

M E M O R A N D U M

TO: Council, SSC, and AP members

FROM: Clarence Pautzke
Executive Director



DATE: June 13, 1988

SUBJECT: Joint Venture Policy

ACTION REQUIRED

- (a) Review of joint venture fisheries under the Olympic System.
- (b) Approve any proposed policy changes for public review.

BACKGROUND

In April the Council requested Larry Cotter to draft a discussion paper on the shortcomings of the Olympic System. His paper, sent to you on June 2, is under item C-7(a). It was sent to industry on May 20 and their comments are provided under C-7 supplemental.

The Council's current policy [item C-7(b)] calls for all joint ventures to fish on pooled JVP by species and area. This has always been the practice for joint ventures off Alaska. Once a nation's permit applications are approved, its associated companies are free to fish any JVP species until it is gone. Until recently most companies have harvested their full request:

<u>Year</u>	<u>Request</u>	<u>Catch</u>	<u>%</u>
1988	1,969,731	1,072,000	54*
1987	2,001,066	1,324,231	69
1986	1,122,875	1,221,735	109
1985	906,435	883,567	97
1984	561,262	554,212	99
1983	353,960	342,949	98

*as of June 4

The Council held major reviews of the Olympic approach in June 1986 and in June 1987. In 1986 the Council's Permit Review Committee considered company allocations but recommended no changes for 1987. The Council adopted the recommendation in light of the limited resources available to monitor allocations on a company basis. The Permit Review Committee also recommended that because of the complexities of changing the Olympic system and the limited entry overtones, the subject was more properly considered by the whole Council, not the Committee.

P11

In June 1987 the Council's Policy and Planning Committee once again considered company allocations but recommended no policy change. Among the concerns with shifting to company allocations was the difficulty of rank ordering the criteria in the policy. Using them at a company level would require confidential information, much of which would be unverifiable at the Council level. Such a review also would take considerable time at the December meetings. As a result of the Policy and Planning Committee discussions, the Council chose to continue the pooled JVP approach for the 1988 fishery.

Any changes that the Council may wish to make to the policy for 1989 should be sent out for public review over the summer. With a final decision in September, the new policy could be sent to the industry in preparation for the December permit review.

June 17, 1988

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

Re: Alternatives to the JV Olympic System

Dear Jim:

Attached is a set of three alternative approaches to JV allocations. I offer them merely as discussion points. It's my hope the Council will continue to solicit alternatives through the month of July, perform a brief analysis on each of the alternatives received, send them out for public comment, and schedule final action whether or not to modify the status quo for the September Council meeting.

Sincerely,



Larry Cotter

June 17, 1988

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

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Sincerely,



Larry Cotter

ALTERNATIVE APPROACHES TO THE JV OLYMPIC SYSTEM

by

Larry Cotter

The alternatives presented here are intended to stimulate discussion and do not reflect a personal preference. Each of the alternatives addresses JVP allocations in a way which solve the Olympic System problems but which, admittedly, create a different set of problems and concerns. These run the gauntlet from legal to practical.

Alternative 1: Allocate By Country on the Basis of Historical Participation

Under this approach a year would be determined which would then serve as a base from which the average percentage harvest by country for all years from and including the base year would be derived to determine the percentage allocation to each country for subsequent JV allocations. The allocation could be made to either:

Option 1: Each country itself. The allocation to specific countries would, however, provide that country with substantial leverage over domestic JV harvesters.

Option 2: The domestic JV company (if still in business) which represented the U.S. harvesters who harvested the JV allocations during those years. The allocation to the domestic JV company would be in an amount proportionate to the amount of each country's total JV harvest during those years which the domestic JV company harvested. The allocation to the domestic JV company for a share of the country's JV allocation would have to be processed by that country -- the allocation could not be shifted to another country.

Alternative 2: Allocate By JV Company on the Basis of Historical Participation

Under this approach a base year would again be determined from which the average percentage harvest by domestic JV company for all years from and including the base year would be derived to determine the percentage allocation to each domestic JV company for subsequent JV allocations. The

allocation would be made to each domestic JV company and that company would be free to choose its own foreign partner.

Alternative 3: Allocate on the Basis of "Fish and Chips"

Under this approach countries and/or domestic JV companies would present the Council with a "bid" for a certain amount of JVP allocation. The bid would specify what was being offered in exchange for the allocation. Provisions, such as Letters of Credit, etc., would be developed to ensure the entity offering the bid would be capable of following through on its proposal. Subject to applicable law, there would be no limitation on the type or extent of the bid.

The process of picking and choosing among the bids to determine which are the most attractive to the Council and should be awarded is inherently subjective. The establishment of a "point system and accompanying criteria" will not eliminate subjective conclusions. Therefore, it would be misleading to develop a point system which theoretically would eliminate the subjectiveness. The development of criteria itself specifying the form bids should take, the collateral necessary to insure the bid, a general set of "Fish and Chips" items which are particularly attractive to the Council, etc., seems to make sense.

In order to provide the winning bidders adequate time to prepare for their fishing year, the decision on who wins the bids for the following fishing year should be made at the September Council meeting. Since the Council does not determine final DAP, JVP and TALFF allocations until the December meeting the extent of a winning bid's allocation would have to be contingent upon the December Council decisions. Although this poses some problems for the bidders since they will not know in advance the exact amount of allocation which may be available, they will have a fair indication -- just as they do now -- of what will be available for the next year based upon a variety of factors including the current year's DAP production, etc.

Should this alternative be adopted and the September Council meeting be selected as the bid award date, the alternative could not go into effect until 1989.

中華太平洋企業有限公司

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

5/25/88

Dear Mr. Pautzke,

I would like to make a few comments in support of retaining the use of the olympic system in the council's joint venture policy.

The olympic system is far from perfect. Nevertheless, similar systems have, in our domestic fisheries, proven to be the best way to guarantee some level of fairness, equity and competition in the harvest of most species.

The majority of the problems listed in Mr Larry Cotter's assessment of the Olympic system are not problems specific to the system itself. Most of these problems have arisen purely from increased pressure on the resources caused by the rise of DAP, the decline of some stocks and the shift of production resources from TALFF into the JV arena. Many of the problems cited by Mr. Cotter can most efficiently be solved by time and area restrictions, gear restrictions, voluntary restraint by the industry, and other regulatory methods. Allocation by nation or company would introduce artificial inefficiencies into the harvesting of fish which would vastly exceed anything now seen under the olympic system. I don't think there are too many good arguments why fish shouldn't be harvested in anything but the quickest and most efficient fashion available. Artificially extending fishing time to catch the same number of fish is hardly in the interest of economy, efficiency or safety.

It appears to me that the real impetus for changing from the olympic system comes from the council's loss of TALFF to use in its "Fish and Chips" policy. I think the council should take a very hard look at whether it is now appropriate or useful to try to regain this lost leverage. Joint ventures are already in decline, foreign investment in the domestic industry continues to increase and the domestic industry is growing at a rapid rate. It is obvious to all participants in the industry that the future

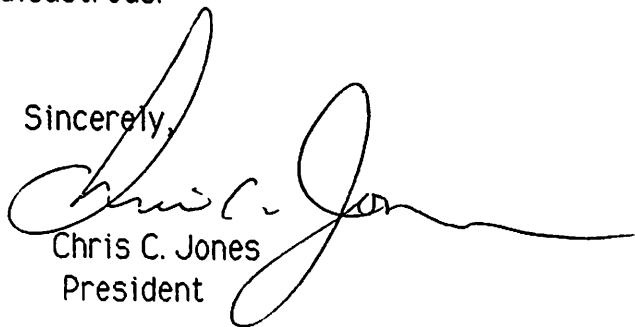
lies in a fully Americanized industry. What is the point of now adding a further level of complication and allocation to a group of U.S. fishermen who over the next few years will already under great stress as they try to re-deploy their equipment into the domestic industry?

As any observer of the council knows, allocations of TALLF have never been based on any objective standards of fairness or equity. While criteria have been established, these criteria have never been weighted as to importance and nations have never been judged under these criteria according to their ability to perform, experience level in the fishery, or future ability to contribute. In fact any historical overview of TALFF allocations would have to conclude that allocations were made not for "good behavior" but rather strictly on economic might.

The return of this sort of subjective allocation to the JV arena, I fear, would only mean the preservation of the existing monopolies of the Bering Sea. Small producers would be pushed out by reduction in their allocations and the yearly uncertainty of the allocation procedure would make it virtually impossible for the smaller producers to sign contracts with catcher vessels pre-season. The result would be that they couldn't sign up catchers at all. This situation would hardly be conducive to the wider employment of U.S. catchers (already facing a shrinking market) or price competition for fish.

We hope the council can carefully consider these points and realize that abolition of the olympic system may present hardships which, both to companies such as ours and to the fishermen supported through such companies, will be nothing short of disastrous.

Sincerely,



Chris C. Jones
President

ALASKA TRAWL FISHERIES, INCORPORATED

AGENDA C-7
 JUNE 1988
 SUPPLEMENTAL

Building C-3, Room 201, Fishermens' Terminal
 Seattle, Washington 98119
 Telephone (206) 286-8132

RECEIVED
 JUN 13 1988

Mr. Clarence F. Pautzke
 North Pacific Fishery Management Council
 P.O. Box 103136
 Anchorage, Alaska 99510

RE: Joint Venture Policy

Dear Clarence:

June 8, 1988

ACTION	ROUTE TO	INITIAL
	Exec. Dir.	✓
	Deputy Dir.	
	Admin. Off.	
	Exec. Sec.	
	Staff Asst. 1	
	Staff Asst. 2	
	Staff Asst. 3	
	Lab. Asst.	
	Sec. / Bkg.	
	Sec. / Typist	

On May 20 you sent out a request for comments on NPFMC joint venture policy and the Olympic access system. Alaska Trawl Fisheries, Inc., (ATF) manages a modest joint venture operation targeting primarily on pollock and yellowfin sole. We would like to respond to your inquiry.

As you know the Permit Review Committee and the Council have visited and revisited this issue over the years, and Council policy incorporating the Olympic system of joint venture access has become well-established -- for a number of good reasons. Joint venture fishermen and companies have relied on this policy in their investment and business planning, and changes at this late date would have serious economic consequences. In any event, joint venture activity will diminish rapidly as DAP activity increases, and the nonproblem - left alone - will go away.

Some of the reasons for maintaining the status quo are these:

1. NO RATIONAL ALTERNATIVE

Several attempts have been made to devise a rational system to evaluate the "contributions" of various nations and companies to the full development of American fisheries. Each time we have moved in this direction we have discovered that there are any number of "standards" which might be used in making the evaluation, but no rational means of ranking or weighting them. Beyond that, no objective means of evaluating an entity's performance against the individual "standards" has been found. As a result any such exercise would be largely an arbitrary and subjective one, vulnerable to legal challenge.

2. REGULATION OF AMERICAN FISHERMEN

American fishermen have well-established long-term relationships with

their foreign joint venture partners and American joint venture managers. If certain nations or companies were denied access to the resource, they and their fishermen would be put out of business, a direct and dramatic result. The Magnuson Act and other applicable law make it clear that American fisheries are to be regulated through the full Magnuson Act process and not through a perfunctory permit review process.

3. DUE PROCESS

As regulatory or administrative activities focus on the property interests of individuals or corporations, concepts of due process suggest that the affected entities may demand - and must receive - individual hearings to review actions affecting their interests. Any actions by the Council which affect the interests of fishermen or joint venture managers would undoubtedly trigger a significant number of demands for hearings, and appeals from adverse rulings. NMFS/NOAA does not have the resources to provide this fundamental due process facility.

4. LESS BURDENSOME ALTERNATIVES

Acute problems which may appear because of joint venture competition may be addressed on a case-by-case basis -- the joint venture pollock roe season was divided to ameliorate a perceived problem of that sort. There is no need to develop and implement a highly complex allocative system to meet these occasional discrete difficulties.

5. STAFF

The development and implementation of a rational system to evaluate contributions to the full development of American fisheries - and to allocate access to fishery stocks based on those evaluations - would require a significant investment of Council staff time and energy. Likewise, provision of the hearings necessary to uphold adverse impacts on individual interests would place significant burdens on NMFS/NOAA. All things considered, fishery management resources should be more profitably employed.

In conclusion, the benefits to be gained through the development of an elaborate end-run around the Magnuson Act process will not outweigh the burdens imposed on industry and the fishery management establishment. The Olympic system of joint venture allocations may not be perfect, but it's 'way ahead of whatever's in second place. The "problem" will soon disappear, and the Council can better spend its time looking to the future.

Sincerely,



Thorn Smith
President

I have also discussed this matter with most of the JV companies and associations. There is unanimous agreement that the Olympic System should not be changed basically for the same reasons I've outlined above. Further, most people, ourselves included, feel the subject is better addressed at the upcoming Council meeting through the Permit Review Committee and not as part of the full Council agenda.

Thanks very much for the opportunity to comment. Please call with any questions you may have.

Sincerely,

Pete

Pete Granger
Executive Director

PG:r

cc: AHSFA Board of Directors
Midwater Trawlers Cooperative
Mick Stevens
Bert Larkins
Pacific Independent Trawlers Association
North Pacific Fishing Vessel Owners Association

AMERICAN

OFFSHORE VENTURES INCORPORATED

AGENDA C-7
SUPPLEMENTAL
JUNE 1988

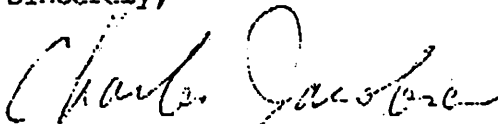
Date: June 16, 1988
To: North Pacific Fishery Management
Attention: Council
FAX No. (907) 271-2817

TELEFAX	COVER	REASON	ROUTE TO	INITIALS
			Exec. Dir.	
			Asst. Dir.	
			From: Charles Jacobsen	
			No. of pages (including cover)	1
			Sec. 3	
			Sec. 1st	
			Sec. 2nd	
			Sec. typist	

Council Members:

I would like to voice my support for a continuation of the present J.V. quota fish harvesting system. Under the Olympic rules, we have had virtually no trouble with "chopped up" fishing season as our catcher boats have worked steadily from January 15 until the present. The Olympic system has allowed us to compete at a rapid catching rate in a condensed season thus allowing our J.V. Company and vessels to move in other developmental directions during the off-season times. Please consider this in you decisions regarding future harvesting policies.

Sincerely,



Charles Jacobsen

President of American Offshore Ventures, Inc.
Secretary/Treasurer of Northwest Fisheries, Inc. (F/V Paragon II and F/V Pelagos)

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ProFish International, Inc.



June 20, 1988

Mr. Jim Campbell, Chairman
 North Pacific Fisheries Management Council
 411 W. Fourth Avenue
 Suite 2D
 Anchorage, AK 99501

Dear Jim,

Since the joint U.S./foreign fishing operations began to flourish, we have been a strong supporter of the Olympic System. I believe that the surprisingly rapid demise of TALFF is in great part due to Olympic System policy in JV operations. Foreign nations have not been able to try to limit JV purchases, thereby providing for greater TALFF in the same year because the "Olympic competition" may have dealt them out of the game with somebody else winning the pot.

1987 was probably the peak year in JV activity. The rate of decline will be different for individual target species operations and depend on the success of DAP development. Any Council effort to revise or change the JV policy should first focus on the goal. If the goal would be to provide the best market and revenue earning potential for a fewer number of JV dedicated U.S. catcher boats, then the Olympic System must be changed. If the goal would be to maximize the amount of employment and disperse the earning among as many boats as possible, then the Olympic System is probably the best for that.

Let me point out that we perceive JV operations not as allocations to foreigners but as trade opportunities for U.S. sellers to sell to willing foreign buyers. Trade is buy and sell -- it is not allocation -- it is not fish and chips.

A change in the Olympic System may be needed right now, depending on goals to be established. Some of my operations next year will be extremely disadvantaged due to the Olympic System. My BUYERS cannot compete in some markets and operations.

However, for the record I must state (and I'm sure others will support me) that "any new policy or system which attempts to apply subjective criteria to JV access or allocation would be totally unacceptable and fought to the levels of judicial review. You would probably be wasting your valuable time if you attempted to proceed in such a direction.

If you have a genuine concern about the U.S. participants in this sector and what the future holds for them, you might want to ask them about which goals are appropriate during JV phase out. Please don't use JV fishermen and boat owners who don't have any viable DAP opportunities as pawns for some last minute attempt to extract subjective benefits from BUYERS who might not be willing to play that game.

Sincerely,

M. G. Stevens

sej