


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver 
Acting Executive Director

ESTIMATED TIME 2 HOURS

DATE: September 25, 2000

SUBJECT: BSAI Crab SAFE

ACTION REQUIRED

- (a) Review the Crab SAFE and report of Crab Plan Team.
- (b) Progress report on co-op development and buyback.

BACKGROUND

- (a) BSAI Crab SAFE

The Crab Plan Team recently assembled a Stock Assessment and Fishery Evaluation (SAFE) report for king and Tanner crab stocks of the Bering Sea and Aleutian Islands. The SAFE details the current biological and economic status of fisheries, guideline harvest levels (GHL), and support for different management decisions or changes in harvest strategies. Copies of the SAFE have been distributed.

A summary of the 2000 survey results is attached as Item D-2(a)(1). Overall, the status of BSAI crab stocks is poor. Three stocks (Bering Sea *C. bairdi*, *C. opilio*, St. Matthew blue king crab) remain below the minimum stock size threshold (MSST) established. One additional stock (Pribilof Islands blue king crab) appears to be approaching MSST, so a rebuilding plan may need to be developed for this stock as well. Not all the news is bad, however, as early signs of recruitment were observed for *bairdi*, *opilio*, and Bristol Bay red king crab.

In addition to preparing the SAFE report, the Crab Plan Team also reviewed a proposal for bycatch reduction and habitat protection by the Alaska Marine Conservation Council (AMCC). This review was requested by the Council in June. The team recommended that additional analysis of this proposal was unwarranted at this time. The plan team minutes are attached as Item D2(a)(2).

- (b) Crab Co-op Development and Buyback

Further development on both these initiatives has continued within the industry committees that were formed last year, and which have been facilitated by Council members Fluharty and O'Leary. On the buyback front, there still appears to be support at the Congressional level for some type of legislated crab permit buyback, supported by some combination of loans, federal appropriations, and possibly use of the Capital Construction Fund. A draft bill was circulated in September when the industry buyback committee met, and that draft is included under Item D-2(b)(1). Recall also that formal submittal and approval of the Council's October 1998 recency actions with regard to crab LLP qualification has yet to occur, and it is likely that will need

to be implemented before any actual buyback can occur. Industry members who are deeply involved in that process may be able to update the Council further.

Regarding developments on the co-op front, the industry co-op committee also met again in September, with their discussions focused on some fundamental, major issues, particularly the issues of processor inclusion, hired skippers, and communities. While co-ops were the original focus of this initiative, a potential IFQ program, or two-pie IFQ program, now seems to have taken center stage in those discussions. There are also, I understand, continued efforts at the Congressional level for some type of legislative direction on crab IFQs. In September you voted to send a letter to the Secretary of Commerce, with copies to the Congressional delegations, regarding the development of co-ops or IFQs in the event the current moratorium is lifted. A copy of that letter is included under Item D-2(b)(2).

Following your direction from the June meeting, Council staff developed an interactive database (CRABSAM) which was made available to the industry in August so that they could assess various catch history and processing history alternatives being discussed. In June you also had some discussion of formalizing the development of crab co-ops or IFQs within the Council process, which could include initiating analyses and possibly appointing a more formalized Council committee to facilitate that development. I think where we go from here depends on what comes out of Congress in terms of Magnuson-Stevens Act reauthorization, or other Congressional actions, along with consideration of other staff tasking issues to be discussed at this meeting. Final resolution of the Council's October 1998 crab LLP recency requirements may also impact the speed and direction of crab co-op or IFQ development.

Additional materials distributed at the September industry meeting are included under Item D-2(b)(3).

RESULTS OF THE 2000 NMFS BERING SEA CRAB SURVEY EXECUTIVE SUMMARY

This document summarizes data presented in the Report to Industry on the 2000 Eastern Bering Sea Trawl Survey. Numbers presented are trawl survey indices of population level and do not necessarily represent absolute abundance. For further information, contact Dr. Bradley Stevens, or Dr. Robert Otto, NMFS, P.O. Box 1638, Kodiak, AK 99615. Phone (907) 487-5961. GHLS (Guideline Harvest Levels) are for the combined open-access and CDQ fisheries.

Red king crab (*Paralithodes camtschaticus*) Bristol Bay.

Legal males: 8.7 million crabs; 21% decrease.
Pre-recruits: 7.2 million crabs; no change.
Large Females: 17.4 million crabs; 81% decrease.
Outlook: Abundance of mature and legal males has decreased due to mortality and fishery removals. Decreased abundance of mature females allows use of a 10% exploitation rate.
GHL: 8.35 million pounds (3,786.85 metric tons, t). Fishery opens October 15, 2000.

Red king crab (*Paralithodes camtschaticus*) Pribilofs District.

Legal males: 1.2 million crabs; no change.
Pre-recruits: 0.4 million crabs; 43% decrease.
Large Females: 0.6 million crabs; 81% decrease.
Outlook: Crabs are highly concentrated, and index has very low precision. Females are poorly estimated. Data indicate a long term population decline. Red king crabs in the Pribilof Islands and usually harvested incidental to blue king crabs.
GHL: Fishery will not open in 2000.

Pribilof Islands blue king crab (*P. platypus*) Pribilof District.

Legal males: 0.5 million crabs; 11% increase.
Pre-recruits: 0.2 million crabs; no change.
Large Females: 1.4 million crabs; 44% decrease.
Outlook: Population is low and trends are not easily detectable.
GHL: Fishery will not open in 2000.

St. Matthew blue king crab (*P. platypus*) Northern District.

Legal males: 0.8 million crabs; 31% increase.
Pre-recruits: 0.3 million crabs; 40% increase.
Large Females: Not well estimated.
Outlook: Population has declined steeply since 1998. Abundance estimates are affected by the portion of the stock occupying untrawlable grounds.
GHL: Fishery will not open in 2000.

Tanner crab (*Chionoecetes bairdi*) Eastern District.

Legal males: 4.9 million crabs; 147% increase.
Pre-recruits: 18.1 million crabs; 24% increase.
Large Females: 13.7 million crabs; 15% decrease.
Outlook: Population increasing slightly due to recent recruitment.
GHL: Fishery will not open in 2000.

Snow crab (*C. opilio*) All districts combined.

Large males: 76.1 million crabs; 20% decrease.
Small males: 1036 million crabs; 100% increase.
Large Females: 1481 million crabs; 212% increase.
Outlook: Population is undergoing recruitment of crab into smaller size groups, which may produce increases in large males in several years.
GHL: 27.3 million pounds (12,380.95 t). Fishery is currently scheduled to open January 15, 2001.

Hair crab (*Erimacrus isenbeckii*)

Total males: 4.7 million crabs; 26% increase.
Large Females: Not well estimated.
Outlook: Population has been declining for several years but recruitment trends are unclear.
GHL: 236,368 pounds (107.20 t). The fishery in the Northern District of the Bering Sea will open 10 days following the closure of the Bristol Bay red king crab fishery. The Pribilof District and Bristol Bay portion of Registration Area J will not open in 2000.

**DRAFT Minutes of the Bering Sea/Aleutian Islands Crab Plan Team
Meeting, September 19-20, 2000**

Members Present:

Doug Pengilly (ADF&G, chair)
Wayne Donaldson (ADF&G)
Rance Morrison (ADF&G)
Herman Savviko (UAF)
Shareef Siddeek (ADF&G)

Bob Otto (NMFS)
Jack Turnock (NMFS)
Tom Shirley (UAF)
Gretchen Harrington (NMFS)
Dave Witherell (NPFMC)

The Bering Sea/Aleutian Islands (BSAI) Crab Plan Team met September 19-20 in Kodiak. The Team meeting was held to prepare the annual stock assessment and fishery evaluation (SAFE) report, review guideline harvest levels (GHLs), and to make recommendations to the Council regarding a proposal for bycatch reduction and habitat protection by the Alaska Marine Conservation Council (AMCC). The meeting was based on the following agenda.

- Tuesday 11:00 Introductions, Agenda
Review survey information and GHLs
Prepare and review SAFE report
- Wednesday 9:00 Review/critique proposal by AMCC regarding habitat and bycatch anagement measures; make recommendations to the NPFMC.
Reports on biological reference points, overfishing, and opilio harvest strategy.
Other issues for discussion (ACRs, proposals, Co-ops)

Chair Doug Pengilly and Vice Chair Gretchen Harrington were re-elected for a 2-year term.

Survey Data and GHLs

The Team reviewed the survey data, and rationale for the 2000/2001 GHLs. A full summary is provided in the SAFE report. A few additional notes were discussed by the team and included here.

St. Matthew Blue king crab - this year's survey verified last year's estimate in that there were very few crabs of any sizes, and the outlook remains poor.

Pribilof Blue king crab - the stock is in a 6 year declining trend and approaching MSST, an overfished condition. The team notes that regulations may require a rebuilding plan be developed for this stock. No fishery was allowed in 1999 or 2000.

Pribilof red king crab - although the stock is estimated to be above Bmsy, survey estimates are highly uncertain. The fishery remains closed in 2000 due to this uncertainty, poor fishery performance in recent years, and concerns about blue king crab bycatch.

Bristol Bay red king crab - this year's survey was two weeks earlier than normal, and very few females were observed to have mated, so the area of highest female densities was re-surveyed in August. Length frequency data suggest that large males will decline over the next one to two years. Signs of possible future recruitment were observed, and these crabs may begin to recruit to the female spawning biomass next year. Males may begin to recruit to the fishery in 3 years.

Bering Sea bairdi - there is some indication of a modest recruitment mode of very small crabs (35 to 45 mm CW) that is consistent with a recruitment mode of 25 to 35 mm CW crabs seen in 1999. The team discussed the criteria to define "rebuilt" condition for this stock.

Bering Sea opilio - preliminary signs of recruitment (mode at 50 mm) were observed. If these crabs survive, this will be an average size year class that will begin to recruit to the fishery in 3 to 4 years. The team discussed possible adjustments to the GHF if crab fisheries harvested greater proportions than last season of crab less than 4 inches.

SAFE Report

This year's SAFE report includes additional chapters on bycatch, habitat (distribution maps), crab model structure details, and improvements to the Executive Summary, which now includes information on CDQ fisheries and number of licenses issued under the crab license limitation program, and the American Fisheries Act crab sideboards.

Review of AMCC Proposal

In June 2000, the Council took final action on the opilio rebuilding plan. At that meeting, AMCC presented a proposal to reduce opilio bycatch limits in trawl fisheries and prohibit trawling in areas with opilio crab. The Council requested the crab plan team to review/critique this proposal.

At the crab team meeting, Francine Bennis and Dave Albert presented the AMCC proposal. The team spent the entire morning session reviewing and discussing the proposal. A summary of plan team comments and recommendations is provided in these minutes.

Bycatch - The Team voted (unanimously) that current snow crab bycatch control measures (status quo) for trawl fisheries were sufficiently conservative, and that there was no compelling reason to modify these measures at this time. The team does not feel that trawl bycatch is a conservation issue for snow crab rebuilding under present conditions, and that reducing bycatch will provide only minimal gains in rebuilding, yet would impose major costs to groundfish fisheries. The team does reserve the right to reconsider this position if there are major changes (in abundance, crab distribution, fishery distribution, bycatch amounts and rates) in the future, and would recommend that the groundfish plan team be included in any future evaluations of bycatch proposals. Specific comments and concerns by the team for individual options are included here.

AMCC Option 1: Apply opilio bycatch from outside the COBLZ to the PSC limit.

Plan Team Comments:

- For other crab species, bycatch taken only within the zone applies to the closure zone.
- The value of the COBLZ is that it keeps trawlers away from opilio and opilio habitat.

AMCC Option 2: Eliminate the 4.5 million crab floor in the PSC cap.

Plan Team Comments:

- This option was fully analyzed as part of Amendment 14. Plan team comments from May were as follows:

1. PSC limits appear to be sufficiently conservative at this time. The team feels that the current level of crab bycatch in trawl fisheries is acceptable (< 0.1133% of abundance), and does provide some protection to habitat as vessels try to avoid areas of high crab concentration. The team is concerned about unintended consequences (unobserved mortality, economic effects) of lowering the PSC limit. However, the team urges continued monitoring of trawl bycatch, and would have concerns necessitating a revisiting of the PSC limit if the bycatch levels increase.

2. Because PSC limits are allocated to specific fisheries preseason, without in-season flexibility, some excess is needed to prevent potentially costly mistakes due to mis-specification.

3. The 4.35 million floor may prevent unnecessary costs to the trawl fisheries associated with survey variability, changes in year class strength, and crab distribution. The team will continue to closely monitor bycatch and would raise concerns should bycatch increase at low population sizes.

4. Modeling suggests virtually no reduction in rebuilding time or increase in probability of low mature biomass levels if all bycatch in groundfish trawl fisheries was eliminated.

AMCC Option 3: Establish a seasonal bottom trawl closure in a high trawl bycatch area.

Plan Team Comments:

- The proposed zone is based on numbers, rather than rates, so closure may result in higher total bycatch.
- The proposed area does not appear to be historically important for opilio reproduction.
- Unlike king crabs, there are no direct links identified between opilio and sensitive habitat.
- The closure period suggested – March through June – largely coincides with a typical commercial directed fishery season. June and July are usually considered the sensitive period of molting and mating that necessitates fishery closures.
- Closure of the area will cause major problems with other species bycatch, such as halibut or bairdi.
- Expected gains are likely limited whereas costs are likely high.
- The need for a seasonal closure in this area was not made clear. It was unclear if the identified area was intended to protect a habitat type or crabs at a sensitive season. Trends in distribution of females by reproductive status and in distribution of trawling effort as presented were not consistent with a trawling-effects hypothesis.

Habitat Protection - The Team voted (unanimously) that additional analysis of trawl closure areas is unwarranted at this time, and should not be part of the opilio rebuilding plan. It is the consensus of the team that discussion of habitat protection take place in a much larger context such as marine reserves rather than a species specific area. Distribution data was thoroughly examined as part of the rebuilding plan. Although female and immature crab generally are found in the proposed closure area, very little trawling currently occurs there. At first glance, closure of this area would appear to be a proactive measure, but the team was concerned that closure areas cause downstream affects on other species and habitats due to the redistribution of trawl effort. The team feels that the current PSC limits and location of the COBLZ already limits the amount of trawling in areas occupied by snow crabs that can occur in this region. The team also noted that distribution of crabs will likely change in the future relative to ocean warming/cooling and changes in abundance, so fixing a closure area at this time may be imprudent.

ACRs and Proposals

There are three agenda change requests (ACRs) dealing with BSAI crab FMP fisheries that have recently been submitted to the Alaska Board of Fisheries. These are all FMP category 2 measures. Members of the

industry showed up briefly at the meeting to hear about the feasibility of fast-tracking the proposal to change opening of the opilio season.

ACR 4 - proposes to change the opening of the opilio fishery from January 15 to April 1.

ACR 5 - proposes to change the opening date of the Bristol Bay red king crab fishery to October 15.

ACR 6 - proposed to establish more restrictive pot limits (75/90 pots) for the opilio fishery when the GHF is less than 100 million pounds.

Crab Fishery Co-ops

Tom Casey reported that the idea of co-ops for the BSAI crab fisheries is no longer under consideration. A 2 pie IFQ system is being pushed (by many fishermen and processors) for quick enactment of congress. It would include a buyback and payback provision. He said more would be known in the near future. An advertisement paid for by AMCC protesting the deal was in the Anchorage Daily News on September 20.

Biological Reference Points

Shareef Siddeek provided the Team with a review of biological reference points, their relationship to overfishing/overfished definitions, and on data needs and methods for computing FMSY. He also presented some an example preliminary result of computing FMSY and his plans for estimating biological reference points and recommending overfishing/overfished definitions for each of the FMP crab stocks.

Snow crab harvest strategy development

Jack Turnock reviewed his work to date on developing an assessment model for snow crab. Some of his progress here has been hampered by unplanned tasks related to issues in groundfish fisheries. Turnock expressed the need for some input on certain parameters or assumptions for the snow crab model and an ad hoc subcommittee of Team members, ADF&G staff, and NMFS staff for addressing such questions on a timely basis through teleconference and email was named.

Groundfish SEIS

Jack Turnock requested the team assist with development of a table assessing the impacts of current groundfish fishery regulations on crabs. Team members responded with their expert opinions.

Others in attendance were: Julie Bonnie, Louis Rugalo, Brad Stevens, Tom Casey, Francine Bennis, Dave Albert, Jeff Steele, Dorothy Childers, Joe Macinko, Sosh Anderson, Joe Allen, Kristen Mabry.

Sec. 1. DEFINITIONS.

As used in this Act-

(1) "Bid" means the irrevocable offer a bidder makes, in response to a bid invitation, to be bought out for a buyout payment equal to the bid amount;

(2) "Bid amount" means the amount of buyout payment for which an bidder bids to be bought out;

(3) "Bidder" means an eligible bidder who bids;

(4) "Bid invitation" means an invitation to bid, containing the entire terms and conditions of the buyout contract, the Secretary issues for the purpose of inviting eligible bidders to bid;

(5) "Bid score" means a bid amount divided by the total ex-vessel value of all buyout fishery crab included in the participation and dependence period crab on which the bidder's buyout license was based;

(6) "BSAI Crab Buyout Fund" means the subaccount of the Fishing Capacity Reduction Fund established in the U.S. Treasury for the deposit and disbursement of all buyout funds, including buyout loan capital and all fee revenue.

(7) "Buyout" means the Secretary's buyout payment to a bidder for the permanent revocation of the bidder's buyout license or buyout license and buyout fisheries endorsement;

(8) "Buyout contract" means a contract between a bidder and the United States created when the Secretary accepts a bidder's bid;

(9) "Buyout cost" means the total of all buyout payments the Secretary pays;

(10) "Buyout fisheries endorsement" means a fisheries endorsement involved in the buyout.

(11) "Buyout fishery" means the fishery for crab, except Norton Sound red king and blue king crab.

(12) "Buyout license" means a license involved in the buyout

(13) "Buyout loan" means the loan, under section 1111 of title

XI of the Merchant Marine Act, 1936, as amended (___ U.S.C. ___), that funds one-half of the buyout cost and whose buyout loan amount is composed of buyout loan subamounts;

(14) "Buyout loan amount" means the total amount of the buyout loan to be repaid by fees. The buyout loan amount encompasses the buyout loan subamounts;

(15) "Buyout loan subamount" means a specific portion of the buyout loan amount that is to be repaid by fees on fee crab from a specific license endorsement category;

(16) "Buyout payment" means the Secretary's payment under a buyout contract of an amount equal to the bid amount;

(17) "Crab delivery" means the point at which a crab buyer first purchases fee crab or takes possession of fee crab from a crab seller.

(18) "Crab buyer" means the first ex-vessel party who purchases fee crab from a crab seller, takes fee crab on consignment from a crab seller, or otherwise receives fee crab from a crab seller.

(19) "Crab" means the crab species covered by the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutians Islands, including, but not limited to: red king crab, blue king crab, brown or golden king crab, scarlet or deep sea king crab, Tanner or bairdi crab, opilio or snow crab, grooved Tanner crab, and triangle Tanner crab;

(20) "Crab seller" means the party who harvests and first sells or otherwise delivers fee crab to a crab buyer.

(21) "Delivery value" means the fair market value that a crab buyer pays to a crab seller in exchange for fee crab, including the value of all in-kind compensation or all other goods or services exchanged in lieu of cash.

(22) "Depository" means a segregated account at a federally insured financial institution that each crab buyer maintains for the sole purpose of depositing collected fee revenue and later disbursing such revenue to the Secretary;

(23) "Eligible bidder" means a holder with a license valid at the time the eligible bidder bids; provided, however, that no holder whose license contains a license endorsement for Norton Sound red king and blue king crab shall be an eligible bidder;

(24) "Eligible voter" means a holder with a license valid at the time the eligible voter votes; provided, however, that no holder whose license contains only a license endorsement for Norton Sound red king and blue king crab shall be an eligible voter;

(25) "Fair market value" means the amount that a buyer pays a seller in an arm's length transaction or, alternatively, would pay a seller if the transaction were at arm's length;

(26) "Fee" means the amount that crab buyers deduct, for the purpose of repaying the buyout loan, from the delivery value of fee crab before paying crab sellers the net delivery value. The fee encompasses the subfees;

(27) "Fee crab" means all post-buyout crab harvested from the buyout fishery during the period in which any amount of the buyout loan remains unpaid, but excludes other fish harvested incidentally while fishing for crab in the buyout fishery;

(28) "Fee system" means the provisions for fee payment and fee collection;

(29) "Fisheries endorsement" means each _____.

(30) "Holder" means the person or other party named on a license;

(31) "License" means a permanent and transferable license that the NMFS issues to authorize the holder to deploy a fishing vessel to conduct directed fishing for crab;

(32) "License endorsement" means a designation in a license that authorizes the holder to deploy a fishing vessel to conduct directed fishing for the designated crab in the designated area of Federal waters.

(33) "License endorsement category" means any of the following designations, or combinations of the same, on a license that authorizes the holder to deploy a fishing vessel to conduct directed fishing for the designated crab in the designated area of Federal waters:

(a) Western Aleutian brown king crab in waters _____,

(b) Eastern Aleutian brown king crab in waters _____,

(c) Adak red king crab in waters with an eastern boundary

the longitude of Scotch Cap Light (164° 44' W. long.), a western boundary of the U.S.-Russian Convention Line of 1867, and a northern boundary of a line from the latitude of Cape Sarichef (54° 36' N. lat.) westward to 171° W. long., then north to 55° 30' N. lat., and then west to the U.S.-Russian Convention line of 1867,

(c) Bristol Bay red king crab in waters with a northern boundary of 58° 39' N. lat., a southern boundary of 54° 36' N. lat., and a western boundary of 168° W. long., and including all waters of Bristol Bay,

(e) Bering Sea and Aleutian Islands *C. opilio* crab in Pacific Ocean and Bering Sea waters east of the U.S.-Russian Convention Line of 1867, excluding all Pacific Ocean waters east of a boundary line extending south (180°) from Scotch Cap Light,

(f) Bering Sea and Aleutian Islands *C. bairdi* crab in Pacific Ocean and Bering Sea waters east of the U.S.-Russian Convention Line of 1867, excluding all Pacific Ocean waters east of a boundary line extending south (180°) from Scotch Cap Light,

(g) Pribilof red king and blue king crab in waters with a northern boundary of 58° 39' N. lat., and eastern boundary of 168° W. long., a southern boundary line from 54° 36' N. lat., 168° W. long., to 54° 36' N. lat., 171° W. long., to 55° 30' N. lat., 117° W. long. To 55° 30' N. lat., 173° 30' E. lat., and then westward to the U.S.-Russian Convention line of 1867,

(h) St. Matthews blue king crab, in waters with a northern boundary of 61° 49' N. lat., a southern boundary of 58° 39' N. lat., and a western boundary of the U.S.-Russian Convention line of 1867, and

(i) Norton Sound red king and blue king crab in waters with a western boundary of 168° W. long., a southern boundary of 61° 49' N. lat., and a northern boundary of 65° 36' N. lat.;

(34) "Net delivery value" means the delivery value minus the fee;

(35) "NMFS" means the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, U. S. Department of Commerce;

(36) "Participation and dependence period" means the ten

calendar years beginning with 1990 and ending with 19__;

(37) "Participation and dependence period value" means the total ex-vessel value of buyout fishery crab that the holders whose bids the Secretary accepts landed during the participation and dependence period;

(38) "Participation and dependence period subvalue" mean the portion of the participation and dependence period value attributable to each of the license endorsement categories;

(39) "Record address" means the address of each holder that the NMFS maintains for license purposes;

(40) "Referendum" means a referendum conducted hereunder about the fee system;

(41) "Subfee" means the amount that crab buyers deduct, for the purpose of repaying each buyout loan subamount, from the delivery value of fee crab from each license endorsement category;

(42) "Vessel" means, where buyout involves a buyout fisheries endorsement as well as a buyout license, a fishing vessel to which the buyout fisheries endorsement relates;

(43) "Vessel owner" means the party that owns the vessel; and

(44) "Voter" means an eligible voter who votes;

Sec.2 BUYOUT.

The Secretary shall conduct the buyout in the buyout fishery by means of a reverse auction in which the bid with the lowest bid score ranks first, followed by each bid with the next lowest bid score until the total bid amount of all bids equals a buyout cost that the next lowest bid would cause to exceed \$100,000,000.

Sec. 3. BUYOUT COST FUNDING.

The buyout cost shall:

(1) Not exceed \$100,000,000.

(2) Be funded in equal proportion by the buyout loan and the appropriation hereunder.

Sec. 4 BUYOUT LOAN.

(1) Notwithstanding the requirements of section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the buyout loan, finance up to \$50,000,000 of the buyout cost through a loan under the authority of sections 1111 and 1112 of Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1279f and 1279g).

(2) For the purposes of section 1111 of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1279f), the buyout shall be within the meaning of the term "program" as defined and used in such section.

(3) Notwithstanding the section 111(b)(4) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1279f(b)(4)), the buyout loan shall have a maturity of 30 years.

(4) The Secretary shall establish the buyback loan subamounts by:

(A) Dividing each participation and dependence period subvalue by the participation and dependence period value to determine what percentage each of the former is of the latter; and

(B) Multiplying the buyback cost by each of such percentages.

(5) The buyout loan shall be repaid by the fee; provided, however, that each license endorsement category shall pay only the fee necessary to repay the buyback loan subamount for which each license endorsement category is responsible hereunder.

(6) The Secretary shall base the participation and dependence period value and the participation and dependence period subvalues upon appropriate data maintained by the State of Alaska or any agency, commission, or other instrumentality of the State of Alaska, including, but not limited to, the Alaska Department of Fish and Game and the Alaska Commercial Fisheries Entry Commission. The State of Alaska shall make such data available to the Secretary for the purpose of this section, and no state laws, regulations, or other measures shall be effective to make such data unavailable to the Secretary for this purpose.

Sec. 5 Appropriations.

(1) Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated:

(A) \$50,000,000, from which the Secretary shall pay the buyout cost not funded by the proceeds of the buyout loan; and

(B) \$500,000 which the Secretary shall use as the cost of administering the buyout.

(2) The \$1,000,000 appropriated by section _____ of the _____ for the Federal Credit Reform Act cost of _____ shall be available for, and the Secretary shall use as the Federal Credit Reform Act cost of, the buyout loan.

(3) All amounts appropriated shall remain, without fiscal year limitation, available until expended for the purposes herein.

Sec. 6. INITIAL BUYBACK NOTICE.

The Secretary shall mail each prospectively eligible bidder written notice of the passage of this Act, as well as whatever buyout information and guidance the Secretary, in his discretion, from time-to-time deems necessary and appropriate.

Sec 7. BIDS AND BIDDING.

All bids and all bidding shall be subject to the following:

(1) The Secretary shall conduct the buyout by a reverse auction in which the bid with the lowest bid score ranks first, followed by each bid with the next lowest bid score, until the total bid amount of all bids equals a buyout cost that the next lowest bid score would cause to exceed \$100,000,000.

(2) Each bid invitation shall constitute the entire terms and conditions of the buyout contract that shall exist between the Secretary and each bidder when the Secretary accepts the bidder's bid before the bid expiration date.

(3) Other than those required hereunder, the bid invitation's terms and conditions shall be whatever the Secretary deems necessary and appropriate to implement the buyout.

(4) The Secretary shall invite bids by sending the bid invitation to each prospectively eligible bidder.

(5) Each bid shall:

(A) Be in writing;

(B) Be on a form, and completed in such manner as, the Secretary provides;

(C) Be from a bidder who is the holder or holder and vessel owner on the date of bid submission;

(D) Subject to the penalties provided herein, be signed by the person having full authority to make the bid and dispose of the buyout license or the buyout license and the buyout fisheries endorsement, whose signature shall be notarized,

(E) Contain the bidder's original signature and the notary's original signature, notations, and seal;

(F) Be delivered to the Secretary by mail or such other form of non-electronic delivery as the bidder chooses at the address the Secretary specifies;

(G) Be in the Secretary's possession by not later than the last date the Secretary specifies for the submission of bids; and

(H) Be irrevocable until the date the Secretary specifies for bid expiration, on which date all bids that the Secretary has not previously accepted shall be automatically revoked without further notice.

(6) Subject to the penalties provided herein, no holder or holder and vessel owner submitting a bid shall sell, transfer, lease, charter, pledge, assign, bestow, or in any other manner whatsoever dispose of the buyout license or the buyout license and vessel, enter into any contract or understanding to do so, or otherwise take any action or allow any action to be taken that in any way makes the buyout license or the buyout license and vessel unavailable for buyout; provided, however, that this provision shall not apply after either the Secretary rejects a bid or a bid expires before the Secretary accepts it.

(7) The Secretary may, at his discretion, accept or reject any or all bids.

(8) The Secretary shall accept a bid by mailing a bid acceptance to the bidder before the date on which the bid

expires, which bid acceptance shall constitute notice to the bidder that a buyout contract exists, as of the date of bid acceptance, between the bidder and the United States. (v.) To bring or come to a natural or proper conclusion

(9) Although a buyout contract shall be in full force and effect between each bidder and the United States when the Secretary accepts the bidder's bid, each buyout contract shall be subject to the express condition subsequent that a referendum approve the fee system. Referendum approval of the fee system is a condition that neither the Secretary nor any bidder can control. Consequently, if a referendum does not subsequently approve the fee system, no buyout contract preceding such referendum shall then be of any further force or effect and neither the Secretary nor any bidder shall have any further obligation under any buyout contract.

(10) The Secretary shall not disclose the name of any bidder until after a referendum approves the fee system .

(11) Subject to the penalties provided herein, no person or other party shall:

(A) Submit a unauthorized, incomplete, misleading, fraudulent, unenforceable, or otherwise contractually deficient bid,

(B) Attempt to revoke or otherwise set aside or avoid a bid, or

(C) In any other way, interfere with or attempt to interfere with, hinder, delay, or avoid any bid or any aspect of bidding hereunder.

Sec. 8. SPECIFIC PERFORMANCE.

Monetary damages not being an adequate remedy for breach of a buyout contract, the Secretary is entitled to, and shall enforce, the specific performance of each buyout contract.

Sec. 9. REFERENDUM.

The fee system shall be approved if the votes cast in favor of the fee system constitute a two-thirds majority of all qualified votes cast in a referendum, which shall be subject to the following:

(1) The Secretary shall conduct the referendum as promptly as possible after bid acceptance by sending a ballot to each

prospectively eligible voter.

(2) Each ballot shall contain:

(A) A randomly derived 5-digit number assigned to the voter to whom the Secretary sends the ballot;

(B) The name of the voter to whom the Secretary sends the ballot and the number of the license the voter holds;

(C) A place for the voter to vote for or against the fee system;

(D) A place for the signature of the person signing the ballot;

(E) A place for the person signing the ballot to print his or her name;

(F) A place for the signature, notation, and seal of the notary notarizing the ballot signer's signature; and

(G) A place for the person signing the ballot to certify, subject to the penalties provided hereunder, that he or she is either the voter whose name appears on the ballot or the person or party fully authorized to sign and cast the ballot on such voter's behalf and that such voter, at the time of ballot signing, is the holder of the license whose number appears on the ballot.

(3) Each ballot mailing shall:

(A) Specify the referendum's nature and purpose;

(B) Specify the date by which the Secretary must be in possession of the ballot in order for the ballot to qualify to be counted as a vote;

(C) Specify the address to which the voter must deliver the ballot;

(D) Specify the result of bidding, including:

(i) The total number of bids the Secretary accepted,

(ii) The total number of buyout licenses to be revoked, including, for such licenses,

(a) The total number of license endorsements,

(b) The total number of license endorsements in each license endorsement category,

(c) The total pounds, by each license endorsement category, landed during the participation and dependence period, and

(d) The total ex-vessel value, by license endorsement category, landed during the participation and dependence period,

(iii) The total buyout cost,

(iv) The buyout cost by license endorsement category,

(v) The buyout loan amount,

(vi) The buyout loan subamounts, and

(vii) The subfees;

(E) Include a specially-marked, postage-paid, and pre-addressed envelope that each voter must use to return the original of each ballot to the Secretary by mail or by such other form of non-electronic delivery as the voter chooses.

(4) A ballot shall qualify as a vote if the ballot:

(A) Is properly completed in all respects;

(B) Is in the Secretary's possession, at the address the Secretary specifies, on or before the last day the Secretary fixes for the receipt of cast ballots;

(C) Is cast for or against the fee system;

(D) Bears the original signature of the voter or the person signing on behalf of the voter;

(E) Bears the original signature, notation, and seal of the notary notarizing the signature of the voter or the person signing on behalf of the voter;

(F) Is the original ballot the Secretary sent to the voter and bears the same 5-digit number that the Secretary assigned to the voter.

(5) After the last date fixed for the receipt of cast ballots,

the Secretary shall:

(A) Tally all cast ballots qualifying to be counted as votes;

(B) Notify, by mail at the record address, each prospectively eligible voter to whom the Secretary previously mailed a ballot of:

(i) The total number of potentially eligible voters,

(ii) The total number of voters who cast ballots by returning them to the Secretary;

(iii) The total number of cast ballots that qualified as votes; and

(iv) Whether the referendum was successful and approved the fee system or was unsuccessful and disapproved the fee system; and

(C) If the referendum was successful, additionally notify each bidder whose bid the Secretary previously accepted that the express condition subsequent to the buyout contract has been fulfilled.

(6) The Secretary's determination about voters, ballots, vote qualification, and all other referendum matters, including, but not limited to, prospectively eligible voters and the record addresses, are conclusive and final as of the date the Secretary makes such determinations. No matter respecting such determinations shall impair, invalidate, avoid, or otherwise render unenforceable any referendum, buyout contract, buyout loan, fee system, or fee payment and collection.

(7) A successful referendum conclusively authorizes the fee system and the fee payment and collection obligations hereunder.

(8) The Secretary shall restrict all information about the nature of a voter's vote to the maximum extent allowed by law.

(9) Subject to the penalties provided hereunder, no person or other party shall submit a fraudulent, unauthorized, incomplete, misleading, inaccurate, or otherwise deficient ballot or, in any other way, interfere with or attempt to interfere with, hinder, or delay any vote or any other aspect of the referendum.

Sec. 10. Successive Reverse Auctions and Referenda.

The Secretary may, in his discretion, conduct successive reverse auctions, and successive referenda on each such successive auction, if the Secretary rejects the bids from any previous auction or if any previous referendum on the bids accepted under such previous auction were unsuccessful.

Sec. 11. BUYOUT CONTRACT PERFORMANCE.

(1) As promptly as possible after a successful referendum and notice thereof, the Secretary shall pay the buyout payment to each bidder whose bid the Secretary previously accepted by:

(A) Requesting each such bidder's payment instructions for the buyout payment, and

(B) Paying, or tendering payment of, the buyout payment to each such bidders;

(2) Upon each such payment or tender of payment:

(A) Each bidder's buyout license is forever revoked;

(B) The Secretary shall take whatever action the Secretary deems necessary to document or otherwise implement such revocation;

(C) Each ex-holder forever relinquishes any claim associated with each revoked buyout license and with the catch history upon which the issuance of each revoked buyout license was based;

(D) Each ex-holder shall submit the original of the revoked buyout license to the Secretary;

(E) Each bidder's buyout fisheries endorsement is forever revoked;

(F) Each such revocation shall run with the title to each vessel whose official document contained the buyout fisheries endorsement and shall forever prohibit and effectively prevent such vessel from fishing in any area subject to the jurisdiction of the United States or any state, territory, commonwealth, or possession of the United States;

(G) The Secretary shall notify the Secretary of the

Department in which the U.S. Coast Guard is then operating that such fisheries endorsement is revoked;

(H) The U.S. Coast guard shall:

(i) Permanently note on each such vessel's official document and/or other evidence of documentation that such vessel is, regardless of ownership, forever barred from engaging in the fisheries trade or receiving a document endorsement for such purpose, and

(ii) Take whatever other action may be necessary to document and effectively enforce such revocation;

(I) Each vessel owner whose buyout fisheries endorsement has been revoked forever relinquishes any claim associated with such buyout fisheries endorsement and with the catch history of the vessel to which such buyout endorsement related; and

(J) Each owner of such vessel shall take such action as the U.S. Coast Guards directs in order to effect or document revocation of the buyout fisheries endorsement.

(3) Buyout payments are available, in accordance with bidders' payment instructions, to satisfy liens against any revoked buyout license or vessel whose buyout fisheries endorsement has been revoked; provided, however, that:

(A) No buyout payment to any bidder either relieves the bidder of responsibility to discharge the obligation which gives rise to any lien or relieves any lien holder of responsibility to protect the lien holder's interest in the buyout payment,

(B) No buyout payment in any way gives rise to any liability of the United States for the obligation underlying any lien,

(C) No lien holder has any right or standing against the United States in connection with the revocation hereunder of any buyout license or buyout fisheries endorsement, and

(D) No lien holder shall have any right or standing to seek to set aside any revocation hereunder of any buyout license or buyout fisheries endorsement, but shall be limited to recovery against the holder whose buyout license has been revoked or the vessel owner whose buyout fisheries endorsement has been revoked as otherwise provided by law.

(4) The Secretary shall pay all buyout payments in the amounts

and in the manner provided for in buyout contracts, except buyout payments that circumstances beyond the Secretary's control may prevent the Secretary from paying.

(5) No buyout contract and neither the referendum nor the fee system shall be impaired, invalidated, avoided, or otherwise rendered unenforceable by virtue of any buyout contract's nonperformance. The Secretary shall endeavor to enforce the specific performance of all buyout contracts, but the Secretary's inability, for any reason, to do so for any portion of the buyout contracts shall not relieve any person or other party from the obligation hereunder to pay and collect the fee necessary to repay the full buyout loan balance resulting from all buyout payments the Secretary makes and does not subsequently recover.

Sec. 12. FEE PAYMENT AND COLLECTION.

(1) Notwithstanding the requirements of section 304(d) or the provisions of 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854(d) and 1861(a)), the Secretary is authorized to establish the subfee necessary to repay each buyback loan subamount; provided, however, that the referendum first approves the fee system. Each subfee shall:

(A) Be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay each buyout loan subamount;

(B) Not exceed 5 percent of the ex-vessel value of the fee crab upon which the fee is imposed;

(C) Be deducted by the crab buyer from the proceeds otherwise payable to the crab seller and accounted for and forwarded to the Secretary as provided herein;

(D) Commence only after the Secretary has paid, or tendered the payment, of all buyback payments that the Secretary is not prevented, by circumstances beyond the Secretary's control, from paying or tendering; and

(E) Notwithstanding the buyback loan's maturity, continue in effect until the buyback loan is fully repaid;

(2) The Secretary will mail each crab seller and each crab buyer, of whom NMFS has notice, a 60-day advance notice of the date on which:

(A) Fee payment starts and the fee percentage then in effect;

(B) Fee percentages increase or decrease; and

(C) Fee payment ends.

(3) If the Secretary fails to notify a crab seller or a crab buyer of any of the fee payment and collection requirements, or if the crab seller or crab buyer otherwise does not receive such notice, each crab seller is, nevertheless, obligated to pay at the fee rate then in effect and each fish buyer is, nevertheless, obligated to collect the fee at the fee rate then in effect.

(4) The fee shall be paid and collected at the time of fee crab delivery. Each crab buyer shall collect the fee by deducting it from the delivery value before paying, or promising to pay, the net delivery value. Each crab seller shall pay the fee by receiving from the crab buyer the net delivery value, or the crab buyer's promise to pay the net delivery value, rather than the delivery value. Regardless of when the crab buyer pays the net delivery value, the crab buyer shall collect the fee at the time of fee crab delivery;

(5) In the event of any bonus or other post-delivery payment for fee crab, whose amount is not determinable at fee crab delivery, the crab seller shall pay, and the crab buyer shall collect, the fee on such payment at the time of such payment;

(6) Each crab seller shall be deemed, for fee payment and collection purposes, to be both the crab seller and the crab buyer each time a crab seller sells fee crab to:

(A) Anyone whose place of business is not located in the United States, who does not take delivery or possession of the fee crab in the United States, who is not otherwise subject to this Act, or to whom or against whom the Secretary cannot otherwise apply or enforce this Act;

(B) A general food-service wholesaler or supplier, a restaurant, a retailer, a consumer, or some other type of end-user; or

(C) Any other person or party who the crab seller has good reason to believe is not subject to this Act or to whom or against whom the Secretary cannot otherwise apply or enforce fee collection.

(7) In each such case the crab seller shall, for the fee crab involved, discharge the requirements imposed herein on both a crab seller and a crab buyer and the crab seller shall be subject to all the penalties provided herein for failing to do so.

(8) If a crab buyer refuses to collect the fee as required herein, the crab seller shall then advise the crab buyer of the crab seller's fee payment obligation and of the crab buyer's fee collection obligation. If the crab buyer still refuses to collect the fee, the crab seller, within the next 7 calendar days, shall forward the fee to the Secretary. The crab seller shall then also fully advise the Secretary in writing, including:

(A) The crab buyer's and crab seller's name, address, and telephone number;

(B) The name of the fishing vessel from which the crab seller made crab delivery and the date of doing so;

(C) The quantity and delivery value of each license endorsement category of fee crab that the crab seller delivered;, and

(D) The crab buyer's reason, if known, for refusing to collect the fee as required herein.

(9) If a crab seller refuses to pay the fee as required herein, the crab buyer shall then advise the crab seller of the crab buyer's collection obligation and of the crab seller's payment obligation. If the crab seller still refuses to pay the fee, the crab buyer shall then either deduct, over the crab seller's protest, the fee from the delivery value or refuse to buy the fee crab. The crab buyer shall also, within the next 7 calendar days, fully advise the Secretary in writing, including:

(A) The crab buyer's and crab seller's name, address, and telephone number,

(B) The name of the fishing vessel from which the crab seller made or attempted to make crab delivery and the date of doing so,

(C) The quantity and delivery value of each license endorsement category of fee crab the crab seller delivered or attempted to deliver,

(D) Whether the crab buyer deducted the fee over the crab seller's protest or refused to buy the fee crab, and

(E) The crab seller's reason, if known, for refusing to pay the fee in accordance with this Act.

(10) At the end of each business week, each crab buyer shall deposit in the depository all undeposited fee revenue the crab buyer collected through a date not more than two calendar days before the date of deposit. The principal amount of deposits shall not be pledged, assigned, or used for any purpose other than aggregating collected fee revenue for disbursement to the Fund as required herein. The crab buyer may withdraw deposit interest, if any, for the crab buyer's own use and purposes.

(11) On the last business day of each month, or more frequently if the amount in the depository exceeds the account limit for insurance purposes, the crab buyer shall disburse to the Secretary the full principal amount. Disbursement shall be by check or electronic wire transfer made payable to the BSAI Crab Buyout Fund and mailed or wire transferred to the lockbox the Secretary specifies. Each disbursement shall be accompanied by a settlement sheet completed in the manner and form the Secretary specifies.

(12) Each crab buyer shall maintain for at least 3 years from the date of each transaction involved, at least the following:

(A) For each delivery of fee crab that the crab buyer buys from each crab seller:

(i) Date of delivery,

(ii) Crab seller's identity,

(iii) By license endorsement category, weight of fee crab delivered,

(iv) Identity of the fishing vessel that delivered the fee crab,

(v) By license endorsement category, delivery value,

(vi) By license endorsement category, net delivery value,

(vii) Identity of party to whom net delivery value paid, if other than crab seller, and

(viii) Total fee amount collected; and

(B) For all deposits to and disbursements from the depository:

(i) Dates and amounts of deposits,

(ii) Dates and amounts of disbursements to Fund's lockbox of depository principal, and

(iii) Dates and amounts of disbursements to crab buyer or other parties of depository interest.

(13) Annually, on a date the Secretary specifies, each crab buyer shall submit to the Secretary a report, on or in the form the Secretary specifies, containing for fee crab that each crab buyer purchases from crab sellers during that year:

(A) By license endorsement category, total weight bought;

(B) By license endorsement category, total delivery value paid;

(C) By license endorsement category, total fees collected;

(D) Dates and amounts of weekly deposits to depository;

(E) Dates and amounts of monthly disbursements to lockbox ;

(F) Total amount of interest earned on deposits; and

(G) Depository balance at year-end.

(14) If landing records, or other records involving crab buyers' ex-vessel purchases of fee crab from crab sellers, that a state requires crab sellers to maintain and/or submit to the state contain some or all of the data this section requires, crab buyers may use such records to meet appropriate portions of this section's recordkeeping requirements. No state laws, regulations, or other measures shall be effective to make such records unavailable to the Secretary for this purpose.

(15) The Secretary may audit, as the Secretary deems necessary and appropriate, the crab buyers' and crab sellers' financial records in order to ensure proper fee payment and collection.

Crab buyers and crab sellers shall make such records available to the Secretary at reasonable times and places and promptly provide all requested information reasonably related to such records. Trip tickets (or similar records establishing how much fee crab from each license endorsement

category each crab buyer bought from each crab seller at each crab delivery, when they bought it, and the price they paid for it) are essential audit documentation. No state laws, regulations, or other measures shall be effective to make such trip tickets (or such other records) unavailable to the Secretary for this purpose.

(16) The Secretary shall maintain the confidentiality of all data to which the Secretary has access under this Act and shall neither release the data nor allow the their use for any purpose other than the purposes of this Act.

(17) The late charge for fee payment, collection, deposit, and/or disbursement shall be one and one-half (1.5) percent per month, or the maximum rate permitted by state law, for the total amount of the fee not paid, collected, deposited, and/or disbursed at the time required hereunder. The full late charge shall apply to the fee for each month or portion of a month that the fee remains unpaid, uncollected, undeposited, and/or undisbursed.

Sec. 13. PROHIBITIONS AND PENALTIES.

(1) The following activities are prohibited, and it is unlawful for any person or other party to:

(A) Vote in any referendum if the party is ineligible to do so;

(B) Vote more than once in any referendum;

(C) Sign or otherwise cast a ballot on behalf of a voter in a referendum unless the voter has fully authorized the party to do so;

(D) Interfere with or attempt to hinder, delay, buy, or otherwise unduly or unlawfully influence any voter's vote in any referendum;

(E) Submit a fraudulent, unauthorized, incomplete, misleading, unenforceable, or inaccurate bid or, in any other way, interfere with or attempt to interfere with, hinder, or delay, any bid;

(F) Revoke or attempt to revoke any bid;

(G) Fail to comply with the terms and conditions of a buyout contract;

(H) Fail to fully and properly pay or collect any fee or otherwise avoid, decrease, interfere with, hinder, or delay any such payment and collection,

(I) Convert, or otherwise use for any purpose other than the purpose this Act intends, any paid or collected fee;

(J) Fail to fully and properly deposit on time the full amount of all collected fee revenue into a depository and disburse the full amount of all deposit principal to the Fund's lockbox account;

(K) Fail to maintain full, timely, and proper fee payment and collection records or make full, timely, and proper reports of such information;

(L) Fail to advise the Secretary of any crab seller's refusal to pay, or of any crab buyer's refusal to collect, any fee;

(M) Refuse to allow the Secretary to review and audit at reasonable times all books and records reasonably pertinent to fee payment and collection;

(N) Make false statements about any of the matters in this subpart;

(O) Obstruct, prevent, or unreasonably delay or attempt to obstruct, prevent, or unreasonably delay any audit or investigation; and/or

(P) Otherwise materially interfere with the efficient and effective conduct the buyout and repayment of the buyout loan.

(2) Any party who violates one or more prohibitions is subject to the full range of penalties the Magnuson-Stevens Act and 15 CFR part 904 provide--including, but not limited to: civil penalties, sanctions, forfeitures, and punishment for criminal offenses--and to the full penalties and punishments otherwise provided by any other applicable law of the United States.

(3) Additionally, the Secretary may take any and all appropriate actions, including actions at law, to enforce the United States' receipt of any fee--including penalties and all costs of collection--due and owing the United States on account of the buyout loan. All such buyout loan recoveries shall be applied to reduce the buyout loan's unpaid balance.

Sec. 14 REGULATIONS, METHOD OF NOTICE, ETC.

In implementing and administering the buyout:

- (1) The Secretary shall neither issue regulations nor publish notices in the Federal Register.
- (2) The Secretary shall, by letter to the concerned parties, specify such additional requirements, and give such notice, as this Act requires or as the Secretary deems necessary and appropriate.
- (3) The Secretary shall use the U.S. mail for all such letters.
- (4) For all mailings to holders, the Secretary shall use the record addresses.
- (5) For mailing bid invitations, bid acceptances, referendum ballots, the Secretary shall use certified mail/return receipt requested.
- (6) The Paperwork Reduction Act shall not apply to any information the Secretary collects.

North Pacific Fishery Management Council

David Benton, Chairman
Clarence G. Pautzke, Executive Director



605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

September 9, 2000

The Honorable Norman Y. Mineta
U.S. Secretary of Commerce
14th and Constitution Avenues NW
Washington, DC 20230

Dear Secretary Mineta:

We wish to express our sincere appreciation for your attention to the recent events in the crab fisheries off Alaska, and for your August 9 letter expressing your support to achieve long-term sustainability of the crab stocks and the industry that depends on them. On behalf of the Council, I wish to reiterate our support, as expressed in Chairman Lauber's April 25 letter to Secretary Daley (attached), for Congressional assistance in developing a vessel buyback program as a necessary first step in this process. And to assure you that this Council is committed to that process and to developing subsequent rationalization measures for the crab fisheries, perhaps through an IFQ type program or fishery cooperatives as are being successfully used in the Bering Sea pollock fisheries.

Related to such rationalization measures, the Council's September meeting included a discussion of pending Magnuson-Stevens Act (MSA) reauthorization, and associated issues. The current moratorium on IFQs is of course an issue of extreme interest to our region and to other Councils around the country. Our Council, through a unanimous vote, wishes to express its position regarding development of IFQ or fishery cooperatives, in the event the moratorium is lifted. We believe that if the moratorium is lifted, for Bering Sea crab or any other fisheries, that development of such programs remain in the purview of the Council process. Only through the deliberative, public process embodied by the regional Council system can the interests of all stakeholders be adequately considered and addressed, including harvesters, processors, coastal communities, and others. Successful development and implementation of such programs require that the concerns of each of these interests be addressed. Important management considerations at the federal and state level can also be appropriately accommodated through this process.

We look forward to working with the Department of Commerce and NMFS through this process to achieve the long-term sustainability of all fisheries and the industries that depend on them. Thank you once again for your attention to these issues in our region.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Benton'. The signature is fluid and cursive, with a large initial 'D' and 'B'.

David Benton
Chairman

cc: Congressional Delegations (AK, WA, OR)

North Pacific Fishery Management Council

Richard B. Lauber, Chairman
Clarence G. Pautzke, Executive Director



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Visit our website: <http://www.fakr.noaa.gov/npfmc>

April 25, 2000

The Honorable William Daley
U.S. Secretary of Commerce
14th & Constitution Avenues NW
Washington, DC 20230

COPY

Dear Secretary Daley:

I am writing to seek your help for our crab industry off Alaska. The industry is in jeopardy because of recent downturns in Bering Sea crab stocks. The opilio fishery, for example, which previously harvested around 200 million pounds, was allowed only 28 million pounds this year, and likely will be closed in coming years. We have license limitation for the crab fisheries, but significant excess harvesting capacity still exists. The bottom line is that the critically low levels of crab abundance can no longer support the current fleet.

At our April meeting, the Council discussed with industry how to further address this excess capacity problem. We envision a two-step process. First, we ask you to seek congressional assistance to support a vessel buyback program using a combination of appropriations, federal loans, and modifications of the Capital Construction Fund as appropriate. Though the attached tables show the number of crab vessels qualified in 2000 to be about 470, many of those hold interim, non-transferable licenses that may not qualify after final appeals are settled. So about 300 vessels may be granted permanent licenses. If a significant number of permanent licenses could be removed in step one, further rationalization could proceed more smoothly.

The second step would be to further limit the crab industry. Several different approaches are being contemplated. One might be a catch history-based or other type of comprehensive rationalization program that could include harvesters, processors and coastal communities. Another might be vessel cooperatives as used in the pollock fisheries. In either case, the moratorium on new individual fishing quota programs will need to be lifted by Congress. And crab cooperatives may need additional authorities from Congress.

Whatever path we take, we hope you will support our efforts to further rationalize these critical crab fisheries. We are committed to working toward the reduction of fishing capacity, which fully comports with NOAA Fisheries Strategic Plan to alleviate overcapitalization in 15% of federally managed fisheries by 2004. We hope you will join us in this effort which will set the stage for long term sustainability of the crab resources and the industry that depends on them.

Sincerely,

A handwritten signature in black ink that reads "Richard B. Lauber". The signature is written in a cursive, flowing style.

Richard B. Lauber
Chairman

cc: Congressional Delegations (AK, WA, OR)
State Governors and Fisheries Agencies

**BERING SEA ALEUTIAN ISLANDS CRAB INDUSTRY
COOPERATIVES AND RATIONALIZATION
MEETING**

Date: September 7, 2000
Time: 6:30 – 9:00 PM
Place: Sheraton Hotel, same room as Advisory Panel
Facilitators: Kevin O’Leary and David Fluharty

As publicly noticed in the NPFMC agenda for the September 6, 2000 NPFMC meeting, the Crab Co-op Subcommittee will meet on the evening of September 7th at 6:30 pm in the Sheraton Hotel, in the same room as the Advisory Panel.

DRAFT AGENDA

6:30 – 7:00 PM

- I. Review Co-op committee minutes of June 7, 2000.
- II. Reports, distribution of new and/or revised proposals, committee business

7:00 – 9:00 PM

- III. Current status and future prospects of the BSAI crab industry
- IV. Discussion of major issues (other than catch history) processor issues, community issues and skipper issues within the single and two pie options.

The NPFMC staff has completed the primary data set of information for the BSAI crab fisheries, including harvesters and processors, for the period 1990 through 1999. This is now available on the Council web site.

DRAFT
BERING SEA/ALEUTIAN ISLANDS KING AND TANNER CRAB FISHERIES
TWO PIE ITQ PROPOSAL

RATIONALE:

Bering Sea and Aleutian Islands crab stocks are experiencing severe downturns and high levels of overcapacity. The situation warrants immediate legislative relief to enable an alternative management solution to encourage restoration of the stocks and to enable industry consolidation. The calamitous situation of the industry is clearly noted in the North Pacific Fishery Management Council appeal to the Secretary of Commerce, William Daley for a legislative solution, dated April 25, 2000 and the Secretary's May 16, 2000 announcement of a declaration of a fishery failure for the opilio fishery, the economic cornerstone of the 250 vessel Bering Sea crab fleet. Recent NMFS crab survey information just released, indicates continued low king crab stocks, including continued closures for the Pribilof and St. Matthew Islands fisheries. The opilio fishery information for the winter of 2001 has just been announced and it is almost identical to the nominal harvest of the 2000 season.

In the absence of prompt and effective rationalization of the BSAI crab fisheries, two waves of vessel-owner bankruptcies, with far-reaching impacts on not only fishermen, but processors and communities, can be expected. The first wave will follow the upcoming small red king crab fishery followed by a small opilio fishery, after the first of the year. The second wave will follow the return to the fisheries of vessels only temporarily removed as a consequence of the initial bankruptcies. Many survivors of the first wave will not be viable in competition with returning vessels purchased at a fraction of their previous market value and thus able to survive financially on the very low revenues available in the depressed and still overcapitalized crab fisheries. By contrast, ITQs or coops will allow fleet consolidation with a reasonable financial return to those who elect not to participate in the fisheries.

PROPOSAL:

Amend the Magnuson-Stevens Act in 2000 to specifically provide for not only the establishment of individual transferrable fishing quotas for harvestors, but also transferrable processing quotas for primary processors, in the Bering Sea/Aleutian Islands king and tanner crab fisheries. The essential components of the legislated BSAI crab "two pie" system would be as follows:

- fishing vessel eligibility, catch history qualification periods, excessive share caps for harvestors and limitation on processor ownership of eligible crab fishing vessels.
- processors eligibility, processing history qualification periods, processing quota share plan and guidelines and excessive share caps for processors.

- catcher-processor, catching and processing eligibility and qualification periods and processing quota share plan and guidelines;
- directive to the Secretary of Commerce to implement the Plan by September 1, 2001. and;
- termination of crab processing caps enacted under the American Fisheries Act under Section 211 (c)(2)(A) .
- establish procedures and requirements for the periodic review and possible revision of the plan.

The following could also be included:

- conservation and management measures;
- government supported permit and vessel buyback program as agreed upon by industry.

The proposal assumes the North Pacific Fishery Management Council, the NMFS and the State of Alaska Board of Fisheries, and ADF&G will continue their normal oversight and regulatory roles as defined in the Bering Sea and Aleutian Islands King and Tanner Crab Fisheries Management Plan and that they will coordinate implementation measures for the Plan.

SPECIFIC PLAN PROVISIONS TO BE INCLUDED IN LEGISLATION:

HARVESTERS:

- **Plan Eligibility:** The harvesting shares for each fishery shall be initially allocated to crab vessel owners that are qualified under the BSAI Crab LLP and the plan will incorporate eligibility for fishery endorsements according to the LLP landing requirements. The NPFMC recency landing requirement, of one landing in any crab LLP fishery in 1996, 1997, through February 7, 1998 is to also be incorporated as an eligibility provision for the plan. Such harvesters shall be "initial eligible harvesters" in the Plan.
- **Catcher vessel and catcher-processor harvester shares:** Harvesting shares shall be based on the catch history of initial eligible harvesters in each of the following fisheries, using any combination of the years 1990 through 1999, (to be agreed upon by harvesters in the next few weeks), as follows:
 - _____ for Bristol Bay red king crab
 - _____ for Bering Sea opilio crab
 - _____ for Bering Sea bairdi crab
 - _____ for Adak red king crab
 - _____ for Pribilof red and blue king crab
 - _____ for St. Matthew blue king crab

- _____ for Aleutians brown king crab
- Harvesters shall receive harvesting shares that allocate 100% of each crab fishery to the initial eligible harvesters. Harvesting shares shall be transferrable to U.S. citizens that are not initial eligible harvesters.
- An excessive share cap on ownership of harvesting shares shall be established in the plan, but shall not be higher than: ____%. Eligible persons that exceed the cap in the initial allocation, shall be grandfathered into the plan at their current share levels in the appropriate fisheries.
- A separate excessive share cap on ownership of harvesting shares shall be established in the plan for the Aleutians brown crab king crab fishery, as it has less than 25 current participants. An excessive share cap for this fishery shall not be higher than: ____%. Eligible harvesters that exceed the cap in the initial allocation shall be grandfathered into the plan at their current share level.
- Processor ownership in fishing vessels shall be restricted to those vessels owned by initial eligible processors as of December 31, 1999.

PROCESSORS:

- **Plan Eligibility:** An eligible processor must have processed in all of the recent four years. In addition, an eligible processor must meet a recency requirement, and must have processed in one of the most recent two years, i.e. 1998-1999 or 1997-1998, depending on the species, in which the fishery was open and viable, to be eligible in each fishery. Such processors shall be "initial eligible processors" in the Plan. Base years for the fisheries are as follows:
 - 1996-1999 for Bristol Bay red king crab
 - 1995-1998 for Pribilof red king crab
 - 1995-1998 for St. Mathew blue king crab
 - 1995-1998 for Pribilof blue king crab
 - 1996-1999 for Bering Sea opilio crab
 - 1996-1999 for Aleutians brown king crab
- **Processing history:** An eligible processor's processing history will be in percentages based on its processed pounds in each directed (non-CDQ) fishery in some combination of the four base years for each fishery (whether it is 1 of 4, 2 of 4, 3 of 4, or 4 of 4, is to be agreed upon by the processors within the next few weeks). The best years will be determined as the processor's highest number of pounds processed in each fishery in each year.
- **Processing shares** shall be based on the processing history of eligible processors in each fishery (to be agreed upon by processors in the next few weeks). An eligible processor will be allocated annually a poundage amount in each fishery based on its

processing history percentage as compared to the aggregate processing history percentages of all eligible processors.

- _____ for Bristol Bay king crab
 - _____ for Bering Sea opilio crab
 - _____ for Bering Sea bairdi crab
 - _____ for Adak red king crab
 - _____ for Pribilof red and blue king crab
 - _____ for St. Matthew blue king crab
 - _____ for Aleutians brown king crab
- Excessive share caps for ownership of processing shares shall be established in the plan, but shall not be higher than: _____%. Eligible processors that exceed the cap in the initial allocation, shall be grandfathered into the plan at their current share levels on a fishery by fishery basis; or a cap can be established at the highest level held by a processing entity, on a fishery by fishery basis.
 - Guaranteed processor share allocations: Each eligible processor shall receive processing shares equal to a percentage of its processing history for each current crab fishery (to be agreed upon by harvesters and processors in the next few weeks). Processing shares are transferrable.
 - Open access processor share allocations: The remaining percentage of processing shares may be processed by:
 - (1) only initial eligible processors, "restricted processing shares;"
 - (2) or, by any person or company that is licensed to purchase and sell king and tanner crab in the State of Alaska, "unrestricted processing shares;"
 - (3) or, this portion of the processing shares can be divided between both types of processors and buyers. (The division of these shares is to be agreed upon by harvestors and processors in the next few weeks).

SELECT OPTIONS FOR DISTRIBUTION OF GUARANTEED AND OPEN ACCESS PROCESSOR ALLOCATIONS:

Guaranteed Portion:	80	85	85	90	90	90
Restricted Access:	10	5	15	10	5	0
Unrestricted Access:	10	10	0	0	5	10

(See Appendix 1, "Draft of Two Pie ITQ BSAI Crab Operating System" for additional information.)

CATCHER-PROCESSORS:

- **Plan eligibility:** Catcher-processors shall receive 100% of their catch history and processing history based on the plan eligibility for harvesters outlined above. Such vessels will be "initial eligible catcher processors." Harvesting and processing shares can be bifurcated and transferred separately.
- **Purchasing from catcher vessels:** If a catcher-processor has purchased crab from catcher vessels during the processing eligibility period, then his additional processing shares based on catcher vessel purchases will be allocated according to the industry agreed upon formula.
- **Open access processor share allocations:** Catcher-processors shall be eligible to participate in the open access processing share allocations, provided they have purchased crab from catcher vessels during the processors' eligibility period (in accordance with the division of the shares, in the paragraph above pertaining to open access to open access processor share allocations, to be agreed upon by harvesters and processors in the next few weeks).
- **If a processor, other than a catcher-processor, purchases only the processing shares of a catcher-processor, the shares are to be reallocated according to the agreed upon formula for the guaranteed portion of the processor allocation.**

COMMUNITY CONSIDERATIONS to be agreed upon by industry within the next few weeks.

SKIPPER AND CREW CONSIDERATIONS to be agreed upon by industry within the next few weeks.

DRAFT APPENDIX 1: September 5, 2000, 1830 Hours, PDT, Version 1

DRAFT OF BSAI CRAB TWO PIE ITQ OPERATING SYSTEM

ASSUMPTIONS:

- Harvesting and processing shares are fully transferrable to U.S. citizens, that need not be initial eligible harvesters or processors.
- The plan does not require that harvesters must negotiate or deliver to any specific processor to whom they have been making landings to in the year prior to the implementation of the plan, or any prior years. Individual harvesting quotas are not linked to any specific processing company.
- The plan does not require processors to take deliveries from any specific harvesters. Processing quotas are not linked to any specific harvesters or individual harvesting quotas.

HARVESTER QUOTAS: (ITQs)

- Individual vessels will receive transferrable fishing quotas (privileges revocable by the federal government), 100% of the catch history for some agreed period of years, with no requirement or linkage to a specific processing company. Harvesters can sell their catch to processors eligible to purchase "A" or "B" shares.
- Harvesting quotas will be classified into two categories on an individual vessel basis:
 - (1). "A" shares, which will be matched with the terms and conditions of the "guaranteed processor quotas" within the range of -- 80 - 90% of a vessel's total fishing quotas on a fishery by fishery basis.
 - (2). "B" shares, which will be matched with the terms and conditions of the "open access" processor quotas within the range of --10 - 20% of a vessel's total fishing quotas on a fishery by fishery basis.
- Vessels can make deliveries of crab based on "A" and "B" shares of harvesting quotas (pro rata) without poundage restrictions, on a trip by trip basis, during the season. Harvesting quota shares are transferrable in season.

PROCESSOR QUOTAS: (IPQs)

- Guaranteed processing quota shares: Initial eligible processing companies will receive transferrable processing quotas (privileges revocable by the federal government), within a range of --80-90% of the processing history, "A" shares of processing quota, for some agreed upon period of years. On an individual basis,

processing entities purchase of deliveries of "A" shares of crab, will be capped at their historic level on a fishery by fishery basis. "A" shares of processing quotas are fully transferrable in season.

- **Open access processing quota shares:** In addition to receiving guaranteed processing quotas (at some agreed upon level), initial eligible processors (including eligible catcher processors), and/or, other licensed buyers (in accordance with industry agreement), can purchase deliveries of "B" shares of crab, under the terms and conditions of open access processing quotas. Initial eligible processors and/or, other licensed buyers can purchase unlimited quantities of "B" shares of crab, on a trip by trip, boat by boat basis.

September 7, 2000 1800 Hours ADT

DRAFT HARVESTER BSAI CRAB TWO PIE ITQ PROPOSAL

Crab processing quota share split:

70% guaranteed

30% open access

The NPFMC shall initiate review of the plan within twelve months of the date of implementation of the plan, with subsequent reviews to be determined by the Council. Following review, the NPFMC shall have the authority to raise or lower the quota share split by a maximum of 10% (a range of 60:40 to 80:20).

Processing quota shares shall be fully transferrable and can be purchased by other than initial eligible processors.

Excessive share caps on ownership of harvesting shares shall be established in the plan on a fishery by fishery basis. MARAD regulations pertaining to ownership of U.S. fishing vessels, as noted in the American Fisheries Act, shall govern ownership of BSAI crab harvesting shares.

OCEAN BEAUTY

SEAFOODS, INC.

September 8, 2000

Via Fax 907-276-7571

Mr. Jeff Stephan
Co-Chairman
Bering Sea Crab Co-op Committee

Dear Jeff:


Unfortunately, I am unable to attend tonight's meeting of the Co-op Committee due to previous commitments. Please be assured that my absence does not diminish the importance to our company and other Kodiak processors of the issues in front of the committee.

Ocean Beauty Seafoods has a long and substantial history in the purchasing and processing of Bering Sea crab. Several other Kodiak processors have also participated to varying degrees as members of the Bering Sea Crab Industry. Since I did not receive version 7 of the draft "Two Pie ITC Proposal" until the start of last night's meeting (nor version 5 or 6 for that matter), I was unable to review it adequately until this morning. I do not believe that it provides adequate consideration and recognition of the interests and history of the Kodiak portion of the Bering Sea Crab Industry. The development of the proposal's qualifying years and processor history determination was to my understanding done by a group of processors who did not give significant consideration to Kodiak. Any processor proposals for determining the processing quota share split between guaranteed and open access, which have been submitted thus far were developed in the same manner.

At this time, it is our company's position is that a split of 50/50 between processing quota shares and open access would be more appropriate than what has been proposed and anything less than that would be unsatisfactory. If the committee process allows you to cast my vote in proxy, then please vote "no" for me unless the 50/50 split is included in the proposal. I am available by telephone in the event some other provision is included that would possibly satisfy our concerns.

Although the definition of "consensus" is debatable, I do not believe you can achieve it unless a portion of the Kodiak processing segment of the Bering Sea Crab Industry is on board. Please feel free to share this letter with the other members of the committee. Thank you for your time and assistance.

Sincerely,
Ocean Beauty Seafoods, Inc.


Jon Black



1100 W. EWING ST. • P.O. BOX 11739 • SEATTLE WASHINGTON 98107 • (206) 285-6800 • FAX (206) 281-5697



September 7, 2000

CO-OP SHARES/IFO'S FOR CAPTAINS

Since the last industry co-op meeting on May 18, 2000 and much discussion with various industry representatives, SEA has decided to drop its original request for a 10 percent initial allocation of quota for captains. SEA believes that some form of a rationalization program that dictates safety and better harvesting practices is essential for the survival of the fleet and the resource. For this reason, SEA did not want to become a stumbling block in order to secure a future for the crab industry. Hopefully other segments of the industry will recognize this concession and feel the same. SEA believes strongly that captains are direct contributors to catch history, and that in order to have some form of security in the future, captains and crew need protection. Traditionally, historical crew shares are 40% of adjusted gross after expenses (i.e. fuel, bait, groceries, royalties).

SEA believes that in any rationalization program, there are two points of security are needed to protect their futures:

1. Captains and crew need traditional and historical crew share percentages protected with no sunset.
2. A set aside of 10% of any quota share that sells - Captain and crew will have first right of refusal to purchase those shares.

Although these two points are open for discussion, SEA will make no further concessions.

Crab Industry Co-op Meeting
June 7, 2000

The industry co-op development initiative continued with a meeting on the evening of June 7 at the Doubletree Hotel in Portland. Council members David Fluharty and Kevin O'Leary (and staff member Chris Oliver) were present. The meeting was presided over by Co-Chairs Jeff Stephan and Arni Thomson. Following introductions Arni Thomson informed the group that they have a \$1,019 cash surplus to date. First the Committee got an update on activity in Washington D.C., noting a bill introduced by Senator Snowe to extend the IFQ moratorium for an additional two to three years (it appears unlikely that the Magnuson-Stevens Act will be reauthorized this year). There may be the possibility of regional or fishery exemptions from the moratorium, but that remains unclear at this time. A National Fisheries Institute (NFI) position is to not support lifting the moratorium unless processors are included, on a 50/50 basis. Regarding a potential buyback program, it is still unclear whether processors would/could be included, though such inclusion would likely require legislative authority.

The Committee then discussed where they are in the development process for BSAI Crab Rationalization, and at what point the issue should formally enter the Council process as a specific agenda item for discussion and action. After much discussion, it was decided that the Committee needed to continue its work, including the consideration and resolution of several critical issues. To assist in that process, the Committee is requesting the Council to designate staff analytical support to help flesh out several issues, particularly the catch/processing history alternatives. Specifically, the Committee would like to begin development of an aggregated database which could be used to evaluate landings data, processing data, individual percentages, etc. for harvesters and processors with respect to a given set of years, and a set of sample alternatives. Included in this database development is a request to develop a QSAM-like model that was developed by Council staff in 1992 during the early development of CRP.

Action Item 1:

The Committee unanimously adopted a motion by Gary Painter (2nd by Linda Kozak, and amended with friendly amendments) that included the following components:

1. The Committee requests the Council to address BSAI crab rationalization as a formal "topic of the Council's attention on the Council Agenda";
2. The Committee requests the Council to encourage NMFS to proceed posthaste with the implementation of Amendment 1 to the LLP program that addresses the further recency restrictions for the BSAI crab fisheries (adopted by the Council in October 1998);
3. The intent of the Committee is to attempt to develop a specific proposal for BSAI crab rationalization;
4. The Committee requests the Council to task the Council staff to develop essential information (data, analysis, etc.) that would further assist the Committee with ongoing decision-making with respect to the development of options for BSAI crab rationalization;
5. The Committee requests the Council to recognize the BSAI Crab Co-op Committee, to the extent possible, as the advisory entity to the Council with respect to the development of options for BSAI crab rationalization.

Staff advised that the requested database and associated information could be developed pending Council direction on this and other staffing assignments. While several unresolved issues will affect the accuracy of

such a database (i.e., LLP amendments, potential Buyback program, private transfers of catch history, etc.), it would provide the industry with a preliminary quantitative basis with which to gauge the options

Action Item 2:

The Committee unanimously adopted a motion by Lennie Herzog (2nd by Kevin Kaldestad, and amended with friendly amendments; and further amended with a formal amendment by Jeff Steele, 2nd by Linda Kozak) that included the following components:

1. To develop a primary data set of information for the BSAI crab fisheries, including harvesters and processors, for the period 1990 through 1999.
2. To develop 3 specific examples for the harvesting sector for:
 - (a) 1990 through 1999 (all years)
 - (b) the best nine of ten years for the period 1990 through 1999;
 - (c) 1995 through 1999 (all years).

The Committee then received a report from SEA which outlined a new proposal for skipper inclusion (this was proposed as a compromise from their original proposal which was for a 10% allocation of any vessels' 'QS'). The new proposal is for a guaranteed minimum crew share at traditional rates, and a first right of refusal for 10% of any QS sold. Staff advised that the Council does not have authority to regulate salary or crew share, but that could perhaps be effected via co-op agreements (in the event of co-ops), and that a first right of refusal could be included in an IFQ program, but this may not be applicable in a strict co-op system. The Committee will consider this new proposal as it continues to work on this and other issues.

A meeting of the Committee was tentatively scheduled for early to mid September, possibly in conjunction with a September Council meeting. However, since adjournment of this week's meeting, a large majority of Committee members have discussed the need to have a meeting prior to the early September time frame. Late July has been agreed to for the next meeting. The focus of that meeting will be on major issues other than catch history (processor issues, community issues, IFQ options, two-pie IFQ options, skipper inclusion, etc). The database and spreadsheet will be made available upon completion by Council staff (assuming Council direction to do so).

RECEIVED
SEP 13 2000

N.P.F.M.C

September 10, 2000

Senator Ted Stevens
Washington, D.C.

Dear Senator Stevens,

I have just returned from herring and salmon fishing for the last six months as an owner/operator of a 52' vessel. As I return, the NPFMC process is beginning in Anchorage. I have received three phone calls and one personal visit in the last two days from people involved in the discussion of "co-ops"--specifically for Bering Sea crab. I am also aware now of the steady push for the development of harvester co-ops and the formation of a processor cartel in the Gulf of Alaska.

As you know, I represent the salmon fleet in the GOA concerning marketing and negotiated price contracts, through the United Salmon Association. The few major processors left in the Gulf have become extremely powerful as processing competition has lessened over the past few years. The constriction of available markets to fishermen has resulted in a powerful and potentially abusive situation in some areas. The only thing keeping it all in check is the mere threat of a few small, potential buyers attempting to establish buying opportunities in coastal communities.

Competition is the balancing agent in the equation. If we continue to create processor cartels through the Council process, across the state for crab, pollock, codfish, and we squeeze out new processor/markets from various fisheries, they will not be able to stay in business for any fishery. Competition and diversification are essential in the processing industry, just as they are in the harvesting sector. The "unintentional consequences" of an Alaskan processing cartel will devastate the local tax base over time, as ex-vessel prices are reduced. Coastal communities depend on that revenue to build budgets for infrastructure and to pay for education.

The current discussion of cartels reverberates with the undertone of "conservation and survival". Therein lies the fallacy promulgated by the proponents of "rationalization" via this method. One hundred percent of the burden of conservation happens *before the processor is involved*. The same processors will buy the product with or without the advantage of a closed class cartel. The only reason for a closed class is control and elimination of competition. This type of business practice has been illegal since 1894 for good reason.

Senator Stevens, there is nothing to be gained for the industry by creating a cartel except for those who are part of the cartel.

Mandatory fishermen co-ops which are basically a modified form of IFQ's, should be analyzed by the NPFMC and through public process, not Congress. I believe, as do the vast majority of small boat fishermen in Alaska, that the moratorium on IFQ's should be

extended indefinitely. They are devastating to small boat, multi-species fishermen AND coastal communities, that rely on a little of everything to sustain their businesses. Why should these fishermen be eliminated to create a smaller, wealthier class of elite harvesters? The impacts of the halibut and sablefish IFQ programs in Alaskan waters resulted in a huge reallocation fisheries "wealth", simultaneously creating instant millionaires and bankruptcies as a crucial income source was eliminated. This is more akin to the downsizing of a huge corporation, which results in the loss of thousands of jobs, small businesses (service and supply), and tax revenue to communities.

When considering cartels and co-op situations in the Alaskan fishing industry, please remember that the economic dynamics of the Gulf of Alaska compared to the American Fisheries Act in the Bering Sea, are 180 degrees different.

Cartels and IFQ's have no place in the Gulf. When considering the Bering Sea crab fishery, perhaps some type of quota share program or cooperative for harvesters is needed; an exemption from the moratorium for this type of harvester-specific program might be acceptable, but only through an extensive public review via the NPFMC.

In closing, I ask for your support in helping the NPFMC to deal with the harvest of the resource without IFQ's and to ask that Congress make sure that NO exemptions are made to the 100 year-old antitrust laws which would ultimately break the backs of Alaskan harvesters and the coastal communities in which they reside.

Sincerely,



Bruce Schachter

cc: Senator Frank Murkowski
Representative Don Young
Governor Tony Knowles
David Benton, NPFMC Chair
Kevin Duffy, ADF&G Deputy Commissioner

**CITY OF SAINT PAUL**

P.O. BOX 901
SAINT PAUL ISLAND, ALASKA
99660-0901
(907) 546-2331
FAX (907) 546-3188

September 25, 2000

Via Fax: 465-6094

Ms. Diana Coate, Executive Director
Board of Fisheries
Alaska Dept of Fish & Game
P.O. Box 25526
Juneau, AK 99802-5526

RECEIVED

SEP 26 2000

N.P.F.M.C.

Dear Ms. Coate:

As you know, the people of St. Paul Island are working closely with the Bering Sea crab industry and the State and Federal governments to respond to the collapse of the Bering Sea opilio crab industry.

To assist us in managing this crisis, we ask that you delay the opening of the 2001 Bering Sea opilio crab fishery until April 1, 2001, just as you did this previous season.

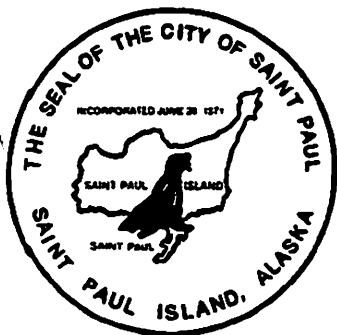
Our community relies on this fishery for more than 85% of its annual City budget, and more than 40% of our CDQ budget. We believe that an immediate decision to delay the opening of the 2001 season until April 1st will avoid the uncertainty and additional costs associated with a later decision.

Conversely, a delay in this decision may result in unnecessary fleet deployment and processor start-up costs, and hamper all of our disaster management and recovery efforts.

Thank you for considering our request.

Sincerely,

Simeon Swetzof, Jr.
Mayor

**CITY OF SAINT PAUL**

P.O. BOX 901
SAINT PAUL ISLAND, ALASKA
99660-0901
(907) 546-2331
FAX (907) 546-3188

September 25, 2000

Via Fax – (202) 224-1034

The Honorable Ted Stevens
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

Dear Senator Stevens:

The City of Saint Paul urges you to continue the present moratorium on IFQ's for one more year in order to allow the North Pacific Fisheries Management Council an opportunity to analyze the various proposals to "rationalize" the crab fisheries in Alaska and develop a sound program. This will ensure that any rationalization program protects Alaska's communities' historic reliance on crab processing, maintains an independent fleet and competition among the processors and is, in fact, good for the conservation and sustainability of the biological resources in the waters off our shores.

State statistics demonstrate that the City of Saint Paul accounts for approximately 40% of the crab delivered to shore-based plants. Members of my administration have been working closely with the various groups on both the buy-back and rationalization programs. Last spring two committees were established to work on these issues as a result of the efforts of Dr. Dave Fluharty and Kevin O'Leary of the NPFMC, composed of harvesters, processors and communities. The City participated actively in both. We feel that the buy-back program is ready to proceed. While the buy-back committee has worked towards consensus and has come up with a consensus program, we found out at the last NPFMC meeting, for the first time, that a small group of processors and harvesters have been meeting outside the committee process in an effort to cut a deal where they will receive the windfall of owning the crab off our shores. In the open effort, St. Paul had presented a proposal, which has been provided to Dave Russell of your staff, but it was never responded to. It appears, however, that some feel that they can convince Congress to pass a program that we believe may be extremely detrimental to the Aleut Natives on St. Paul, the State of Alaska, and many of the Alaskan crab fishermen – a program developed outside the open process we were all working under.

The Honorable Ted Stevens
September 25, 2000
Page 2 of 2

We ask that you extend the moratorium for one year and direct the NPFMC to analyze and develop a workable program that is consistent with the principles set forth by the National Academy of Science Research Council in their report "*Sharing the Fish*". We also ask that, in continuing the moratorium, the legislation direct the NPFMC to apply the criteria set forth in the attachment to Governor Knowles' letter of September 21, 2000, which is attached as an exhibit hereto.

Thank you once again for all you have done for the people of St. Paul and Alaska.

Sincerely,



Simeon Swetzof, Jr.
Mayor

Cc: The Honorable Tony Knowles
The Honorable Olympia Snow
The Honorable Slade Gorton
The Honorable Patty Murray
Ms. Lynn Cutler (the White House)
Ms. Penny Dalton (Administrator, NMFS)
Dr. James Baker (Undersecretary of Commerce)
Mr. John Katz (Office of Governor Knowles)
Dr. Anna Kerttula (Office of Governor Knowles)

Attachment from Governor Knowles' letter:

The Committee directs the North Pacific Fisheries Management Council to do an analysis of rationalization program for the Bering Sea Crab fishery that includes, but is not exclusive of, the following elements and report back to Congress on its findings:

- **Ensuring an appropriate increase in quota to the CDQ program and/or creating some other opportunity for community based access to quota.**
- **Protecting the committees' historic reliance on crab processing.**
- **Maintaining an independent fleet and arms-length price negotiations between harvesters and processors to ensure market and fleet diversity.**
- **Minimizing disruption to the processing sector and evaluating the best means to address over-capitalization in the processing sector.**
- **Protecting against excessive concentration of quota.**
- **Examining possible limited duration quota systems that allow for periodic review of the assignment and transfers of quota.**
- **Adopting the "First Principles" for national quotas programs, as articulated by the National Academy of Sciences' National Research Council in their comprehensive report Sharing the Fish:**
 1. **Conservation and sustainability of biological resources is the highest priority.**
 2. **The role of communities and the importance of fishing as a tradition and a profession must be carefully accounted for.**
 3. **The net benefits that society receives from the use of quotas should be maximized to the greatest extent possible.**
 4. **Equity, fairness, and the distribution of the benefits derived from marine resources must be considered.**

SEN Sep. 22. 2000 OF 5:21PM-DC SCHMELTZER APTAKER PM ;

2026245857-

No. 8817 33P. 2/4: # 2

Sep=21=00 04:22pm From=

T-848 P.02/04 F=845

TONY KNOWLES
GOVERNORSTATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAUP.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 485-3800
FAX (907) 485-3502

September 21, 2000

The Honorable Ted Stevens
United States Senate
522 Senate Hart Building
Washington, DC 20025

Ted
Dear Senator Stevens:

I need your help to ensure a healthy future for all of Alaska's coastal fishing communities. I am speaking about the need for the extension of the IFQ moratorium without exception. Because of the numerous crises facing our coastal fishing communities, from salmon and crab fisheries failures to Steller Sea Lion injunctions, I have been travelling to a number of coastal communities and talking with Alaska fishing families. One of the main issues on our fishermen's minds is the IFQ moratorium and the various proposals to "rationalize" the fisheries in Alaska, particularly the Bering Sea crab fishery. By far the majority of Alaska fishermen agree that they would like to see an extension of the moratorium without exception for at least one year. I am in total agreement with this plan of action and I believe such an extension is necessary to ensure that any rationalization plan reflects the needs of all Alaskans.

As we are too painfully aware—from the closure of the majority of the Bering Sea crab fishery this year—some very difficult decisions concerning crab conservation, over-capitalization, and rationalization of this fishery will need to be made. Of greatest concern to me is the apparent activity of an exclusive group of the crab harvesting and processing sectors that has been attempting to negotiate an agreement on IFQs and rationalization that is not inclusive of our coastal communities or our fishermen.

From statements you have made during the Magnuson-Stevens Marine Conservation Act hearings this year, I know we share the same concerns about the effects of IFQ programs on our Alaska communities and fishing families. I believe the best way to ensure these concerns remain a priority is to extend the moratorium on all fisheries without exception and to direct the North Pacific Fisheries Management Council to do an analysis of the current situation in the Bering Sea Crab fishery and report on their findings to Congress next session. Enclosed is a draft of the issues that the state considers of prime importance

Received Time Sep. 22. 3:55PM

Print Time Sep. 22. 3:57PM

SEN Sep. 22, 2000 OF 5:21PM-DC SCHMELTZER APTAKER 'M ;

2026245657

No. 8817 33P. 3/4: # 3

Sep-21-00 04:22pm From

T-848 P.03/04 F-845

The Honorable Ted Stevens
September 21, 2000
Page 2

for the council to include in such an analysis. Action at the council would give all sectors of the fishing industry and coastal fishing communities a chance to participate in an open public process, which Congress can then act on with confidence.

I believe we have an historic opportunity and responsibility to Alaskans to create a rationalization plan that makes sense for conservation of the resource as well as ensures a healthy future for our local fishing communities for generations to come.

If you have questions or require further information, please do not hesitate to contact me or my staff. Thank you for your consideration of my views.

Sincerely,


Tony Knowles
Governor

Enclosure

SEN Sep. 22. 2000 OF 5:21PM -DC SCHMELTZER APTAKER PM ;

202624557- No. 8817 33P. 4/4 4

Sep-21-00 04:22pm From-

T-849 P.04/04 F-845

draft

"The Committee directs the North Pacific Fisheries Management Council to do an analysis of a rationalization program for the Bering Sea Crab fishery that includes, but is not exclusive of, the following elements and report back to Congress on its findings by _____:

- ◆ Ensuring an appropriate increase in quota to the CDQ program and/or creating some other opportunity for community based access to quota.
- ◆ Protecting the communities' historic reliance on crab processing.
- ◆ Maintaining an independent fleet and arms length price negotiations between harvesters and processors to ensure market and fleet diversity
- ◆ Minimizing disruption to the processing sector and evaluating the best means to address over-capitalization in the processing sector.
- ◆ Protecting against excessive concentration of quota.
- ◆ Examining possible limited duration quota systems that allow for periodic review of the assignment and transfers of quota.
- ◆ Adopting the "First Principles" for national quotas programs, as articulated by the National Academy of Sciences' National Research Council in their comprehensive report Sharing the Fish:
 1. Conservation and sustainability of biological resources is the highest priority.
 2. The role of communities and the importance of fishing as a tradition and a profession must be carefully accounted for.
 3. The net benefits that society receives from the use of quotas should be maximized to the greatest extent possible.
 4. Equity, fairness, and the distribution of the benefits derived from marine resources must be considered.

ALASKA MARINE CONSERVATION COUNCIL

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October 5, 2000

David Benton, Chair
North Pacific Fishery Management council
605 W. 4th Avenue
Anchorage, AK 99501

Re: Agenda Item D-2, Crab Plan Team report

Dear Mr. Benton,

In September, AMCC presented a proposal to the Crab Plan Team for adding new conservation measures to the Snow Crab Rebuilding Plan. Our purpose was to explore ways that the rebuilding plan could embrace the ecological needs of the snow crab population. The rebuilding plan approved by the NPFMC last June is based solely on a more conservative harvest strategy; our recommendation for enhancing rebuilding is to include bycatch reduction and seafloor habitat protection. The specific options we developed were based on an exploratory data analysis. They serve as examples of what could be considered in another more complete analysis.

We based our proposal on the following:

- The snow crab population is in extremely poor condition exemplified by multiple years of little or no recruitment and significant reduction in reproductive females.
- The effects of bycatch and habitat disturbance are greater when the population is very low.
- More conservation is needed when major uncertainties exist regarding our understanding of the biology and ecology of the species.
- The Board of Fish recommended that the rebuilding plan include *meaningful* bycatch reduction and habitat protection especially during the recovery phase.

The Crab Plan Team reviewed our presentation and recommends to the NPFMC that, based on existing data, current bycatch measures are sufficient and no further habitat protection is warranted. The plan team states that adding habitat protection for snow crab may be "imprudent." We would suggest, on the other hand, that *not* exploring creative habitat conservation measures is imprudent given the serious circumstances surrounding the snow crab population and the risks associated with doing too little.

We continue to have serious concerns about the effects of mobile gear on crab habitat, the potential for sublethal effects on crab, and unobserved mortality that is not accounted for in bycatch data. While we applaud efforts made by the trawl fleet to reduce bycatch, some methods used may inadvertently result in increased unobserved mortality. These effects may be significant and should be addressed. For example, larger mesh nets

may allow for crabs to escape but may also cause injury to crabs that are not captured and counted. Other types of impact include multiple passes of a trawl over the same crab and repeated disturbance to benthic organisms. The rebuilding plan does not address these kinds of impacts in part because they are not quantified. The rebuilding plan assumes the existing bycatch management regime is sufficient to constrain the effects of bottom trawling even though only 4% of the area of snow crab distribution is contained in existing no trawl zones.

We appreciate the challenges the scientists face when data are insufficient to predict quantifiable results that could be expected from new conservation measures. On the other hand, fishery managers regularly make decisions based on incomplete data. We believe further exploration of what *is* known about snow crab habitat and the effects of fishing gear would lead the NPFMC to develop further conservation measures that are reasonable and effective. By focusing on what we do know, we can derive new ideas for conservation and useful questions for future research. For example, there have been studies in the Atlantic on the ecological effects of trawl gear on mud substrate similar to Bering Sea snow crab habitat. A full analysis would provide the NPFMC with information to weigh the relative merits and risks of status quo management versus improved conservation.

Although the Crab Plan Team did not concur with our ideas at this time, they did agree that reducing the effects of bottom trawling was beneficial for the crab population citing current bycatch controls as a way to accomplish this goal. The team also suggested that habitat conservation be done through a system of protected areas and research reserves rather than as a reaction to a species-specific crisis. Given the high-risk situation with snow crab, we recommend an approach that is responsive to the urgent needs for snow crab while more comprehensive work is done to address Bering Sea wide questions.

AMCC recommends that the NPFMC work with the Board of Fish to chart a course for further conservation measures to enhance snow crab rebuilding. Possible outcomes could include:

- A decision to develop additional habitat conservation plans for snow crab that would include 1) experimental designs for monitoring the effects of conservation measures and 2) research directed at the biology and ecology of snow crab;
- Reconsideration of the bycatch management strategy including PSC caps, the bycatch "floor," and the bycatch limitation zone;
- Evaluation of both the directed crab and groundfish fisheries through the environmental impact statement for the groundfish FMP now underway and the upcoming environmental impact statement for the Bering Sea crab FMP.

Thank you for consideration of our comments.

Sincerely,



Dorothy Childers
Executive Director