

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Clarence G. Pautzke
Executive Director
DATE: September 16, 1993
SUBJECT: Other Groundfish Issues

ESTIMATED TIME
4 HOURS

ACTION REQUIRED

- (a) Review staff report on a possible salmon VIP program and the salmon foundation. Take action as necessary
- (b) Receive staff report on the proposal to limit codend mesh size in the BSAI Pacific cod trawl fishery to 8 inches.
- (c) Discuss a proposal to place a halibut PSC cap on the pelagic trawl gear fishery.
- (d) Discuss a proposal to require all processors to weigh fish (total weight measurement).

BACKGROUND

Salmon Bycatch Management

Over the past two years the Council has pursued several proposals addressing the incidental capture of salmon in the BSAI trawl fisheries, including time/area closures to trawl fisheries triggered by attainment of an established number of chinook salmon (Amendment 21b), a proposed Vessel Incentive Program (VIP) for salmon, and lastly, an industry-sponsored concept of establishing a voluntary "salmon foundation" program that could result in reduced bycatch of chinook salmon through a combination of incentives.

At the June meeting, the Council endorsed the industry "salmon foundation" proposal, with further review of a salmon VIP in September. The industry "salmon foundation" proposal is composed of the following components.

A. Adoption of federal regulations requiring:

1. mandatory retention of all salmon bycatch with a stiff penalty for discard;
2. posting on the NMFS computer bulletin board chinook bycatch numbers on a vessel by vessel basis; and
3. implementation of more specific data gathering and/or logbook procedures as appropriate to develop bycatch pattern analysis.

- B. Initiate sampling of retained chinook as appropriate to conduct bycatch pattern and stream-of-origin analysis.
- C. After sampling, preserving retained salmon in a "food grade" state, and turning them over at point of landing for distribution to food banks or related public use, provided that such fish are not placed in commerce.
- D. A critical mass (70 to 80 percent of the fleet) of vessel owners paying an assessment of \$20 per chinook to a private research foundation to support development of data concerning marine chinook bycatch patterns and avoidance, and stream-of-origin identification.

Regarding the development of an effective salmon VIP, the Council requested staff develop an issue paper and present this at the September Council meeting. Staff held a meeting in Juneau on September 2, 1993 to identify issues associated with a salmon VIP and develop a recommendation of such a program. Issues of concern discussed included: accurate counting of salmon by observers, distribution of the salmon; forcing retention, linkage between a VIP and other salmon bycatch programs (i.e., time/area/cap closure program, salmon foundation), and enforcement of a VIP.

At this meeting staff will present to you an issues paper summarizing options available for developing a feasible salmon VIP. The Council can provide further guidance concerning its intent on pursuing a salmon VIP and directing staff into development of such a program.

Regarding the development of the "Salmon Foundation", attached as Item D-5(a)(1) are draft Articles of Incorporation and Bylaws for the "Salmon Research Foundation". These documents were prepared by industry representatives for review and comment. Several comments are attached under Item D-5(a)(2).

Groundfish industry representatives and representatives from terminal fisheries associations will present an overview of the recent developments of the "Salmon Foundation". The Council can take action as appropriate.

Codend Mesh Size for the Pacific Cod Trawl Fishery.

At the June 1993 meeting, the Council heard a proposal from the Highliners Association to require use of 8" (stretched measure) diamond mesh in all codends used in BSAI directed cod fisheries. The purpose of the proposed amendment is to allow escapement of undersized cod, resulting in fewer discards and a higher percentage of larger fish. A related issue is the perception of wastage in the cod fisheries due to current fishing practices in which the non-utilized portion of the catch is discarded.

This proposal for Pacific cod is similar to last year's proposal by the Highliners to establish a mesh regulation for pollock fisheries. That proposal was to require a 90 mm single layer square mesh panel in the upper portion of codends-used in the directed pollock-trawl fisheries. After reviewing a draft EA/RIR/IRFA for the pollock proposal, the Council felt it was premature to develop mesh regulations prior to completion of mesh selectivity studies, and postponed further consideration of the proposal. The Highliners have re-initiated the pollock proposal along with the cod proposal for the upcoming amendment cycle.

A discussion paper, drafted by Council staff, highlights some of the issues concerning mesh regulation in the Pacific cod fishery. This report is attached as Item D-5(b)(1).

Halibut PSC cap for Pelagic Trawl Gear

Regulations governing PSC bycatch allowances (675.21(c)(1)(iii&iv) state that:

when a bycatch allowance, or seasonal apportionment of a bycatch allowance for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear."

In other words, the pelagic fisheries are exempt from the halibut PSC cap. The rationale behind this regulation is that halibut bycatch in true midwater trawl gear is de minimus.

Due to difficulties in defining in regulations what is a pelagic trawl, fishermen have been able to fish with a legal "pelagic trawl" in a non-pelagic mode. To resolve this problem, the Council this past year recommended changes to the pelagic trawl definition and also recommended a performance based trawl regulation. NMFS adopted these changes effective August 19, 1993. Because these regulatory changes became effective at the beginning of this year's pollock 'B' season, not enough information is available at this time to analyze the effects of the changes.

However, staff will present a report at this meeting providing historical catch and PSC catch in the pelagic and non-pelagic categories for the 1992 and 1993 pollock fisheries, amount of PSC apportioned by the Council to the pollock/Atka mackerel/"other species" fishery category and when the closure to this category occurred.

Attached as Item D-5(c)(1) are two letters from Deep Pacific Fishing Company requesting Council action on this issue.

Total Weight Measurement

Over the past two years, the Council has expressed interest in developing methods of accurate estimation and reporting of total catch by species for all GOA and BSAI groundfish fisheries. Reasons for accurate measurement of total catch include: (1) improve information about total removals from groundfish stocks, (2) improve in-season management of groundfish total allowable catches (TAC) and other species bycatch, (3) improve the effectiveness of the Vessel Incentive Program (VIP), (4) improve data used to prepare stock assessments, and (5) a requirement for an effective Comprehensive Rationalization Plan.

At the June 1993 meeting the Council recommended that processors participating in the CDQ fisheries be required to carry two observers and provide certified receiving bins for use in volumetric estimates of the catch, or provide tamper-proof scales to weigh all fish prior to sorting and discard. On September 15, 1993 the Proposed Rule was submitted to the NMFS office in Washington D.C. If approved by the Secretary of Commerce, the Final Rule can be published by January 1994.

NMFS staff is now developing the analysis for requiring total weight measurement in all groundfish fisheries. The intent would be to have this measure in place prior to the implementation of the Comprehensive Rationalization Plan. The status of this work includes defining options for improved total weight measurement and working with the weights and measures industry with cooperation from the fishing industry in defining options for consideration. NMFS staff is available for additional information on the status of their analysis.

July 28, 1993

Mr. Clarence G. Pautzke
Executive Director
North Pacific Fishery Management Council
Post Office Box 103136
Anchorage, Alaska 99510

Re: Salmon Bycatch Management

Dear Clarence:

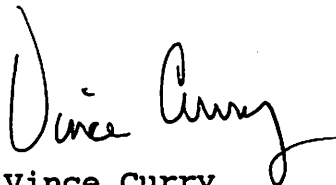
Enclosed are draft Articles of Incorporation and Bylaws for the "Salmon Research Foundation" (the "Foundation"). These documents have been prepared in further development of the industry/terminal fisheries association proposal concerning Bering Sea salmon bycatch that the North Pacific Fishery Management Council (the "Council") adopted at its June meeting in Kodiak.

These documents contemplate the Foundation being formed as an Alaska non-profit corporation, with the Council being its sole member. The Council would select the Foundation Board of Directors, and the Board would direct the Foundation's day-to-day activities. The purposes of the Foundation are specified in Article III of the Articles of Incorporation and Article II of the Bylaws. In general, the Foundation is to fund, direct and oversee publication of research concerning salmon bycatch patterns and avoidance, and to make recommendations concerning the distribution of retained salmon.

Please route copies of the enclosed documents to the Council members and appropriate Council staff. Please forward your comments and copies of any comments you receive to Joe

Sullivan at Mundt, MacGregor, 4200 First Interstate Center,
Seattle, Washington 98104. Joe's phone number is (206) 624-
5950, and his fax number is (206) 624-5469. We look forward to
hearing from you.

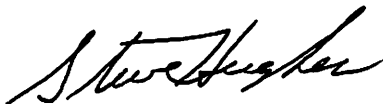
Sincerely yours,



Vince Curry
Pacific Seafood Processors
Association



Kate Graham
American High Seas
Fisheries Association



Steve Hughes
Midwater Trawlers Coop.



Joseph R. Blum
American Factory
Trawler Association

JMS:vm
Enclosures
LCOUNCIL.008/JMST

DRAFT

ARTICLES OF INCORPORATION
OF
SALMON RESEARCH FOUNDATION

DRAFT FOR
DISCUSSION PURPOSES

The undersigned incorporators hereby adopt the following Articles of Incorporation:

ARTICLE I

The name of the corporation is SALMON RESEARCH FOUNDATION (the "Foundation").

ARTICLE II

The duration of the Foundation shall be ten (10) years from the date of incorporation.

ARTICLE III

The purposes for which the Foundation is organized are as follows:

- A. To fund and direct scientific research and publication concerning aspects of the interaction between Bering Sea marine trawl fisheries and Alaskan salmon stocks, including but not limited to: relationships between times, areas, fishing modes and other characteristics of marine trawling and bycatch of salmon; marine fishing practices that could reduce salmon bycatch; and streams of origin of salmon taken as bycatch in the Bering Sea marine trawl fisheries.
- B. To incorporate into its primary research and publication functions as appropriate consideration of the secondary effects on bycatch of other "prohibited species" (as the same may be defined from time to time in 50 C.F.R. Part 675.20(c) or its successor) resulting from salmon bycatch avoidance practices.
- C. To make recommendations regarding the retention, preservation, landing and distribution of salmon taken as bycatch in the Bering Sea marine trawl fisheries.

- D. In general to exercise the powers of an Alaska nonprofit corporation that are conducive to the attainment of its purposes, and, notwithstanding any provision to the contrary herein, to exercise only those powers granted to an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of the United States, and its successor statutes.

ARTICLE IV

Provisions for regulating the affairs of the Foundation, including provisions for distribution of assets on final liquidation, are as follows:

- A. The Foundation shall not engage in any transactions or activities prohibited by the applicable sections of Subchapter F of Chapter 1 of the Internal Revenue Code, or of the Alaska Nonprofit Corporation Act, as they are now in force or may be afterwards amended.
- B. No more than an unsubstantial part of the Foundation's activities shall consist of unrelated trade or business as defined in Section 513 of the Internal Revenue Code as now in force or afterwards amended.
- C. No part of the net earnings of the Foundation shall inure to the benefit of any private individual, or any officer, director, employee or agent of the Foundation or substantial contributor to it, except as reasonable compensation for services actually rendered to the Foundation.
- D. No loan shall be made by the Foundation to any director or officer of the Foundation.
- E. The Foundation shall not directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, nor shall any substantial part of its activities consist of attempting to influence legislation by propaganda or otherwise.
- F. Upon dissolution of the Foundation, its remaining assets, if any, shall be distributed in accordance with Section 10.20.295 of the Alaska Nonprofit Corporation Act and Subchapter F of Chapter 1 of the Internal Revenue Code as they are now in force or may be hereafter amended, to organizations

exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

- G. The sole member of the Foundation shall be the North Pacific Fishery Management Council (the "Council").
- H. The management of this Foundation is hereby vested in a Board of Directors. The number of Directors, their terms, and their qualifications shall be as specified in the Bylaws of the Foundation.

ARTICLE V

The Foundation shall indemnify and defend all present and former directors of the Foundation against any expenses of any proceeding (including by or in the right of the Foundation) to which they are parties because they are or were directors of the Foundation, all as defined and to the fullest extent permitted by law.

A director of the Foundation shall not be personally liable to the Foundation for monetary damages for conduct as a director, except for:

- (a) a breach of a director's duty of loyalty to the Foundation;
- (b) acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; or
- (c) a transaction from which the director derives an improper personal benefit.

If Alaska law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Foundation shall be eliminated or limited to the fullest extent permitted by Alaska law, as so amended. Any repeal or modification of the foregoing paragraph by the member of the Foundation shall not adversely affect any right or protection of a director of the Foundation with respect to any acts or omissions of such director occurring prior to such repeal or modification.

ARTICLE VI

The name of the initial registered agent and the address of the initial registered office of the Foundation is:

Name: _____
Address: _____

ARTICLE VII

The initial Board of Directors shall consist of three (3) persons who shall serve until their successors are elected and qualify. The names and addresses of the initial directors are:

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

The number and qualifications of directors shall be determined in accordance with the Bylaws of the Foundation.

ARTICLE VIII

The names and addresses of the incorporators of the Foundation are:

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

DATED this _____ day of _____, 1993.

INCORPORATORS:

(Print Name)

(Print Name)

(Print Name)

DRAFT

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DRAFT FOR DISCUSSION PURPOSES

BYLAWS

OF

SALMON RESEARCH FOUNDATION

ARTICLE I - NAME AND LOCATION

Section 1. The name of the organization shall be the Salmon Research Foundation (the "Foundation").

Section 2. The initial office of the Foundation shall be located at _____
Thereafter, the office shall be located as the Board of Directors may determine.

ARTICLE II - PURPOSE

The purposes for which the Foundation is organized are as follows:

- A. To fund and direct scientific research and publication concerning aspects of the interaction between Bering Sea marine trawl fisheries and Alaskan salmon stocks, including but not limited to: relationships between times, areas, fishing modes and other characteristics of marine trawling and bycatch of salmon, and marine fishing practices that could reduce salmon bycatch; and streams of origin of salmon taken as bycatch in the Bering Sea marine trawl fisheries.
- B. To incorporate into its primary research and publication functions as appropriate consideration of the secondary effects on bycatch of other "prohibited species" (as the same may be defined from time to time in 50 C.F.R. Part 675.20(c) or its successor) resulting from salmon bycatch avoidance practices.
- C. To make recommendations regarding the retention, preservation, landing and distribution of salmon taken as bycatch in the Bering Sea marine trawl fisheries.
- D. In general to exercise the powers of an Alaska nonprofit corporation that are conducive to the attainment of its purposes, and, notwithstanding any provision to the contrary herein, to exercise only those powers granted to an organization

exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of the United States.

ARTICLE III - MEMBERSHIP

Section 1. Member. The sole member of the Foundation shall be the North Pacific Fishery Management Council (the "Council").

ARTICLE IV - BOARD OF DIRECTORS

Section 1. Functions and Powers. The Foundation's affairs shall be managed by a Board of Directors. The Board of Directors shall have the power to: supervise, control and direct the affairs of the Foundation; determine its policies within the limits of the Foundation's Articles of Incorporation and the Bylaws; approve projects to receive funding from the Foundation; and otherwise actively pursue its purposes. An affirmative vote by not less than four (4) Directors shall be required for selection and funding of all Foundation projects and approval of the Foundation's annual budget. The salaries, if any, of all employees of the Foundation shall be fixed by or under the direction of the Board of Directors. The Board shall review expenditures for the prior year and approve a proposed budget for the Foundation's coming fiscal year at the Annual Meeting.

Section 2. Number. The Foundation shall have seven (7) Directors. The Foundation shall have three (3) initial Directors, who shall be appointed by the incorporators and shall remain in office until their successors are elected and qualify. The remaining four (4) initial Directors shall be elected at the first December meeting of the Council following incorporation of the Foundation.

Section 3. Qualifications and Initial Terms of Office. Seats on the Board of Directors of the Foundation will be filled as follows:

<u>Seat #</u>	<u>Qualifications</u>
Seat 1	Bering Sea Groundfish Catcher Boat Representative
Seat 2	Bering Sea Groundfish Shore-Based Processor Representative
Seat 3	Bering Sea Groundfish Catcher-Processor Representative

- Seat 4 Bering Sea Groundfish Fisheries
 At-Large Representative
- Seat 5 Alaska Commercial Salmon
 Fishers' Representative
- Seat 6 Alaska Subsistence Salmon
 Fishers' Representative
- Seat 7 Alaska Sport Salmon Fishers'
 Representative

The Council shall select as Directors individuals whose background, experience and current occupation demonstrate their ability to effectively represent the industry sector or user group whose seat they are to occupy.

Section 4. Elections and Terms of Office. Directors shall be elected by the Council. The Council shall solicit in September of each year nominations and/or letters of interest for the Directors' seats with a term expiring in that year. At its December meeting, the Council shall convene as the member of the Foundation, and shall elect Directors to fill those seats. Directors shall serve staggered two (2) year terms. The initial terms of office of the Directors appointed to Seats 1, 3, 5 and 7 shall be one (1) year. Thereafter, all Directors shall serve for a term of two years and until their successors are elected and qualify.

Section 5. Meetings. Regular meetings of the Board of Directors shall be held at times and places designated by the Board. At least four regular meetings shall be held each year. Special meetings of the Board may be called by a majority of the Board or by the President. An annual meeting shall be held in December of each year or at such other time as the Board determines. Notice of each meeting describing the matters to come before the Board at that meeting shall be given in writing to each Director by mailing such notice not less than ten (10) days prior to the meeting, or delivering such notice in person or by telefacsimile transmission not less than three (3) days prior to the meeting.

Section 6. Waiver of Notice. A Director may waive any notice required to be given by signing a written waiver either before or after the meeting. Attendance at a meeting shall constitute a waiver of notice of such meeting, except when attending for the express purpose of objecting to the transaction of business because the meeting was not lawfully called or convened.

Section 7. Quorum. Presence of Directors holding a majority of the then-existing seats on the Board of Directors shall constitute a quorum for the transaction of business at all meetings.

Section 8. Vacancies. Vacancies on the Board of Directors shall be filled by election of a successor at the next regular or special meeting of the Council.

Section 9. Consent. If all Directors consent in writing to any action to be taken by the Foundation, such action shall be as valid as though it had been authorized at a meeting of the Board of Directors.

Section 10. Ex Officio Membership of the Board of Directors. The Executive Director, if any, of the Foundation shall be an ex-officio member of the Board of Directors, without voting privileges. The Executive Director shall not be counted in determining whether a quorum of Directors is present at a meeting.

Section 11. Removal and Designation. A Director may be removed for speaking or acting in a manner prejudicial to the purposes or activities of the Foundation by an affirmative vote of two-thirds (2/3) of the members of the Council at a regular or special meeting. A Director shall be considered to have resigned if he/she is absent from three (3) consecutive Board Meetings without being excused by a majority of the other Directors.

ARTICLE V - OFFICERS

Section 1. Number. The executive officers of the Foundation shall be a president, a vice-president, a secretary, and a treasurer, all of whom shall be elected by the Board of Directors and shall be members of the Board of Directors. Any two of these offices, except those of president and secretary, and president and treasurer, may be filled by the same person.

Section 2. Election. Officers shall be elected at the annual meeting of the Board of Directors. The initial officers shall be elected at the first meeting of Directors following incorporation of the Foundation.

Section 3. Term and Removal. The officers of the Foundation shall hold office for one (1) year terms, and until their respective successors are elected and have qualified. Any officer elected by the Board of Directors may be removed by a majority of the Directors holding then existing seats on the Board whenever, in their judgment, the best interest of the Foundation will be served thereby. If the office of any officer

shall become vacant for any reason, the vacancy shall be filled by the Board of Directors at its next meeting.

ARTICLE VI - DUTIES OF OFFICERS

Section 1. President. The President shall preside at all meetings of the members of the Board of Directors, and have such other powers as provided by these Bylaws or delegated by the Board.

Section 2. Secretary. The Secretary shall supervise the keeping of the minutes of all meetings of the Board of Directors of the Foundation. The Secretary shall have charge of such of the books and papers as the Board of Directors may direct, which shall at all reasonable times be open to the examination of any Director, upon reasonable notice to the Secretary. The Secretary shall arrange to have proper notice of all meetings provided to the Directors. Unless otherwise agreed by a majority of the Board, all Foundation books and records shall be treated as confidential.

Section 3. Treasurer. The Treasurer shall supervise the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Foundation. The Treasurer shall arrange to have all assets received by the Foundation managed as the Board of Directors provides. Unless otherwise agreed by a majority of the Board, all Foundation books and records shall be treated as confidential.

Section 4. Vice President. The Vice President shall, in the absence or disability of the President, perform the duties of the President and such other duties as may be assigned.

Section 5. Executive Director. The Executive Director, if any, shall be the chief executive director of the Foundation under the direction of the Board of Directors. Subject to the direction of the Board, the Executive Director shall have general and active management of the Foundation.

ARTICLE VII - FUNDING AND EXPENDITURES

Section 1. Funding. The research and publication undertaken by the Foundation shall be funded in part by collecting an assessment of a certain amount per salmon or species of salmon taken as bycatch in the marine fisheries of the Bering Sea. The initial assessment rate shall be \$20.00 (Twenty Dollars) per bycaught chinook salmon (*Oncorhynchus Tshawytscha*). Adjustment to the assessment rate may be recommended by unanimous vote of the Directors of the Foundation, provided that the assessment rate shall not be increased until the Foundation has

received from the other industries (such as logging and mining) whose activities affect salmon spawning and habitat funding in an amount commensurate with their impact on salmon populations and proportionate on that basis to the funds contributed by the marine trawl fisheries. Assessments shall be levied and collected according to the terms of assessment contracts between the Foundation and fishing and/or processing companies operating vessels in the groundfish fisheries of the Bering Sea. Such assessment contracts may be enforced by the Foundation through civil enforcement and collection actions, and other means as appropriate.

Section 2. Expenditures. The Foundation shall endeavor to fund the research appropriate to its purposes and publicly disseminate the results therefrom in the most cost-effective fashion possible. The Foundation shall structure its research plans and grants in a fashion that encourages research personnel to work on a cooperative, inter-institutional basis, and results in the lowest practically achievable overhead and administrative cost rates.

ARTICLE VIII - MISCELLANEOUS PROVISIONS

Section 1. Miscellaneous Committees. The President, with the approval of a majority of the Directors, may appoint committees with functions, powers, duties, and tenure as the President and the Board of Directors determine.

Section 2. Checks and Notes. All financial instruments of the Foundation shall be signed by the officer or officers designated by the Board of Directors.

Section 3. Fiscal Year. The fiscal year of the Foundation shall end each December 31.

Section 4. Deposits. All funds of the Foundation not otherwise employed shall be deposited in interest-bearing accounts selected by the Treasurer and the Executive Director and approved by a majority of the Directors.

Section 5. Acceptance of Gifts, Donations, etc. No gift, donation, bequest or subscription to the Foundation shall be deemed to have been accepted until acted upon affirmatively by the Board of Directors.

Section 6. Conflict of Interest. No Director, officer, employee or agent of the Foundation shall have any personal financial interest, direct or indirect, in any activity undertaken by the Foundation. No Director, officer, employee or agent of the Foundation shall receive compensation of any kind from the Foundation, except as reasonable compensation for

services actually rendered. No Director, officer, employee or agent shall receive a loan from the Foundation.

ARTICLE IX - PARLIAMENTARY PROCEDURE

Robert's Rules of Order shall govern questions of parliamentary procedure at all meetings of the Board of Directors.

ARTICLE X - AMENDMENTS

These Bylaws may be altered, amended or replaced at any regular or special meeting of the Council by Council members holding a majority of the then-existing seats on the Council, provided that no change to the Bylaws shall be made unless the public notice of the meeting at which they are to be changed (i) specifies the proposed change as a purpose of that meeting, and (ii) provides the text of the proposed change as part of the meeting notice.

ARTICLE XI - LIMITATIONS OF LIABILITY AND INDEMNIFICATION

Section 1. Officers and Directors. The Foundation shall indemnify and defend all present and former officers and directors of the Foundation against any expenses of any proceeding (including by or in the right of the Foundation) to which they are parties because they are or were officers or directors of the Foundation, all as defined and to the fullest extent permitted by law.

Section 2. Employees and Agents. The Foundation may indemnify and defend present and former employees and agents of the Foundation against any expenses of any proceeding (including by or in the right of the Foundation) to which they are parties because they are or were employees or agents of the Foundation, all as defined and to the fullest extent permitted by law.

Section 3. Insurance. The Foundation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Foundation, or who is or was serving at the request of the Foundation as an officer, employee, or agent of another corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan, against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Foundation would have the power to indemnify such person against such liability under the provisions of this Article.

Section 4. Bonding. The Board may require that any person authorized to sign checks for the Foundation shall furnish, at the expense of the Foundation, a fidelity bond in such a sum as the Board shall prescribe.

Adopted _____, 19__.

President

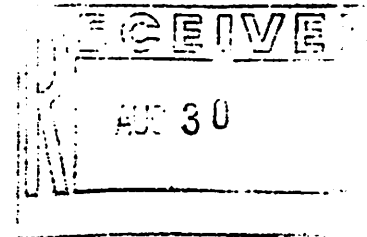
Secretary-Treasurer

BYSALM03.008/JMST
7/20/93

DRAFT

BERING SEA FISHING INDUSTRY
SALMON BYCATCH CONTROL COALITION
3040 WEST COMMODORE WAY
SEATTLE, WASHINGTON 98199

August 27, 1993



Mr. Clarence G. Pautzke
Executive Director
North Pacific Fishery
Management Council
Post Office Box 103136
Anchorage, Alaska 99510

Re: Salmon Bycatch

Dear Clarence:

I am writing to you on behalf of the fishing industry associations that have participated in developing the Salmon Research Foundation initiative. For your information, enclosed is a copy of the letter of intent that was sent to the Bering Sea trawl fleet on August 25, 1993. We will keep you informed as to our progress in achieving "critical mass."

We appreciate the comments we have received so far on the draft Articles and Bylaws, and look forward to hearing from more of you soon.

Should you have any questions or concerns regarding the status of the industry's efforts in connection with this matter, please feel free to contact me at (206)624-5950 by phone, or at (206)624-5469 by fax.

Very truly yours,

Joseph M. Sullivan

JMS:jcp
Enclosure
LSalmon.008

Bering Sea Fishing Industry
Salmon Bycatch Control Coalition

24 August 1993

[238 Fishing Companies]
[Representing 354 Bering Sea Trawl Vessels]
[From Maine to Dutch Harbor]

Re: Bering Sea Salmon Bycatch

Dear Bering Sea Fisherman:

We are writing to you on behalf of the American Factory Trawlers Association (AFTA), Pacific Seafood Processors Association (PSPA), American High Seas Fisheries Association (AHSFA), and Midwater Trawlers Cooperative to request your company's participation in the salmon bycatch reduction initiative approved by the North Pacific Fishery Management Council in June of this year.

As you may know, the Council is considering a limit on Bering Sea trawl salmon bycatch. Trawl bycatch has an unknown impact on Alaska's salmon stocks. However, because Alaska salmon fishermen operate within harvest guidelines established by the State Department of Fish and Game, they believe it is unfair for the trawl fleet to operate without some sort of limit on its incidental salmon bycatch. They have encouraged the Council to adopt a cap set at or below current bycatch estimates.

A salmon bycatch cap could impose a severe cost on the trawl fleet. Salmon bycatch data are statistically constructed, and consequently there is a significant risk that a cap based on current estimates could inadvertently close a major portion of the pollock and cod fishing grounds late in the "A" season or early in the "B" season. Nonetheless, salmon fishermen will continue to seek a cap until the trawl fleet can show to what extent bycatch actually affects Alaskan salmon stocks, and that the fleet is taking all appropriate steps to avoid interaction with salmon.

Rather than taking the contentious route of resisting an inappropriate cap, we have an opportunity to take a positive role in addressing this issue. At its June meeting, the Council conditionally approved an alternative that was developed by the staffs of AFTA, PSPA and AHSFA, together with a number Alaska salmon fishery representatives. The "Salmon Research Foundation" initiative (which is more fully described in the attached documents) was crafted to address the lack of reliable bycatch data, and to develop and distribute to the trawl fleet information concerning fishing practices that will reduce salmon bycatch.

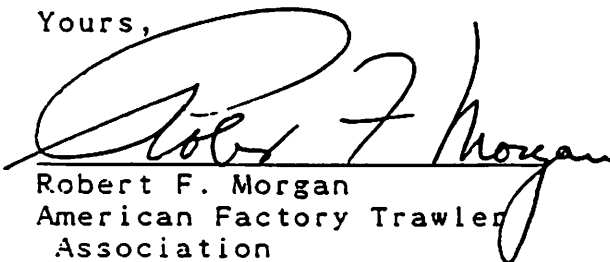
Notwithstanding its initial support of the Research Foundation initiative, the Council will not give final approval to this alternative in September unless companies representing a "critical mass" (i.e., not less than 70% to 80%) of Bering Sea trawl vessel harvesting capacity have agreed to pay an assessment of \$20.00 per chinook salmon taken by their vessels (effective as of the opening of the 1994 trawl fisheries) to fund the Foundation's activities. (Regulations under development will require that salmon be retained and counted by observers; their count would be the basis for the assessment.)

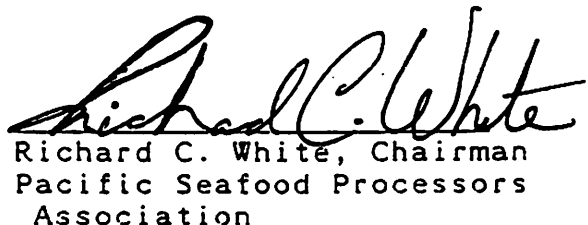
As we all know, this has been a difficult year financially for the North Pacific fishing industry, and we are sure that you have reservations about agreeing to pay yet another cost. However, we firmly believe that the assessment rate is reasonable when weighed against the cost to the fleet of a cap and closure management system for salmon bycatch (which the Council will be considering in September if the research alternative is not supported by a "critical mass" of the fleet), and the benefit to the fleet of undertaking a positive, voluntary effort to deal with a difficult issue. We therefore strongly encourage you to become a supporter of the Salmon Research Foundation. Companies that do so will be recognized as leaders in developing a responsible approach to the salmon bycatch problem.

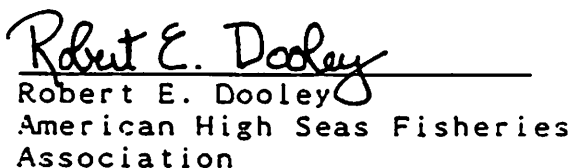
To have your firm counted among those willing to take a positive step forward on this difficult issue, please sign the enclosed letter of intent and return it to us at the address shown. If the Council gives final approval to the Salmon Research Foundation program at its September meeting, a Foundation representative will contact you regarding payment arrangements.

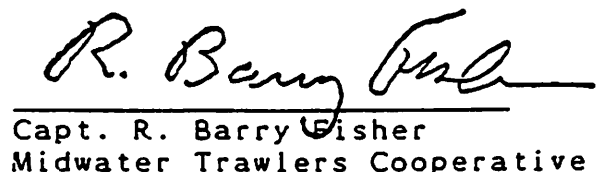
Should you have any questions or concerns regarding this matter, please feel free to contact Joe Blum at (206) 285-5139, and/or Joe Sullivan at (206)624-5950, Vince Curry at (206)281-1667, or Kate Graham at (206)282-2731.

Yours,


Robert F. Morgan
American Factory Trawler
Association


Richard C. White, Chairman
Pacific Seafood Processors
Association


Robert E. Dooley
American High Seas Fisheries
Association


Capt. R. Barry Fisher
Midwater Trawlers Cooperative

Enclosures:

Letter of Intent
Bylaws and Articles of Incorporation

Bering Sea Fishing Industry
Salmon Bycatch Control Coalition
3040 Commodore Way
Seattle, WA 98199


F/V (vessel/company) hereby agrees to pay the Salmon Research Foundation an assessment of \$20.00 per chinook taken as bycatch in the Bering Sea/Aleutian Island groundfish fisheries.

By _____

Its _____

DATE: 25 August 1993

FROM:

Dan Albrecht 
BSFA Marine Policy Specialist
YRDFA Executive Director
725 Christensen Drive Suite 6
Anchorage, AK 99501

Phone: 907-279-6519 / FAX: 907-258-6688

TO:

Joe Sullivan
Mundt, MacGregor
4200 First Interstate Center
Seattle, WA 98104

Re: Proposed salmon research foundation

General comments:

First, let me preface my comments by saying that I was not at the June council meeting when this proposal was further developed. Second, be careful how this proposal is labelled since terminal fishermen are represented by over three dozen groups but industry executive director types can gather around one table for lunch at a Seattle oyster bar. Third, it also bears repeating that this idea began to be pushed by some only after proposals on caps, bycatch rates and time/area closures were voted down in May by the AP and the Council.

As staffer to BSFA and executive director of Yukon River Drainage Fisheries Association, the following thoughts come to mind after reviewing the Articles and By-Laws of the proposed salmon research foundation

- bureaucratic (Council is a bureaucracy, the Council is the sole member)
- will take at least one year to be approved through Council and Commerce
- will take at least two years to get funded and begin operations
- will take three years before any research results are published
- represents an effort by some in industry to address this problem
- may lead to some interesting research
- odd that Gulf of Alaska is excluded since bycatch is a problem there too. I don't see any difficulty to having them ~~ex~~ⁱⁿcluded which brings me to the question, "does Bob Penney et al. know they are excluded."

-if this is what industry calls "self-regulation, communal management of the commons, responsibility, etc.", then you have a long way to go.

Composition of Board of Directors

- Suggested composition would have terminal users outvoted. Suggest changing composition, require full consensus or 5-6 votes to pass a motion instead of 4. In order to bring about true cooperation, one must have a modus operandi other than majority rule, (Joe: cf. Kuskokwim River Salmon Management Working Group)
- Consideration should be given to having representation by true scientists on Board to better evaluate projects.

Funding and Expenditures

Assessment rate should be at least \$50 per chinook. As the recent July bycatch of 40,000 chums in the GOA shows, there also needs to be an assessment for chums and other salmon taken, e.g. \$3 per chum, \$5 per coho

Making a raise in the assessment rate contingent upon contributions from mining and logging is ludicrous. The issue is salmon bycatch by the groundfish industry not salmon conservation as a whole. (It's the bycatch, stupid!) Damage to habitat or fish wrought by these other industries is addressed under different forums such as DNR, BLM, U.S./Canada treaty negotiations, USFS, etc. How one could even begin to fathom a guess as to actually measuring those impacts is beyond me. Besides, fishermen are talking directly with those industries and the agencies that regulate them to try and address these effects. With this proposal's logic, maybe miners and loggers will want to make stream rehab and buffer strips contingent upon a real reduction in salmon bycatch. Or maybe rates at the Anchorage Hilton should be raised for groundfish industry members unless bycatch is reduced.

The sarcasm is intentional. There are some merits to having a foundation. The BSCFDF is a good example. It works because it is a private foundation and is not controlled by the Council. Go back to the drawing board and revamp these draft articles and by-laws. < END >

cc: NPFMC
AVCP
WAFDA
Frank Charles

AVCP

Association of Village Council Presidents
P.O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 30, 1993

Bering Sea Fishing Industry
Salmon Bycatch Control Coalition
3040 West Commodore Way
Seattle, WA 98199

Dear Joe Sullivan:

This is just a follow up letter to our telephone conversation on August 26, 1993. The conversation pertained to comments on the Articles of Incorporation and Bylaws of the Salmon Research Foundation (Foundation). Enumerated below are comments on the Foundation Bylaws:

1. Board of Directors, not satisfied with composition.
Prefer: 2 trawler representatives
2 comm. salmon fisher representatives
1 conservation/environmental representative
1 state official
1 federal official

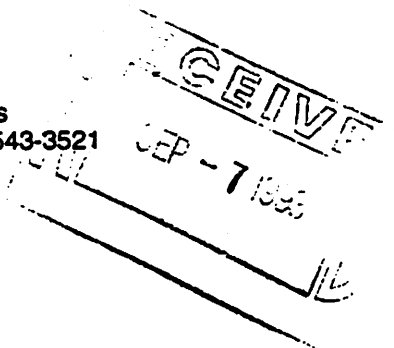
We spoke about the government representatives being important because of decisions/direction of the foundation may effect those agencies, and they should be informed. They do not have to be voting members.

2. Need a scientific advisory board to determine which research programs to fund. The process of distributing funds formalized in the Bylaws.
3. Include Gulf of Alaska in the Salmon Research Foundation.

Additional ideas we discussed that we hoped the Foundation would consider were higher assessment fees, fees to include 'other salmon', more extensive observer coverage for both shoreside and offshore fleets, and problems associated with implementation of a performance standard assessed by National Marine Fisheries Service (NMFS) for salmon bycatch.

We also discussed how the Foundation is a necessary interim step to further address and reduce salmon bycatch within the North Pacific Fisheries Management Council jurisdiction. A clause should be included in the Bylaws that addresses the future of the bycatch issue, whether that be the dissolution of the current Foundation or the creation of a new and expanded organization, or some other dynamic which results in actual reduction in bycatch.

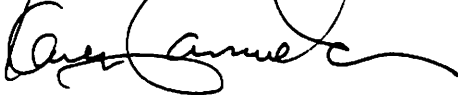
One idea we had that was not discussed was about research grant



funding. Research can be costly, a suggestion would be to use Foundation monies to partially fund research and have research grants fund the remainder of the projects, when needed.

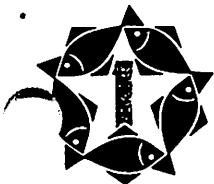
I would like to further comment on Foundation Bylaw, Article VII, Section 1: Funding. I am totally opposed to the statement regarding adjustment of the chinook assessment fee being contingent upon compensation from other salmon habitat effect industries being written in the Bylaws.

Sincerely,
ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Myron Napeng, President



Karen Samuelson,
Natural Resources
Fisheries Specialist

cc: NPFMC
BSFA
CIRFA



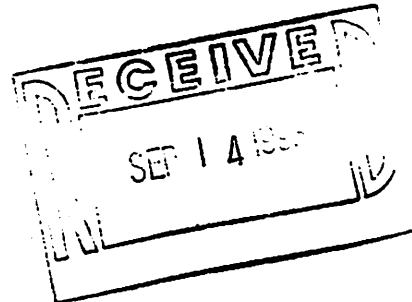
Fishermen's
Finest

North Pacific Fishing, Inc. ...

4039 21st Ave. W. #201 ■ Seattle, WA 98199
(206) 283-1137 ■ TWX 5101004709 N PAC FI ■ FAX 2062818681

September 10, 1993

Richard B. Lauber, Chairman
North Pacific Fisheries Management Council
605 West 4th Avenue
Anchorage, AK 99501



RE: Groundfish Issues, Salmon Retention, Agenda Item D-5

Dear Chairman Lauber:

North Pacific Fishing, Inc. operates a trawl vessel in the Bering Sea and Gulf of Alaska and will be effected by a policy change requiring the retention of Salmon by Groundfish vessels. The waste of the relatively small salmon bycatch experienced by the trawl fleet by requiring that the fish be discarded to protect the salmon market from competition is deplorable. However the plan requiring that these salmon be provided free of charge to food banks and that an additional penalty of \$20.00 per salmon be paid to a research foundation is seriously flawed. There are other mechanisms available that can prevent fishermen from targeting on these species. Requiring them to pay a penalty to protect another branch of the industry's market is unprecedented.

If it is legal to retain a fish on a fishing vessel, then it ought to be legal for the vessel to sell that fish. A salmon VIP program can be implemented along with a plan amendment to allow retention of salmon. The VIP program would prevent fishermen from targeting on salmon or being tempted to "top-off." A salmon VIP program would be simpler to implement than the current VIP program as the weight of salmon caught and retained onboard would be irrefutably determined by the vessel's transfer log.

Other industry's which generate surplus food routinely destroy their product to maintain the sales price. Fishermen have been forced into this wasteful practice by regulatory action not their own choice. It is inappropriate to require by federal regulation a donation to any organization regardless of how worthy the cause is. It is even more inappropriate to require the donation in an attempt to control the Market supply and demand.

Sincerely,

Rudy A. Petersen
President

Discussion Paper:
Codend Mesh Size Regulation for the Pacific Cod Trawl Fishery

Background

At the June 1993 meeting, the Council heard a proposal from the Highliners Association to require use of 8" (stretched measure) diamond mesh in all codends used in BSAI directed cod fisheries. The purpose of the proposed amendment is to allow the escapement of undersized cod, resulting in fewer discards and a higher percentage of larger fish. A related issue is the perception of wastage in the cod fisheries due to current fishing practices in which the non-utilized portion of the catch is discarded. Hence, a mesh regulation would be consistent with National Standard 5 of the Magnuson Act, which is to promote efficient utilization of fishery resources. At the present time, BSAI and GOA groundfish regulations do not require a minimum mesh size for the North Pacific trawl fisheries.

This proposal for Pacific cod is similar to last year's proposal by the Highliners to establish a mesh regulation for pollock fisheries. That proposal was to require a 90 mm single layer square mesh panel in the upper portion of codends used in the directed pollock trawl fisheries. After reviewing a draft EA/RIR/RIFA for the pollock proposal, the Council felt it was premature to develop mesh regulations prior to completion of mesh selectivity studies, and postponed further consideration of the proposal. Results of a pollock mesh selectivity study, done by the Alaska Fisheries Development Foundation in cooperation with researchers at the University of Washington and the Fishery Industrial Technology Center, should be available sometime this winter (see attached letter). The Highliners have re-initiated the pollock proposal along with the cod proposal for the upcoming amendment cycle (see attached proposal).

Mesh Selectivity

All fishing gears are selective to some extent and result in fish of certain sizes being caught more readily than others (Ricker 1975). The extent of gear selectivity will be determined by properties of the fish, gear, fishing method, and fishing area characteristics. In general, selectivity of trawl nets occurs through codend meshes (Smolowitz 1983; Wardle 1988). Some selection also occurs in the forward portion of the net as fish escape during a tow, a fact that prompted the Pacific Fishery Management Council to recently recommend a minimum mesh size throughout the entire trawl (PFMC 1993). Variables affecting selectivity include mesh size, shape, and construction, as well as operational factors.

Several terms are used to express the size-capture relationship for different size meshes. Selection curves, or "section ogives," represent the probability that a fish of a given size will be captured by the net in a single tow. The length (or size) of fish at which 50% are retained by a codend of a given mesh size, termed L₅₀, is the inflection point of the selectivity curves. The selection factor is the relation between the 50% retention length (or size) and the inner length of the mesh (Smolowitz 1983). Selection varies with mesh size and configuration, such that the codends having open meshes, i.e. bigger holes, are more selective. Mesh configurations that allow for open meshes include square mesh or diamond mesh with shortened riblines (Isaksen and Valdemarsen 1990; Jacobsen 1991).

To date, no mesh selectivity experiments have been conducted for Pacific cod (*Gadus macrocephalus*). Although several studies have been done with Atlantic cod (*Gadus morhua*), selectivity experiments for meshes larger than 6" diamond mesh (stretched measure between knots, BK) have not been undertaken. Nevertheless, examination of the Atlantic cod selectivity experiments may offer some insight into the proposed mesh size for Pacific cod, as these species are closely related and have similar morphology and behavior. Larsen studied the selectivity of cod entering 4.75" (120 mm) BK diamond and square mesh Danish seine codends (Figure 1). Cooper and Hickey (1989) published selectivity curves for 5.5" (140

mm) and 6" (155 mm) BK for square and diamond mesh trawl codends (Figure 2). They found L50's of 24" for 6" knotless diamond mesh and 26" for 6" knotless square mesh codends, which gives a selection factor of about 4 (L50/mesh size) for each. Using this selection factor, L50 for 8" mesh can be estimated as 32". Average age of Pacific cod of this length is 9 years and weighs about 7.4 kg, or 16.3 pounds (Thompson 1992). Hence, a preliminary review of the data suggests that an 8" mesh size may be larger than required; however, without mesh selectivity studies, determination of an optimal mesh size may not be possible.

Potential Biological Impacts

Establishing a minimum codend mesh size and configuration would have biological impacts. It is likely that discarding of small cod could be greatly reduced with an 8" mesh codend. For 1993, the overall discard rate for Pacific cod the BSAI cod trawl fisheries was 13.3% (NPFMC 1993). Data on the length distribution of discarded cod are not available at this time. Without selectivity data for 8" mesh, it is impossible to estimate the magnitude of potential changes in discarding. Variations in year-class strength can affect discard rates; discarding generally increases when a large year-class begins to recruit to a specific gear type. An increase in mesh size will increase the age at entry into the fishery, and will affect both the yield-per-recruit and spawning stock biomass-per-recruit. Hence, recruitment is delayed, and cod increase in size and maturity. This in turn, may result in an increase in yield- and spawning biomass-per-recruit.

Escapement Mortality

Yield and spawning biomass-per-recruit will be reduced by escapement mortality. Escapement mortality is the amount of fish that will die after passing through a codend, and may range from none to 100%. Escapement mortality is difficult to estimate, and may depend on operational factors as well as the size and type of mesh used, i.e. square or diamond configuration (Main and Sangster 1988, 1991). A related issue is that mortality of escaping cod is currently not counted towards the TAC or ABC. If fishermen use larger mesh, more cod are filtered through the codend prior to reaching the TAC, which is based on retained fish. Although fishing mortality on full recruits will not change, an increase in fishing effort can be expected because more tows would be required. Therefore, if larger mesh is used and escapement mortality is significant, the actual amount of cod removed from the population could exceed ABC. Any added mortality on juvenile cod will reduce potential yield and spawning biomass-per-recruit.

PSC Considerations

The proposed mesh size regulation may increase the bycatch rate of prohibited species. Bycatch rates may increase in proportion to a decreased catch rate of the target species (cod). Unless more PSC (particularly halibut) is apportioned to the Pacific cod trawl fishery, the fishery could be shut down well before the total cod TAC for the trawl fishery is taken. Under the conditions of amendment 24, any unharvested trawl gear apportionment of the cod TAC would be re-allocated to fixed gear fisheries.

Due to changes in bycatch rates, vessel incentive program (VIP) bycatch standards will need to be adjusted. The VIP program was initiated to reduce bycatch rates of halibut in the GOA and BSAI trawl fisheries, and is based on the specification of bycatch rate standards that, when exceeded, constitute a violation of groundfish regulations. Existing regulations allow for a timely assessment of changes in prohibited species bycatch rates and for an adjustment in specified bycatch rates standards if appropriate.

Potential Economic Impacts

Minimum mesh size regulations have economic impacts on affected fisheries (Hanna 1988). The initial cost to the industry would be the cost of replacing their codends that meet the minimum mesh

requirements. Most of the fleet is currently using single layer codends with diamond mesh, which is smaller than the proposed size. Long term costs will be incurred due to reduced catch rates of Pacific cod. Also, unless more PSC made available, the trawl fishery may be unable to harvest its Pacific cod TAC apportionment. Another potential cost would be the lost value of other marketable species (e.g., Atka mackerel, pollock, POP, flounders) traditionally harvested when fishing for Pacific cod, as these species are unlikely to be retained by 8" mesh codends. The potential benefit of a minimum mesh size is that a greater proportion of the total cod harvest would be comprised of larger, more marketable sized fish. As the size distribution of the harvest increases, more will be processed and utilized rather than being discarded, and landings will consist of higher valued products.

Enforcement

Mesh regulations may be difficult and expensive to enforce. Potential problems include: 1) how the mesh is measured, 2) definition of a codend, 3) requirements of mesh configuration, 4) at-sea enforcement. Mesh measurements can be defined by the stretched measure, bar measure, or between knot (BK) measure. A BK measurement can be made with a 5 kg wedge or an ICES type trigger gauge. Defining the various parts of a trawl and regulating mesh configuration can also be problematic, as these regulations often contain loopholes. Methods to restrict mesh openings in codends are numerous and difficult to enforce. Codend liners, twisted meshes, and net strengtheners can be used to circumvent regulations. Even if "one mesh size allowed on board" was required, a double layered codend would effectively negate the benefits of mesh regulation. Although observers may be able to monitor mesh size in some cases, effective enforcement of mesh regulations may require intensive at-sea enforcement.

Summary

In summary, potential effects of proposed mesh regulations for the Pacific cod fishery cannot be determined at this time. No mesh selectivity studies have been done on Pacific cod, and experiments on Atlantic cod are inadequate to analyze this proposal. Escapement mortality remains a big unknown, and may negate any potential benefits of increased mesh size. Mesh size increases may result in higher bycatch rate of prohibited species. Enforcement costs will increase. Under an ITQ system, fishermen will want to use the gear that produces the most profit for their quota, and this gear may include large mesh codends. Prior to ITQ implementation, regulations may not be necessary, as larger mesh sizes could be used on a voluntary basis.

Two options available to the Council for regulating mesh size for the Pacific cod fishery are identified below. One option is not to regulate mesh size at this time, but perhaps identify mesh selectivity experiments as a research need. Such information would be useful to fishermen even after IFQs were implemented. Another option would be to initiate an EA/RIR/RIFA, requiring some minimum mesh size, with the analysis based on mesh selectivity data for Atlantic cod. As new information becomes available, regulations or the FMP could be amended further to reflect an optimum size; this strategy has been used to manage groundfish in the Northeast. The amendment process necessary to regulate gear differs among the groundfish FMPs: for the BSAI, a regulatory amendment will suffice, but for the GOA FMP a plan amendment would be required. Under this option, the Council may wish to amend the GOA FMP to make gear restrictions a framework measure, rather than a conventional measure, which requires substantial analysis and review prior to regulatory changes.

REFERENCES

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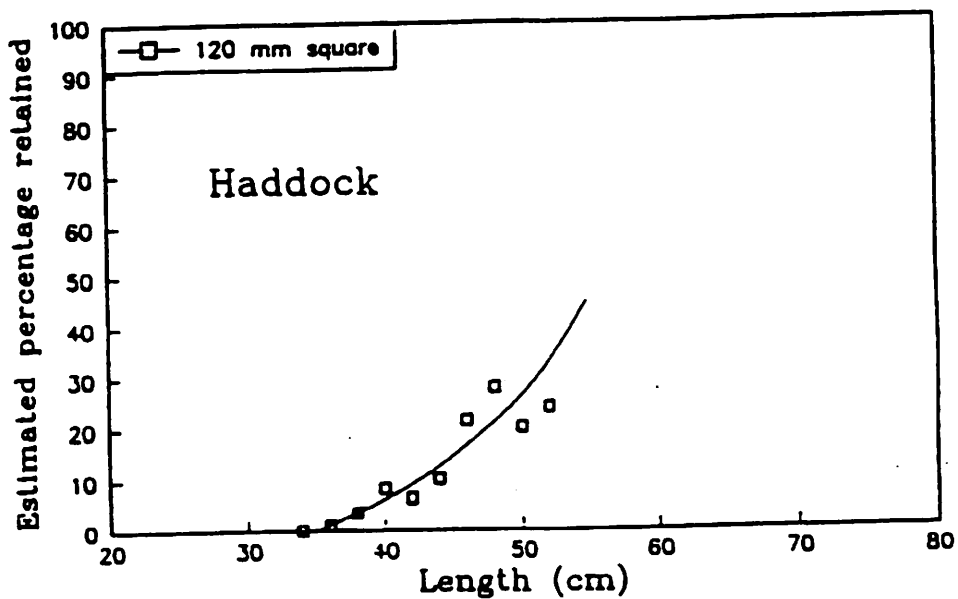
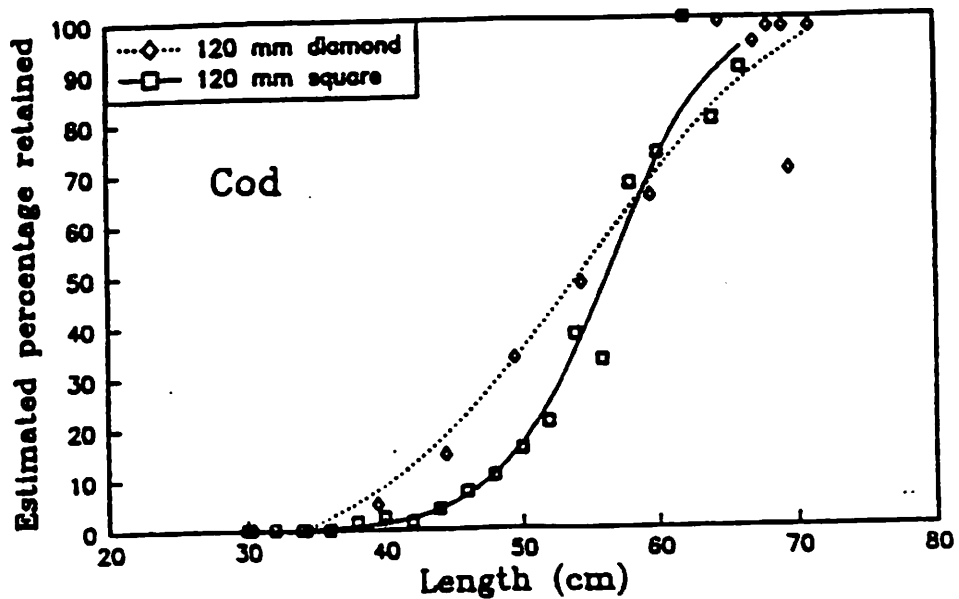


Figure 1: Selection curves for cod (Gadus morhua) and haddock (Melanogrammus aeglefinus) comparing the 120 mm square mesh codend to the 120 mm diamond mesh codend. Results from the Danish seine experiments May 1986.

Source: Larsen 1988

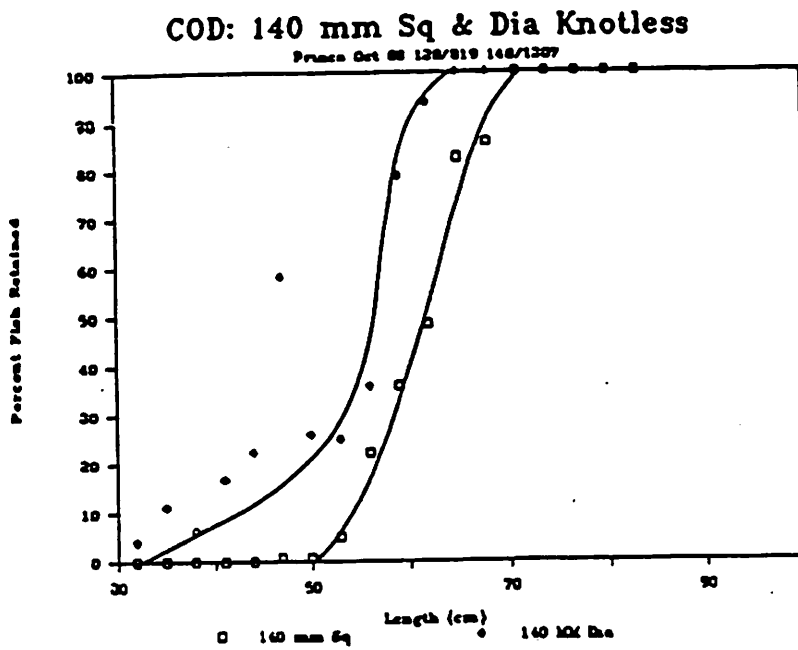


Figure 2a. Cod selectivity curves for 140 mm square and diamond mesh (knotless). Small number of fish results in scatter of data points.

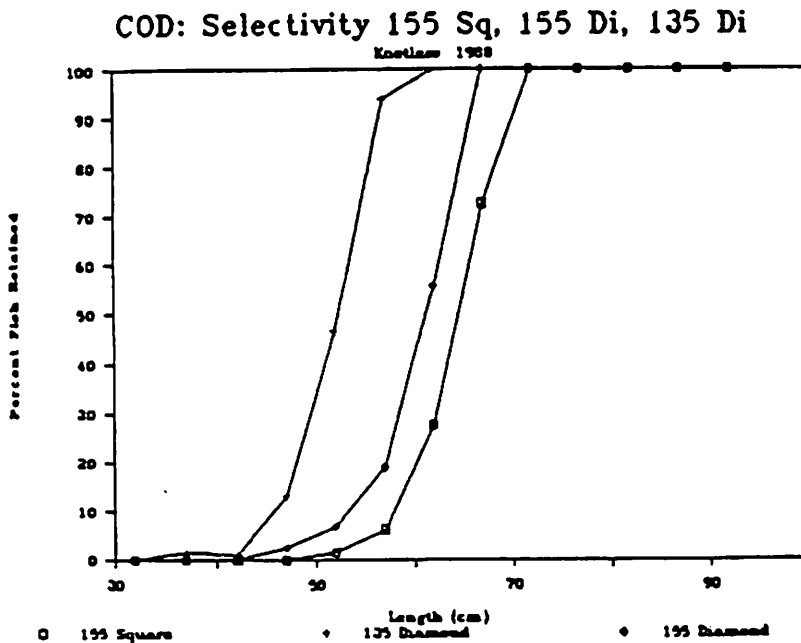
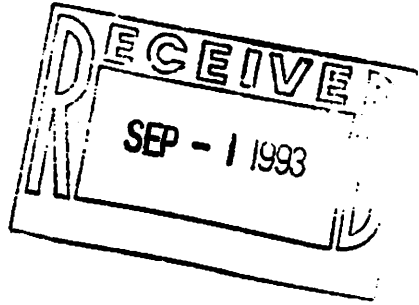


Figure 2b. Cod selectivity curves for 135 mm diamond, 155 mm diamond and 155 mm square. All cod-ends are knotless twine.

Source: Cooper and Hickey 1989



Alaska Fisheries Development Foundation, Inc.



August 27, 1993

Steve Hughes
Natural Resource Consultants, Inc.
4055 21st Ave. West, Suite 200
Seattle, WA 98199

Dear Steve,

I received a copy of your letter to Rick Lauber and Clarence Pautzke re-initiating the pollock mesh size regulation the Highliners introduced last year. In it you make mention of AFDF's final report date for our pollock codend study as being June, 1994. You expressed concern that, as a result, action on the regulatory proposal would be delayed.

Re-activating the pollock mesh size proposal is a good idea since it will bring it before the Council probably in April of 1994. Apparently you called AFDF while I was away and were given the date of our final grant report requirements by the S/K program. That date is not relevant to your needs. What is more relevant is that information gained during our field work in October will be available to the Council in mid-winter.

I'm sorry there was a misunderstanding when you called the office. As it stands now, we have recently selected a net manufacturer and fishing company to work with and are in the process of negotiating those contracts. We have seen no delays in our progress and anticipate beginning our field work soon after the end of the B season as planned. I understand that you did discuss this with Ellen Pikitch. If you have any further questions or concerns, please give me a call. We will try and keep you and other members of the industry up to date on the progress of this study.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paula Cullenberg".

Paula Cullenberg
Project Manager

cc: Richard Lauber and Clarence Pautzke, NPFMC
Dr. Ellen Pikitch, Fisheries Research Institute



NATURAL RESOURCES CONSULTANTS, INC.

4055 21ST AVENUE WEST, SUITE 200
SEATTLE, WASHINGTON 98199, U.S.A
TELEPHONE: (206) 285 3480
TELEFAX: (206) 283 8263

COPY

August 13, 1993

Mr. Richard B. Lauber, Chairman
Mr. Clarence G. Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, Alaska 99501

Re: NPFMC Plan Amendment Proposal

Dear Rick and Clarence:

Attached please find a plan amendment proposal separately addressing mesh size regulations in the pollock and cod trawl fisheries. The trawl mesh size regulation is a request to re-activate last years proposal by The Highliners. The cod trawl mesh size component of the proposal is consistent with the Councils action on Cod Allocation Amendment 24, but this would also apply to the Gulf.

Regarding the pollock mesh size component, I have been advised by AFDF that the mesh size studies they are conducting with FRI call for a final report in June 1994. This probably means that by June 1995 or January 1996 a plan amendment could be in place compared to January 1994 had The Highliners proposal been kept on track. The trawl industry can't afford to wait until June 1995-January 1996, we must have more timely regulations.

Thank you for your support.

Sincerely,

NATURAL RESOURCES CONSULTANTS, INC.

A handwritten signature in cursive script that reads "Steve".

Steven E. Hughes
Vice President

cc: Mr. Vince Curry, Pacific Seafood Processors Association
Alaska Fisheries Development Foundation
Dr. Ellen Pikitch, Fisheries Research Institute
The Highliners Association
Fishermen's Cooperative

COPY

GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL
North Pacific Fishery Management Council

Name of Proposer: **Steve Hughes**

Vince Curry Date: **August 12, 1993**

Address: **Natural Resources Consultants, Inc.**
4055 21st Ave. West, Suite. 200
Seattle, WA 98199

Pacific Seafood Processors Association
4019 21st Ave. W, Suite 201
Seattle, WA 98199

Telephone: **(206) 285-3480**

(206) 281-1667

Fishery Management Plan: **Bering Sea/Aleutian Islands and Gulf of Alaska**

Brief Statement of Proposal: **1. Re-activate the former Highliners proposal to establish a minimum mesh size regulation in the pollock fishery using trawl gear.**

2. Implement a mesh size regulation in the directed cod fishery using trawl gear.

Objectives of Proposal: (What is the problem?)

Both proposals are needed to minimize the catch and discard of undersized target species and the bycatch of other species.

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

Minimum mesh size regulations will effectively reduce unwanted catch/mortalities, reduce waste and work toward optimum yield. The trawl industry needs tools to reduce waste and discards.

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

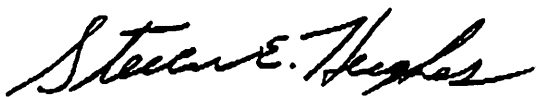
The resources win, the industry wins, the Council and NMFS win by taking responsible and badly needed action.

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

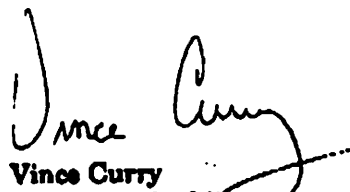
Mesh size regulations are a stand alone item, they will compliment other actions which the Council has already taken.

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

Most has already been provided Council staff. Contact Steve Hughes for additional information.



Steven E. Hughes
The Highliners Association
and Midwater Trawlers Cooperative



Vince Curry
Pacific Seafood Processors Association

Deep Pacific Fishing Company

1225 - 4th Avenue South, Suite E • Seattle, WA 98134
Phone (206) 233-8030 • Fax (206) 233-8035

July 9, 1993

Mr. Richard B. Lauber, Chairman
Mr. Clarence G. Pautzke, Executive Director
NORTH PACIFIC FISHERY MANAGEMENT
P. O. Box 103136
Anchorage, Alaska 99510

Dear Mr. Lauber and Mr. Pautzke;

As you know, the pelagic pollock fishery is exempt from the halibut prohibited species cap because it isn't supposed to have any halibut bycatch due to fishing in a midwater mode. The members of the North Pacific Fishery Management Council have spent a significant amount of time in the last couple of years attempting to ensure that this fishery doesn't have halibut bycatch problems.

In the last several years the Council has implemented regulations defining what a pelagic trawl is in an effort to ensure that the pelagic trawl fishery doesn't fish hard on the bottom. The previous pelagic trawl definition was an honest attempt to solve this problem, but as everyone knows, it was a dismal failure. The vessel owners and gear manufacturers simply found ways to "legally" stay within the bounds of the law, but still fish hard on the bottom while in a pelagic fishery.

This has been of great concern to many participants of the industry and to the managers as well. The pelagic pollock fishery has taken a significant amount of halibut as bycatch, while being exempt from the halibut cap. This means that after all other trawl fisheries are shut down because they have exhausted their halibut PSC's, the pelagic fishery continues to fish and kill halibut, without any way of being penalized. The only way these halibut are accounted for is in a reduction to the directed hook-and-line halibut fishery.

The Council recently passed a new pelagic trawl definition and a performance based trawl regulation in the hopes that this problem might be resolved. The regulation is now in the process of going through the necessary review process prior to implementation. This regulation was not endorsed by many of the trawl representatives and it is felt by some that the trawl groups may attempt to either derail or slow down the final approval of the regulation.

In 1993 the A season for pollock took 293.5% of their halibut cap for that period. This leaves only about 300 MT of halibut for the entire B season fishery which has 55% of the pollock quota.


There is no guarantee that the new definition and performance based regulation will be implemented by the B season which begins in August. Additionally, there is substantial concern that this regulation if implemented, will not be effective in making sure this pelagic trawl fishery is truly a midwater fishery.

We believe this problem can be resolved by the Council taking action to place the pelagic pollock fishery under the halibut cap and onsidering a requirement for the pollock fishery to be taken primarily with pelagic gear.

If the pelagic trawl fishery is under the halibut cap, we believe that vessels will, without complicated regulations, begin fishing in a true midwater mode.

We understand this issue is before the Council at their September meeting. We would request that serious discussion be given to resolving this problem.

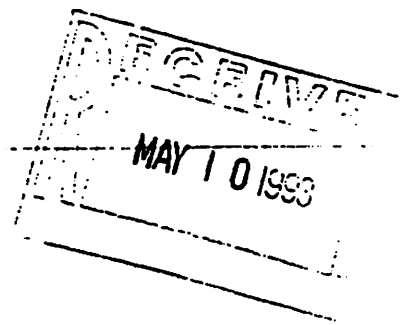
Sincerely,



Bill Coffey, General Manager
DEEP PACIFIC FISHING COMPANY

Deep Pacific Fishing Company

1225 - 4th Avenue South, Suite E • Seattle, WA 98134
Phone (206) 233-8030 • Fax (206) 233-8035



May 5, 1993

NPFMC
Attn: Rick Lauber, Chairman
P.O. Box 103136
Anchorage, AK 99510

Re: Halibut Cap

Dear Chairman Rick Lauber,

We believe there are two problems that can be resolved by the Council taking action to place the pelagic pollock fishery under the halibut cap and considering a requirement for the pollock fishery to be taken primarily with pelagic gear.

As you know, the pelagic pollock fishery is exempt from the halibut prohibited species cap because it isn't supposed to have any halibut bycatch due to fishing in a midwater mode. In the last several years the Council has implemented regulations defining what a pelagic trawl is in an effort to ensure that the pelagic trawl fishery doesn't fish hard on the bottom. The previous pelagic trawl definition was an honest attempt to solve this problem, but as everyone knows, it was a dismal failure. The vessel owners and gear manufacturers simply found ways to "legally" stay within the bounds of the law, but still fish hard on the bottom while in a pelagic fishery.

The pelagic pollock fishery has taken a significant amount of halibut as bycatch, while being exempt from the halibut cap. This means that after all other trawl fisheries are shut down because they have exhausted their halibut PSC's the pelagic fishery continues to fish and kill halibut, without any way of being penalized.

The Council recently passed a new pelagic trawl definition and a performance based trawl regulation in the hopes that this problem might be resolved. The regulation is now in the process of going through the necessary review process prior to implementation. This regulation was not endorsed by many of the trawl representatives and it is felt by some that the trawl groups may attempt to either derail or slow down the final approval of the regulation.

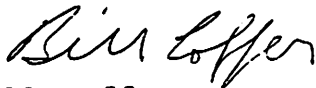
There is another issue which needs to be addressed. The discards of Pacific cod are very high in the pollock fishery. Some estimations of total Pacific cod discards in 1992 were well over 30,000 MT. (Estimates range from 26,000 to over 40,000 MT). Much of these discards were in the pollock fisheries.

As stated above, we believe that these two problems can be resolved by the Council taking action to place the pelagic pollock fishery under the halibut cap and considering a requirement for the pollock fishery to be taken primarily with pelagic gear.

If the pelagic trawl fishery is under the halibut cap, we believe that the vessels will, without complicated regulations, begin fishing in a true midwater mode. We also believe that if vessels are fishing in a midwater mode, their take and discards of the Pacific cod resource will be greatly diminished. The loss to the directed fishery is substantial. The loss so far this year is over 44 millions pounds.

I understand that this issue is before the Council at their June meeting. We would request that serious discussions be given to resolving this problem.

Sincerely,



Bill Coffey
General Manager

Alaska Region, NMFS
September 16, 1993

Summary of 1992 and 1993 (through 09/11/93) groundfish catch, Pacific halibut bycatch and bycatch mortality in the BSAI pollock, Atka Mackerel, and "other species" trawl fisheries before and after halibut bycatch restrictions closed directed fishing for pollock with non-pelagic trawl gear.

Year	Fishery	Groundfish Harvest (mt)	Halibut Bycatch (mt)	Halibut Mortality (mt)
<u>1992</u>				
<= Feb 16	Bottom Pollock	51518	285	171
	MW pollock	198,495	506	405
	Atka Mackerel	6,413	9	6
	Other species	0	0	0
> Feb 16	Bottom pollock	118,251	509	305
	MW pollock	891,829	500	400
	Atka Mackerel	42,022	96	67
	Other Species	0	0	0
<u>1993</u>				
<= Aug 25	Bottom Pollock	92,212	657	394
	MW pollock	622,251	572	458
	Atka Mackerel	33,971	39	27
	Other species	175	16	6
> Aug 25	Bottom pollock	3,810	5	3
	MW pollock	308,059	11	9
	Atka Mackerel	0	0	0
	Other Species	0	0	0

Note: 1992 groundfish catch and bycatch amounts are based on unblended data.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

AGENDA D-5(a)
SEPTEMBER 1993

September 17, 1993

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

Dear Rick,

At its June 1993 meeting, the North Pacific Fishery Management Council (Council) requested the National Marine Fisheries Service to further refine its analysis on alternatives for a salmon vessel incentive program to limit vessel bycatch amounts of Pacific salmon taken in the Bering Sea and Aleutian Islands management area groundfish trawl fisheries. The Council specifically requested us to address issues and concerns identified by staff, industry and the Council relative to a salmon performance standard.

On September 2, 1993, we hosted an open meeting in Juneau to discuss these and other issues pertaining to the development of a vessel incentive program. A list of those attending the meeting is attached (Attachment 1). The main discussion of the meeting centered on issues associated with establishing an equitable salmon bycatch performance standard and regulatory requirements for mandatory retention of salmon for donation to charitable organizations.

To respond to the Council's request for additional input on feasible alternatives for a salmon vessel incentive program, we have prepared a brief discussion paper that presents the major issues associated with alternatives for salmon bycatch management measures discussed by the Council to date (Attachment 2). This discussion paper also expands on regulatory criteria that would be needed to support a program requiring mandatory retention of salmon for donation to nonprofit foodbank organizations. We will be prepared to further discuss these issues with you at the September Council meeting.

Sincerely,

Steven Pennoyer
Director, Alaska Region

Attachments



Attachment 1

List of persons attending the September 2, 1993, meeting pertaining to development of vessel incentive program to limit vessel bycatch amounts of Pacific salmon in the Bering Sea and Aleutian Islands management area trawl fisheries for groundfish.

Name	Agency or Company
Ron Berg	NMFS Alaska Region
Sue Salveson	NMFS, Alaska Region
David Ackley (ADF&G)	Alaska Department of Fish and Game
Bill Karp	NMFS, Observer Program
Steve Meyer	NMFS Alaska Enforcement Division
Susan K. Auer	General Counsel - Alaska Region
Rick Lauber	NPFMC
Beth Stewart	Aleutians East Borough
Sandra Borbridge	Senator Lincoln's Office
Brent Paine	NPFMC
Frank L. Charles	Coastal and In River Fisheries Alliance
Tuck Donnelly	Terra Marine Research and Education
Janet Smoker	Fisheries Information Services
Earl Krygier	ADF&G
Joe Sullivan	Mundt, MacGregor

Attachment 2

Alaska Region
National Marine Fisheries Service
September 14, 1993

DRAFT

Discussion Paper on Alternatives for Salmon Bycatch
Management Measures being Considered by the
North Pacific Fishery Management Council

During the past year, the North Pacific Fishery Management Council (Council) has considered several draft analyses on alternatives for salmon bycatch management measures. The analysis prepared for Amendment 21b to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) considered alternatives for chinook salmon bycatch limits and accompanying time area closures to limit chinook salmon bycatch in the BSAI trawl fisheries. Subsequent analyses on alternatives for vessel incentive programs to reduce unusually high bycatch of salmon were presented to the Council during its April and June 1993 meetings.

At its June 1993 meeting, the Council requested NMFS to implement regulations that would authorize the release of observer data on vessel name and weekly bycatch amounts of salmon. The Council also requested that regulations be implemented for mandatory retention of salmon to support various initiatives to collect additional data on salmon outside of normal observer sampling procedures. Although we are prepared to proceed with the Council's request, clarification is needed on the Council's intent for regulations requiring retention of salmon. This issue and the need for Council clarification is discussed below.

The purpose of this discussion paper is to summarize issues that have been raised during the development of alternatives considered by the Council to address the salmon bycatch problem, present additional information on regulatory requirements necessary for mandatory retention of salmon for donation to charitable organizations, and provide additional input to the Council on NMFS's ability to implement alternative bycatch management programs being considered by the Council. Major issues discussed below include (1) NMFS's ability to calculate statistically valid estimates of salmon bycatch amounts, (2) effectiveness of time/area closures and proposed vessel incentive programs to limit or reduce salmon bycatch, and (3) regulatory requirements necessary to support mandatory retention of salmon.

1. Statistically Valid Estimates of Salmon Bycatch Amounts

In the draft analysis on alternatives for a salmon vessel incentive program (VIP) provided to the Council at its April 1993 meeting, we presented a discussion on several issues that contribute to the salmon bycatch problem and the derivation of an appropriate salmon VIP. We expressed our concern that current procedures used to extrapolate observed salmon bycatch rates to unobserved catch for purposes of calculating total salmon bycatch amounts do not yield good estimates. At this time, NMFS statisticians believe observers would need to sample between one and two metric tons from each sampled haul to provide sufficiently large sample sizes to support extrapolation of observed bycatch rates to unobserved catch. Sample sizes of this magnitude cannot be routinely accommodated by observers because of time, logistic, and operation constraints.

Regulations to require retention of all salmon taken in groundfish trawl operations until an observer has counted each fish would provide the opportunity to collect better data on salmon bycatch. These data could be used to assess the quality of bycatch rate estimates derived from existing sampling procedures and provide additional information on which to assess the magnitude of salmon bycatch in the Alaska trawl fisheries. Mandatory retention of salmon until counted by an observer also would support initiatives, such as the proposed Salmon Research Foundation program, to more fully explore factors that may be correlated with salmon bycatch and identify changes in fishing operations that could reduce salmon bycatch rates.

2. Effectiveness of time/area closures or incentive programs to reduce or limit salmon bycatch

The effectiveness of time/area closures or salmon VIPs considered by the Council to address the salmon bycatch problem is difficult to evaluate. The analysis prepared for Amendment 21b indicates that a September through April closure of fishing grounds near Unimak Island and along the 200 meter depth contour in the Bering Sea could reduce chinook salmon bycatch in the Bering Sea trawl fisheries. Questions exist, however, about the relatively unknown effect a displacement of the winter trawl fisheries off the 200-meter contour would have both on salmon bycatch and the ability of the trawl fisheries to harvest effectively the groundfish optimum yield. To date, correlation analyses of other factors possibly related to chinook salmon bycatch in the BSAI trawl fisheries have not yielded significant results. Although closing the 200-meter contour during winter months likely would reduce the possibility of a vessel operator encountering chinook salmon, similar analyses have not been developed for other salmon species.

Presumably, if vessel operators could take action to reduce salmon bycatch rates under a salmon bycatch limit to avoid costly time/area closures, they also could do so under an incentive program. Experience indicates, however, that such action under an incentive program likely won't be realized unless a very strong and effective program exists. Notwithstanding time/area closures, concern also exists whether vessel operators are able to take action to predictably avoid chinook salmon on a haul by haul basis.

Two different approaches have been explored for establishing a salmon performance standard under a VIP. Both approaches would credit all salmon counted in observed and unobserved hauls against a specified performance standard. The first approach would set the standard at a specified number of salmon counted during a week. Although this approach would be the most straight forward from the observer's perspective, it also would identify those vessels that randomly encounter large numbers of salmon in a single haul as violators. Furthermore, vessels that deliver unsorted catch to shoreside operations would be unaware of potential violations until after their catch has been offloaded and sorted. In either case, vessel operators are unable to take action to avoid a violation. This approach, therefore, may be legally challengeable as being arbitrary and capricious.

The second approach would establish a bycatch standard as a specified number of salmon in the haul with the second highest number of salmon during a week. Staff from the Alaska Department of Fish and Game (ADF&G) prepared a preliminary analysis on 1991 and 1992 data to explore this approach. ADF&G staff will be available to present the analysis to the Council at its September 1993 meeting. Under this approach, haul by haul counts of salmon would be required. Although this approach may begin to address concerns about random penalties being assessed for unavoidable bycatch, it could not be applied to vessels delivering unsorted catch or that were unable to effectively sort salmon from each haul. This approach for a performance standard, therefore, would effectively eliminate most shoreside operations for pollock from the incentive program.

Under both approaches, observers would be required to maintain two separate records of salmon for each observed haul. The first record would be the number of salmon in the sampled portion of the haul. This information is used to calculate salmon bycatch rates that are extrapolated against total catch weight to estimate fleetwide salmon bycatch amounts. The second record would be the total number of salmon actually seen and counted in each haul for purposes of monitoring compliance with a salmon performance standard.

Notwithstanding the above issues, the fact remains that bycatch control programs based on specified performance standards require

significant staff resources to monitor, enforce, and prosecute. At this time, such a program could not be implemented without redirecting staff workload from other priority programs, such as general bycatch monitoring or monitoring and enforcement of the halibut and red king crab incentive programs.

3. Regulatory requirements necessary to support mandatory retention of salmon.

Strong interest has been expressed by industry members to implement regulations that would require mandatory retention of salmon for donation to charitable foodbank organizations. Based on limited experience under the current experimental fishing permit issued to Terra Marine Research and Education to retain salmon for this purpose, the retention and processing of salmon by processors for human consumption can be costly. The level of participation in a voluntary program to retain salmon could be jeopardized if high numbers of salmon are encountered and processing of salmon interferes with groundfish operations.

Legal concerns exist whether the Magnuson Act provides the authority to require retention of salmon after these fish have been counted by observers or otherwise sampled for biological data. Authority to retain salmon solely to reduce protein waste may require an amendment to the Magnuson Act. Arguments that would justify mandatory retention of salmon as an incentive to reduce salmon bycatch rates also raise legal concerns about the ability of vessel operators to avoid salmon. This concern is similar to the arbitrary and capricious issue raised above under the discussion of time/area closures and salmon performance standards.

Notwithstanding unresolved legal issues, mandatory retention and processing of salmon for delivery to charitable foodbank organizations through an authorized distributor was discussed as an alternative to a vessel incentive program in the April 1993 draft analysis presented to the Council. Requiring the delivery of salmon to an authorized distributor, such as Terra Marine Research and Education, rather than NMFS enforcement agents assumes that authorized distributors will be available. We have received assurance that the competition for food donations among foodbank organizations would assure this to be the case.

Further discussion of a mandatory retention program by NMFS and General Counsel staff has identified regulatory criteria that we believe would support such a program. These criteria are summarized below and include criteria previously discussed in the April 1993 draft analysis.

1. Application for a permit as an authorized distributor of salmon for donation to nonprofit foodbank organizations would be

reviewed and approved by the NMFS Regional Director under guidelines set forth in regulations.

2. All salmon retained by trawl vessels must be delivered to designated locations. Initial recommendations are Dutch Harbor, Kodiak, Anchorage, and Seattle. Vessels would not be restricted to where catch is offloaded, however, shoreside and at-sea processor companies would carry the burden of transportation costs associated with delivering salmon to the designated locations.

3. Prior to an authorized distributor taking possession of salmon, the salmon must be inspected by the State of Alaska seafood inspection program. Processors would pay inspection costs and the cost of disposing of any salmon determined by the State of Alaska to be unfit for human consumption.

4. A new report would be required of authorized distributors that would record the number of salmon accepted from each processor and the number of salmon returned to the processor for disposal. The existing daily cumulative production logbook, product transfer log, and weekly production report maintained by processors would be revised to record the number of salmon retained and offloaded.

5. The mandatory salmon retention program could be effective only during the period of time during the pollock 'A' and 'B' seasons when directed fishing for pollock by the inshore or offshore component is open or when more than a specified amount remains in the CDQ pollock reserve. This effective period would encompass the periods of time when chinook salmon bycatch amounts are highest, yet limit the time that administrative and financial support is needed for either a State seafood inspection program or for authorized distributorship of landed salmon.

D-5

RECEIVED
SEP 20 1993

Sept. 17, 1993

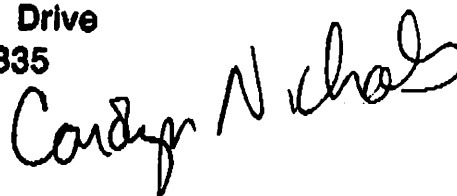
To: NPFMC Members

I am against the Terra Marine Program concerning trawler bycatch. I feel that the theory of this program is wonderful, but the way in which Terra Marine has gone about this is all wrong and very suspect. Why has the two most controversial species (salmon and halibut) of the multitude of fish that the trawlers have as bycatch been the only two gone after? If Terra Marine is so concerned with not having the trawlers waste fish and with feeding the hungry let them run their program with the millions of pound of other groundfish that are species that the trawlers are allowed to catch at different times, take these fish off the trawlers quotas and charge them for them. Terra Marine was interviewed on a local radio program and their spokesman said they didn't think they could handle the poundage involved in the rest of the trawlers bycatch so went for salmon and halibut. Gee, who said they had to take it all?

Please, no offense meant to the trawlers, but let them prove their concern for their wastage by reducing the amount caught and using non controversial species in this program. To say what good guys they are feeding the hungry is a blatant attempt to mislead people on the basic problem of gross bycatch seemingly inherent in this fishery.

I would like the council to stop this program or switch it to different species than salmon(and halibut).

Thank You
Carolyn Nichols
305 Islander Drive
Sitka AK 99835



**Partial Council discussion on industry salmon bycatch initiative.
September 24, 1993**

Clem Tillion wanted the Council, after the industry area initiative (salmon bycatch) is adopted, to send a letter to Congress requesting authority allowing a levy as long as the Council has voted (on the levy) in the affirmative; something to control the freeloaders. The levy would be placed on industry if a majority of the industry has voted for it.

Lauber: Are you talking now? or do you want us to do that . . .

Tillion: When would this be going forward? It has to come back to us? or is this the final? In other words, the industry terminal area initiative needs to have some tool like this. I don't think that it would be a bad idea to send a letter to Congress asking us to be allowed to make the assessments industry-wide if a majority of the industry has voted for it. Would that go forward now? It seems if we're sending this forward then to write the letter, would it not?

Berg: I understand that the Council has endorsed the industry's policy statement. Mr. Tillion, is that what you mean by sending it forward?

Tillion: Yes, and at such time it is adopted, I think that Congress, this is going to take a year, Congress should allow NMFS to make this an industry-wide assessment if a majority of the industry has voted for it. How do we fund it otherwise? In other words, if 80% of the industry is not doing it, the other 20% are riding free, I prefer to have the authority from the U.S. Congress to make an assessment mandatory for the whole industry. And I think we should send a letter along with it.

Lauber: Well, that goes, I guess, to . . . just general policy-making recommendations regarding any amendments to the Magnuson Act and we kind of endorsed, the only thing we've . . .

Pautzke: We've endorsed broader fee authority, is that what you're leading to? We've endorsed broader fee authority and it seems to me that we're going to know by, say the January meeting, from the Foundation what kind of a performance rate they're getting from people signing up and better numbers will come available through the year and that's when everybody would be working back at Congress, I imagine, during 1994, to have something in place in the Act to authorize us to do that.

Tillion: I understand that, Clarence. It's just that if this letter was laying there I'm not sure that those that sign up. . .you're liable to get a little broader group that are willing to sign up; you might as well come on board at the beginning and have a little say, or wait until it takes effect and just pay and not say, it might make it a little easier to sign up their members.

Dyson: I think that Clem is right. In the past we've had very poor results from a voluntary program unless people will pay they see they can get away with it and I think the only way you're going to get full compliance is to have the authority to assess them.

Lauber: The only thing that I would caution is that it should be drafted in such a way that somehow the Foundation, the Council, or just the actions of the industry would cause it and also that they could get rid of it if it's no longer necessary, rather than having Congress impose a tax which they never, ever, ever take one off and so that's just a caveat that I would include. But I think that we ought to. . .but I don't think it's something that we have to do today, but I think it's something that

we can, if we have a sense of it, we can draft, or you can. . .another thing if you knew anyone who had any influence that possibly could get the Governors of Alaska and Washington and Oregon to also endorse such a thing.

Tillion: I dare say so, but you know, the motion or the recommendation, let's say, it's not in motion form, was that if over 50% of the industry, that means that when you lost over 50% of the industry's support it would end. I agree with you, that I don't want something that hangs on forever, but when over half of the industry comes together, recommends an assessment, it becomes mandatory on the whole industry.

Lauber: I just thought someday we might move into a VIP program or something else and this is just kind of not necessary anymore and we don't want it hanging over their heads. Mr. Tillion, would you be willing to, in your motion, rather than us doing that now, see if we can prepare, draft some type of amendment language that we could send in and then take this up at December or something like that? Would that be adequate?

Tillion: I think that would be adequate. I just wanted to give the industry notice that the Council had this in mind that they might as well just all get together voluntarily. There'd be a lot less pain.

Mace: As I understand it, there's precedent in marketing agreements whereby, beef for example, the industry votes and the majority vote imposes this will upon the remainder and the industry itself conducts the referendum and this is an avenue that has precedent and you might consider it rather than the Council or the Foundation doing it.

Lauber: Yes, and I would suggest if you do that it wouldn't necessarily be in the number of vessels, but would be in the amount of product caught. . .that you don't vote vessels, you vote the amount of pounds that you catch, whatever. If that's all right, we could move ahead with that.

[comments about whether that meant the "dirtiest" would have the most votes-negative]

Lauber: If that's all right, I'll consider this approved and we'll move on.