECEIVED  
FEB - 2 2000  
N.P.F.M.C

Richard Lauber, Chairman  
North Pacific Fisheries Management Council

February 2, 2000

re: Session 142 agenda item C-4, LLP P. cod endorsement

Dear Sir;

I am opposed to specie endorsements added to the LLP groundfish licenses. As fishermen, we need to be able to target a diversity of species to have a successful operation. This is especially true for the near shore, under 60 foot vessels.

Individual specie endorsements will increase bycatch and wastage which I am opposed to.

I qualify for a LLP and did fish cod in the Gulf of Alaska. I oppose this program also because I think that once you adopt such for the BSAI you will also get pressure and will apply the program to the GOA.

Thank you for stopping this bad idea.

Sincerely,

Thomas James  
PO Box 915  
Homer, AK 99603

N.P.F.M.C

FEB - 2 2000

RECEIVED

Walter Tolman  
Unalaska, Alaska. 99685

Experience shows once these programs, like IFQ's and limited entry salmon come to pass, they last forever. Please consider our future ability to provide for ourselves from the sea off our shores, in larger than 32' boats is we are to be safe out there. Thank you.

Most local folks aren't aware of this limitation program being proposed and how it might affect our ability to fish cod gear round, as we may have to since the resources are dwindling.

I think folks in Bering Sea communities need to be free to fish in larger safer vessels. It is unfair to deny local residents the ability to upsize from their smaller boats as they can afford to, especially since the weather is so severe in the Bering Sea.

I am against the Pac. Cod endorsement for vessels under 60 feet in the Bering Sea/ Aleutian Islands.

RE: Pac. Cod Endorsement for L.R.P., Item # 0-4

North Pacific Fisheries Mgmt Council

Jan 30, 2000

Rick Lauber, Chairman NPFMC  
Honorable 605 West 4<sup>th</sup> Ave, Suite 306  
Anchorage, AK 99501-2252

RECEIVED

FEB - 2 2000

N.P.F.M.C

**Comments on the Bering Sea cod recent sea requirements:**

There should be no exclusion of vessels under 60 ft. under any future regulations at this time.

Under 60 ft. vessels should be exempt from restriction at this time so as to allow opportunities in the Bering Sea that until recently only larger vessels enjoyed. Vessels in the under 60 ft. category have not found p-cod fishing to be economically feasible, until very recently. This has been primarily a large boat high volume, low per lb. value, winter time fishery.

Finally there is an alternative that make fishing a under 60 ft vessel economically feasible with the fish processing capabilities at Adak.

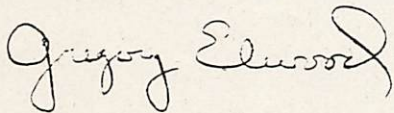
In the past fishing as Far West as Adak for p-cod meant low economic returns and a often perilous trip to Dutch Harbor.

Also, has there been such a need for the under 60 ft. vessels to have economic alternatives. With Salmon markets in serious decline, the struggle to keep your economic head above water has never been greater.

Before we move to close the door on the entrance to Bering Sea P-Cod fishery let under 60-ft. vessels fulfill the opportunities that only recently have been possible.

Please exclude under 60 ft. vessels from recent sea requirements for the Bering Sea P-Cod fishery.

Gregory Elwood  
Under 60 ft fishing vessel owner-operator



January 21, 2000

Richard Lauber, Chairman  
North Pacific Fisheries Management Council  
605 West 4<sup>th</sup> Ave, Suite 306  
Anchorage, Alaska 99501-2252

C-4  
RECEIVED  
JAN 24 2000

N.P.F.M.C

In re: LLP Rights of F/V Bristol Storm  
Fax: (907) 271-2817

Dear Mr. Lauber:

I am writing you this letter to address a concern that I have regarding the LLP Groundfish rights relative to my *lost* vessel the Bristol Storm. My vessel the Bristol Storm sank on November 4, 1996 while fishing crab in the Bering Sea. On March 4 & 5, 1995 I had entered into the pot cod fishery and had made two (2) significant landings prior to taking the vessel to the shipyard. These landings allowed the vessel to qualify under the LLP program.

Immediately following the sinking of the Bristol Storm I located another vessel which was suitable for the Bering Sea Crab and Ground Fish fisheries, the F/V Warrior. Unfortunately, there had been an administrative error made upon the moratorium certificate issued by NMFS. The error indicated that the MLOA of the Bristol Storm was 152 feet. The vessel which I had located as a replacement vessel was 147 feet. The Agency did afford me a prompt hearing as I had contested the fact that once they discovered the error they re-issued the Moratorium Certificate. The Agency re-issued the Moratorium Certificate to state the MLOA of the Bristol Storm was actually 126 feet the same as her actual length.

The result was that I was not able to go forward with the retrofit of the replacement vessel, the F/V Warrior, which would have allowed me to immediately return to fishing. The owners of the vessel declined interest in the project when they realized that my fishing rights would not work with their vessel, even if an interim permit were issued. The Agency issued their written opinion on January 3, 2000. I am enclosing a copy of that opinion which reiterates the aforementioned discussion.

I looked diligently for the next year and a half before finding a vessel to purchase. In September of 1998 I purchased the F/V Endurance and immediately began fishing. In the Spring of 1999 immediately following the Opilio season the Endurance fished for Cod using the Moratorium rights from my *lost* vessel the Bristol Storm.

At this time I understand that the council has not made a final decision regarding a "grandfather provision" for a vessel that sank after the LLP qualifying date of June 17, 1995 yet was replaced and began fishing before December 31, 2000. This issue came up during the recent participation discussion of the council in the fall of 1998 as to crab. The council implemented an exemption for a vessel which qualified, sank after the moratorium cut off date and was replaced.

I am requesting that the council implement an exemption for the Bristol Storm's Cod LLP for the reasons enumerated above and reiterated below:

1. The vessel sank due to no fault of the owner.
2. The vessel owner immediately attempted to re-enter the fishery with the F/V Warrior. This attempt failed when the NMFS corrected their error on the Maximum Length Overall [MLOA] of the fishing rights of the Bristol Storm.
3. A replacement vessel the F/V Endurance was purchased and immediately began fishing in September 1998. This replacement occurred within the two (2) year time period provided by the Internal Revenue Service.
4. At the time the Endurance was purchased I detrimentally relied upon the fishing rights "specifically granted" on the Moratorium Certificate, ie., ground fish through the usage of Pots.

It would be inconsistent with the history of this council to deny a fisherman fishing rights simply because his vessel sank and he missed a subsequent qualification period, yet replaced the vessel within the time frame set forth by the I.R.S and immediately commenced fishing. If the Endurance loses her LLP rights under a Recent Participation Amendment significant economic harm will occur, possibly bankruptcy. I request that you reconsider a *limited exemption* for those vessels that sank after June 17, 1995 and were replaced and commenced fishing within the time required by the I.R.S.

Pursuant to the information that I have the Bristol Storm may be the only vessel that would come within this limited exemption. If the Bristol Storm had not sank unquestionably the vessel would have qualified for Cod under any imaginable Recent Participation clause.

Thank you for your attention to this matter. If possible could you please circulate this letter to other members of the council. I am making the required number of copies. I am available to discuss this matter with you or other members of the council at anytime. I can be reached 24 hours per day at (206) 890-1794 or in the evenings at (206) 367-0982.

Very truly yours,



Anthony M. Urie  
President, Endurance Fishing  
Co. of Alaska, Inc.



# Alaska Marine Conservation Council

Box 101145 • Anchorage, Alaska 99510  
(907) 277-5357 • (fax) 277-5975  
amcc@akmarine.org • www.akmarine.org

## BOARD OF DIRECTORS

Stosh Anderson  
Kodiak

Jim Brennen  
Anchorage

Nevette Bowen  
Yakutat

Steve Fish, Chair  
Sitka

Pete Hendrickson  
Unalaska

Alexie Jimmie  
Toksook Bay

Terry Johnson  
Dillingham

Claire LeClair  
Soldotna

Joe Macinko, Vice-Chair  
Kodiak

Michelle Ridgway, Vice-Chair  
Seward

Paul Seaton, Secretary  
Homer

Bob Storrs  
Unalaska

Walter Tellman, Treasurer  
Unalaska

Glenn Ujioka  
Cordova

## STAFF

Dorothy Childers  
Executive Director

Karen Wood Dibari  
Project Director

Francine Bennis  
Project Coordinator

Eric Jordan - Sitka  
Outreach Coordinator

Joe Allen - Kodiak  
Outreach Coordinator

Alan Parks - Homer  
Outreach Coordinator

Lucy Walczak  
Administrative Director

April 10, 2000

Rick Lauber, Chair  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Ave.  
Anchorage, AK 99501

RE: Bering Sea Cod Endorsement, Agenda Item C-4

Dear Mr. Lauber,

This is a recommendation that the Council adopt the "no action" alternative for fixed gear vessels less than 60 feet. Maintaining status quo for these vessels would mean *not* requiring a cod endorsement in addition to an LLP license for small vessels.

We do not foresee any conservation issues related to maintaining this cod fishery opportunity for small vessels with low bycatch. We do, however, feel this is very important to the coastal communities and small boat fishermen with LLP licenses now participating in the fishery.

The Council adopted a measure last year to allocate 1.4% of the cod TAC to LLP-qualified vessels under 60 feet. This measure allowed for small boats to be able to fish when the fishery is open to large boats and it set aside this small portion of the quota to be taken afterwards. The Council made it possible for small boat fishermen to have a viable opportunity to make a living near the places where they live for a reasonable part of the year. We believe this opportunity is important for the communities from the standpoint of the local fishermen as well as some smaller local processors.

Attached are copies of letters you received in February from community-based fishermen in the region. I am providing them to you as a reminder that there are many people who are concerned about this issue but are not able to be at the Council meeting. We believe the Magnuson-Stevens Act provides for this kind of action under National Standard 8:

Conservation and management measures shall, consistent with the conservation requirements of this Act, take into account the importance of fishery resources to fishing

communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

Thank you for considering our comments.

Sincerely,



Dorothy Childers  
Executive Director

C-4 staff

Table 1 Total number of vessels qualified under Crab LLP by state of owner residence

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		36	36	1	7	8	44
	60'-124'	1	50	51		88	88	139
	125'+	4	7	11	10	44	54	65
Total		5	93	98	11	139	150	248
Transferable	<60'		39	39		14	14	53
	60'-124'		35	35		76	76	111
	125'+		1	1	17	40	57	58
Total			75	75	17	130	147	222
Grand Total		5	168	173	28	269	297	470

Table 2 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for Aleutian Islands ~~Blue King Crab~~ *BROWN*

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		3	3	1		1	4
	60'-124'		9	9		14	14	23
	125'+	2	2	4	4	8	12	16
Total		2	14	16	5	22	27	43
Transferable	<60'							
	60'-124'		1	1		8	8	9
	125'+				2	4	6	6
Total			1	1	2	12	14	15
Grand Total		2	15	17	7	34	41	58

Table 3 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for Aleutian Islands Red King Crab

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		5	5	1	1	2	7
	60'-124'		12	12		18	18	30
	125'+	1	3	4	2	8	10	14
Total		1	20	21	3	27	30	51
Transferable	<60'							
	60'-124'		3	3		8	8	11
	125'+				2	1	3	3
Total			3	3	2	9	11	14
Grand Total		1	23	24	5	36	41	65



Table 4 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for Bering Sea / Aleutian Islands Opilio and Tanner Crab

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		12	12	1	6	7	19
	60'-124'	1	46	47		81	81	128
	125'+	4	7	11	10	44	54	65
Total		5	65	70	11	131	142	212
Transferable	<60'					3	3	3
	60'-124'		29	29		74	74	103
	125'+		1	1	17	38	55	56
Total			30	30	17	115	132	162
Grand Total		5	95	100	28	246	274	374

Table 5 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for Bristol Bay Red King Crab

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		6	6	1		1	7
	60'-124'	1	47	48		83	83	131
	125'+	3	7	10	10	44	54	64
Total		4	60	64	11	127	138	202
Transferable	<60'		1	1		1	1	2
	60'-124'		32	32		74	74	106
	125'+		1	1	17	38	55	56
Total			34	34	17	113	130	164
Grand Total		4	94	98	28	240	268	366

Table 6 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for Norton Sound Red and Blue King Crab

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		20	20	1		1	21
	60'-124'		1	1		5	5	6
	125'+							
Total			21	21	1	5	6	27
Transferable	<60'		37	37		9	9	46
	60'-124'					1	1	1
	125'+							
Total			37	37		10	10	47
Grand Total			58	58	1	15	16	74

Table 7 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for Pribilof Red and Blue King Crab

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		8	8		2	2	10
	60'-124'		30	30		36	36	66
	125'+		4	4		18	18	22
Total			42	42		56	56	98
Transferable	<60'		2	2		3	3	5
	60'-124'		20	20		28	28	48
	125'+				2	14	16	16
Total			22	22	2	45	47	69
Grand Total			64	64	2	101	103	167

Table 8 Number of vessels qualified under Crab LLP by state of owner residence holding endorsements for St Matthews Blue King Crab

	Length	Alaska		AK Total	Other		Other Total	Grand Total
		C/P	C/V		C/P	C/V		
Non-transferable	<60'		1	1		1	1	2
	60'-124'	1	24	25		52	52	77
	125'+	2	5	7	5	31	36	43
Total		3	30	33	6	83	89	122
Transferable	<60'							
	60'-124'		15	15		45	45	60
	125'+		1	1	9	27	36	37
Total			16	16	9	72	81	97
Grand Total		3	46	49	15	155	170	219

Table 3.1: Catch of Pacific cod in the BSAI fixed gear Pacific cod target fishery from 1992-99 (in mt).

Year	Length	Longline						Pot						Fixed Gear Total	
		Catcher/Processors			Catcher Vessels			Catcher/Processors			Catcher Vessels			Unique #	Catch
		#	Catch	%	#	Catch	%	#	Catch	%	#	Catch	%		
92	0-59	-	-	-	44	291	97%	-	-	-	3	10	3%	47	301
	60-124	22	29,862	89%	24	336	1%	1	conf.	conf.	32	3,445	10%	74	33,652*
	125+	34	68,663	86%	1	conf.	conf.	18	9,077	11%	20	1,975	2%	67	79,729
92 Total		56	98,525	87%	69	627*	1%	19	9,077*	8%	55	5,429	5%	188	113,681*
93	0-59	-	-	-	9	121	98%	-	-	-	2	3	2%	11	124
	60-124	22	18,114	94%	3	169	1%	2	conf.	conf.	10	1,065	6%	34	19,350
	125+	31	43,412	97%	-	-	-	1	conf.	conf.	7	754	2%	40	44,684
93 Total		53	61,527	96%	12	291	0%	3	520	1%	19	1,821	3%	85	64,158
94	0-59	1	conf.	conf.	6	210	56%	-	-	-	6	161	43%	13	371*
	60-124	21	25,557	83%	2	conf.	conf.	2	conf.	conf.	17	4,640	15%	41	30,683
	125+	26	57,941	95%	-	-	-	3	1,669	3%	8	1,499	2%	36	61,108
94 Total		48	83,502	91%	8	210*	1%	5	1,669*	2%	31	6,299	7%	90	92,152*
95	0-59	1	conf.	conf.	26	682	62%	1	conf.	conf.	16	412	38%	44	1,003
	60-124	16	24,632	66%	3	115	0%	2	conf.	3%	74	11,528	31%	95	37,675
	125+	26	71,914	90%	-	-	-	4	3,377	4%	29	4,480	6%	59	79,093
95 Total		43	96,546	82%	29	797	1%	7	3,377*	4%	119	16,419	14%	198	117,771
96	0-59	-	-	-	14	86	50%	-	-	-	4	86	50%	18	171
	60-124	14	23,162	55%	7	100	0%	2	conf.	4%	65	17,590	42%	88	42,281
	125+	25	67,951	84%	-	-	-	9	6,775	8%	26	5,785	7%	60	79,793
96 Total		39	91,112	74%	21	186	0%	11	6,775*	7%	95	23,461	19%	166	122,245
97	0-59	-	-	-	6	44	56%	-	-	-	3	34	44%	9	122
	60-124	14	28,357	68%	8	162	0%	3	1,472	4%	58	11,704	28%	83	41,766
	125+	24	91,711	91%	-	-	-	6	3,543	4%	19	5,348	5%	49	100,094
97 Total		38	120,068	84%	14	206	0%	9	5,015	4%	80	17,075	12%	141	141,982
98	0-59	-	-	-	8	16	35%	-	-	-	3	30	65%	11	118
	60-124	11	22,609	75%	1	conf.	0%	2	conf.	conf.	50	6,710	22%	64	30,354
	125+	25	72,270	93%	-	-	-	5	2,729	4%	20	2,358	3%	50	76,992
98 Total		36	94,879	88%	9	16*	0%	7	2,729*	3%	73	9,098	8%	125	107,465
99	0-59	-	-	-	10	85	69%	-	-	-	4	38	31%	14	123
	60-124	12	12,066	60%	9	75	0%	3	154	1%	65	7,689	38%	89	19,984
	125+	26	78,353	92%	-	-	-	10	2,957	3%	23	4,072	5%	59	85,382
99 Total		38	90,419	85%	19	160	0%	13	3,536	3%	92	11,799	11%	162	105,914

Source: ADP&F Fish tickets and NMFS Blend data 1992-99. \* excludes confidential (conf.) landings.

96-97-98  
82  
95-96-97-98  
92