

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Clarence G. Pautzke
Executive Director
DATE: September 15, 1993
SUBJECT: Scallop Management

ESTIMATED TIME
3 HOURS

ACTION REQUIRED

Review management alternatives for the scallop fishery, and consider taking final action.

BACKGROUND

Scallop Management Analysis

At the June meeting, the Council reviewed a draft analysis for a proposed Fishery Management Plan (FMP) for the scallop fishery in the Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI). Three alternatives were examined in the analysis: continuing State management (status quo), incorporating scallops into the GOA and BSAI groundfish FMPs, and developing a separate scallop FMP. The Council recommended that the analysis be sent out for public review after suggested revisions were incorporated. Revisions included: expanded descriptions of vessel participation and available scallop resources, impacts of separating management authorities and observer programs, some consideration of Individual Fishing Quotas (IFQs), and an additional alternative of full Council management. A revised analysis was released for public review in mid-August. An Executive Summary of the analysis is attached as Item C-6(a).

The three alternatives considered were:

Alternative 1: Status quo. The State of Alaska retains all management authority over the scallop fishery.

Alternative 2: Amend the GOA and BSAI groundfish FMPs to incorporate scallops as a new target category.

Alternative 3: Create a separate FMP for Alaskan scallops.

Two options for management authority were considered for alternatives 2 and 3: (1) full Council (i.e., Federal) management, and (2) shared authority between Federal and State agencies.

The are several decisions that the Council must make if final action is taken at this meeting. Both Alternatives 2 and 3 include a vessel moratorium, which consists of several elements and options as listed under Item C-6(b). Although not listed as an element, the Council could establish "pipeline criteria", to allow vessels that were under construction or being refitted during the qualifying period, but had not yet made landings, to qualify under the moratorium. If the Council opts for Alternative 3, Option 2 (separate FMP with shared management authority), the Council will need to distribute management authorities among Federal (Category 1) and State (Category 2) agencies. Management authorities proposed in the analysis are listed in Table 2.5.1, Item C-6(c). Proposed authorities attempt to avoid unnecessary duplication of effort, and to utilize existing State management systems. The only measures that must fall into Category 1, if a vessel moratorium were to be implemented, are permit requirements and limited access; all other measures could be incorporated into either category.

EXECUTIVE SUMMARY

Management of scallops has been under the jurisdiction of the State of Alaska since a fishery began in 1968, as no federal Fishery Management Plan (FMP) has been implemented for this fishery. Traditionally the scallop fishery had been prosecuted by a small number of vessels. However, information indicated that stocks of weathervane scallops were fully exploited by seven vessels in 1992 and that an increase in effort was likely. At the January 1993 meeting, the Council determined that the scallop fishery met the national standards for federal management, and that such management was necessary to protect the fishery from further overcapitalization. A control date of January 20, 1993 was set to notice industry that a moratorium for this fishery may be implemented. As anticipated, effort in this fishery apparently increased in 1993; 20 vessels were licensed to fish scallops as of May 28, 1993.

Both entry of additional vessels and newly instituted State quotas (GHLs) reduce individual vessel landings and income. On average, from 1990-1992, each of eight vessels harvested an average of 187,102 pounds of scallops per year, or \$701,632 in gross exvessel revenues (at \$3.75/lb). If all the 20 vessels registered to fish in 1993 catch an equal share of the quota, gross exvessel revenues would only average \$166,875 per vessel. Cost information for the scallop fleet is not currently available, thus it is not known how large the fleet can be and continue to produce profits. Given an increased level of effort in 1993, it is anticipated that quotas will be harvested within a short period of time in most areas, and it is likely that these vessels will be idle for much of the year.

This document analyzes a proposed amendment that would incorporate Alaskan scallops into the Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI) groundfish FMPs, as well as a proposal to develop a separate FMP for the Alaskan scallop fishery. All fisheries for weathervane scallops (*Patinopecten caurinus*), and all other scallop species in the EEZ waters off Alaska would be federally managed under the proposed alternatives.

Three main alternatives were considered:

- Alternative 1: Status quo. The State of Alaska retains all management authority over scallops, and may use any management deemed necessary to meet the State's management objectives.
- Alternative 2: Amend the GOA and BSAI groundfish FMPs to incorporate scallops as a new target category.
- Alternative 3: Create a separate FMP for Alaskan scallops.

Two options for management authority were considered for alternatives 2 and 3: (1) full Council (i.e. Federal) management, and (2) shared authority between Federal and State agencies. For Alternative 3, option 2, categories of management measures proposed are: (Category 1) those that are specifically fixed in the proposed FMP, and require an FMP amendment to change, (Category 2) those measures that are neither rigidly specified nor frameworked in the FMP. Proposed Category 1 measures are legal gear, permit requirements, Federal observer requirements, and limited access. Category 2 measures are minimum size limits, reporting requirements, annual catch limits or guideline harvest levels, in-season adjustments, districts and sections, seasons, State observer requirements, registration areas, closed waters, efficiency limits, bycatch limits, and other necessary measures consistent with the FMP. Proposed authorities attempt to avoid unnecessary duplication of effort, and to utilize existing

State management system, including: facilities, equipment, communication, research and management personnel, and enforcement program. The only measures that must fall into Category 1, if a vessel moratorium were to be implemented, are permit requirements and limited access; all other measures could be incorporated into either category.

The biological, environmental and economic impacts on the scallop resource will depend on the alternative chosen. Both Alternatives 2 and 3 include a vessel moratorium, which will help maintain catch per unit of effort (CPUE) and some profit margin for participating vessels. Combined with guideline harvest levels (GHL), an orderly fishery will be conducted and fishermen will target the larger, premium size scallops, which have spawned at least once. However, moratorium options that allow for an increase in vessels, vessel size, and effort over the 1992 level may reduce the long term viability of the scallop fishery. Alternative 1, with no vessel moratorium and a harvest limited by GHLs, creates a potential for a derby-style fishery, in which each vessel harvests as quickly as possible.

Options chosen for a moratorium will have economic impacts on both owners of vessels that qualify and those that do not. In addition to the qualifying criteria, the other elements are: duration, crossovers, reconstruction, replacement, exemptions for small vessels, and appeals. Any crossovers of vessels between fisheries, if allowed, will amplify any economic and biological impacts associated with the increased capacity of the fleet. Reconstruction, replacement, and exemptions for small vessels, if allowed, will also increase the capacity of the fleet. Such an increase in capacity will directly depend on the extent of these options.

Alternatives to the status quo may reduce potential impacts of scallop dredging on benthic communities and habitat by limiting the number vessels and scallop dredges used in Alaska. Observer data will provide information on bycatch rates of crabs, halibut, and other groundfish. None of the alternatives is expected to have any adverse impacts on marine mammals, seabirds, or Pacific salmon listed under the Endangered Species Act.

Administration and enforcement costs to the Federal government will depend on the alternative chosen. Alternative 1 (status quo) would not incur any Federal cost. For the other alternatives, implementation costs for a moratorium are estimated to be about \$39,000, with annual recurring costs of \$12,000 per year. In addition, the Federal government will incur costs for implementing regulations, management, research, and enforcement of the scallop fishery. A scallop dredge survey, including data collection and analysis, would cost in the order of \$600,000. Highest costs would be incurred under Alternative 3, option 1 (full Federal management, separate FMP). Under this Alternative, there will be significant costs for stock assessment and management. The least expensive alternative to the status quo would be Alternative 2, option 2, whereby scallops would be incorporated into the groundfish FMPs and management authority is shared with the State, similar to the way Demersal Shelf Rockfish is managed in the GOA.

The proposed scallop vessel moratorium consists of several elements and options. Similar to the pending moratorium for groundfish (Amendment 23/28 to the BSAI and GOA plans), the key elements are summarized as follows: 1) the qualifying criteria; 2) the duration of the moratorium; 3) fishery crossovers during the moratorium; 4) reconstruction of vessels during the moratorium; 5) replacement of vessels during the moratorium; 6) exemptions for lost or destroyed vessels; 7) exemptions for small vessels; and 8) an appeals procedure. Unlike the groundfish moratorium, special exemptions for disadvantaged communities were not considered, as the commercial fishery is relatively small in size and area. For each element, two or more options exist that the Council may want to consider.

1) Qualifying Criteria

Determination of vessels qualified to participate in the scallop fishery is made by the earliest and latest dates during the time a vessel must have made landings and also may include a minimum number of years participating. Incorporation of minimum participation would allow vessels that were historically dependent on the fishery, as well as the vessels that were more recently in the fishery, to participate in future scallop fisheries. The options for beginning and ending dates are listed below.

Beginning Dates

- a. January 1, 1967 (first year of commercial scallop deliveries)
- b. January 1, 1980 (coincides with groundfish moratorium)
- c. January 1, 1992 (restricts fishery to more recent participants)
- d. some other date

Ending Dates

- a. February 9, 1992 (coincides with groundfish moratorium)
- b. January 20, 1993 (Control Date for scallop fishery)
- c. some other date

2) Length of Moratorium

- a. Until the Council rescinds or replaces; not to exceed 3 years from date of implementation, but Council may extend for two years if a permanent limited access program is imminent.
- b. Until the Council rescinds or replaces; not to exceed 4 years from date of implementation, but Council may extend for two years if a permanent limited access program is imminent.
- c. Until the Council rescinds or replaces; not to exceed 4 years from date of implementation.
- d. some other duration period.

3) Crossovers During Moratorium

- a. No restrictions on crossovers to other fisheries (groundfish, crab, or halibut) during the moratorium.
- b. Crossovers to other fisheries (groundfish, crab, or halibut) during the moratorium will not be allowed.

4) Reconstruction of Vessels During the Moratorium

- a. Vessels may be reconstructed during the moratorium subject to limitations and conditions listed below.
 1. If physical reconstruction was completed before January 20, 1993, new size unrestricted; one more upgrade allowed, limited to a 20% increase in vessel length.
 2. If physical reconstruction was started before January 20, 1993, new size unrestricted; no more upgrades allowed.
 3. If physical reconstruction started on or after January 20, 1993, new size restricted to a 20% increase in vessel length; no more upgrades allowed.

- b. Vessels may not be reconstructed during the moratorium.

5) Replacement of Vessels During the Moratorium

- a. Qualifying vessels can be replaced with non-qualifying vessels as often as desired so long as the replaced vessel leaves the fishery or bumps another qualifying vessel out in the case of multiple transactions. No increases in vessel length allowed.
- b. Qualifying vessels can be replaced with non-qualifying vessels as often as desired so long as the replaced vessel leaves the fishery or bumps another qualifying vessel out in the case of multiple transactions. Vessel size can be increased as many times as desired, but restricted to a 20% maximum increase in original qualifying vessel length.
- c. Qualifying vessels cannot be replaced.

6) A. Replacement of Vessels Lost or Destroyed During the Moratorium

- a. Qualifying vessels can be replaced with non-qualifying vessels of similar length. Replaced vessels cannot be salvaged and come back into the fishery. No increases in vessel length allowed.
- b. Qualifying vessels can be replaced with non-qualifying vessels subject to a 20% maximum increase in vessel length. Replaced vessels cannot be salvaged and come back into the fishery.
- c. Qualifying vessels cannot be replaced.

B. Replacement of Vessels Lost or Destroyed Before the Moratorium

- a. Qualifying vessels can be replaced with non-qualifying vessels of similar length. Replaced vessels cannot be salvaged and come back into the fishery. No increases in vessel length allowed.
- b. Qualifying vessels can be replaced with non-qualifying vessels subject to a 20% maximum increase in vessel length. Replaced vessels cannot be salvaged and come back into the fishery.
- c. Qualifying vessels cannot be replaced.

7) Small Vessel Exemption

- a. Exempt small vessels from the moratorium. In the Gulf of Alaska, vessels 26 feet or less are exempted from the moratorium. In the Bering Sea/Aleutian Islands, vessels 32 feet or less are exempted from the moratorium.
- b. No exemptions allowed for small vessels.

8) Appeals Process

- a. -The appeals procedure will consist of an adjudication board of government persons and non-voting industry representatives.
- b. Some other appeal process.

Implementation of a moratorium is essentially a matter of issuing licenses for qualified vessels and tracking the vessel configuration to verify adherence to capacity restrictions.

Table 2.5.1. Proposed management measures for the scallop fishery in Alaska by category, under Alternative 3, option 2.

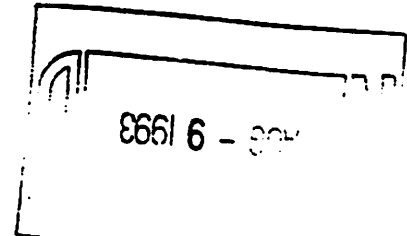
Category 1 (Fixed in FMP)	Category 2 (Discretion of State)
Legal Gear	Minimum Size Limits
Permit Requirements	Reporting Requirements
Federal Observer Requirements	Guideline Harvest Levels
Limited Access (Moratorium, Individual Quotas)	In-season Adjustments
	Districts, Subdistricts and Sections
	Fishing Seasons
	State Observer Requirements
	Registration Areas
	Closed Waters
	Efficiency Limits
	Bycatch Limits
	Other



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

JUL 23 1993

Mr. William S. Wells
Wells Scallop Company
Post Office Box 600
Seaford, Virginia 23696-0600



Dear Mr. Wells:

Thank you for your letters to the Alaska Regional Director and me expressing your concerns about the notice of a control date for entry into the scallop fisheries off Alaska.

The North Pacific Fishery Management Council (Council) requested the National Marine Fisheries Service (NMFS) to publish a control date of January 20, 1993, in the Federal Register to notify the public that the Council was considering a limited access management program for the Alaska scallop fisheries, and that persons or vessels entering these fisheries after the specified date would not be assured of future access under any future limited access management. This control date will not be published, however.

NMFS informed the Council at its June 1993 meeting that new guidance from the Office of Management and Budget (OMB) requires control date notices to be submitted to OMB no later than 30 days after the specified control date or, preferably, to specify the control date as the date of publication in the Federal Register. The Council chose not to change its control date. Although the Council intends to use January 20, 1993, as a control date, notice of this date will not be published in the Federal Register in compliance with OMB policy.

Publication of a control date has no legal significance and does not create a limited access program. Control dates have no binding effect on the Council or the Secretary of Commerce (Secretary). The Council and the Secretary may choose any qualifying date or other criteria for purposes of limiting access, provided that the limited access program, including any qualifying dates, is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law. Of much greater significance is the analysis, information, and

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rationale used by the Council and the Secretary in making whatever decision is ultimately made regarding management of the Alaska scallop fisheries.

We encourage you to participate in the decision-making process by supplying the Council with pertinent information.

Sincerely,

Samuel W. McKean

(for)

Nancy Foster, Ph.D.
Acting Assistant Administrator
for Fisheries

WELLS *Scallop* COMPANY

POST OFFICE BOX 600 • SEAFORD, VIRGINIA 23696-0600

(804) 898-8512

Bill Wells, Jr.
Bill Wells III

June 30, 1993

Nancy Foster, Acting Assistant Administrator
National Marine Fisheries Service
1335 East-West Highway
Silver Spring, MD 20910

Dear Mrs. Foster:

This letter is to inform you of my opposition to the North Pacific Fishery Management Council's setting of a control date of January 20, 1993 for the Alaskan scallop fishery. While in general I can support a rationalization program for scallops, the public was caught completely off guard and had no prior warning that the Council intended to establish a moratorium for this fishery at its January meeting.

Unlike the Council's groundfish moratorium, which was developed over several Council meetings and with extensive public input, scallops first appeared on the Council's agenda in January 1993. The January meeting agenda stated that the Council would receive a report on scallop management, and following that report, they would consider whether to begin development of an FMP and a moratorium. The Council's Federal Register notice of the meeting had no mention that final action on a scallop moratorium was planned.

As a longtime fisherman and member of the Mid-Atlantic Council, I am very familiar with due process and believe the North Pacific Council was quick to react to so little information. For example, with regard to the moratorium question, there was no discussion at all on the number of vessels which may already be in the pipeline. I have made several trips to Alaska over the last year to determine if I wanted to invest in the Alaskan scallop fishery. In June 1992, I made the decision to convert two vessels specifically for the Alaskan scallop fishery, their conversion began in November 1992. These vessels are in Alaska now and will begin fishing when the season opens July 1. I am disappointed that, unlike the groundfish moratorium, the Council failed to recognize that several fishermen (100% American) had already made plans and investments into this fishery. For the groundfish fisheries, the Council included criteria to accomodate fisherman who were legitimately in the pipeline when the Council made its decision to go forward with a moratorium on those fisheries. This time around the Council, in its rush to satisfy local political interests, conducted no analysis of the current fleet, nor did they determine how many fishermen were intending to participate in this developing fishery. I fail to understand why American scallop fishermen should be treated differently from groundfish fishermen.

WELLS *Scallop* COMPANY

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Bill Wells, Jr.
Bill Wells III

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Nancy Foster
June 30, 1993
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Last week, I understand the Council responded negatively to the advice of NMFS with regard to publication of control dates in the Federal Register. My recommendation is that the Secretary either approve a control date based on your recommendations accompanied by pipeline criteria, or use a December 31, 1993 date for purposes of their analysis. The first option would formally recognize that several American fishermen had already purchased boats, obtained permits and had made serious commitments to participate in this fishery. The second option would eliminate the need of establishing pipeline criteria and would accommodate all vessels, new or old, that participated in the fishery during the 1993 season. As mentioned previously, had the Council undertaken any analysis at all, they would have discovered that only four vessels had serious plans on entering the Alaska fishery in 1993 and not the 50-75 vessels claimed by some fisherman last January during the Council meeting.

Thank you for paying attention to my concerns.

Very truly yours,



William S. Wells
Wells Scallop Company

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA
Department of Fish and Game
Carl L. Rosier, Commissioner

Westward Region
211 Mission Road
Kodiak, Alaska 99615

Jeffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Contact: Rance Morrison
Area Shellfish Biologist
Dutch Harbor, Alaska

IMMEDIATE RELEASE

Date: August 17, 1993

Attention Bering Sea Scallop Fishermen

On July 1, 1993 the Bering Sea (Adak-Bristol Bay-Bering Sea) scallop management area reopened to fishing with an area-wide allowable harvest cap of 260,000 *C. bairdi* tanner crab (all size and sex) and 100% onboard observer coverage. Up until that time approximately 287,000 pounds of scallops had been harvested.

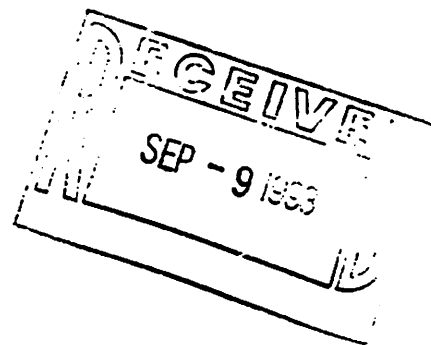
Since the July 1 reopening of the area a total of 136,000 pounds of scallops have been harvested along with approximately 110,000 *C. bairdi* tanner crab captured as bycatch, according to observer reports.

For the week ending August 15 six vessels caught approximately 48,000 pounds of scallops and 61,000 *C. bairdi* crabs as bycatch, maintaining the approximate 10,000 crab per vessel average seen in the prior week, when four vessels caught just over 43,000 *C. bairdi* crabs.

At the current average vessel *C. bairdi* capture rate, and with new vessels entering the fishery, it is estimated the bycatch cap for *C. bairdi* crab could be reached by the end of August.

Information concerning ongoing crab bycatch harvest rates will be released weekly via SSB 4125 pending complete weekly observer reporting by all scallop vessels.

COMMENTS RECEIVED ON
SCALLOP MANAGEMENT



September 8, 1993

VIA FEDERAL EXPRESS

Mr. Richard B. Lauber
Chairman
North Pacific Fishery Management Council
605 West Fourth Avenue
P.O. Box 103136
Anchorage, Alaska 99501

Scallop Management

Dear Mr. Lauber:

I am writing on behalf of Wanchese Alaska, Inc., a scallop fishing company based in Seward, Alaska, to comment upon the Council's draft analysis of management alternatives for the scallop fisheries in the EEZ off Alaska, released for public review on August 9, 1993. In April, 1993, we previously commented on the need for full Federal management of the scallop fisheries in the EEZ. A copy of that letter of comments is enclosed for your reference. For the reasons stated, we continue to believe adoption of a program of full Federal management is the only proper way for the Council to proceed. We wish to take this opportunity to comment further on the terms of any possible moratorium on entry which the Council might adopt.

The Council in January, 1993, approved a tentative control date for entry of January 20, 1993, and it reaffirmed this control date at its June, 1993 meeting. The draft analysis (at 2-10) indicates that the qualifying criteria would be based upon landings from the fishery prior to the control date. We strongly believe that, if any moratorium is adopted, the qualification criteria should not be limited to landings prior to the control date but should include other indicia of commitments to participate in the scallop fishery, particularly investment in a new or refitted vessel and publicly-stated intention to State and/or Federal officials to utilize such vessel in the Alaskan scallop fisheries. Any other alternative would be patently unfair to businesses which have expended substantial time and

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expense, prior to any control date, in specific anticipation of being able to participate in the fisheries. Indeed, given the absence of public notice that an immediately effective control date might be set by the Council at its January, 1993 meeting, qualification criteria based on landings alone are unjustifiable and of questionable legality.

Our company provides an example of how unfairly the Council's apparent approach to the moratorium would operate. We have been participating in the scallop fishery since 1991 and in 1992 landed over 500,000 pounds of scallops from the North Pacific. In the summer of 1992, based on our experience to that point, we determined to acquire a new vessel for the fishery. Loan documents, prepared that summer, specifically note that "[t]he purpose of this loan is to acquire and renovate a...vessel to be fished in the Alaskan waterways." The cost of this investment has been in excess of \$1.5 million. In addition, in August, 1992, I personally met with officials of the Alaska Department of Fish and Game to advise them of our intent to bring a new vessel to Alaska to fish for scallops. Given our firm commitment to enter the fishery and the financial obligations we have undertaken to be able to do so, the absence of landings prior to, for example, a January 20, 1993, control date, should not preclude entry.

There is in fact strong precedent for proceeding in a fashion which recognizes prior financial and other commitments, not just landings, as qualifying criteria under a moratorium. For instance, Congress, in the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, expressly authorized issuance of fishing licenses under the so-called "foreign rebuild grandfather clause" to vessels "purchased or contracted to be purchased before...[the control date] with the intent that vessel be used in the fisheries...." See Pub. L. No. 100-239, Sec. 4(a), 46 U.S.C. § 12108 note. More recently, other Councils which have adopted moratoria have established qualifying criteria embodying the concept of prior commitment. Thus, in the pelagics longline fishery in the Western Pacific, a vessel has been able to qualify to participate under the moratorium where the vessel owner had made a "substantial financial investment" in the vessel prior to the control date, with the evidenced intent to use such vessel in the longline fishery. See 50 C.F.R. §§ 685.2, 685.15(c). There should be no different result in the Alaskan scallop fishery.

Perhaps equally important, the Council's approach to establishing a control date for entry into the scallop fishery is inconsistent with its approach to the moratorium in the North Pacific groundfish, crab and halibut fisheries. In the case of

Mr. Richard B. Lauber
September 8, 1993
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these latter fisheries, the Council, rather than establishing an immediately effective control date, provided almost eighteen months advance notice, precisely to take into account the situation of vessels under construction, reconstruction or purchase. Thus, the initial notice, published in the fall of 1990, while specifying a September 17, 1990, control date, indicated that due consideration would be given to vessels under construction, reconstruction or purchase as of that date, as long as they harvested or processed fish by January 15, 1992, see 55 Fed. Reg. 36302 (Sept. 5, 1990), and, of course, the actual landings control date is February 9, 1992 for purposes of qualification under the moratorium. The need for proceeding in such a fashion is imperative where, as here, there has been no public notice of a potential landings-based moratorium prior to actual Council adoption of a control date.

Finally, we recognize that, as described in the Council's analysis (at 3-5), allowance for vessels which had not made landings prior to any control date would increase the capacity of the fishery and potentially reduce revenues and profits to participants. However, we believe there are at least three salient, countervailing considerations. First, the current Alaskan Guideline Harvest Ranges and Guideline Harvest Levels are in our view overly restrictive, and we are confident that, when new and better data are developed, this fishery will be able to expand, particularly in the Bering Sea area. Second, even with the influx of some new vessels in 1993, there is only a total of twenty (20) vessels now active in the fishery, and the addition of a relatively small number more is unlikely to affect significantly and adversely the economic viability of the fishery. Third, as documented in the draft analysis (at 3-6--3-7), there are few other opportunities for specially-fitted scallop vessels, and "there is no simple means of shifting excess Alaska EEZ vessels into other fisheries in the current environment...." The net effect of a moratorium which does not recognize prior commitments may be to impair substantially an owner's investment and, in the worst case, destroy its value.

In sum, if the Council determines to proceed with a vessel moratorium in the scallop fishery, we urge that it adopt qualifying criteria embodying the concepts of "demonstrated intention to participate" and "substantial financial investment" in vessels planned for the fishery, so that vessels would be permitted to qualify even if they had not made landings prior to the control date.

Thank you very much for your consideration of these comments. We look forward to working with you as the Council

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proceeds to consider a scallop management plan, and we would be happy to provide additional information concerning the scallop fishery to assist the Council in its deliberations.

Sincerely,



Michael Daniels
Director

Enclosure

cc: Members of the Council
Clarence Pautske, Executive Director

COPY FOR YOUR
INFORMATION

COPY

APRIL 20, 1993

VIA AIR COURIER

MR. RICHARD B. LAUBER
CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
605 WEST FOURTH AVENUE
P.O. BOX 103136
ANCHORAGE, AK 99501

SCALLOP MANAGEMENT

DEAR MR. LAUBER:

I AM WRITING ON BEHALF OF WANCHESE FISH COMPANY, INC., A FISHING COMPANY BASED IN SEWARD, ALASKA, IN CONNECTION WITH THE COUNCIL'S PRELIMINARY REVIEW AT ITS APRIL 21-23 MEETING OF DRAFT SCALLOP PROCEED IN THE DIRECTION OF STRONG FEDERAL MANAGEMENT, FULLY DISPLACING CURRENT STATE MEASURES APPLICABLE TO FISHING IN THE EEZ.

WANCHESE FISH COMPANY CURRENTLY OPERATES TWO SCALLOP VESSELS, BOTH OF WHICH ARE REGISTERED IN THE STATE OF ALASKA, IN THE NORTH PACIFIC SCALLOP FISHERY, AND ARE OUTFITTING A THIRD VESSEL TO BEGIN FISHING THIS SUMMER. WE HAVE BEEN PARTICIPATION IN THE SCALLOP FISHERY SINCE 1991 AND EMPLOY APPROXIMATELY 35 PERSONS FROM THE SEWARD AREA. IN 1992, WE LANDED OVER 500,000 POUNDS OF SCALLOPS FROM THE NORTH PACIFIC.

AS YOU KNOW, CURRENT ALASKAN STATE REGULATION EXTENDS TO FISHING OPERATIONS OF STATE-REGISTERED VESSELS IN THE EEZ BEYOND THE STATE'S TERRITORIAL WATERS. IN FEBRUARY OF 1993, THE ALASKA DEPARTMENT OF FISH AND GAME ADOPTED AN INTERIM MANAGEMENT PLAN, HARVEST LIMITS, FISHING SEASONS AND OBSERVER REQUIREMENTS. MORE RECENTLY, JUST AT THE END OF MARCH, THE BOARD OF FISHERIES ADOPTED A PROHIBITION ON MECHANICAL SHUCKING AND A LIMITATION ON CREW SIZE TO NO MORE THAN 12 PERSONS.

MR. RICHARD LAUBER
APRIL 20, 1993
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IN THE FACE OF SUCH REGULATION, WE CAN SEE THAT THE COUNCIL MIGHT AT FIRST BLUSH BE ATTRACTED TO AN OPTION OF SIMPLY DEFERRING TO STATE MANAGEMENT MEASURES, AND WE UNDERSTAND THAT SUCH AN APPROACH REPRESENTS AN OPTION CURRENTLY UNDER CONSIDERATION. IN OUR JUDGEMENT, LEAVING MANAGEMENT UP TO THE STATE WOULD BE A SERIOUS MISTAKE. 61% OF THE RESOURCE IS HARVESTED OUTSIDE STATE TERRITORIAL WATERS. WE STRONGLY BELIEVE THAT A NUMBER OF ALASKAN MEASURES ARE PAROCHIAL IN NATURE, WITHOUT ADEQUATE SCIENTIFIC SUPPORT AND BASICALLY DESIGNED TO PROVIDE ECONOMIC BENEFITS TO A SMALL NUMBER OF LOCAL VESSELS. WE DO NOT BELIEVE THESE MEASURES COULD BE JUSTIFIED UNDER THE NATIONAL STANDARD OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT. IT IS THEREFORE IMPERATIVE THAT A FEDERAL PLAN BE ADOPTED AND PUT IN PLACE, ESTABLISHING A REASONABLE CONSERVATION REGIME FOR THE EEZ AND OUSTING INCONSISTENT AND CONFLICTING STATE REGULATIONS.

THE MAJOR PROBLEM IN THE ALASKAN SCALLOP MEASURES ARE FOUND IN THE MARCH BOARD EMERGENCY ACTION TO LIMIT THE SIZE OF TOTAL CREW TO 12 INDIVIDUALS AND TO BAN MECHANICAL SHUCKING. THERE ARE SERIOUS QUESTIONS CONCERNING THE PROCEDURE BY WHICH SUCH RESTRICTIONS WERE ADOPTED--THE REQUIRED ADVANCE LEGAL NOTICE DOES NOT APPEAR TO HAVE BEEN GIVEN--AND THE VERY AUTHORITY OF THE BOARD TO DELVE INTO AREAS RELATED TO PROCESSING AND MANNING. WE TESTIFIED IN OPPOSITION TO THIS ACTION ON MARCH 16 BEFORE THE BOARD, AND A COPY OF OUR TESTIMONY IS ENCLOSED. AS WE EXPLAINED TO NO AVAIL TO THE BOARD, THIS ACTION HAS NO MEANINGFUL CONSERVATION EFFECT; MAKES A FEW VESSELS LESS ECONOMIC AND EFFICIENT AND EXCLUDED ONE OR TWO COMPLETELY; AND, IN THE CASE OF THE CREW SIZE LIMIT, RAISES SIGNIFICANT SAFETY CONCERNS. ALTHOUGH THERE ARE ONLY EIGHT VESSELS IN THE WEATHERVANE SCALLOP FISHERY, THE ULTIMATE IMPACT OF THE BOARD'S ACTION IS ESSENTIALLY TO IMPACT ADVERSELY THE OPERATION OF LARGER VESSELS, INCLUDING OURS, AND TO PROVIDE INAPPROPRIATE AND UNNECESSARY PROTECTION FROM LEGITIMATE COMPETITION TO SEVERAL SMALLER VESSELS.

IN LIGHT OF SUCH ACTION BY THE BOARD, WE HOPE THAT THE COUNCIL WILL MOVE VIGOROUSLY TO APPROVE AND IMPLEMENT ITS OWN MEASURES FOR SCALLOPS IN THE EEZ. SUCH MEASURES SHOULD NOT INVOLVE MERE ADOPTION OF WHAT THE STATE HAS DONE. RATHER, THE COUNCIL'S MEASURES SHOULD BE APPROPRIATELY TAILORED TO THE REAL NEEDS OF THE RESOURCE IN ACCORDANCE WITH THE NATIONAL STANDARDS. IN PARTICULAR, THE COUNCIL SHOULD EXPRESSLY REJECT A PROHIBITION ON MECHANICAL SHUCKING AND CREW SIZE LIMITATIONS, WHICH SHARPLY LIMIT EFFICIENCY, SO THAT THESE STATE RULES CANNOT BE APPLIED AGAINST VESSELS LAWFULLY FISHING IN THE EEZ. ONLY IN THIS WAY WILL THERE BE ANY ASSURANCE THAT THE FISHERY WILL BE MANAGED FOR THE BENEFIT OF THE NATION, AS REQUIRED BY THE MAGNUSON ACT.

MR. RICHARD LAUBER
APRIL 20, 1993
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THANK YOU VERY MUCH FOR YOUR CONSIDERATION OF THESE COMMENTS. WE
LOOK FORWARD TO WORKING WITH YOU AS THE COUNCIL PROCEEDS TO
CONSIDER A SCALLOP MANAGEMENT PLAN, AND WE WOULD BE HAPPY TO
PROVIDE ADDITIONAL INFORMATION CONCERNING THE SCALLOP FISHERY TO
ASSIST THE COUNCIL IN ITS DELIBERATIONS.

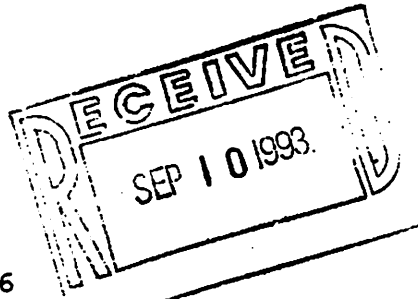
SINCERELY,

MICHAEL DANIELS
DIRECTOR

ENCLOSURE

CC: MEMBERS OF THE COUNCIL
CLARENCE PAUTSKE, EXECUTIVE DIRECTOR

MD/MH



Sept. 7th, 1993

Cap't Robert F. Keese
POB 6121 Sitka, Ak. 99835
F/V RUSH

NPFMC
POB 103136
Anchorage, Ak. 99510

Re: Review of Proposed FMP for Scallop Fishery.

To Whom It May Concern:

We are in receipt of the Draft for Public Review of the Proposed FMP for the Scallop Fishery and wish to state our support for the management of the scallop fishery under Alternative 3 (creation of separate FMP for scallops), management option 2 (shared authority between Federal and State agencies), given the specifics of habitat and ecology of the species, as well as the uniformity of fishing and production styles and market considerations. The fact that scallops are not an object of sport fishing excludes a number of local concerns.

In addition, we would like to submit the following comments for your consideration:

Re: Moratorium - qualifying criteria for permits

Limiting the number of vessels fishing for scallops in any given season is obviously in the interest of maintaining the long term viability of the resource, making the fishing effort financially affordable for individual fisherman and thus best fulfills the mandate of the Magnuson Act 602 guidelines.

The option of allowing "only those vessels that landed scallops from January 1, 1992 through January 20, 1993 seven qualifying vessels" (p.3-4) would be a clear cut beginning, making it easier to add more vessels if the fishery warranted it. Such criteria as : number of years participating in the fishery, continuity of participation, ability or history of participating in other fisheries, and number of scallop landings, could all be scored so as to provide a 'seniority' listing for vessels desiring a permit, it could then be a management decision whether the fishery could sustain additional fishing vessels and these additional permits would be available to vessels according to their 'seniority' rating.

It may very well be that once the number of participating vessels is reduced to a level which allows for a "manageable, steady -paced fishery" providing stable employment opportunities and supplying high quality product, other more complex management arrangements such as "rotational harvest areas" and "time/area closures" may not be required as a smaller fleet tends to distribute itself over the fishing areas in a more rational manner.

Re: Gear and Processing Limitation

We support the already approved limitations of ring size, number of crew members, prohibition of mechanical shucking and maximum dredge size (note: p.2-5 second paragraph, last sentence, the word 'maximum' should be substituted for 'minimum') We would like to mention, however, that the 15' dredge size mandated as maximum does not constitute a practical limitation as it is the maximum dredge size most boats are able to operate. The on-board observer data might indicate that a smaller and lighter dredge is less disruptive of the bottom environment and results in less damage to unharvested scallops; should that be the case , different or lesser width dredges might be preferred in certain more sensitive fishing areas.

And finally, a maximum boat size might be an additional permit criteria, since given the expense of operating a vessel which is capable of exceeding the mandated gear and processing regulations, there is a constant pressure to be allowed to do so. A limitation on boat size might serve to discourage overcapitalization.

Re: Reconstruction, replacement, etc. of vessels during the moratorium.

Given that the intensity of the scallop fishing effort is determined by the size of gear, number of crew and processing manner, all of which are limited and mandated, the additional restriction of regulating the replacement size of vessels seems inappropriate to the fishery and an unnecessary regulatory burden with no effective outcome. (see p.2-11,12, (4,5,6))

In other words, "efficiency limits" (p. 2-19) having already been mandated and boat length not being one of them, it would make the size of the boat irrelevant to the fishery effort.(this does not include small vessels - 26' or less/ 32' or less, per p.2-12, which should rightfully be exempt from the moratorium)

This is important for two reasons:

one, the size of boat can determine the ability to move from one area to another, especially important if there are regulations for " rotational harvest areas". It is not the intent of the regulation to limit the mobility of the vessel, therefore increase in size (up to a maximum length if such is decided upon) should not be regulated.

Two, replacement of a lost, damaged or otherwise no longer viable vessel is often a matter of availability, or other accident of market , there does not seem to be a justification for making such specific replacement requirements (as 20% maximum size increase) which may create an undue hardship on the owner. If size increase is to be regulated, what about size of replacement engine, hull material, or whatever else changes the character of the vessel?. It appears not to be a relevant consideration.

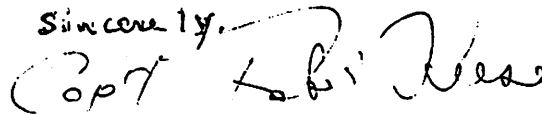
And finally, any regulatory body must carefully weigh the effect of its regulation on the economic, ecological and social outcomes while at the same time respecting the spirit of competitive enterpreneurialship which characterizes the American system, and is the mythical soul of the fishing industry, "the last frontier". Thus, while it is appropriate for the regulatory agency to set the perimeters of acceptable functioning

i.e. minimum or maximum sizes, gear, time limits, etc. it does not seem acceptable to limit any one individual or vessel to a particular level of functioning - boat size, IFQ, etc. - within these perimeters.

If the Big guy can get bigger, but the Small guy can't catch up to him no matter how hard he works, and this is written into the regulations then the system is not working the way it should.

Thank you for this opportunity to comment on the draft of the Proposed Fishery Management Plan for the Scallop Fishery. We understand that this is a difficult task and are most appreciative of the effort made on the behalf of the fishery and those who make their living on the sea.

Sincerely,



Cap't Robert F. Keese

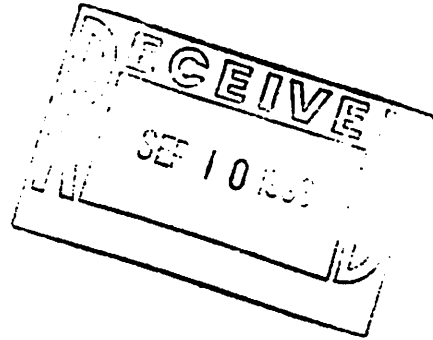
Sent via FAX 9-10-93

Kodiak Fish Company

F/V Alliance F/V Provider
P.O. Box 469, Kodiak, Alaska 99615
907-486-6002
Fax 907-486-2617

September 10, 1993

Mr. Clarence Pautzke
Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510



Dear Mr. Pautzke:

These comments are addressed to the draft of the EA/RIR for the proposed fishery management plan for the scallop fishery in the Gulf of Alaska and Bering Sea/Aleutian Islands.

We are in support of Alternative Two which would incorporate scallops into the groundfish FMP's for the BSAI and GOA and would suggest that a shared management authority with the State of Alaska would be the most cost effective way to manage the fishery.

We believe that the plan should contain a four year moratorium with a qualification period of January 1, 1980 to January 20, 1993. To qualify for participation during the moratorium period, vessels must have either made landings in the twelve month period preceding the January 20, 1993 date or have made landings of scallops in any four calendar years between the beginning date and the ending date.

We also believe that the moratorium should be followed by an ITQ management system for the weathervane scallop fishery which manages the target species via ITQ's and the bycatch species (bairdi crab) by some type of performance based standard on an individual vessel basis. Ability to fish in an area would be governed both by the available quota of the target species and also by maintaining bycatch at or below an established standard.

MANAGEMENT MEASURES MAINTAINED BY THE COUNCIL:

Legal Gear. Gear restrictions currently contained in State regulations should be incorporated into the FMP. We believe the minimum ring size should be 4" statewide for the weathervane scallop fishery only.

Efficiency Limits. Staff analysis places this item as a measure deferred to the State. However, we believe that it should also be incorporated into the FMP. Current measures include a prohibition on the placement of mechanical shucking devices on board vessels which are targeting weathervane scallops and a crew size limit of 12. These restrictions are also contained in the recently approved sea scallop FMP for the North Atlantic but with the crew size limit at 9.

Extensive analysis of this measure for that fishery reveals that the crew size plays a critical role in the selection of large or small scallops and may be more of a size selection tool than ring size. As such, we feel it should be contained in the FMP. Shucking machinery is necessary for efficient harvests of smaller scallops but for the weathervane scallop fishery is not appropriate. With a Statewide harvest guideline of 890,000 lbs., a vessel with a shucking machine could take the entire quota in a short period. Quality is reduced, the dependence of experienced crewmembers on the fishery is disrupted as they are displaced by processing workers.

Permit Requirements. A federal permit should be required of all vessels participating in the scallop fishery. Most fishing grounds historically and the large majority of fishing grounds currently are in federal waters.

Federal Observer Requirements. The fishery should be included in the North Pacific Fisheries Research Plan. We do not object to 100% observer coverage as long as the costs of this coverage are spread fairly across all beneficiaries of the program. Currently, 100% coverage is an excessive burden financially and has already sidelined the smallest vessel in the fleet. The debriefing restrictions combined with the characteristic fishing behavior associated with scalloping has pushed the cost of our observer up to \$275 per fishing day which is in excess of 3% of gross product value. For smaller vessels, we estimate that the cost may be far exceeding 5% of gross product value and perhaps approaching 10%. Clearly, this is an unfair burden for these vessels.

Limited Access. We believe that the FMP should contain a moratorium and contain provisions for moving ahead on an ITQ plan for the fishery. We believe the achievement of OY will be impossible without a moratorium which limits participation to the nine vessels which would qualify under our proposal outlined above. Those nine vessels will include all those who were current participants both at the time the Council set the control date of January 20, 1993 and at the time the Council reiterated its support of that control date on June 23, 1993. It will also include two vessels which fished four or more years during the period 1980 to 1993 but were not currently fishing in the year preceding January 20, 1993. Both of those vessels left the scallop fishery during one of the periods when abundance had dropped sharply due to excessive harvests and low productivity. We believe that this exhibits a historical dependence on the fishery which should allow them to reenter it.

We have attached Table 1 which is a break even analysis of a scallop operation in Alaska. The numbers used are not assumptions. We have added a table which uses a mortgage cost of \$0 to provide a range of break even income for a vessel which carries 12 crewmembers. The pounds of finished product needed to break even ranges depending on the exvessel price at the time of sale. I have listed a range of values from \$4.00/lb to \$7.00/lb. There are vessels which have consistently received less than \$4.00/lb during periods of market glut and, in fact, \$4.00/lb has been our benchmark price for Alaskan product for some years. Vessels producing a value added frozen at sea product will receive a premium over that from vessels delivering product unfrozen and unpackaged. On the other end, \$7.00/lb. has never been paid for Alaskan product. Currently, due to the sharp drop in domestic scallop supplies from the New England fishery, the market price has been increasing in the past month. However, as an average price which may be expected over time in the operation described in the table, a value of \$4.76 would be appropriate for analysis purposes. This would place break even catch at the range from 225,038 lbs for the vessel with no mortgage to 303,208 lbs for the mortgaged vessel. At the current GHR set by ADF&G at

890,000 lbs Statewide, 3 to 4 vessels would be able to operate at a break even level. At the highest recorded harvest level of 1,850,187 lbs recorded in 1968 in the virgin year of the fishery, 6 to 8 vessels would be able to operate at a break even level.

Of the 9 vessels which would be vested under the moratorium scenario we propose, we know that three are vested in either the North Pacific groundfish or crab fisheries and six would not be able to participate in those fisheries. One of the nine is currently not operating and belongs to a large Seattle based vertically integrated seafood company. Two of the nine belong to a medium sized, East Coast based vertically integrated seafood company. The other seven are owned by individuals of which six are occasionally or always operated by the owner. One of the nine was lost and is apparently not salvageable but may be replaced by the owner. Of the nine, five have fished in New England during the qualifying period for the New England sea scallop moratorium but only two are listed by the New England Fishery Management Council as being qualified as a full time scalloper there. One vessel of the nine is not vested in any other fishery in which it could participate. Of the nine, six are full time scallopers which currently fish for scallops in Alaska exclusive of any other activity.

Ownership of the nine vessels by State of owner's residence or principal business address is: Alaska, 2; Washington, 3; North Carolina, 2; Massachusetts, 1; and New Jersey, 1. We derive the large majority of our personal income from our vessel, the Provider. The Provider's entire income comes from the Alaskan scallop fishery.

We believe OY will be achieved with the institution of a moratorium which will effectively limit the fleet size to as small a number as is fair and equitable to historical users and current participants. A moratorium has been publicly noticed several times beginning in March 1992. We have made appearances before the Board of Fish and the Council several times since 1991 requesting controls for the fishery. The Commissioner of the Alaska Department of Fish and Game petitioned the Board of Fish to place a moratorium on the fishery in March of 1992. A public notice was published of the petition for the moratorium 15 days prior to the Board's March meeting. By regulation, the fishery must meet three criteria before ADF&G may request a moratorium. They are 1) the fishery must have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort; 2) the fishery must be at a level of harvest that may approach or exceed the maximum sustainable level for the fishery; and 3) there must be insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery. The Department concluded that these three criteria had been met and so requested a moratorium. The Board denied the petition because they felt the statutory 15 day notice required for the petition was not adequate but told ADF&G to bring it back for the Board's consideration again.

Further, on July 22, 1992, ADF&G officially noticed through publication that they may petition the Commercial Fisheries Entry Commission to establish a moratorium on new entrants to the scallop fishery. On July 27, 1992, ADF&G released their proposed interim management measures for commercial scallop fisheries in Alaska in which the ADF&G again states that they are considering an option to submit a petition to the CFEC to establish a four year moratorium on new entrants. A meeting held in Juneau in August 1992 with the Commissioner of ADF&G regarding the interim management plan was attended by three industry representatives from the East Coast. A moratorium was discussed at this meeting. ADF&G received a response to the

draft interim plan from Dr. William DuPaul of the Virginia Institute of Marine Science dated August 20, 1992. So it seems clear that the draft interim plan received widespread attention among the scallop industry - including the industry on the East Coast. In fact, Wells Scallop Company of Seaford, Virginia who registered three vessels in Alaska in 1993 and who has lobbied strongly for a delay in the moratorium control date stated that they began making contacts with ADF&G in June of 1992. They also state that conversion of vessels they already owned did not begin until November 1992 - three months after the official notification that ADF&G would again seek to place a moratorium on further entry to the Alaskan scallop fishery. In their response to ADF&G on the draft interim plan, Wells Scallop Company asked that the moratorium control date be set at May 15, 1993. However, June 30, 1993 letters to two NMFS officials asked that the control dates be modified to include "pipeline criteria" (which would accommodate the participation of at least two and possibly three vessels owned by Wells Scallop Company principals). In January of 1993, a representative of Wells Scallop Company testified to the NPFMC that a May 15, 1993 control date would allow his two vessels in on the moratorium. We believe that the Wells Scallop Company is well informed about such fisheries issues and that it is assured that they were knowledgeable about the impending moratorium on new entrants to the Alaskan scallop fishery and have attempted to pervert the process so as to beat the Council's control date and the stated intent of ADF&G to limit further entry. This speculative entry should not be rewarded.

We would have no objections to a legitimate set of "pipeline criteria" which would allow participation by someone with historical participation and dependence on the Alaskan scallop fishery if they had purchased a vessel for this fishery prior to July 27, 1992 when ADF&G (who was and is the management authority for this fishery) reiterated in the third official notice since March of 1992 that they were considering a four year moratorium on further entry.

A moratorium which qualifies the absolute smallest number of vessels in a fair and equitable manner will provide the greatest benefit to the Nation. It will slow the fishery down and allow the participants to target on the older, larger, less densely aggregated and more valuable scallops. For the same pounds, fewer animals are harvested and a higher value is earned. The smaller, younger scallops are left to grow another year where they will, in turn, be harvested at a higher value. Stability is provided to the fishery - with catches leveled out, poor recruitment years will not be reflected in diminished catches as years of abundance will be taken over a period of time. The participants will be able to plan vessel investments conservatively - without having to overcapitalize in order to compete in a derby style fishery. Capital equipment will be utilized on a full time basis. Capitalization instead will more likely be for the purpose of obtaining maximum value by improving quality. The marketplace will have more consistency in supply and quality.

Impacts on other fishery resources will be controlled by institution of performance based permits which limit bycatch on an individual vessel basis.

We believe the moratorium should last until the Council rescinds or replaces it, not to exceed four years from implementation but extendable should a permanent limited access system be imminent. We believe the Council should direct staff to analyze an ITQ program for scallops with this as the logical next step for rationalizing this fishery.

We believe that vessels should not be permitted to crossover to other fisheries during the moratorium.

If vessels are reconstructed before, during or after the January 20, 1993 control date, the new size should be restricted to a 20% increase in vessel length with no more upgrades permitted.

Qualifying vessels can be replaced with non qualifying vessels as often as desired with a restriction on 20% overall increase in length but all replaced vessels must leave the fishery. Vessels lost or destroyed before or during the moratorium must also be subject to the same restrictions.

We believe small vessels should be exempt from the moratorium. In the Gulf of Alaska, vessels 26 feet or less should be exempt and in the BSAI, vessels 32 feet or less should be exempt.

Any appeals as to vessel status should be made to an appeals board made up of government persons and non-voting industry representatives.

PROPOSED MANAGEMENT MEASURES DEFERRED TO THE STATE

Minimum Size Limits. The FMP should authorize the State to set minimum size limits if these appear to be a workable tool in increasing yield per recruit. It is likely that if this were used, minimum sizes may be different in different areas of the State due to a fairly wide variation in growth rates, maximum size, and size at maturity.

Guideline Harvest Levels and Ranges. Guideline harvest ranges are being set by the State of Alaska for traditional harvest areas. Areas defined as nontraditional are those where there has been sporadic effort over the 23 year history of the fishery. The weathervane scallop resource is categorized by Orensanz as a long-lived, iteroparous species. The major grounds are widely separated geographically and environmental conditions are sufficiently different that there are fairly consistent differences in the populations of each area. These factors are characteristic of many species of scallop. Most scallop stocks fluctuate in population over time and can be characterized as irregular or spasmodic. The establishment of a TAC or GHR will serve to stabilize harvests even during periods when recruitment is poor and insure that a source of spat remains to repopulate depleted beds when environmental conditions allow. This can assure that overfishing will not occur and that the fishery will achieve optimum yield.

The harvests over the 23 year period of the fishery have fluctuated greatly. The staff analysis contained in Appendix B of the draft document explains the methodology used by ADF&G to set harvest levels. We believe the approach should be conservative. We have participated in the fishery since 1980 and can attest that the years of low production during the past decade are not due to ineptitude. Though many of the factors that affect overall populations of weathervanes in Alaska are beyond our control, we can stabilize the fishery by spreading the catch evenly and thus maximizing the return to the nation over the long term. These GHR's will serve to prevent the possibility of overfishing. The GHR's combined with a moratorium which limits participation to those fishing prior to June 23, 1993 (the last date the Council considered the issue of a moratorium cutoff) is a fair approach to prevent overfishing while minimizing economic and social disruptions.

The staff has made a thorough analysis of the best scientific information available regarding the scallop resource. That information is before the Council now. Further information relevant to the establishment of GHR and the prevention of overfishing will be forthcoming from the data being gathered by onboard observers. We believe this program will provide the most thorough information on which to base specification of GHR in the future. However, we still believe that the historic catch data must continue to be used in calculating GHR in order to avoid the historic boom and bust cycles and insure long term stability.

In-season Adjustments. The State should be authorized to make inseason adjustments so as to enable the fishery to meet the objectives of the FMP.

District, Subdistrict and Section Boundaries. The State should be authorized to adjust boundaries in order to meet the objectives of the FMP.

Registration Areas. We support adoption of the existing registration areas. We do not support establishment of exclusive or superexclusive registration areas for the scallop fishery. Historically, the fishery has been prosecuted Statewide by a widely based fleet. The use of exclusive registration areas will discourage efficient use of vessels and gear. We believe the use of districts, subdistricts and sections and the ability to continuously monitor the fleet through the required 100% observer coverage enables the Department to effectively manage areas of known small populations.

Closed Areas. Currently, areas closed by the State to scalloping reflected fears of an increasing fleet which may have caused conflicts between user groups and potential impacts on nontarget species. Though we do not object to closed waters, we believe that the current catalog of State closed waters does not accurately reflect areas that should be closed for legitimate reasons. We would suggest that the FMP contain criteria for closure of waters to scalloping and suggest that those criteria be similar to those areas closed to trawling. The criteria may include: the area is a critical nursery ground for a species; the area contains fragile benthic communities which could be harmed by scallop dredges; the area has either seasonally or yearround dense populations of a species subject to mortality by scallop dredges; the area is a sensitive marine mammal habitat which could be disturbed either seasonally or yearround by scallop fishing activity; or the area is known to have poor quality scallops during certain periods of the year and a closure during that period would ensure that only high quality product is produced. We believe that the FMP should specify that the current catalog of areas closed to scalloping be examined in order to determine compliance. We believe closures in the Kodiak area, for example, should be standardized with those closures for bottom trawl gear. Given that scallops are not transient and that the chief species encountered as bycatch by scallop gear, Bairdi Tanner crab, is known to migrate, it appears that many area closures would be more appropriate seasonally. We believe that the Board of Fish has more flexibility in specifying these closed waters than the Council but that some criteria should be set which would ensure that commercial quantities of scallops do not go unutilized and that sensitive areas are not damaged.

With 100% observer coverage as currently specified by the State and vessel bycatch caps which we believe should be in place, we do not believe that standardization of closures in the Kodiak area would do any harm and the process of gathering data in some areas which have been closed

for 20 years would be less expensive and less burdensome. We believe the Board of Fish and the Department would be supportive of well thought out criteria.

Reporting Requirements. We support continuance of the State's current reporting requirements.

State Observer Requirements. We support joint Federal/State management under Alternative 2 which includes the scallop fishery under the North Pacific Fisheries Research Plan and removes the need for a State observer requirement. We have no objection to an observer program at any level of coverage as long as the cost is fairly spread among beneficiaries - including those participating in other fisheries where currently no observer coverage is mandated.

Efficiency Limits. We believe that the current efficiency limits which are in place should be incorporated into the FMP but that the State should retain the ability to place other limits if necessary. For example, rather than exclusive registration requirements to enable harvests of small quotas, the state may wish to place a daily harvest limit or a trip limit. We believe the State should retain their flexibility by retaining their ability to use these tools.

Bycatch Limits. We believe that the FMP should specify that bycatch be managed on an individual vessel basis in addition to having overall area caps. As the only commercial species seen as significant bycatch is bairdi tanner crab, we believe a vessel incentive program which incorporates individual daily caps expressed in numbers is appropriate. Observer data from the recent Bering Sea fishery indicates that though the daily scallop catch rate was similar from vessel to vessel, the average catch per tow of bairdi tanner crab ranged from 15 per tow for one vessel to 600 per tow for another vessel and with a wide range of values between. These vessels were all fishing in the same area. We believe that individual vessels should be held liable for dirty fishing practices and also believe that individual operators should also be held liable. Frequently, the owner of the vessel may have no control over the behavior of the operator of the vessel who may not have any vested interest in the long term health of the fishery or of the vessel itself. We believe an incentive program which penalizes both vessel and operator is necessary. We would like to see this authority incorporated into the FMP.

Finally, in summary, we support amending the GOA and BSAI groundfish plan to include scallops with management authority shared with the State of Alaska. The amendment should include a moratorium with a control date of January 20, 1993. As staff analysis states, there would be significant biological impacts if fishing effort and landings were unrestricted. Other scallop stocks around the world are vulnerable to overharvest, with slow stock recovery. Significant increases in Alaskan scallop harvests may jeopardize stock health and sustained fishery yield.

The State of Alaska (ADF&G) has enacted interim management measures which established GHR for specific areas of the State. These should be continued and if so, will serve to prevent overfishing. Without a moratorium which effectively limits vessels in the fishery to as few as possible, the fishery will continue to be overcapitalized and an inefficient use of resources. Using an analysis of the break even income for an Alaskan scalloper, ideal fleet size for the currently slated Statewide GHR of 890,000 lbs is 3 to 4 vessels. Under our proposed qualifying period, nine vessels would qualify for participation. The historic average number of vessels since the fishery began is seven. We believe it will be difficult for nine vessels to make it in this fishery. But we believe our proposal addresses the requirements that any allocation take into account

present participation, historical practices and dependence on the fishery; economics, capability of engaging in other fisheries; and the cultural and social framework of the fishery. We would anticipate that, of these nine, that those who are struggling will either tie the boat up (as one operator has already done), or those who are able would move to another fishery in which they have better opportunity. In any event, if nine will not make it, then certainly the 20 registered for 1993 will not. We do not believe that speculative entry and attempts to derail the control date for personal gain should be rewarded.


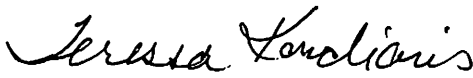
This plan will maximize the long term health of the resource and thus, of the fishery as well, and, particularly if followed by an ITQ plan, will serve to maximize the value of the resource - utilizing less capital to harvest the same pounds, harvest fewer animals for the same pounds, and realize higher dollar return for the same pounds. Further, the end users of the product will benefit from the higher quality product and predictability of supply. The current shortage of product due to overfishing in the North Atlantic is creating havoc with the market - many users have had to remove scallops from their menus due to the escalating price situation. This is also not good for the long term economic health of the fishery. We would prefer to see stable landings and consistent pricing.

Further, the existing Alaskan fleet which has established infrastructure, and crewmembers who rely on the fishery for yearround livelihood will be disrupted as little as possible. The capture of bycatch species will be controlled and incentives will be introduced to coax vessels and operators into reducing bycatch in a responsible manner.

To allow participation by all who fished after the last time the Council considered a control date (June 23, 1993) or to permit a pipeline criteria which would reward any who could prove that they were thinking about entering the fishery prior to the January 20, 1993 control date would be contrary to the objectives contained in the FMP, the achievement of OY and to compliance with the National Standards. The vessels entering the fishery after the control date are vested in the New England sea scallop fishery and have no history of participation or dependence in the Alaskan sea scallop fishery.

We hope you will consider our comments favorably. We apologize for the length of the response and have tried to keep it as brief as possible; however, as you know, we have been trying to get to this point for several years and have quite a lot to say.

Sincerely,

MARK P. KANDIANIS
TERESSA M. KANDIANIS
FV Provider

**BREAK EVEN ANALYSIS
114' SCALLOPER/12 PERSON CREW**

ANNUAL VESSEL EXPENSES:

Operating Costs (O.C.) 1. 61% to 62%
Fish Taxes (F.T.) 2. 3.85%

Fixed Costs:
Mortgage Principal & Interest \$130,790
Insurance Hull & P&I \$105,220
Moorage & Storage \$4,000
Licenses & Permits \$1,800
Business Administration \$35,000
Professional Fees \$5,000
Travel \$15,000
Dues & Licenses \$7,500
Repairs & Maintenance \$75,000
Gear & Supplies \$68,000
Observer Fees 3. \$60,000
TOTAL VESSEL FIXED COSTS \$507,310

Break Even Point Calculation = $\frac{\text{Vessel Costs}}{1 - (\text{O.C.} + \text{F.T.})}$

Break Even Income = \$1,443,272

BREAK EVEN CATCH AT VARIOUS PRICE LEVELS:

WITH VALUE @	B/E LBS. NEEDED
\$4.00	360,818
\$4.18	345,280
\$4.76	303,208
\$5.00	288,654
\$6.00	240,646
\$7.00	206,182

\$4.18 represents average 1992 exvessel price.
\$4.76 represents average 1993 YTD exvessel price.

- 1...Operating costs include crew shares, fuel, food, payroll taxes. and are based on a three year average.
2. Fish Taxes include 3.3% State Tax on seafood produced in EEZ and .55% Kodiak Island Borough Extraction tax.
3. Observer costs currently averaging \$201/elapsed day and \$275/fishing day.

**BREAK EVEN ANALYSIS
114' SCALLOPER/12 PERSON CREW**

ANNUAL VESSEL EXPENSES:

Operating Costs (O.C.) 1. 61% to 62%
Fish Taxes (F.T.) 2. 3.85%

Fixed Costs:
Mortgage Principal & Interest \$0
Insurance Hull & P&I \$105,220
Moorage & Storage \$4,000
Licenses & Permits \$1,800
Business Administration \$35,000
Professional Fees \$5,000
Travel \$15,000
Dues & Licenses \$7,500
Repairs & Maintenance \$75,000
Gear & Supplies \$68,000
Observer Fees 3. \$60,000
TOTAL VESSEL FIXED COSTS \$376,520

Break Even Point Calculation = $\frac{\text{Vessel Costs}}{1 - (\text{O.C.} + \text{F.T.})}$

Break Even Income = \$1,071,181

BREAK EVEN CATCH AT VARIOUS PRICE LEVELS:

WITH VALUE @	B/E LBS. NEEDED
\$4.00	267,795
\$4.18	256,263
\$4.76	225,038
\$5.00	214,236
\$6.00	178,530
\$7.00	153,026

\$4.18 represents average 1992 exvessel price.
\$4.76 represents average 1993 YTD exvessel price.

- 1...Operating costs include crew shares, fuel, food, payroll taxes. and are based on a three year average.
2. Fish Taxes include 3.3% State Tax on seafood produced in EEZ and .55% Kodiak Island Borough Extraction tax.
3. Observer costs currently averaging \$201/elapsed day and \$275/fishing day.

30P- 8-93 WED 10:16 KLEINER PETERSON

Mr Clarence Pautzke
Executive Director
North Pacific Fishery Management Council
P O Box 103136
Anchorage, AK 99615

September 6, 1993

Mr. John Doody
105 Birch Circle
Absecom, NJ 08201

VIA FAX 907-271-2817

Dear Mr Pautzke.

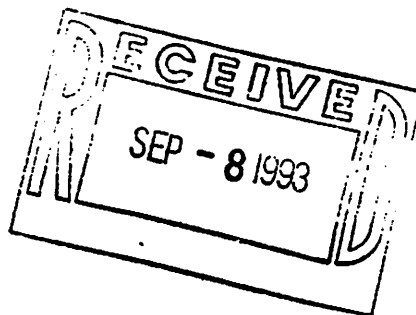
I am a resident of the State of New Jersey and the owner of the Pursuit, a vessel which has fished scallops in the North Pacific continuously since 1980. The Pursuit has fished yearround for weathervane scallops exclusive of any other fisheries since 1980. Income from the Pursuit comprises a large portion of my annual income - as such I am economically dependent on the long term health of the Alaskan scallop fishery. The Pursuit is not vested in any other fishery and since she has not fished in the New England sea scallop fishery since the late 70's, the Pursuit will not be granted a permit to fish in that fishery when the moratorium there goes into effect sometime in 1994.

I support Alternative Two contained in the EA/RIR for proposed FMP for the scallop fishery in the BSAI and the GOA. I believe management should be shared with the State of Alaska with observer coverage to be provided under the authority of the Research Plan

I support a moratorium on the entry of vessels into the Alaskan scallop fishery with the beginning date to be January 1, 1980 and the ending date January 20, 1993. Qualifying criteria would be either participation in the twelve month period preceding January 20, 1993 OR having landings in four calendar years during the period January 1, 1980 to January 20, 1993.

I also believe the moratorium should be immediately followed by implementation of an ITQ system for the fishery which would incorporate an individual vessel limit on bycatch as well as individual transferable quotas for the target species.

I have seen the Alaskan scallop resource through previous stock collapses and though I have been economically impacted by the imposition of GHL's and other State regulations there, I believe the resource will be healthier in the long term with these regulations. Neither the resource nor the fishery can sustain the impact of the 50% increase in effort seen so far this year. At least one smaller long term operator in Alaska has already been

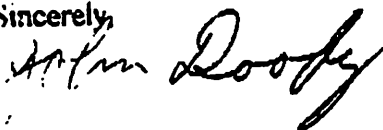


CP 6-93 WED 10:17 RECEIVED
sidelined by the scallop derby. Action by the Council in September is critical to maintaining the economic stability of historical users of this resource.

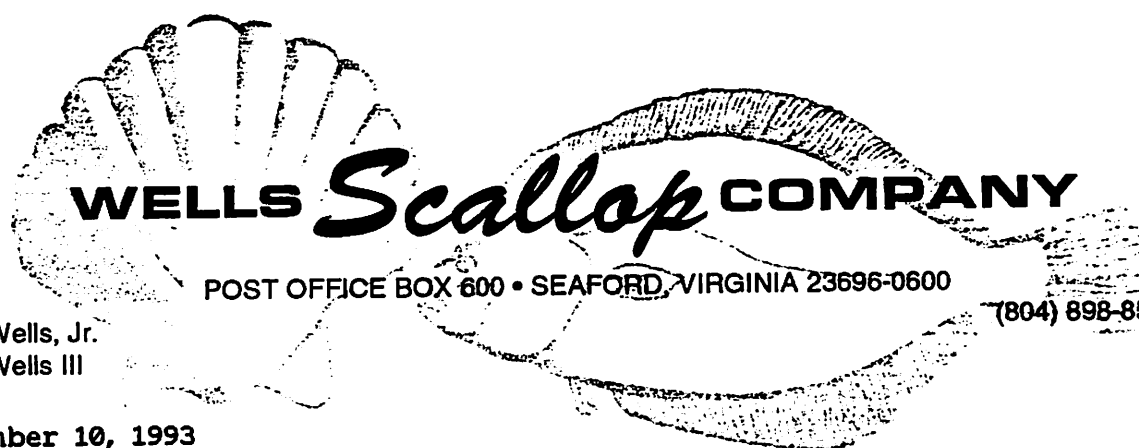
I have seen the resource here in the North Atlantic drilled down to nothing due to inaction by the industry and though this resource is exponentially larger than the weathervane resource in Alaska, it still could not sustain that level of production. Without a limited access system in Alaska, we will lose either the resource or the fishery and perhaps both. I hope the Council will move forward on this issue at the September meeting.

Thank you for the opportunity to comment.

Sincerely,



JOHN DOODY
President
Pursuit, Inc



WELLS Scallop COMPANY

POST OFFICE BOX 600 • SEAFORD, VIRGINIA 23696-0600

(804) 898-8512

Bill Wells, Jr.
Bill Wells III

September 10, 1993

Richard B. Lauber, Chairman
North Pacific Fishery Management Council
Post Office Box 103136
Anchorage, Alaska 99510-3136

FAX CONFIRMATION

Sent _____ Rec'd 9/10/93

Re: Scallop FMP comments

Dear Mr. Chairman:

We are pleased to provide you with our comments on the Draft EA/RIR/IRFA for the Proposed Scallop FMP. But first, a little background on Wells Scallop Company. We have been in the business of harvesting and processing scallops since 1979. During this history we have concentrated our effort on the east coast of the United States and have built the reputation of being one of the most upstanding companies in this industry. We have been an active supporter of management efforts and, in fact, have participated in numerous cooperative studies with shellfish scientists and government agencies. We have played an active role in the regional Council process and have assisted in the development of scallop management measures.

In 1992, we made the determination that we should invest in the development of the Alaskan scallop fishery. Like other fishermen before us, we all have participated in the east coast scallop fishery and we bring that experience to Alaska. We are of the opinion that significant fishing opportunities exist here. We base this conclusion on discussions we have had with almost every "local" fisherman, as well as state and federal biologists. By November 1992 we had two vessels in the shipyards being outfitted with the explicit intent of being stationed in Alaska. We informed the North Pacific Fishery Management Council of this fact during its January 1993 meeting and, as promised, had our vessels fully involved in the Alaskan fishery by the July 1 opening.

Since our arrival here, we have already earned a reputation of owning the safest, cleanest, and most professionally run vessels in the fleet. As on the east coast, we have already participated in a cooperative research study with ADF&G and have hosted scientists, as well as a full-time observer on our boats. Even as a new entrant into this fishery, our crews have worked hard in learning the grounds and we are proud to report that our bycatches are among the lowest in the fleet, and our product one of the best.

It is from this history and commitment to the long-term health of this fishery that we make the following comments on the proposed FMP.

Wells Scallop Company supports, in concept, Alternative 3: to create a separate FMP for scallops. Scallops are not considered "groundfish" nor are they harvested with typical groundfish gear, so they should not be a part of the groundfish plans. Different fishermen, vessels, gear, and areas, all justify

Richard B. Lauber
September 10, 1993
Page 2

establishing a separate FMP. Given the size of the fleet, we don't believe that this alternative will pose a serious problem with enforcement or management of the scallop resource.

We favor Alternative 3 over status quo because most of the scallop resource is found outside state territorial waters and, as with many king and Tanner crab fisheries, there is a need for federal management. Fishery resources found within the U.S. EEZ are managed to achieve different goals and objectives than those of the State of Alaska. While the state shares some of these management objectives, they are prioritized differently so as to benefit its residents. While our operation has become as "Alaskan" as other local vessels, we believe the Magnuson Act and, in turn, a federal FMP provides important safeguards on the management of the scallop resource.

We are opposed to the moratorium as it is currently written. In its June 1993 comments, the SSC concluded that a strong case for a moratorium is not made in the EA/RIR and, if not strengthened, should be dropped. We agree. We believe the Council overreacted to limited testimony in January and that this fishery is not overcapitalized. There is no evidence that overcapitalization has occurred. We don't even know the size of the resource. While we appreciate the concern that we should proceed cautiously with the scallop fishery until more information is obtained, no moratorium should be adopted until a complete analysis is done on the current size of the fleet and current investment. Should the Council disagree, we request that they be fair and equitable and include pipeline criteria as they did for groundfish. So all those that made the decision to fish scallops prior to January 20, 1993 may continue to do so.

Attached is a more detailed review of the draft EA/RIR/IRFA for the proposed Scallop Fishery Management Plan.

Very truly yours,



Bill Wells, Jr.

attachment

A Review of the Draft EA/RIR/IRFA
for a
Proposed Scallop FMP

Prepared by
Wells Scallop Company

Section 1.0 Introduction

The EA/RIR states that the Council determined in January 1993 that the scallop fishery met the national guidelines for federal management.

It further states that the Council was presented with information indicating the status of weathervane scallops were fully exploited and any increase in effort would be detrimental to the stocks and nation as a whole.

Where is this information? It is not presented in the EA/RIR. How can the Council make a determination that the resource was fully exploited when no one knows the size of the resource? On what basis did the Council determine that further increase in effort would be detrimental to the stocks and nation? The Council records show that written testimony from a Kodiak company (which has also qualified for the east coast fishery) requested an FMP and moratorium. No independent, credible analysis was prepared for the January meeting.

The Council took action in January based on incomplete and inaccurate information.

A January 20 control date was adopted and reaffirmed in June. There was no pipeline criteria included. This violates National Standard 4.

The EA/RIR should have included 1993 data where possible (i.e., catch-to-date, number of vessels, vessel length, areas fished.) All this information is available and it would show that in 1993 the fishery was conducted in an orderly manner; an important point, given the earlier testimony that stated a moratorium was needed to "save the fishery." The Council's groundfish amendments always provide current year data to the extent it is available.

Section 2.0 Proposed Federal Management of the Alaskan Scallop Fishery

In 1993, the quota was reduced to 50% of 1992 landings. Authors claim that the fleet should consist of only 3-4 vessels given this quota size; thus, they conclude that at 20 permits, the fishery must be overcapitalized. How can this determination be made? We believe it is highly likely that the guideline harvest levels will be increased once the research currently being done is completed. In light of reduced quotas, is it not possible for boats to become more efficient economically and require less poundage to succeed? We think so.

The EA/RIR only presents FMP alternatives with an accompanying moratorium. No FMP alternatives to the status quo are presented without a moratorium. So to support a FMP the Council document forces us to also support placing a moratorium on the vessels. If what authors say is true, most of these boats are expected to go bankrupt without a moratorium at all. If a moratorium is adopted, it should include all vessels or 1993 participants and then let the boats survive or go bankrupt on their own.

Section 2.1 Description of and Need for Action

The EA/RIR again states that the moratorium is an essential element of Alternatives 2 and 3. We disagree. It should be an option. The EA/RIR sets up the reviewer where he cannot support Alternatives 2 or 3 without also accepting the moratorium. We support Alternative 3, recognizing that it can stand alone without a moratorium. A moratorium is only acceptable to us if it includes existing participants at the time of implementation.

Section 2.2 The Alternatives

We support Alternative 3 with the caveat that a moratorium comply with the elements of National Standard 4. In our opinion, National Standard 4 can be met by either maintaining the January 20 cut-off date, but include vessels in the pipeline, or by using a December 31, 1993 cut-off date by which fishermen must have participated in the Alaskan scallop fishery.

The point aside, we favor Option 2 which calls for the preparation of a joint federal-state management plan. We believe such a plan would build upon the regulatory efficiencies of both governments, and result in cost-effective, streamlined management of the resource. We do, however, have some comments on what measures to framework, and which ones should remain under the authority of the Council. We will comment on these points later.

If a FMP is implemented, we understand the need to define levels of overfishing, maximum sustainable yield, and optimum yield. However, we are of the opinion that it is inappropriate to base these reference points solely on historical catch data, especially when there is little catch history to build on. In an ideal world we would prefer that a comprehensive survey be conducted that would provide good scientific information. However, we also recognize that due to budget constraints, relying on NMFS or the State of Alaska to conduct these surveys is unreasonable. Therefore, I would strongly urge the Council to consider the development of a cooperative survey plan that essentially builds on the established experimental fishery format. In essence a survey plan could be designed that would involve the entire scallop fleet. You could have a controlled fishery while at the same time obtain valuable biological information on the resource. The current scallop fleet is small enough that this approach is more feasible than in other fisheries.

Section 2.3 Goals and Objectives

We must keep in mind that the MFCMA calls for us to manage fishery resources from the national perspective. When viewing the U.S. as a whole, it is easy to find fishing power (capital investments) overcapitalized in some areas and undercapitalized in other areas. From a national policy perspective, shouldn't we consider the benefits gained from transferring that capacity from one area to another? This avoids having the nation pay the price of full capitalization in each region.

Section 2.5 Management Measures and Authorities

We support Alternative 3, Option 2. However, the proposed FMP outline differs from the Council's King and Tanner Crab FMP in that it does not include a framework measures category. The proposed scallop FMP outline has measures that are entirely federal or state. We believe frameworked measures provide the State with the flexibility they need while providing the public that certain federal safeguards are in place. We recommend a similar category be placed into the scallop FMP outline.

Section 2.5.1 Category 1-Proposed Management Measures Under Federal Authority

We support placing the measures Legal Gear, Permit Requirements, Federal Observer Requirements, and Limited Access (moratorium, IFQs) in Category 1. We are of the opinion that all these measures should remain under federal authority. However, we note that under Limited Access, (a) Moratorium, (1) Qualifying Criteria, that no "pipeline criteria," have been developed. We believe we have made legitimate investments into this fishery prior to the proposed control date and our circumstances should be included in the moratorium option. In adopting the control date for groundfish and crab fisheries, the council appropriately recognized the small number of individuals who had made major investments in the fisheries, but had yet to make a landing. The Council provided qualifying criteria and a deadline for the individuals so they had an opportunity to be included. We believe strongly that similar situation exists with Alaskan scallops and pipeline criteria should become a part of the Limited Entry measures.

We also recommend that several other measures currently proposed to be at the discretion of the State, be instead moved to Category 1, or at a minimum, frameworked so that the State must meet specified criteria, analysis, and public review requirements. These measures are:

Reporting Requirements - We are aware that there have been numerous problems with federal and state collected data. Data committees have tried to address inconsistencies in the data as well as develop data sharing protocols with mixed success. The MFCMA and State of Alaska have differing data requirements. A frameworked measure could address these issues prior to implementation of a scallop FMP.

Guideline Harvest Levels and Bycatch Limits - We recommend frameworking this measure to assure that state managers are using the best scientific information available. We envision that under this proposal state managers would be required to meet with federal managers in developing the GHL. The cost of obtaining biological bycatch and other stock assessment information can more easily be shared if both state and federal governments share in the GHL responsibility.

Registration Areas and Closed Areas - These measures should be frameworked to guarantee that federal review, analysis, and public process requirements are met by the state. This management measure has been highly controversial in other fisheries and exclusive versus non-exclusive designation has been shown to be discriminatory in the past. To avoid legal action and associated controversy, we recommend that both state and federal governments share responsibility for the measure.

Efficiency Limits-These measures are intended to control effort by effecting the operational and economic efficiency of fishing vessels. We recommend placing this measure into a frameworked category to assure that a thorough analysis is performed by the state prior to approval. Frameworked criteria specified in the FMP would provide guidance to the state when they prepare the analysis. Leaving this measure to the discretion of the state would likely lead to greater and misunderstood economic impacts.

Section 2.5.2 Category 2-Proposed Management Measures Deferred to the State

We support deferring the measures Minimum Size Limit; Inseason Adjustments; Districts, Subdistricts, and Sections; Fishing Seasons; State Observer Requirements; and Other Measures to the State of Alaska. Inseason flexibility gained from a single government taking responsibility for the measures is necessary for management of an orderly fishery.

Section 3.0 Analysis of Alternatives

3.1.1 Potential Impacts on the Scallop Resource

The analysis states that with Alternative 1 and no vessel moratorium, a "derby-style" fishery is likely; yet there is no evidence to suggest that under either Alternative 2 or 3 that derby-style fishery will be prevented. On the contrary, a derby-style fishery may last longer, with fewer boats, but it will exist, none-the-less, with Alternative 2 or 3.

3.2 Economic Impacts

1993 participants should be included in the analysis of moratorium options.

The EA/RIR shows that depending on the beginning and ending dates chosen for the qualifying period, as many as 53 vessels could qualify under the moratorium. As many as 33 vessels if the last 10 years is used. How many of these potentially qualified vessels are still in Alaska? How many of these boats have returned to the east coast? Wouldn't it be ironic if some of these boats are allowed in at the expense of current participants?

Currently, the Council's proposed groundfish and crab moratorium would allow "crossovers" between fisheries. The Council's proposed rules allow any vessel that qualifies for one federally-managed fishery to participate in any FMP managed fishery. As with our comments above, is it fair to allow crossovers and, thus, new entrants into the scallop fishery while denying access to the fishery by some of the 1993 participants?

The EA/RIR used assumptions derived from the 1990-92 fishery for evaluating the alternatives' effects on 1993 ex-vessel revenues. The analysis should include at least some of 1993 information to determine if the assumptions can be substantiated. This was not done and so the analysis is incomplete.

The analysis claims that due to the likelihood that scallop vessels will be idle for part of the year is indicative of overcapitalization. We disagree. The fleet is idle for a part of the year because it is comprised of relatively small vessels that are incapable of fishing in poor weather conditions. Adverse weather on the scallop grounds make for unsafe and dangerous fishing conditions. If the fleet were comprised of larger vessels, the season would last longer.

We are also of the opinion that overcapitalization cannot be determined if the biomass cannot be determined. The history of the scallop fishery indicates fluctuating interest due to variable prices, changing interest in other target species, and scallop availability. Until a comprehensive stock assessment program is undertaken, we will never know the size of this resource and its relative importance to Alaska and the U.S. In lieu of a stock assessment program, a controlled fishery, prosecuted over time would produce valuable resource information. It is for this reason that we support a federal FMP.

Section 5.0 Other E.O. 12291 Requirements

The EA/RIR concludes that the proposed alternatives will not have significant adverse effects on competition, employment, investment, and the ability of U.S. based enterprises to compete in domestic and world markets.

We wholeheartedly disagree. The Council-preferred January 20, 1993 control date will effect current competition, investment, etc. The moratorium control date will result in reserving an unknown scallop resource for a few east coast/Alaska vessels. Other U.S. fishermen with current or potential scallop markets will have no access to this resource.



COPY FOR YOUR
INFORMATION

VIKING BOAT COMPANY

3801 - 14th AVE W SEATTLE, WA 98119

(206) 284-4160

September 9, 1993

North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, AK 99501

Re: Alaska Scallops Fishery

Dear Council Members;

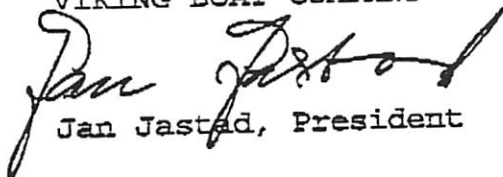
Viking Boat Company, a corporation fully owned by me, owns the F/V Western Viking, Registration #507161, F&G #9069 registered in Juneau, Alaska.

This boat was originally the F/V Ovingondy and was among the very few pioneers in the Alaskan Scallop Fishery. There were only four vessels at that time.

I would like to propose the pioneering vessels be included in future fishery management, namely from 1967. I personally fished scallops on the F/V Viking Queen in 1968, the Ovingondy from 1970 to 1974 and other vessels up until 1992.

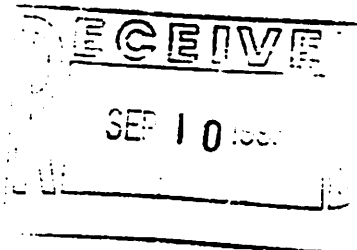
Thank you for your consideration.

VIKING BOAT COMPANY


Jan Jastad, President



ALASKA CRAB COALITION



3901 Leary Way (Bldg.) N.W., Suite #6 • Seattle, WA 98107 • (206) 547-7560 • FAX (206) 547-0130

DATE: September 1, 1993

TO: Mr. Clarence Pautzke,
Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510

FROM: Arni Thomson
Executive Director

RE: PUBLIC COMMENT ON EA/RIR FOR A PROPOSED FISHERY
MANAGEMENT PLAN FOR THE SCALLOP FISHERY IN THE
GULF OF ALASKA AND BERING SEA/ALEUTIAN ISLANDS

RECOMMENDATION FOR ADOPTION OF ALTERNATIVE 3,
OPTION 2, DEVELOP A NEW FMP FOR ALASKAN SCALLOPS
THAT DEFERS SOME MANAGEMENT MEASURES TO THE STATE
OF ALASKA AND PLACE A MORATORIUM ON NEW VESSELS
ENTERING THE FISHERY, WITH A CONTROL DATE OF
JANUARY 20, 1993.

BYCATCH CONTROL RECOMMENDATIONS:

The Alaska Crab Coalition has been actively monitoring the resurgence of the scallop fishery in the Bering Sea and Aleutian Islands for the past four years, due to concerns about gear impacts to the benthic habitat and bycatch mortality to king and tanner crabs.

The ACC is particularly concerned about these impacts in the Petrel Bank area, the Pribilof Islands area and Zone 1, the Bristol Bay king crab area. A recent press release from ADF&G dated August 17, 1993 documents the potential bycatch impacts and points to the need for the Council to implement long term closed areas to scallop dredging to protect crab resources.

As in previous comments to the NPFMC, (Ref: NPFMC Agenda Item, C-5, Jan. 1993, ACC letter to Carl Rosier, dated Aug. 27, 1992) the ACC recommends that the Council close the Zone 1 area and the Petrel Bank area to scallop dredging, and institute bycatch caps for king and tanner crabs in the Pribilof Islands area and other areas of the Bering Sea at

levels no higher than the present levels set by ADF&G. See the attached ADF&G press releases dated May 28th and July 14, 1993.

The present 100% level of observer coverage should be continued until closed areas are established.

ADDITIONAL RECOMENDATIONS:

1. Reference is here made to Section 2.1, pages 2-1 and 2-2, regarding the need and justification for development of a federal FMP and an immediate moratorium on new vessels entering the fishery.

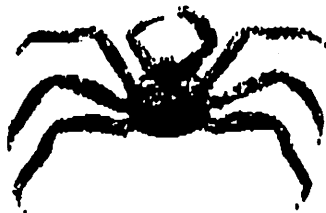
Federal management of Alaskan scallops may be necessary to prevent further overcapitalization of the fishery. Under the current statutes, the State of Alaska (State) cannot limit effort by prohibiting new vessels from entering the fishery. At the January 1993 meeting, the Council determined that unrestricted access to this fishery would be harmful to the resource and result in loss to the Nation....

Even without the additional vessels that entered the fishery, the 1993 fishery would have been overcapitalized. In 1992, seven vessels harvested 1.8 million pounds, for an average of 257,143 pounds harvested per vessel. The 1993 quota was set at 890,000 pounds, or about one-half of the 1992 landings. Efficient harvesting of this quota could be done by only three to four vessels. Yet twenty vessels may participate in the 1993 fishery. Hence, the 1993 fishery was overcapitalized, meaning that too much capital was invested relative to the fleet size necessary to efficiently conduct the fishery.

The above reference clearly substantiates the need for immediate development of a moratorium under a federal FMP, with the Council affirmed control date of January 20, 1993.

Reduction of bycatch pressures and damage to the benthic substrate from a fleet of 7 vessels, compared to 20 vessels, provide additional conservation reasons for an immediate moratorium.

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA
Department of Fish and Game
Carl L. Rosier, Commissioner

Westward Region
211 Mission Road
Kodiak, Alaska 99615

Jaffrey P. Koenings, Director
Commercial Fisheries Management
and Development Division

Contact: Rance Morrison
Area Shellfish Biologist
Dutch Harbor, Alaska

IMMEDIATE RELEASE

Date: August 17, 1993

Attention Bering Sea Scallop Fishermen

On July 1, 1993 the Bering Sea (Adak-Bristol Bay-Bering Sea) scallop management area reopened to fishing with an area-wide allowable harvest cap of 260,000 *C. bairdi* tanner crab (all size and sex) and 100% onboard observer coverage. Up until that time approximately 287,000 pounds of scallops had been harvested.

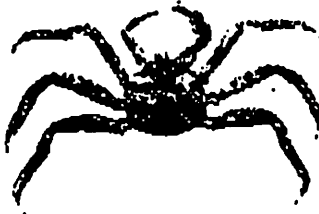
Since the July 1 reopening of the area a total of 136,000 pounds of scallops have been harvested along with approximately 110,000 *C. bairdi* tanner crab captured as bycatch, according to observer reports.

For the week ending August 15 six vessels caught approximately 48,000 pounds of scallops and 61,000 *C. bairdi* crabs as bycatch, maintaining the approximate 10,000 crab per vessel average seen in the prior week, when four vessels caught just over 43,000 *C. bairdi* crabs.

At the current average vessel *C. bairdi* capture rate, and with new vessels entering the fishery, it is estimated the bycatch cap for *C. bairdi* crab could be reached by the end of August.

Information concerning ongoing crab bycatch harvest rates will be released weekly via SSB 4125 pending complete weekly observer reporting by all scallop vessels.

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA

Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffrey P. Koenings, Director
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Westward Region

211 Mission Road
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IMMEDIATE RELEASE

Date: May 28, 1993

ATTENTION BERING SEA SCALLOP FISHERMEN

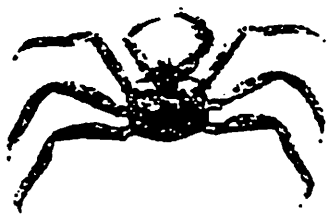
The Department of Fish and Game has been considering standards for setting by-catch limits on crab during the Bering Sea scallop fishery.

It has been determined that average by-catch rates in excess on one (1) king crab per tow will not be acceptable.

The department will set an initial average by-catch rate of fifteen (15) *C. bairdi* Tanner Crab per tow as unacceptable. The fishery will be examined inseason to determine the suitability of this rate. Rates of *C. opilio* Tanner crab by-catch will also be assessed inseason if encountered.

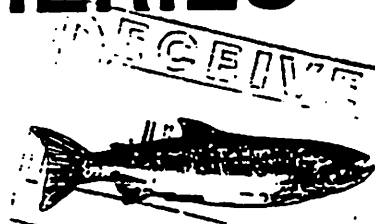
These by-catch standards will be used to monitor and manage the Bering Sea scallop fishery. They are not applicable in other registration areas.

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



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Date: July 14, 1993

ATTENTION SCALLOP FISHERMEN

Bycatch caps for crab have been established for Westward Region scallop fisheries.

<u>Registration Area</u>	<u>Species</u>	<u>Bycatch Cap (# of crab)</u>
Kodiak	King Crab	283
	Tanner Crab	199,500
Alaska Peninsula	King Crab	85
	Tanner Crab	52,530
Dutch Harbor	King Crab	45
	Tanner Crab	50,500
Adak-Bristol Bay-Bering Sea	King Crab	17,000
	Tanner Crab	260,000

Primarily, the caps were calculated using the most recent survey estimate of Tanner Crab (*C. bairdi*) and red king crab stocks.

A cap of 1% of the total stock biomass estimate was used in areas which had a commercial harvest of that species of crab during the 1992/93 season. For areas in which the directed crab fishery has been closed during the 92/93 season the cap was set at 1/2 of 1% of the total stock estimate.

July 14, 1993

For the Adak-Bristol Bay-Bering Sea, the bycatch caps were calculated using catch rates of 1 king crab per tow and 15 Tanner crab per tow. These caps would allow the current fishing fleet adequate opportunity to explore and harvest Bering Sea scallop stocks while protecting the crab resource.

The bycatch caps are for all sizes of crabs caught in the scallop fishery. The Department will not allow the scallop fishery to continue once the cap for any species of crab has been reached.

Where possible, the caps will be applied by crab management areas within the scallop registration area. For example the cap for Kodiak Tanner crab will be proportioned by Tanner crab management units. If the bycatch cap is reached in Shelikof Straits only that portion of the Kodiak scallop fishery will close.

Scallop fishermen are encouraged to stop by the Kodiak or Dutch Harbor office for further details.