

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director

DATE: September 12, 1997

SUBJECT: Scallop Management

ESTIMATED TIME

2 HOURS

**ACTION REQUIRED**

- (a) Initial review of Amendment 3.
- (b) Discuss future limited entry program.

**BACKGROUND**

Amendment 3 - Defer Management to State

The Scallop fishery off Alaska is currently managed under a State-Federal management regime established by Amendment 1 to the Scallop FMP. This regime is cumbersome in that each State regulation and management action must be duplicated by a parallel Federal action. In discussing Amendment 1, the Council noted that it could serve as a temporary program to prevent unregulated fishing in Federal waters until changes in the Magnuson-Stevens Act would provide the Council with the authority to delegate to the State authority to manage the scallop fishery in Federal waters.

Amendments to Magnuson-Stevens Act now enable the Council to delegate to the State, (with a three-quarter majority vote), the authority to manage some or all aspects of the scallop fishery in Federal waters off Alaska. The EA/RIR examines three alternatives that would delegate to the State authority to manage the scallop fishery in the Federal waters off Alaska. An executive summary and relevant tables are attached as Item D-4(a).

Alternative 1: No Action. Under this alternative, ADF&G and NMFS would continue to maintain duplicate regulations and mirror each other's management actions.

Alternative 2: This alternative would delegate to the State authority to manage all aspects of the scallop fishery in Federal waters off Alaska except limited access. Under this alternative, limited access management would remain a Federal responsibility under the FMP, and would require an FMP amendment to change. All other Federal scallop regulations would be repealed and the authority to manage all other aspects of the scallop fishery would be delegated to the State under the FMP, including the authority to regulate any vessels not registered under the laws of the State.

Alternative 3: This alternative would delegate to the State authority to manage all aspects of the scallop fishery in Federal waters off Alaska. Under this alternative, all Federal regulations governing the scallop fishery off Alaska would be repealed and authority to manage all aspects of the scallop fishery would be delegated to the State under the FMP, including the authority to limit access and to regulate any vessel not registered under the laws of the State.

#### Limited Entry Program

In September 1996, a proposal for a license limitation system was submitted by the Kodiak Fish Company (Item D-4(b)). The intent of the proposal was to get the ball rolling on a more permanent limited access system, given that the current vessel moratorium expires June, 2000. In December, the Council requested that an analysis be initiated to examine potential impacts of this proposal. Since that time, the Alaska State legislature approved a statute establishing a scallop vessel moratorium (attached as agenda Item D-4(c)). This is a more restrictive moratorium than the Federal moratorium (10 vessels versus 18), and applies only to State waters at this time. Given other priorities, and the linkage of this action with Amendment 3, work has yet to be initiated. At this meeting, the Council needs to discuss the next steps for scallop management and tasking.

## EXECUTIVE SUMMARY

The Scallop fishery off Alaska is currently managed under a cumbersome State-Federal management regime established by Amendment 1 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP) under which each State regulation and management action must be duplicated by a parallel Federal action. In discussing this amendment, the Council noted that it could serve as a temporary program to prevent unregulated fishing in Federal waters until changes in the Magnuson-Stevens Act would provide the Council with the authority to delegate to the State authority to manage the scallop fishery in Federal waters. While this management regime has enabled NMFS to reopen Federal waters to fishing for scallops, it has proven to be cumbersome in practice. NMFS inseason management staff must draft and publish Federal Register notices that duplicate every State scallop management action, and State scallop managers are constrained in their ability make rapid management decisions because they must coordinate each action with NMFS and provide sufficient lead-time for publication of the action in the Federal Register.

Amendments to Magnuson-Stevens Act in 1996 now enable the Council to delegate to the State, with a three-quarter majority vote, the authority to manage some or all aspects of the scallop fishery in Federal waters off Alaska. This document examines two alternatives, in addition to the requisite "no action" alternative, for an Amendment 3 to the FMP that would delegate to the State authority to manage the scallop fishery in the Federal waters off Alaska.

**Alternative 1: No Action.** Under this alternative, the cooperative State-Federal management regime established by Amendment 1 would remain unchanged. ADF&G and NMFS would continue to maintain duplicate regulations and mirror each other's management actions to provide for the orderly management of the scallop fishery off Alaska.

**Alternative 2: Delegate to the State authority to manage all aspects of the scallop fishery in Federal waters off Alaska except limited access.** Under this alternative, limited access management would remain a Federal responsibility under the FMP, and would require an FMP amendment to change. All other Federal scallop regulations would be repealed and the authority to manage all other aspects of the scallop fishery would be delegated to the State under the FMP, including the authority to regulate any vessels not registered under the laws of the State. Two categories of management measures would be established. Limited access measures would be designated as Category 1 measures. Such measures would be fixed in the FMP, reserved for Federal implementation, and would require an FMP amendment to change. All other management measures would be designated as Category 2 measures and would be delegated to the State for implementation.

**Alternative 3: Delegate to the State authority to manage all aspects of the scallop fishery in Federal waters off Alaska.** Under this alternative, all Federal regulations governing the scallop fishery off Alaska would be repealed and authority to manage all aspects of the scallop fishery would be delegated to the State under the FMP, including the authority to limit access and to regulate any vessel not registered under the laws of the State.

With respect to the environmental effects of Amendment 3, the purpose of Amendment 3 is to eliminate an unnecessary and duplicate layer of regulation without altering the manner in which the fishery is currently managed by the State. Consequently, neither of the alternatives to the status quo is expected to alter the nature of the scallop fishery in a manner that would affect the human environment or impact other fisheries off Alaska.

Alternatives 2 and 3 differ only with respect to limited access management. Under Alternative 2, the scallop fishery would continue to be governed by the Federal scallop vessel moratorium under which 18 vessels qualify for moratorium permits. The current State scallop vessel moratorium program would apply only to State waters as is the case under the status quo. Under Alternative 3, the Federal moratorium would be repealed and the State would be authorized to extend its moratorium program to Federal waters. Under Alternative 3, eight vessels that qualify to participate under the Federal moratorium would be excluded from the fishery. Four of these vessels are currently participating in the 1997 scallop fishery.

**Table 2. Comparison of Federal and State scallop vessel moratorium programs.**

	<i>Federal Moratorium</i>	<i>State Moratorium</i>
<i>Moratorium period</i>	July 1, 1997 - June 30, 2000	July 1, 1997 - June 30, 2001
<i>Qualifying Criteria</i>	A vessel must have made a legal landing of scallops from any waters off Alaska during 1991, 1992, or 1993, or during at least 4 separate years from 1980 through 1990.	<u>Statewide</u> : A vessel must have landed at least 1,000 lbs of scallops from statewide waters during 1995 or 1996, and during each of at least 4 years between 1984 and 1996 inclusive.  <u>Cook Inlet</u> : A vessel must have landed at least 1,000 lbs of scallops from Cook Inlet during 1994 or 1996, and during each of at least 3 years between 1984 and 1996 inclusive.
<i>Area endorsements</i>	Separate endorsements are needed for Area H (Cook Inlet) and statewide waters outside Area H. Once a vessel meets the qualifying criteria for a moratorium permit, a single legal landing of scallops from an area during the qualifying period is required to receive an endorsement for that area.	Separate permits are required for Area H (Cook Inlet) and statewide waters outside Area H. A vessel must meet the qualifying criteria in each area to receive a permit for that area.
<i>Vessel reconstruction</i>	Vessels may be reconstructed or lengthened, however length may not exceed a maximum length overall (LOA) of 1.2 times the length of the vessel on January 23, 1993. This maximum LOA will be listed on all moratorium permits.	No limits on vessel lengthening or reconstruction.
<i>Vessel replacement</i>	A permit holder may use a moratorium permit on any vessel that does not exceed maximum LOA listed on the permit	A vessel owner may transfer a moratorium permit to another vessel that does not exceed the LOA or horsepower rating of the originally permitted vessel.
<i>Permit transfers</i>	Moratorium permits may be transferred to any person and used on any vessel not exceeding the maximum LOA listed on the permit.	Except as provided for under vessel replacement, permits may not be transferred to a new owner except through sale of the permitted vessel.
<i>Qualifying recipient</i>	In the case of multiple owners of a single vessel, the moratorium permit will be issued to the most recent owner of the vessel who made a qualifying landing during the moratorium period such that each vessel generates only one permit.	Permits are issued to the current owner of a qualifying vessel. However, a vessel owner who does not own a vessel that qualifies for a moratorium permit may receive a moratorium permit if he owned two or more vessels whose combined participation in the scallop fishery would satisfy qualifying criteria. In such a case, the moratorium permit would be issued to the last vessel that made qualifying landings.
<i>Fees</i>	none	Annual fee of \$1000 per permit.

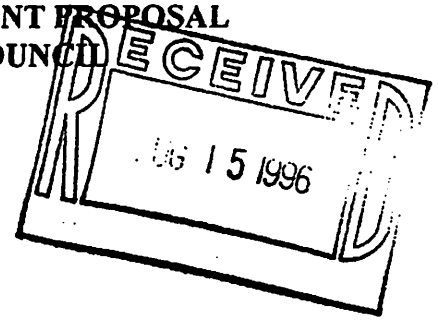
**Table 3 Scallop vessels qualifying for moratorium permits under the Federal and State Vessel Moratorium Programs (preliminary)<sup>1</sup>**

<i>Vessel Name</i>	<i>Federal Moratorium</i>		<i>State Moratorium</i>	
	<i>Statewide</i>	<i>Cook Inlet</i>	<i>Statewide</i>	<i>Cook Inlet</i>
ALASKA BEAUTY		Y	Y	Y
ARCTIC QUEEN (Formerly the JACQUELINE & JOSEPH)	Y		Y	
SEAWIND (formerly the ARCTIC ROSE)	Y			
CAROLINA BOY	Y		Y	
CAROLINA GIRL II	Y		Y	
FORTUNE HUNTER	Y			
FORUM STAR	Y			
KILKENNY		Y		
LA BRISA <sup>2</sup>			Y	Y
LORRAINE CAROL	Y			
MISTER. BIG	Y			
NORTHERN EXPLORER		Y	Y	Y
OCEAN HUNTER	Y			
PHOENIX	Y			
PROVIDER	Y		Y	
PURSUIT	Y		Y	
RUSH	Y		Y	
TRADE WIND	Y		Y	
MIRANDA ROSE (Formerly named WAYWARD WIND) <sup>2</sup>	Y	Y		

<sup>1</sup>This list should be considered preliminary. Eligibility was determined using the State's fish ticket files according to the eligibility criteria established for each moratorium program. Additional vessels could be eligible if it is determined through adjudicatory hearings that the fish ticket records do not accurately represent a vessel's participation history in the scallop fishery.

<sup>2</sup>The owner of the LA BRISA also owned the MIRANDA ROSE. Both vessels participated in the scallop fishery. Under the State moratorium program, the combined participation of both vessels qualifies the last vessel fished, the LA BRISA, for a State moratorium permit. Under the Federal moratorium program, the MIRANDA ROSE qualifies for a moratorium permit but not the LA BRISA which entered the scallop fishery after the end of the qualifying period for the Federal moratorium. As a result, the vessel owner is eligible for one moratorium permit under either moratorium program.

**SCALLOP FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**



**Name of Proposer:** Kodiak Fish Company

**Date:** August 14, 1996

**Address:** Suite 205, 326 Center Avenue, Kodiak, Alaska 99615

**Telephone:** 907-486-3309/Fax 907-486- 3676 or 360-366-9131/Fax 360-366-9132

**Fishery Management Plan:** Scallop FMP

**Brief Statement of Proposal:**

The vessel moratorium in the scallop fishery is designed to be a temporary measure. This is a proposal to enact a license limitation program to replace that moratorium.

**Objectives of Proposal: (What is the problem?)**

The scallop fishery experienced rapid growth and catch reached levels which have not been sustainable in the past. The moratorium was put in place by the Council to freeze growth at its current level but the moratorium is a temporary measure with a maximum life of four years. Council action takes several years from proposal to having a final rule. To have a permanent plan in place by the time the moratorium is to expire requires an early start. This proposal suggests a license limitation plan for scallops similar to those enacted for groundfish and crab.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)**

The Council is the only body with the authority to enact a successor plan to the moratorium.

**Foreseeable Impacts of Proposal: (Who wins, who loses?)**

Winners will be those who have participated and been dependent on the scallop fishery in Alaska both in the past and recently. The fishery and the resource will stabilize - allowing resource managers to better plan and conduct the fishery. The historic extreme ups and downs characteristic of this fishery will be leveled to the extent possible. Markets dependent on this product will be able to count on consistency in supply and supplier. Losers will be those who have never participated in the Alaskan scallop fishery or those who have not participated in recent years.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

Many alternatives were considered in the process of developing this proposal. The Council in enacting a vessel moratorium agreed that the fishery was experiencing rapid growth and overcapitalization which the resource had been historically unable to withstand - resulting in a classic pulse fishery. The scallop species throughout the world all exhibit a cyclical abundance - this type of sporadic reproduction of a longlived animal such as the weathervane scallop can still produce a stable fishery under the proper management regime. The SSC has repeatedly recommended a quota share type system which would more fairly allocate the catch among full time and part time fishers. An ITQ plan could not even be discussed due to Congressional interference with the Council process. A license program which takes into account more recent years of participation, requires the permit holder to use the permit, and prohibits transfers will allow those intent on staying in the fishery to do so and discourages speculation. Options presented in this proposal will move the qualifying periods forward to reflect more recent participants while still requiring some level of historic dependance - but again with that history moved forward in time. These options were suggested in recognition of the criticism that earlier time periods of qualifying received in the halibut/sablefish allocations.

The only other option is to allow the moratorium to expire with no replacement plan. The situation which existed prior to final action on the moratorium is worse now. The North Pacific groundfish moratorium is in place. Both scallop and groundfish fisheries on the East Coast are under a limited license system and their fishing days are being continually reduced each year. The East Coast groundfish fishery has a government funded buyback program in place to reduce the number of vessels participating but such a program hasn't been approved for the scallop fishery. An open access fishery in Alaska would attract a few participants from all these areas. With a moratorium in Alaska and conservative management measures in place, those vessels participating here should have catch rates which will exceed the level of those in New England and the mid-Atlantic scallop fisheries. That will be attractive to those boats which even today are barely eking out a living and with further cuts in fishing time, facing ruin. Without a permanent limit on vessels in Alaska's scallop fishery, a high degree of risk exists that the fishery will attract enough new entrants as to make management difficult and economic return for long term participants below break even. These fishers have already endured almost two years of no fishing due to loopholes in regulation which rendered proper management impossible. To open the fishery back up to open access would make a mockery of any conservation gains made during this involuntary penalty period.

**Supportive Data & Other Information: What data are available and where can they be found?**

The scallop observer program is currently up to date on data entry and Alaska Department of Fish and Game has allocated some resources to data analysis. In addition, the University of Washington School of Fisheries is in the process of analysis of all available data to produce a stock assessment. These sources should allow for a reasonable estimate of the resource. Additionally, the data used for analysis of the moratorium is available from the Council and NMFS.

**SCALLOP LICENSES  
COMPONENTS & ALTERNATIVE ELEMENTS AFFECTING INITIAL ASSIGNMENT  
ANALYSIS FORMAT**

**Nature of Licenses**

Single license for weathervane scallops only and all areas.

Single license for weathervane scallops and Icelandic scallops all areas.

Endorsement each for Statewide and Cook Inlet (Statewide is defined as all areas other than Cook Inlet).

Endorsement for each FMP sub-area. (Southeast Alaska, Yakutat, Prince William Sound, Kodiak, Alaska Peninsula, Dutch Harbor, Bering Sea, Adak, Cook Inlet).

**License Allocations**

No allocation results from receiving a license.

TACS are divided among recipients based upon catch history.

TACS are divided equally among recipients.

**License Recipients**

Current owners.

Current owners, then owner at the time of landing (no duplicates).

**License Designations**

No restrictions.

Vessel length.

Freezer vessels and non freezer vessels.

Freezer vessels and non freezer vessels and vessel length.

**Qualifying Periods**

Moratorium qualifying period

Moratorium qualifying period & January 1, 1996 - September 22, 1996

January 1, 1991 - December 31, 1995

January 1, 1991 - December 31, 1995 & January 1, 1996 - September 22, 1996

**Landings Requirement for License Qualification and Endorsement Qualification**

No minimum.

10,000 lbs for Statewide, no minimum for Cook Inlet.

10,000 lbs for Statewide, 1,000 lbs for Cook Inlet.



## **COMPONENTS AND ALTERNATIVE ELEMENTS AFFECTING THE OWNERSHIP, USE AND TRANSFER OF LICENSES**

### **Who May Purchase Licenses**

1. Licenses could be transferred only to "persons" defined under Title 46 USC.
2. Licenses could be transferred to "persons" with 76% or more U.S. ownership.
3. Licenses are non-transferable for first 4 years of the program.
4. Licenses are non-transferable.

### **Vessel/License Linkages**

1. Vessel must be transferred with license.
2. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than that to which the license initially was issued.

### **Options Regarding the Use of Licenses**

1. License must be used at least once during each calendar year to retain use of license. Vessels may appeal one year of non use of license if casualty loss occurred and vessel did not fish in any other fishery anywhere during that year.
2. Licenses may be retained whether or not they are used.

### **Buy-back/Retirement Program**

1. No buy-back retirement program.
2. Industry funded buy-back program with right of first refusal on all transfers of licenses.

### **Options Regarding the Separability of Area Designations**

1. Area designations are not separable, and shall remain as a single license with those initial designations.
2. Area designations shall be treated as separable licenses and may be transferred as such.
3. Area designations shall be regarded as separable endorsements which require the owner to also own a general license before use or purchase.

### **Vessel Replacement and Upgrades**

1. Vessel may not be upgraded.
2. Vessel may not be replaced with the exception of lost vessels. Lost vessels must be replaced within two years of loss. Replacement vessel must be equal to or less than the length of the replaced vessel.
3. Vessel may be replaced or upgraded within the bounds of the 20% rule as defined under the moratorium proposed rule.

### **License Ownership Caps**

1. No limit on the number of licenses or endorsements which may be owned by a "person".
2. No more than 2 area licenses per person.
3. No more than 1 area license per person.

### **Other Provisions (Choose any or none of the following.)**

1. Licenses represent a use privilege. The Council may convert the license program to an IFQ program or otherwise alter or rescind the program without compensation to license holders.
2. Severe penalties may be invoked for failure to comply with conditions of the license.
3. Licenses may be suspended or revoked for multiple violations.
4. Implement a Skipper Reporting System which requires license holders to report skipper names, address, and service records to NMFS.
5. Develop and implement mechanisms to collect management, enforcement costs and/or rents from the industry, including taxes and fees on industry.

8.0 APPENDIX A: State of Alaska Scallop Vessel Moratorium

HB0141  
SCS CSHB 141 (RES)  
SENATE CS FOR CS FOR HOUSE BILL NO. 141 (RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION  
BY THE SENATE RESOURCES COMMITTEE  
Offered: 5/8/97  
Referred: Rules  
Sponsor(s): REPRESENTATIVE AUSTERMAN

A BILL  
FOR AN ACT ENTITLED

"An Act relating to a vessel permit moratorium for the Alaska weathervane scallop fishery; relating to management of the scallop fisheries; and providing for an effective date."

BE IT ENACTED BY THE STATE OF ALASKA:

\* Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

- (1) the scallop fishing fleet in Alaska is overcapitalized;
- (2) fishing effort in the Alaska weathervane scallop fishery has reached levels that may threaten the sustained yield management of the fishery;
- (3) weathervane scallops are long-lived animals with few natural predators; these attributes are common to species that are the most susceptible to overfishing;
- (4) the status of many Alaska weathervane scallop stocks is largely unknown, and the stocks are susceptible to localized depletion and general overfishing;
- (5) scallop fisheries around the world have collapsed after relatively short periods of intense fishing;
- (6) scallop dredges may adversely affect important bottom-dwelling species, such as king crab and Tanner crab, and without careful management may threaten the conservation of these other fishery resources;
- (7) the conventional limited entry and moratorium system under AS 16.43 cannot adequately protect the economic health and stability of the Alaska weathervane scallop fishery or adequately promote the sustained yield management of the Alaska weathervane scallop fishery;
- (8) the United States Department of Commerce has taken action to restrict access to the Alaska weathervane scallop fishery in the waters of the United States exclusive economic zone adjacent to Alaska;
- (9) state management of the entire Alaska weathervane scallop fishery will provide a uniform and comprehensive management regime for the fishery, protect the economic health and stability of the fishery, and promote sustained yield

management of the fishery;

(10) establishment of a moratorium on the issuance of vessel permits to new vessels seeking to enter the Alaska weathervane scallop fishery promotes the purposes of art. VIII, sec. 15, Constitution of the State of Alaska, and AS 16.43 while providing an opportunity to study and evaluate the feasibility of a permanent vessel permit limited entry system for the Alaska weathervane scallop fishery.

(b) It is the intent of the legislature that the Board of Fisheries maintain 100 percent observer coverage for all vessels engaged in the Alaska weathervane scallop fishery.

\* Sec. 2. AS 16.05 is amended by adding a new section to article 5 to read:

Sec. 16.05.735. Management of offshore fisheries. The state may assume management of the scallop fisheries in offshore water adjacent to the state in the absence of a federal fishery management plan for scallops or in the event that a federal fishery management plan for scallops delegates authority to the state to manage scallop fisheries in the United States exclusive economic zone.

\* Sec. 3. AS 16.43 is amended by adding a new section to read:

Sec. 16.43.906. Vessel permits for weathervane scallop fishery. (a) The commission shall issue annual vessel permits for commercial fishing vessels used in the weathervane scallop fishery. The commission shall issue vessel permits to the vessel upon application by the vessel owner. The commission shall issue separate vessel permits for each registration area. The weathervane scallop fishery registration areas are the statewide Alaska weathervane scallop fishery registration area and the area H weathervane scallop fishery registration area.

(b) A vessel permit is a use privilege authorizing the vessel to take weathervane scallops in the registration area for which the vessel permit is issued. The use privilege conveyed by a vessel permit may be modified or revoked by the legislature without compensation.

(c) On or after July 1, 1997, a commercial fishing vessel may not be used to take weathervane scallops in a registration area unless a vessel permit for that registration area has been issued under this section for the vessel.

(d) The commission may not issue a vessel permit under this section to a commercial fishing vessel for the statewide Alaska weathervane scallop fishery registration area for the period from June 30, 1997, through June 30, 2001, inclusive, unless

(1) the vessel has landed at least 1,000 pounds of weathervane scallops that were legally taken in the statewide Alaska weathervane scallop fishery registration area

(A) during calendar year 1995 or 1996; and

(B) during each of at least four calendar years between 1984 and 1996, inclusive; or

(2) the vessel qualifies for a vessel permit for the area H weathervane scallop fishery registration area under (e) of this section.

(e) The commission may not issue a vessel permit under this section to a commercial fishing vessel for the area H weathervane scallop fishery registration area for the period from July 1, 1997, through June 30, 2001,

inclusive, unless the vessel has landed at least 1,000 pounds of weathervane scallops that were legally taken in the area H weathervane scallop fishery registration area

(1) during calendar year 1994 or 1996; and

(2) during each of at least three calendar years between 1984 and 1996, inclusive.

(f) Notwithstanding (d) and (e) of this section, a vessel owner who does not own a commercial fishing vessel that qualifies for a vessel permit for a scallop fishery registration area may receive a vessel permit for that registration area if the vessel owner owned two or more commercial fishing vessels whose combined participation in the scallop fishery for that registration area would satisfy the requirements for a vessel permit for that registration area under this section. The commission shall issue a vessel permit under this subsection to the last commercial fishing vessel that the vessel owner owned to satisfy the requirements for the vessel permit for the registration area if the vessel owner still owned that commercial fishing vessel on July 1, 1997. (g) Notwithstanding (d) - (f) of this section, the commission shall reissue a vessel permit upon request of a person who is the owner of a vessel for which a vessel permit has been issued under this section to another vessel owned by the person if the vessel to which the vessel permit is to be reissued does not have an overall length or horsepower rating exceeding the length or horsepower rating of the vessel for which the vessel permit was initially issued. The vessel from which the vessel permit was transferred may no longer be used in the fishery for which the vessel permit was issued unless another vessel permit is reissued to the vessel. This subsection does not authorize the issuance of more vessel permits than are authorized under (d) - (f) of this section.

(h) Use of a vessel in a weathervane scallop fishery on or after July 1, 1997, may not be used to establish eligibility for a vessel permit for a weathervane scallop fishery that may be issued after June 30, 2001.

(i) Subsections (d) - (h) of this section may be superseded by regulations adopted by the commission under subsequent legislation enacted by the legislature authorizing

(1) a permanent vessel permit limited entry system for the weathervane scallop fishery; or

(2) termination of the temporary moratorium on issuance of new vessel permits established by this subsection.

(j) An application for a vessel permit under this section must contain the name of each permit holder authorized to operate the vessel in the weathervane scallop fishery and other information the commission may require to implement this section. The owner of a vessel for which a vessel permit is issued shall notify the commission in writing of a change in the permit holders who are authorized to operate the vessel in the weathervane scallop fishery. In this subsection, "permit holder" means a person who holds an entry permit or interim-use permit issued under this chapter for the weathervane scallop fishery.

(k) If a commercial fishing vessel that qualifies for a vessel permit under this section or that is issued a vessel permit under this section is sunk, destroyed, or damaged to the extent that the vessel is inoperable for a weathervane scallop fishing season, the commission may, upon the request of the owner of the vessel, reissue the vessel permit for that fishing season to another commercial fishing vessel with an overall length and horsepower rating that does not exceed the overall length and horsepower rating of the vessel

that was sunk, destroyed, or damaged.

(l) The fee for the annual vessel permit is \$1,000. A vessel permit is valid for the calendar year that is inscribed on the license.

(m) The commission shall, in cooperation with the Department of Fish and Game, conduct investigations to determine whether an alternative form of nontransferable vessel or limited entry permit system or other management program is appropriate for weathervane scallop fisheries in the state.

(n) The commission may adopt regulations that the commission considers necessary to implement this section.

(o) In this section,

(1) "area H weathervane scallop fishery registration area" means the marine waters of Cook Inlet north of the latitude of Cape Douglas (58 degrees 52 minutes North latitude) and west of the longitude of Cape Fairfield (148 degrees 50 minutes West longitude);

(2) "landed" includes catching or catching and processing of weathervane scallops taken in state waters or the adjacent United States exclusive economic zone for sale as evidenced by a Department of Fish and Game fish ticket;

(3) "statewide Alaska weathervane scallop fishery registration area" means the marine waters of the state and the adjacent United States exclusive economic zone, outside of the area H weathervane scallop fishery registration area.

\* Sec. 4. AS 16.43.911 (c) is amended to read:

(c) Notwithstanding AS 16.05.815 and AS 16.43.975 , the commission may release to the owner of a vessel information on the vessel's history of harvests in a [THE KOREAN HAIR CRAB] fishery that is necessary to apply for a vessel permit under AS 16.43.901 - 16.43.906.

\* Sec. 5. Section 5, ch. 126, SLA 1996, is amended to read:

Sec. 5. AS 16.43.901 [AND 16.43.911], added by sec. 3 of this Act, is [ARE] repealed July 1, 2000.

\* Sec. 6. AS 16.43.906 , added by sec. 3 of this Act, and AS 16.43.911 are repealed July 1, 2001.

\* Sec. 7. This Act takes effect immediately under AS 01.10.070 (c).

TED STEVENS, ALASKA, CHAIRMAN

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## United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

September 2, 1997

Richard Lauber  
Chairman  
North Pacific Fishery Management Council  
604 West 4th Avenue  
Anchorage, Alaska 99510

Dear Richard:

Enclosed is a letter from William Kopplin, of Ester, Alaska, who has questions about the federal moratorium on Alaskan scallop fishing. Mr. Kopplin does not feel that setting Cook Inlet scallop permits apart from the rest of Alaska complies with national standard four of the Magnuson-Stevens Act, relating to fair and equitable allocations.

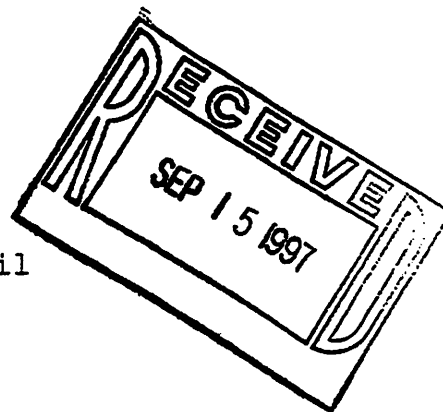
I would appreciate your response to his concerns.

With best wishes,

Cordially,



TED STEVENS



# OCEANIC RESEARCH SERVICES, INC.

Box 192  
Ester, Alaska 99725  
William Koppin, President

(907) 479-5426  
Owner of R/V Annika Marie  
berthed in Prudhoe Bay, Alaska

6 July 1997

Senator Ted Stevens  
US Senate  
Committee on Commerce  
428 Hart Bldg.  
Washington DC 20510

Dear Senator Stevens,

I am writing to you in regards to the apparent conflicts and differences between the Magnuson-Stevens Act and the federal moratorium (FMP) on scallop fishing in Alaska.

According to the Magnuson-Stevens act, Title III, Sec. 301, 98-623 paragraph (4) states that the management measures shall be (A) fair and equitable to all such fishermen and (C) carried out in such a manner that no particular individual, corporation or other entity acquires an excessive share of such privileges.

I am the owner of the scallop boat the "Northern Explorer". We qualify for a permit under the Federal FMP but, only for the Cook inlet area. We feel that we should also be able to fish in the Statewide area.

The Statewide scallop quota, which covers the entire State except Cook Inlet, is 1,200,000 pounds, and the Cook Inlet quota is only 20,000 pounds. The fourteen vessels that qualify to fish in the Statewide area, only eight are still actively fishing. That means eight vessels will divide 1.2 million pounds where the four Cook Inlet vessels divide only 20,000 pounds. That is not "fair and equitable". The vessels permitted to fish in the Statewide area have received an excessive share of the scallop resource.

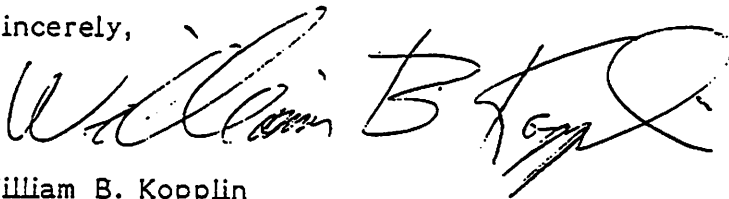
There are other vessels that have only fished in one particular area during the qualifying years and they are allowed to fish the Statewide area. The vessel "Rush" only fished in the Yakutat area. They are now allowed to fish in the Statewide area. The vessels "Forum Star" and the "Ocean Hunter" only made one landing during 1993 the qualifying year and has not participated in the fishery since, they were given a Federal permit card to fish in the Statewide area. The vessel "Arctic Rose" fished for a different type of scallop during the qualifying years and only in one area, they received a Federal Permit to fish in the Statewide area. The "Arctic Rose" has since been converted to a pollock catcher-processor.

We feel that the Cook Inlet area was unfairly set aside as a separate area and should have been included in the Statewide area also. We have talked to the owners of the vessels that are permitted to fish in the Statewide area and they have no problem with our fishing in this area. By allowing us to fish in the Statewide area, it would only increase the fishing vessels by two since two of the Cook Inlet vessels can already fish the Statewide area. This will not create a burden on the other scallop vessels. We are committed to continue to scallop fishing, we live in Ak., our crew lives in Ak., and we feel that we should be able to harvest this resource.



As co-author of the Magnuson-Stevens Act, we are hoping that you see our problem and can help us continue our livelihood of fishing. We are only asking for the FMP to be equitable to all of the vessels and not exclude us. We appreciate your help and thank you for your time.

Sincerely,

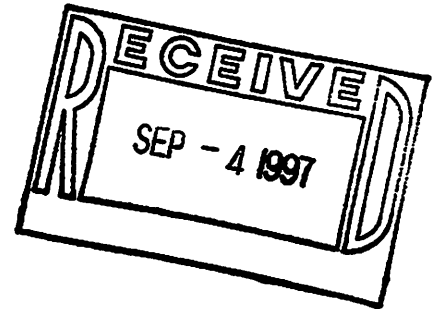
A handwritten signature in black ink, appearing to read "William B. Kopplin". The signature is fluid and cursive, with the first name "William" written in a larger, more prominent script than the last name "Kopplin".

William B. Kopplin  
Owner of "Northern Explorer"

cc: Tevor McCabe

P. O. Box 770881  
Eagle River, Alaska 99577  
September 1, 1997

Mr. Charles G. Pautzke and Board Members  
North Pacific Fishery Management Council  
605 West 4th Avenue Suite 306  
Anchorage, Alaska 99501-2252



Dear Mr. Pautzke and Board Members,

These comments are in regard to any future Scallop Limited Entry Program.

#### Brief Background.

Our Hulse family has been involved in the Alaska scallop fishery since 1982. We fished and marketed our own scallops in 1982-1988, and 1994-1997 --a total of 10 years, both in Cook Inlet, State and Federal waters. We owned three different vessels during that time, a 47', a 150', and our present vessel the F/V La Brisa (completed in 1992 at 59.5'), 63' when rigged for scallop fishing in 1994. Also, fished joint ventures in 1996 and 1997 this being due to the "Mr Big" situation which closed any scallop harvest in 1995. Thus we had to find other work for the La Brisa (to make boat payments) we luckily acquired a three year contract through 1998.

Hopefully any limited entry program for scallops would be based on the equity (involvement) of individual fisherman since 1982. The issuance of permits to fish given quotas rather than issuing quota shares would be more fair to all permittees. Issuing quota shares would put a large percent of the harvest with possibly only two individuals leaving the qualifying Alaskan residents with very small quota shares.

We would ask consideration for permits to be based on the cumulative product harvested by a given fisherman from 1982 through 1997, or from 1982 to the start of the moratorium. We feel it would be unfair to count only a single vessel's harvest, i.e. we owned three different vessels which harvested scallops since 1982 and should be able to apply our cumulative pounds toward any quota shares. Our Hulse family, since 1982, has more years involvement in the Alaska scallop fishery than all but two of the fishermen who qualified to fish during the moratorium.

#### Regarding vessel size in a limited entry program.

The vessel size hopefully would be based on an average of vessels' length which an individual fished during the qualifying period, or at least allow the horsepower and length to be equal to the last vessel an individual owned and fished prior to the moratorium. This is the case allowed by the recent Alaska State Legislative bill regarding state waters.

Finally, a problem unique to us, which you probably don't have time to address, but still a grave situation for us during the remaining moratorium. We qualified for the moratorium from fishing with the F/V Wayward Wind a 47' vessel. You may recall, we sold the Wayward Wind in 1989 and began construction of our new vessel in 1990, the F/V La Brisa. The F/V La Brisa was built to replace the Wayward Wind and was better designed for the scallop fishery in both Cook Inlet and the Outside registration area. She was built 59.5' LOA, (63' when rigged for scallop fishing).

All of the above happened before the January 20, 1993 date which restricted vessels to a 20% increase in length. And, of course, before we knew anything about a scallop moratorium - no restrictions on vessel size in Federal or State waters when we built the La Brisa - we built the La Brisa before January 20, 1993.

The council didn't address our situation with the La Brisa in the moratorium regulations regarding vessel size. The results will be, in order for us to fish the La Brisa after contract ends in 1998, we will have to cut off her length considerably which in all probability would affect the vessel's stability. More fairly, our initial qualifying length could be based on the La Brisa's 59.5' LOA giving us a 71' LOA (59.5' x 1.2).

At 71' we would still be the smallest vessel in the fleet. Maybe compare our ten year equity to the three vessel owners who qualified for the moratorium with only one year participation (1993). All of their vessels qualify for at least 85' overall.

Should there be a way you could help us it would be greatly appreciated.

Sincerely,



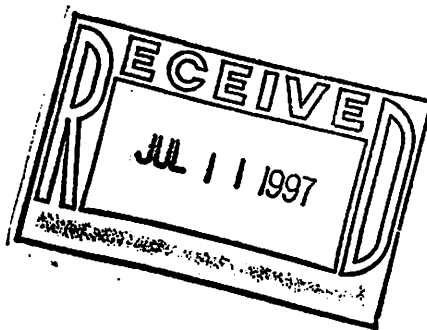
Max G. Hulse et al

de. DW ✓

# OCEANIC RESEARCH SERVICES, INC.

Box 192  
Ester, Alaska 99725  
William Kopplin, President

(907) 479-5426  
Owner of R/V Annika Marie  
berthed in Prudhoe Bay, Alaska



6 July 1997

Clarence Pautzke  
NPFMC  
Suite 306  
605 West 4th Ave.  
Anchorage, Ak. 99501-2252

Dear Mr. Pautzke,

I am writing to you in regards to House Bill 141 that was passed by the Alaska legislature this spring and is due to be signed by Governor Knowles. This Bill creates a vessel moratorium for scallop vessels in State waters. I have heard talk concerning the Council adopting this Bill for Federal waters. I want to point out two differences between this Bill and the Federal FMP that the Council passed.

1) The qualifying years are more restrictive in the Ak. State Bill. This would allow fewer vessels than are presently allowed. If I was one of the owners of those vessels, I would seriously consider legal action to try and reinstate the vessel.

2) Section 16.43.906 paragraph (f) states that a vessel can qualify if it is leased as long as the owner has owned two or more vessels that have fished for scallops in the qualifying years. Also the permit is for the length of the leased vessel and not the vessel that qualified.

We feel that allowing a vessel to qualify by this means should not be allowed. The FMP passed by the Council was very clear on how the vessel should qualify and did not allow leased vessels. We feel that if you adopt this Bill the whole FMP could easily end up in court. I am sure that no one wants this to happen.

If there are plans to adopt the Ak. State Bill, I strongly urge you not to accept this paragraph and leave the vessel requirements as set by the Council.

Thank you for your time.

Sincerely,

William B. Kopplin  
Owner of the "Northern Explorer"