


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director 

DATE: September 19, 1997

SUBJECT: Staff Tasking

ESTIMATED TIME

2 HOURS

ACTION REQUIRED

- (a) Review status of current tasking.
- (b) Review groundfish proposals (contains bycatch proposals) and task staff accordingly.
- (c) Review IFQ proposals and IFQ Industry Implementation Team report and task staff accordingly.
- (d) Review crab and scallop proposals and task staff accordingly.
- (e) Review halibut local area plan proposals and task staff accordingly.

BACKGROUND

(a) Current Tasking

Item D-5(a) is an updated list of current Council management actions, including regulatory amendments, plan amendments, reports, and Committee meetings. These existing projects, along with continued work on Magnuson-Stevens Act mandates and major issues such as inshore/offshore, will keep the staff pretty busy between now and next spring. We've already had some discussion this week regarding new bycatch-related initiatives in response to mandates of the Act, and need to keep those in mind as we look at the other proposals.

(b) Groundfish Proposals

The BSAI and GOA Plan Teams reviewed 39 groundfish proposals submitted for 1997 (copies follow the tasking list. The Teams grouped the proposals into four descriptive categories and late proposals. Of 13 bycatch reduction proposals, one ranked high, two ranked medium, and ten were of low priority. Of eight fishery management proposals, four ranked high, two ranked medium, and two were ranked low priority. Of seven marine mammal concerns proposals, four were ranked in progress, and three were ranked low priority. Of seven bycatch management proposals, four ranked high and three ranked medium priority. All four late proposals were deemed high priority. In summary, 13 ranked as high priority, seven were of medium priority, 14 were low priority, and four were already in progress. We can try to quickly walk you through each of these proposals at this time.

(c) Sablefish/Halibut IFQ Program Amendments

The Council's cycle for considering amendments to the IFQ program calls for initial review in April, final action in June, and implementation in the following year. Any amendments forwarded at this meeting would be for

implementation in 1999. The IFQ proposals and IFQ Industry Implementation Team recommendations are being presented to the Council out of cycle since the Team chose to meet concurrently with the Council in September instead of waiting until October. The Council may wish to review and revise its current cycle for IFQ amendments to make them coincident with groundfish and shellfish cycles so that they can be considered within the overall tasking picture.

Sixteen IFQ amendments are attached, directly behind the groundfish proposals under this agenda item. Four proposals recommend the same action, so the IFQ proposal review package is reduced to thirteen. A revised worksheet and three late proposals are included as a supplemental attachment. The Implementation Team recommendations will be provided at the meeting.

(d) Review Crab and Scallop Proposals and Task Staff Accordingly.

Four crab and one scallop proposals are also included behind this agenda tab. The crab proposals were reviewed by the Crab Plan Team in August 1997 and its recommendation are summarized under Item B-2. The Team endorsed the buyback proposal submitted by the Crab Group, Inc. and the proposal for developing an accounting system for crab mortality. The Team noted that the proposal by the Alaska Fisheries Conservation Group was not a Council proposal and recommended further study of the issues raised by David Hillstand's proposal to reduce exploitation rates for Tanner and snow crabs in the Bering Sea.

(e) Review Halibut Local Area Plan Proposals and Task Staff Accordingly.

Item C-4(b)(2) contains proposals for local area halibut management plans for Cook Inlet, Prince William Sound, Unalaska Bay, and the entire GOA and BSAI. The last proposal was also packaged with the IFQ proposals and was reviewed by the IFQ Industry Implementation Team. The Council discussion related to development of future local area plans under Agenda C-4(b) may give staff direction in how to proceed with any or all of these proposals.

**STATUS OF COUNCIL TASKING**

September 23, 1997

<b><u>ACTION</u></b>	<b><u>STATUS</u></b>	<b><u>TASKING</u></b>	
<b>REPORTS:</b>			
1	Third Party Observer Program	Report in Sept 1997	PSMFC/NMFS/Council
2	IFQ Weighmaster Program	Report in Sept 1997	Region
3	Pollock "B" Season Change	Discuss in December 1997	Council/Region
4	GOA Management Area Boundaries	Discuss in Sept 1997	Council/Region/Center
5	Gear Storage Areas/Gear Conflicts	Report in Sept 97	Region/ADFG
6	Vessel Buyback Program	Report in Sept 1997	Industry/Council
7	Limited Processing for Catcher Vessels	Discuss in Dec 1997	Center/Region/Council
8	Trip Limits for GOA pollock and Pacific cod	Report in Sept 1997	Council
<b>MAGNUSON-STEVENS ACT REQUIREMENTS:</b>			
1	IFQ/CDQ Fee Program & NAS Studies	Review in Sept 1997	Council/Region
2	North Pacific Loan Program	Final action Sept 1997	Council/NMFS
3	Essential Fish Habitat Amendments	In Progress-Report to SSC September 97	Region/Council/Center
4	Central Lien Registry	PR published Comments till August 5	NMFS
5	Generic Bycatch Measures	Discuss in September 1997	Council

<u>ACTION</u>	<u>STATUS</u>	<u>TASKING</u>
<b>REGULATORY AMENDMENTS:</b>		
1 Halibut Subsistence Program	Final Action in Feb 1998	Council/NMFS/IPHC
2 Halibut Charter Management	Final Action in Sept 1997	Council
3 Halibut Area 4 Catch Sharing Plan	Final Action in June 1997 PR in preparation	Council/Region
4 Maximum retainable bycatch adjustments	Pending	Region
5 Sablefish Rolling Closures	Initial Review in Sept 1997	Region
6 Electronic Reporting Requiremnts (a) Observer data  (b) General reporting	(a) Final rule on Dec 2 Effective July 1, 1997 (b) Final action in Dec 1996 PR in preparation	Council/Region
7 "Slime and Ice" Accounting & Overages/Underages	PR on June 11, 1997 FR in Preparation	Region
8 Revise IFQ survivor language	PR in preparation	Region
9 Revise Hired Skipper Requirements	Final action Sept 1997	Region
10 Seabird Avoidance (halibut)	Approved in June 1997 PR under WA DC review	Region
11 Sitka Sound Local Halibut Plan	Final Action in Sept 1997	Council
12 Halibut Possession Limits	Initial Review in Sept 97	Council
13 Halibut Donations	Approved April 1997 PR in preparation	NMFS/IPHC
14 Retention of Undersized Halibut in CDQ fishery	Approved in June 1997 PR in preparation	Council/Region/ADFG

**PLAN AMENDMENTS:**

1 Comp. Rationalization Plan (a) License Limitation/CDQ (PSC trading) (b) IFQ Program for BSAI pollock (c) IBQs/VBAs	(a) SOC Approved Sept 12, 1997 (b) On hold (c) Discussion in Sept 1997	Council/NMFS Council Council/Center/Region
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	<u>ACTION</u>	<u>STATUS</u>	<u>TASKING</u>
2	Scallop FMP/future amendments	Discuss in September 1997	Region/Council/ADFG
3	Total Weight Measurement in Groundfish Fisheries (a) Scale certification (b) Application to at-sea processors (non-CDQ)	(a) PR on June 10, 1997 (b) FR in preparation	NMFS/Council NMFS/Council
4	Demersal Shelf Rockfish License Limitation Program	Pending Development	ADFG
5	Forage Fish Prohibition	Final action in April 1997 PR in preparation	Region
6	Crab PSC Cap Analysis (a) bairdi (Am 41)  (b) opilio (Am 40)	(a) Approved March 3 Effective April 23, 1997 (b) Action in Dec 1996 PR filed July 14, 1997 Comments till Sept 29, 1997	Council/ADFG/Center
7	BSAI Improved Retention/ Utilization	Approved Sept 3, 1997 Effective January 1998	Region/Council/Center
8	GOA Improved Retention/ Utilization	PR on Aug 15, 1997 Comments till Oct 29, 1997	Center/Region/Council
9	Groundfish Plan Update	Initial review in Feb 1998	Council/Region
10	Pelagic Shelf Rockfish Mgmt authority to State	Final Action in June 1997 PR in preparation	Council/Region/ADFG
11	Streamline Specs Process	Review in Feb 1998	Council/Region
12	2% Jig Allocation for BSAI Atka mackerel	Final action in June 1997 PR in preparation	NMFS/Council
13	Inshore/Offshore & Pollock CDQ Program	Direction in September 1997	Council
14	Extend Existing Observer Program	Approved in June 1997 PR under WA DC review	Region/Council/OAC
15	VIP Program for <i>C. bairdi</i> in BSAI cod fishery	On hold pending other priorities	Council/NMFS

**OTHER ACTIONS:**

1	April 24, 1994 Scallop Control Date	Published on June 15, 1994	Region
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	<u>ACTION</u>	<u>STATUS</u>	<u>TASKING</u>
2	Halibut Charter Control Date	Never published in F.R.	Region
3	1998 CDQ Allocations by group	Review/approve in Sept 97	Council/ADFG/NMFS

**COUNCIL COMMITTEES:**

1	Observer Advisory Committee	Met September 8-9
2	Ecosystem Committee	Meet as necessary
3	Crab Rebuilding Committee	Meet as necessary
4	Enforcement Committee	Meeting September 22
5	VBA Committee	Met August 21-22
6	IFQ Implementation Team	Meeting September 21
7	GOA Trip Limit Committee	Meeting September 24
8	Pacific Northwest Crab Industry Advisory Committee	Meeting October 1, 1997
9	IR/IR Monitoring Committee	Not yet appointed
10	Socio-Economic Data Committee	Not yet appointed

# 1998 Groundfish Proposals

PI Team review of 1997 groundfish amendment proposals

No.	Proposal	Proposer	Area	Amendment	Effect	Comments	Rank
<b>BYCATCH REDUCTION</b>							
1	Lower PSC limits by 5-10% annually for 5 years	AMCC	both	plan/reg	A/B	VBA option; straightforward alternative; reallocation difficulties	L
2	Pelagic trawl only for pollock	AMCC	both	reg	NA	enforcement concerns; info in SAFE; done in spec. process	L
3	Create and individual vessel checklist program; like harvest priority	AMCC	both	plan	A/E	indirect incentive program; technical problems for resolution	L
4	Resume analysis of Harvest Priority	AMCC	both	plan	A/E	indirect incentive program; technical problems for resolution	L
5	Create a halibut mortality avoidance program	GF Forum	BSAI	plan	B/A	details procedure for deck sorting to reduce halibut mortality	H
6	Implement crab PSC limits from groundfish pot fisheries	UCB	BSAI	plan	B/A	fairness issue; mortality a factor; continued monitoring needed	M
7	Prohibit trawling in 10-minute slice of RKCSA.	AFCG	BSAI	plan	B/A	issue dealt with; stock increasing; variable bycatch rates in area	L
8	Prohibit trawling in areas with high snow crab bycatch rates	Hillstrand	BSAI	plan	B/A	bycatch controls in place; defer to crab team for comments	L
9	Prohibit trawling in areas with high Tanner crab bycatch rates	Hillstrand	BSAI	plan	B/A	bycatch controls in place; defer to crab team for comments	L
10	Subdivide PSC zones and allocate crab bycatch	Hillstrand	BSAI	plan	B/A	need not obvious; defer to crab team for comments	L
11	Establish a trawl closure area to protect Tanner crab	Hillstrand	BSAI	plan	B/A	can be incorporated into analysis to protect EFH	L
12	Lower chinook PSC trigger and include B season	YRDLA	BSAI	plan	B/A	analysis done (21b); seasonal bycatch rates exist	M
13	Re-evaluate halibut discard mortality and implement quick release	UCB	both	reg	B	similar to 5; re-evaluation of science ongoing at IPHC	L
<b>FISHERY MANAGEMENT</b>							
14	Allow 24 hr notice of fishery closure without FR notice	UCB	both	reg	B/E	technical difficulties to be resolved	H
15	Open pollock fisheries in BSAI and GOA simultaneously	J. Evich	both	reg	A/P	marine mammal concerns; other alternatives exist to address	L
16	Creates species endorsement system	GF Forum	BSAI	plan	A/E	better ways exist to address overcapacity issue.	L
17	Amend L.L. program to disallow use of trawl gear by "new" vessels	d. fraser	both	plan	A/E	controls overcapitalization; reduces flexibility	M
18	Amend L.L. program to allow use of MW trawl gear in EGOA	d. fraser	GOA	plan	B/E	achieve OY; enforcement, bycatch, and habitat concerns	M
19	Initiate analysis of ITQ program for groundfish and crab	d. fraser	both*	plan	E	reduces overcapacity; long term analysis would be required	H
20	Extend moratorium for another 3 years	d. fraser	both*	plan	E	needed if LL program not approved	H
21	Require preregistration and reporting requirements	d. fraser	both	reg	E	improves in-season management	H
<b>MARINE MAMMAL CONCERNS</b>							
22	Reduce exploitation rate of Atka mackerel to 10-15% maximum	Greenpeace	BSAI	plan	B	localized depletion a major concern, not overall removal rate	L
23	Restrict factory trawler movement in CVOA	Greenpeace	BSAI	plan	A	other more comprehensive solutions available	L
24	Extend no-trawl zones around rookeries 60 nm/20 nmi	Greenpeace	BSAI	plan	B/E	re-evaluation of no-trawl zones underway	P
25	Prohibit factory trawlers from the CVOA during A-season	K. Stump	BSAI	plan	A	similar to 23	L
26	Spatially allocate TACs to prevent localized depletion	K. Stump	BSAI	plan	B	other methods available to address spatial/temporal depletion	M/P
27	Designate AI pollock as bycatch only for 1998	K. Stump	BSAI	reg	B	team will consider this in November; new assessment then	P
28	Reduce 1st quarter catch to 25% of total annual TAC	K. Stump	BSAI	reg	B/E	evaluation of spatial/temporal harvest underway	P
<b>BYCATCH MANAGEMENT</b>							
29	Determine mortality rates for trawl bycatch of Bering Sea crab	UCB	BSAI	na	B	request for research	H
30	Determine mortality rates for trawl bycatch of GOA crab	AGDB	GOA	na	B	request for research	H
31	Analyze MRB of P cod in 2nd quarter shallow water flat fishery	AGDB	GOA	na	B/E	analysis appropriate; reduces regulatory discard of P. cod	H
32	Increase MRB of arrowtooth from 35% to 50%	AGDB	GOA	reg	B/E	analysis appropriate	H
33	Split area 630 in half	ABDB	GOA	reg	B	improves bycatch estimate of crabs	M
34	Change PSC crab bycatch to weight based system	d. fraser	BSAI	plan	B	allows better scale of mortality impacts; part of PSC negotiations	M
35	Adopt vessel group bycatch monitoring plan	d. fraser	both	plan	A/E	alternative to VBA system	M
<b>LATE PROPOSALS</b>							
36	Shift season opening for rockfish in AI to July 1	GF/AGDB	BSAI	reg	A/E	addresses in-season management problem	H
37	Shift season opening for POP in BS to July 1	GF/AGDB	BSAI	reg	A/E	addresses in-season management problem	H
38	Prohibit fishing on Cape Edgecomb pinnacles	T. O'Connell	GOA	plan	B	addresses EFH concerns; very important habitat	H
39	Full retention of DSR in southeast Alaska	T. O'Connell	GOA	plan	B	improves removal estimates; other rockfish could be done	H

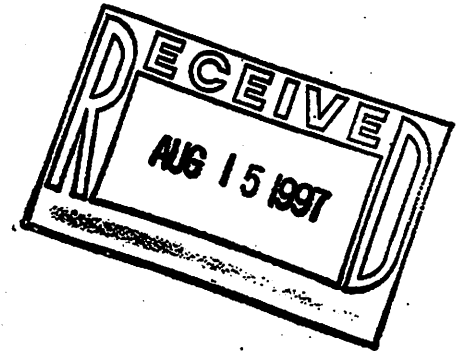
A=allocation, B=biological, E=efficiency, P=progress, NA=not applicable

***Alaska Marine Conservation Council***

P.O. Box 101145 Anchorage Alaska 99510  
voice (907) 277-5357; fax (907) 277-5975; email: amcc@alaska.net

August 15, 1997

Rick Lauber, Chair  
North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Avenue  
Anchorage, Alaska 99501



**RE: Bycatch Avoidance Proposals**

Dear Mr. Lauber,

We appreciate the North Pacific Fishery Management Council's call for bycatch proposals. Attached please find AMCC's four proposals to assist the Council in satisfying new requirements in the Magnuson-Stevens Act. Our proposals are designed to minimize bycatch through more selective fishing (or the avoidance of bycatch) as is required by Section 303(a)(11) and Section 313(f) of the Act. We are pleased that the Council is prepared to take action to reduce the bycatch of nearly one billion pounds of marine life occurring in the North Pacific groundfish fisheries.

**Bycatch enumeration and reporting**

Requirements in Sections 303 and 313 of the new Act also call for improvements in bycatch enumeration as part of enhancements in total catch measurement. Ongoing Council efforts to resolve problems with the observer program and to examine the accuracy of the current catch reporting system are necessary prerequisites to identifying how bycatch enumeration in our fisheries can be improved. We look forward to studying the assessments of current bycatch enumeration and catch reporting efforts anticipated for release at the September or December Council meeting.

As a step toward better bycatch enumeration (and therefore more accurate bycatch monitoring), we offer one proposal (Individual Vessel Checklist Program) to help satisfy certain elements of these requirements.

**Council action on bycatch**

The need to minimize bycatch in our fisheries is not new. Over the years, much attention has been devoted to this persistent problem and AMCC recognizes the Council's efforts to limit, control, and lower bycatch levels. However, bycatch levels in our fisheries remain excessively high and the Council's work is not complete.

The ongoing effort to minimize bycatch has been, and will continue to be, an iterative process. While the Magnuson-Stevens Act requires that FMP amendments must be

submitted to the Secretary of Commerce by the statutory deadline of October 1998, the Act also contains a new National Standard to minimize bycatch. This requires the Council to take continued action on bycatch in the future. The Act requires a comprehensive reduction in bycatch and stipulates that this reduction must be achieved through changes in fishing behavior that result in the *avoidance* of those fish which are currently discarded. Our package of four proposals includes actions to be taken immediately to meet the statutory deadline and actions to begin now as steps toward comprehensive solutions. We believe the Council approach must combine these elements to satisfy the Act's requirements and the public's concern about excessive bycatch in the groundfish fisheries:

1. The Council must approve FMP amendments to minimize bycatch in the short-term by October 11, 1998.
2. Intermediate action to satisfy the Section 313(f) requirement to lower economic discards for four years must be simultaneously pursued.
3. Action must begin now to develop a more comprehensive approach to minimize all categories of bycatch as defined in the Act.

The Magnuson-Stevens Act clearly spells out that opting for only one of the above approaches will not satisfy the law.

We appreciate the Council's past work on this important problem and for consideration of our ideas.

Sincerely,



Dorothy Childers  
Executive Director

**Fishery Management Plan Amendment Proposal  
North Pacific Fishery Management Council**

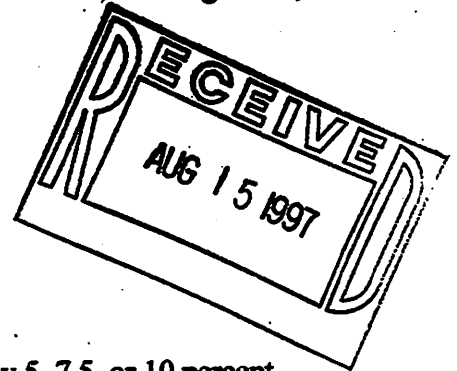
**Bycatch Avoidance**

**Name:** Alaska Marine Conservation Council  
**Address:** Box 101145, Anchorage, Alaska  
**Telephone:** (907) 277-5357

**Date:** August 15, 1997

**Fishery Management Plan:** BSAI/GOA

Lower Prohibited Species Caps



**Brief Statement of Proposal:**

Lower caps for all prohibited species (halibut, crab, salmon, herring) by 5, 7.5, or 10 percent annually for five years, beginning in 1998. The amount of the avoided prohibited species catch must be not be reallocated to any other fishery, including a directed fishery. For example, if the Council reduced the PSC cap for halibut in one Bering Sea fishery, it would not reallocate those pounds to another fishery as bycatch or to the directed halibut fishery.

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

Bycatch in the North Pacific groundfish fisheries remains unacceptably and unnecessarily high. The latest compiled public information (Pacific Associates, November, 1995) illustrates that in 1994, the groundfish fleet caught and wasted nearly one billion pounds of fish as bycatch. These include fish that are the wrong size (juveniles), fish that are the wrong sex (males in a roe fishery) and fish that are the wrong species. In addition, there is an undetermined amount of sea life with no assigned commercial value that is discarded as bycatch. The effects of removing these species from their vital role in the ecosystem are poorly understood. Excessive bycatch is a problem from ecological, economic and cultural perspectives.

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

The Council must adopt bycatch avoidance programs to achieve more selective fishing practices within our fisheries. This action is needed to resolve ecological and socioeconomic problems presented by excessive bycatch in our fisheries, and also to implement the bycatch avoidance requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

Recommendations to lower PSC caps have been made in the past. For example, the International Pacific Halibut Commission called for a 10% reduction per year in halibut bycatch beginning in 1993. These reductions have not occurred. In 1994, the groundfish fleet killed about 17 million pounds of halibut. The 10 million pounds of halibut discarded by the Bering Sea groundfish fleet

averaged 3-4 pounds. Wasting juvenile fish is not suitable management as those fish should remain in the ecosystem to reproduce and contribute to the continued health of the population.

Without lowering the caps, the catch of prohibited species will remain at the current level. Lower caps are the manifestation of reducing bycatch of prohibited species. Implementing a mandatory annual reduction in the PSC caps by necessity increase practices to avoid bycatch.

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

The fish will win and those who rely upon them for their lives and livelihoods will win. Not only will the selected species of halibut, crab, salmon, and herring have greater survivability, but so will many unnamed, unenumerated fish and invertebrates associated with these species. Reductions of these non-commercial species will benefit the ecosystem as its intricate foodweb is less disrupted. Fishermen win because all the fisheries from which they derive tremendous economic benefit rely on a healthy ecosystem maintaining healthy foodwebs.

**Are There Alternative Solutions?**

Yes, there are more comprehensive approaches to the overall bycatch problem that could be considered longer-term solutions. However, reducing PSC caps on an annual basis is a necessary element of any overall bycatch avoidance plan and one that can go into immediate effect to satisfy the Magnuson-Stevens Act statutory deadline. Work on more comprehensive solutions will need to continue past the statutory deadline.

**Supportive Data & Other Information:**

See the 1992, 1993, and 1994 PSC data from Discards in the Groundfish Fisheries of the Bering Sea/Aleutian Islands & the Gulf of Alaska prepared by Pacific Associates for the Alaska Department of Fish & Game, 1993-1995.

Signature:



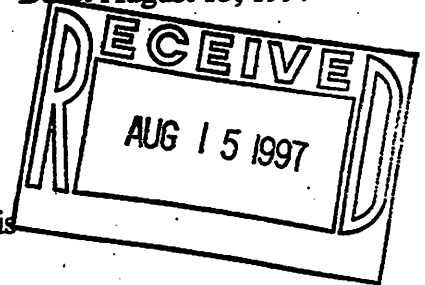


**Fishery Management Plan Amendment Proposal  
North Pacific Fishery Management Council**

**Bycatch Avoidance**

**Name:** Alaska Marine Conservation Council  
**Address:** Box 101145, Anchorage, Alaska  
**Telephone:** (907) 277-5357

**Date:** August 15, 1997



**Fishery Management Plan:** BSAI/GOA

Pelagic Only BSAI Pollock Fishery & GOA Analysis

**Brief Statement of Proposal:**

Convert to a pelagic-only pollock fishery in the Bering Sea defined by gear type and the operational definition of having fewer than 20 crab on board at any time while participating in the fishery. Both gear type and operational definition are required to address the principal issue in this instance. The matter at hand is *how gear is fished for pollock*, not simply what type of gear is used because pelagic gear can be used both on- and off-bottom.

In the 1998 groundfish specifications process, halibut bycatch previously allocated to the BSAI pollock fishery should be "zeroed-out" or eliminated. Pollock must be removed from the "pollock, Atka mackerel, other species" category in the allocations of halibut PSC so that its attendant halibut bycatch can be eliminated. Then, the Council must implement a regulatory amendment that prevents this halibut from being reallocated as bycatch to another groundfish fishery. For subsequent years, an amendment to the BSAI FMP must be adopted to create a pelagic-only (off-bottom) fishery for pollock. This last step will ensure sustained bycatch avoidance that would not be secured if this was left to the annual specifications process.

Implementing a BSAI pelagic-only pollock fishery may create some incentive for pollock fleet migration into the GOA. In recognition of this fact, disincentives to such migration are needed to accompany a BSAI pelagic-only pollock fishery.

A comparative analysis must be conducted of the GOA and BSAI pollock fisheries and fleets. Such an analysis will illuminate what can be done to minimize bycatch in the GOA and create a disincentive for pollock fleet migration from the BSAI. For example, if a GOA pelagic-only pollock fishery is not an appropriate method to minimize bycatch, a critical analysis may support alternative options such as new, different, or expanded time/area closures for the GOA pollock fleet.

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

Bycatch in the North Pacific groundfish fisheries remains unacceptably and unnecessarily high. The latest compiled public information (Pacific Associates, November, 1995) illustrates that in-

1994, the groundfish fleet caught and wasted nearly one billion pounds of fish as bycatch. These include fish that are the wrong size (juveniles), fish that are the wrong sex (males in a roe fishery) and fish that are the wrong species. In addition, there is an undetermined amount of sea life with no assigned commercial value that is discarded as bycatch. The effects of removing these species from their vital role in the ecosystem are poorly understood. Excessive bycatch is a problem from ecological, economic and cultural perspectives.

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

The Council must adopt bycatch avoidance programs to achieve more selective fishing practices within our fisheries. This action is needed to resolve ecological and socioeconomic problems presented by excessive bycatch in our fisheries, and also to implement the bycatch avoidance requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

The pollock fishery is the biggest single-species food fish fishery in the world. It is conducted with a low bycatch *rate*. This relatively low rate, however, belies the millions of pounds of fish harvested as bycatch every year in this fishery. Currently, over 90 percent of this fishery is prosecuted with the use of *pelagic*, or off-bottom nets. This demonstrates that groundfish catch will not be sacrificed by mandating 100% of the BSAI pollock fishery use pelagic nets and fish these nets off-bottom. Data from 1994 and 1995 show substantial amounts of crab and halibut will be avoided by switching to nets fishing off-bottom. Data from 1995 also indicate an off-bottom BSAI pollock fishery would result in less bycatch of salmon and herring. Equally important will be increased avoidance of non-commercial benthic species captured in nets fished on-bottom, and discarded as bycatch.

The International Pacific Halibut Commission (IPHC) has endorsed this as one way of reducing overall halibut mortality in the groundfish fisheries. By removing the amount of halibut bycatch currently allocated to the BSAI pollock fishery, a step toward achieving increased avoidance of halibut bycatch will be taken.

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

Halibut, crab, and other bottom-dwelling marine life, currently destroyed as bycatch in this intensive, industrialized fishery, will benefit. Fishermen will be able to harvest the full quota of pollock fishing off-bottom. In addition to the potential problem of fleet migration into the GOA discussed previously, we recognize a potential loss for a sector of the industry that favors larger pollock for the head & gut market. Smaller nearshore vessels with less horsepower may not be able to effectively fish larger off-bottom nets.

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

This is not a comprehensive long-term solution to the bycatch problem which must ultimately be adopted. However, this proposal is an effective element of an overall bycatch avoidance plan that can be implemented before the statutory deadline.

**Supportive Data and Other Information:**

See AMCC's presentation materials, June 1997 NPFMC meeting illustrating bycatch savings in 1994 and 1995 Bering Sea pollock fisheries. These will be available at the September NPFMC meeting in Seattle.

**Signature:**

*Dorothy Childers*

**Fishery Management Plan Amendment Proposal  
North Pacific Fishery Management Council**

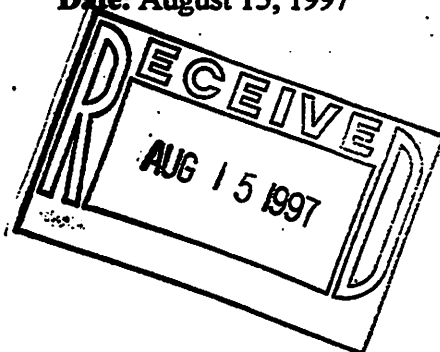
**Bycatch Avoidance**

**Name:** Alaska Marine Conservation Council  
**Address:** Box 101145, Anchorage, Alaska  
**Telephone:** (907) 277-5357

**Date:** August 15, 1997

**Fishery Management Plan:** BSAI/GOA

**Individual Vessel Checklist Program**



**Brief Statement of Proposal:**

Create an Individual Vessel Checklist Program (IVCP) where participating fishermen agree to abide by the requirements of a checklist (see attached sample proposal). By doing so in the initial year of the program, those fishermen who verify that all components of the checklist are provided by their vessel will be eligible to participate in a special harvest fishery. This fishery will be a portion of the groundfish TAC (up to 25% of the overall TAC) that is set aside for qualifying vessel participation. This program may be applied in any one fishery initially, then expanded to apply in other groundfish fisheries.

Making individual vessel bycatch data publicly available is an option that must be analyzed as a component of an IVCP. The Magnuson-Stevens Act has been changed regarding the confidentiality of such information. Section 402(b)(1)(E) states that -- "*...observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification.*" Use of this provision will improve real-time bycatch enumeration and bycatch monitoring of individual vessels.

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

Bycatch in the North Pacific groundfish fisheries remains unacceptably and unnecessarily high. The latest compiled public information (Pacific Associates, November, 1995) illustrates that in 1994, the groundfish fleet caught and wasted nearly one billion pounds of fish as bycatch. These include fish that are the wrong size (juveniles), fish that are the wrong sex (males in a roe fishery) and fish that are the wrong species. In addition, there is an undetermined amount of sea life with no assigned commercial value that is discarded as bycatch. The effects of removing these species from their vital role in the ecosystem are poorly understood. Excessive bycatch is a problem from ecological, economic and cultural perspectives.

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

The Council must adopt bycatch avoidance programs to achieve more selective fishing practices within our fisheries. This action is needed to resolve ecological and socioeconomic problems presented by excessive bycatch in our fisheries, and also to implement the bycatch avoidance requirements of the Magnuson-Stevens Act.

This proposal provides tools to help satisfy certain aspects of the new bycatch enumeration requirements of the Magnuson-Stevens Act as well as improved ability to facilitate real-time monitoring of bycatch avoidance on an individual vessel basis.

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

Improvements in our fisheries which lead to more responsive fisheries management, greater accuracy in accounting for fish caught and discarded, marked decrease in bycatch and waste—all make everyone a winner. The specific fishery choosing this option will benefit as individual fishermen are rewarded for fishing as clean as possible.

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

This proposal, if applied universally, is a step closer to a comprehensive long-term solution than other measures which may be approved prior to the statutory deadline. The IVCP is also compatible with the existing IR/IU plan, and could easily be combined with either a more complete Harvest Priority or Individual Bycatch Quota plan.

**Supportive Data and Other Information:**

See attached sample IVCP.

**Signature:**

*Dorothy Childers*

# ***Alaska Marine Conservation Council***

P.O. Box 101145 Anchorage Alaska 99510  
voice (907) 277-5357; fax (907) 277-5975; email: amcc@alaska.net

August 15, 1997

## **Proposed Individual Checklist Program for Real-Time Bycatch Enumeration, Avoidance & Management**

The selected target fishery will become a two-permit fishery:

**Permit 1:** available to all those wishing to participate in the normally ascribed seasons of any agreed upon target fishery.

**Permit 2:** Participation in a reserve season available to all those vessels complying with checklist items 1 - 6 (see below). The reserve season will offer up to 25 percent of the TAC for the fishery and the attendant PSC apportions of the caps. The reserve season should be conducted in a portion of the year that provides ample incentive to participate (i.e. consideration of weather, market timing, price for product, etc.).

The two permit system approach in this fishery renders those who voluntarily agree to the six items on the checklist eligible for participation in a set-aside reserve fishery. *The first year is geared to address total catch/bycatch enumeration.* Adhering to this voluntary checklist, a vessel will have on board those tools for fishery managers to more readily, accurately, and adequately manage a particular fishery. *The second year is geared to achieve bycatch avoidance.*

### **Year One:**

The fishery becomes a fishery requiring two permits. All vessels entering the fishery initially obtain a federal permit. Those vessels complying with the checklist (meaning the boat is outfitted with appropriate equipment and personnel) obtain a second permit, which allows them access to a reserve fishery. A port inspection to confirm compliance with the checklist and *to issue the second permit before departure to the fishing grounds* is required.

### **Checklist Items:**

1. 100 percent coverage: every tow must be sampled, which will likely require more than one observer.
2. Maximum codend size of 25 tons.
3. Electronic reporting equipment onboard the vessel to allow daily transmission of catch/bycatch data to NMFS management.
4. Vessel operators will give a two-day advance notice to NMFS for intended participation in another fishery and location after beginning the Permit 2 fishery. This will both help to provide better management tools to NMFS and discourage a vessel from simply switching target fishery if there a particularly "dirty" tow.
5. Scales or other such measuring equipment are in place on the vessel to accurately measure total catch and composition (thereby rendering accurate measure of what is caught, retained, and thrown overboard).

6. An agreed upon method for sampling is adapted to the vessel's deck: NMFS staff, a representative of the observer program, and the fishermen will work together to devise the best sampling methods appropriate to the vessel's deck configuration and particular fishery.

**Year Two:**

Once the initial compliance with the checklist is attained, the tools for monitoring future bycatch avoidance are in place. In year two, *criteria for qualification to participate in the reserve fishery must expand to insure meaningful bycatch avoidance*. The following are two *options* to be considered for reserve fishery qualification in subsequent years:

A 15 percent reduction of all bycatch categories, including non-commercial species to be measured against an agreed upon reference year. The 15 percent reduction in PSC's would be measured against current PSC caps.

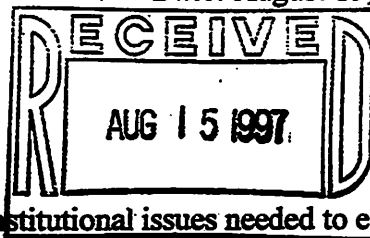
A 10 percent (or more) reduction in halibut, crab, salmon, and herring, and a 15 percent (or more) average reduction in bycatch of all other species.

**Fishery Management Plan Amendment Proposal  
North Pacific Fishery Management Council**

**Bycatch Avoidance**

**Name:** Alaska Marine Conservation Council  
**Address:** Box 101145, Anchorage, Alaska  
**Telephone:** (907) 277-5357

**Date:** August 15, 1997



**Fishery Management Plan:** BSAI/GOA

Resume consideration and analysis of Harvest Priority & Constitutional issues needed to establish any bycatch avoidance program based on individual accountability

**Brief Statement of Proposal:**

We recommend the Council, in coordination w/NOAA GC, initiate a thorough review of the attached Trustees for Alaska & Sierra Club Legal Defense Fund analysis of NOAA GC's legal opinion on AMCC's Harvest Priority proposal. The analysis shows the conclusions in the NOAA GC opinion are not supported in the law and should not buttress inaction on Harvest Priority by the Council. Public consideration of means to resolve the problems NOAA GC identified for Harvest Priority has never been conducted. We propose a full discussion and an opportunity, if necessary, to make changes to Harvest Priority.

Adoption of a Harvest Priority bycatch avoidance program is explicitly authorized in the Magnuson-Stevens Act [Section 303(b)(10)]. In describing the intent of this provision, the Senate Committee on Commerce, Science and Transportation concluded the following: "*Should a Council elect to use this authority, the Committee anticipates that the Secretary would assist the Council in developing measures to address any Constitutional due process issues that may exist.*" S. Rep. 104-276, 104th Cong., 2nd Sess. 18.

Such a review is a necessary prerequisite to resuming consideration and analysis of the Harvest Priority proposal. This is the primary intent of this proposal. Harvest Priority remains the only comprehensive proposal offered to avoid all types of bycatch as required by law: economic and regulatory discards, and non-commercial species bycatch.

Full consideration and resolution of the issues addressed in the attached analysis of NOAA GC's Harvest Priority legal opinion is also needed before establishing *any* individual accountability plan to achieve bycatch avoidance.

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

Bycatch in the North Pacific groundfish fisheries remains unacceptably and unnecessarily high. The latest compiled public information (Pacific Associates, November, 1995) illustrates that in 1994, the groundfish fleet caught and wasted nearly one billion pounds of fish as bycatch. These include fish that are the wrong size (juveniles), fish that are the wrong sex (males in a roe fishery) and fish that are the wrong species. In



addition, there is an undetermined amount of sea life with no assigned commercial value that is discarded as bycatch. The effects of removing these species from their vital role in the ecosystem are poorly understood. Excessive bycatch is a problem from ecological, economic and cultural perspectives.

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

The Council must adopt bycatch avoidance programs to achieve more selective fishing practices within our fisheries. This action is needed to resolve ecological and socioeconomic problems presented by excessive bycatch in our fisheries, and also to implement the bycatch avoidance requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

Harvest Priority, or a modified version of that original proposal, provides a more comprehensive, long-term solution to the bycatch problem in our fisheries.

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

If adopted, winners would include more selective fishermen within each gear group, all those who depend upon, and have a stake in maintaining healthy fishery resources, and the NPFMC for aggressively addressing the bycatch problem in our North Pacific fisheries through a comprehensive package.

Losers would include operators who fail to adopt more selective fishing practices within their gear group.

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

To date, no other alternative has been proposed to facilitate a comprehensive solution to reduce *all types* of bycatch.

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

Attached memo from Trustees for Alaska & Sierra Club Legal Defense Fund; public record of previous Council, and industry committee, deliberation on Harvest Priority and bycatch avoidance.

**Signature:**

*Dorothy Childers*

## MEMORANDUM

**TO:** Scott Highleyman, Executive Director  
Alaska Marine Conservation Council

**FROM:** Eric Jorgensen, Desiree Peri  
Sierra Club Legal Defense Fund, and  
  
Peter Van Tuyn, John Buccheit  
Trustees for Alaska

**RE:** Analysis of NOAA General Counsel's Legal Opinion on AMCC's Harvest  
Priority Proposal, dated February 24, 1995.

**DATE:** April 7, 1995

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In response to your request, SCLDF and Trustees have prepared a legal analysis of NOAA GC's legal opinion ("Opinion") concerning the due process aspects of AMCC's Harvest Priority ("HP") Proposal. As you know, NOAA concluded that HP cannot pass muster under due process principles absent a pre-deprivation adversarial hearing. Moreover, it estimated that this process would take two to three years; thus precluding the possibility that final agency action would occur prior to the advent of the HP reward season. NOAA further concluded that both the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the Administrative Procedure Act (APA) require certain restrictive procedures which limit the effectiveness of the HP Proposal to meet its goal of reducing bycatch.

Our analysis of these issues leads to entirely different conclusions. The HP appeals process envisioned by AMCC<sup>1</sup> readily passes muster under the due process principles

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<sup>1</sup> AMCC has suggested following the appeals procedure like that already approved by the Secretary for the halibut/sablefish ITQ program. 50 C.F.R. Part 676. Under such a streamlined appeals procedure, a fisher would apply for an HP permit needed to fish the HP reward season. NMFS would make a determination of eligibility based on observer coverage and bycatch rates in the qualifying season. A fisher denied an HP permit would have the opportunity to file an appeal, request a written or informal oral hearing, and present evidence

embodied in the Fifth Amendment to the United States Constitution. Balancing the individual's interest in participating in the HP reward season with the risk that the government will erroneously deprive the individual of this interest and the government's interest in the program, the inescapable conclusion is that HP is constitutionally valid.

The Secretary and council have broad authority under the Magnuson Act to adopt the proposed HP program and restructure the existing permit program. As a result, denial of an HP permit would not represent a sanction under the Act to the fishers who fail to qualify for a reward season. Thus, the specific procedures required by the Act before a sanction can be applied are not relevant to the denial of an HP permit.

Finally, because denial of an HP permit application would effect no suspension, revocation or annulment of any fisher's permit, the APA does not apply to limit the effectiveness of the HP Proposal in meeting its goal. Even if HP permit denials were seen as affecting a fisher's existing rights, appeal procedures under HP are more than adequate to comply with the APA.

As detailed below, NOAA's conclusions to the contrary are simply not supported by the law as reflected in the Constitution, relevant statutes and regulations, and case law.

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before the agency issues a final decision. In fact, the ITQ appeals program provides more process than is required under the U.S. Constitution, the APA, and the Magnuson Act. Thus, an even more streamlined appeals procedure, without, for example, oral hearings, could be devised to resolve appeals.

We suggest that to avoid any possible successful constitutional challenge, the HP program be defined to include deadlines for each step in the process from initial determination to decision on appeals to ensure that the appeal process concludes before the HP season at issue.

I. AN INFORMAL HP APPEAL PROCESS MEETS PROCEDURAL DUE PROCESS REQUIREMENTS.

NOAA's legal opinion appropriately sets forth the Mathews factors as the test for determining the procedural due process owed a denied HP applicant. Mathews v. Eldridge, 424 U.S. 319 (1976). In general, courts balance:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.

Mathews, 424 U.S. at 335 (holding that government's interest in minimizing administrative and social costs outbalance the recipient's interest in continued disability benefits and slight risk of agency error). As NOAA explains, the constitutionality of the HP appeal process will be determined according to these factors.

A. The Private Interest Of An HP Applicant

NOAA strays radically from the Mathews test when addressing the very first factor--the private interest at stake. Opinion at 4. NOAA fails to focus its analysis on the actual Mathews factor--the significance of the interest at stake, here the interest of an applicant for a government permit. Instead, NOAA introduces a new and unsupported theory. NOAA proposes that it is the permanence of the individual's loss that should determine the need for a pre-deprivation adversarial hearing, rather than the significance of the private interest. Based on this theory, NOAA contends a pre-deprivation adversarial hearing is required whenever an agency is unable "to fully compensate any appellant who is ultimately successful." Id.

NOAA's reformulation of the private interest factor fails for two fundamental reasons. First, the United States Supreme Court and many other courts have condoned informal agency adjudications irrespective of an agency's ability to fully compensate a successful appellant. See, e.g., Goss v. Lopez, 419 U.S. 565 (1975) (deprivation of educational benefits during suspension); Bd. of Univ. of Missouri Curators v. Horowitz, 435 U.S. 78 (1978) (same); Barry v. Barchi, 443 U.S. 55,64 (1979) (no pre-deprivation evidentiary hearing required prior to "effectuation of [horse trainer's license] suspension"). Indeed, as evidenced by NOAA's failure to cite any support for its position, see Opinion at 4, NOAA's suggestion to the contrary is without support in the law.<sup>2</sup>

Second, evaluating the private interest in terms of an agency's ability to compensate the applicant presupposes that the applicant possesses a substantial private interest. NOAA's analysis sidesteps the very heart of the first prong of the Mathews test, i.e., determining the magnitude of the individual's interest. As an initial matter, it must be determined whether the

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<sup>2</sup> NOAA's argument is also a classic example of bootstrapping. NOAA argues that an adversarial hearing is required because the agency cannot compensate the fisher who is excluded from the HP season wrongfully, as determined by some process concluded later. But if the appeal process is informal and completed before the HP season begins as we recommend, then there is no need for compensation for "ultimately successful" fishers. Those who win appeals will be granted permits and be permitted to fish. NOAA's argument essentially is, therefore, that adversarial hearings are required because to meet due process the hearing must be concluded before the HP season and formal, complicated adversarial hearings cannot be concluded before the season. In other words, NOAA's argument that adversarial hearings are required is based on an assumption that adversarial hearings are required and informal, prompt process is not available.

Moreover, we question one other assumption in NOAA's argument. We see no reason why fishers could not be compensated for a wrongful permit denial by, for example, automatic qualification for the next reward season.

private interest at stake is sufficiently important to warrant an adversarial hearing. This analysis must focus upon the nature of the government benefit at stake.

When evaluating the importance of a private interest, courts weigh the gravity of harm to the individual should the benefit be withheld. Compare Goldberg v. Kelly, 397 U.S. 254, 262-63 (1970) ("grievous loss" of welfare benefits calls for adversarial hearing) with Goss v. Lopez, 419 U.S. at 581-83 (ten day suspension of right to education requires only informal hearing). As a general rule, the most complex administrative appeal procedures apply to interests in government benefits essential to a person's "means of livelihood." Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 543 (1985) cited in Opinion at 4.

In Chalkboard, for example, the Ninth Circuit concluded that a property interest in a day care center's license to operate is "clearly substantial" for due process purposes because it is "essential to the licensee's entire business." Chalkboard, Inc. v. Brandt, 902 F.2d 1375, 1381 (9th Cir. 1989) (emphasis added); see also Barry v. Barchi, 443 U.S. 55 (horse trainer wholly precluded from work in profession during suspension of license); Bell v. Burson, 402 U.S. 535, 539 (1971)(driver's license may be critical to holder's livelihood); Amsden v. Moran, 904 F.2d 748, 754 (1st Cir. 1990), cert. denied, 498 U.S. 1041 (1991) (interest in occupational license of "considerable concern"). In Chalkboard, the Court determined, on balance, that a day care center's interest in a license essential to daily operations weighed in favor of more formal pre-deprivation proceedings. The Ninth Circuit did not go so far, however, as to require an adversarial pre-deprivation hearing to protect the owner's interest. 902 F.2d at 1381. Indeed, NOAA itself admits that "[i]n only one case, that of welfare

recipients;" did a court find a private interest "to be so compelling as to require a full pre-deprivation adversarial hearing." Opinion at 4 citing Goldberg v. Kelly, 397 U.S. 254.

Unlike the day care center which is wholly inoperable without a license, or the welfare recipient with no alternative means of sustenance, the HP applicant does not depend on the HP season for her "entire business." The reward season comprises merely a percentage of the total allowable catch in one fishery, albeit one that is enough to make qualifying for the reward season worth the effort. As the only way to qualify for the reward season is to fish in the regular season, by definition HP will not be the sole basis for a fisher's entire livelihood. Moreover, fishers, especially in the North Pacific, traditionally participate in more than one fishery each year, further diluting the impact on their livelihood of the failure to qualify for a HP reward season.

Furthermore, the interests of permit applicants, like the denied HP permit applicant, are less substantial as a general rule than the interests of a permit holder who seeks to retain a permit. See Derwinski, 994 F.2d at 590 ("applicants have weaker interests in government benefits than recipients."). While the Supreme Court recognizes that applicants may be entitled to due process, "[o]nce licenses are issued . . . their continued possession may become essential in the pursuit of their livelihood." Bell v. Burson, 402 U.S. at 539. Recipients of a government benefit, who are more likely to rely reasonably on its continuation, have an interest which gains more importance with time. See, e.g. Cloutier v. Town of Epping, 714 F.2d 1184, 1191-92 (1st Cir. 1983) (developer's interest in sewage permit nominal where only

held for a few days). The HP applicant cannot reasonably rely on the potential future benefit to the same extent that a recipient of benefits relies upon continuation of those benefits.

Far from evoking a pre-deprivation adversarial hearing, the HP applicant's interest tips the scale in favor of an informal hearing. Simply put, after twenty-five years and an amalgam of procedural due process jurisprudence regularly affirming the constitutionality of informal hearing processes, a court will not find an HP applicant's interest to be so unusual as to raise the same concerns addressed in Goldberg v. Kelly and become what may be, as NOAA suggests, only the second case in history where a full scale pre-deprivation adversarial hearing would be required.

**B. The Risk of an Erroneous Deprivation**

To decide whether an adversarial pre-deprivation hearing is urged by the second factor under the Mathews test, a court will decide whether "a wide variety of information may be deemed relevant and [whether] issues of witness credibility and veracity ... [are] crucial to the decisionmaking process." See Mathews, 424 U.S. at 343-44. In particular, in assessing the HP program a court will assess whether the observer data, upon which the agency bases its decision, "was susceptible of reasonably precise measurement by external standards." Chalkboard, 902 F.2d at 1381. The Ninth Circuit in Chalkboard was especially concerned that a state health agency lacked any external standards upon which to make "delicate judgments" about child abuse occurrences. In that regard, the court distinguished a line of cases involving agency decisions based on d of reasonably precise measurement by external standards,



including the suspension of a drivers' license based on convictions amounting to a preset number of points. Id. (citing Dixon v. Love, 431 U.S. 105, 113 (1977)).

In these circumstances, NOAA argues that because HP eligibility will be determined from data gathered by at-sea observers, the risk of erroneous denials will be high and therefore an adversarial hearing is necessary. NOAA's analysis misapplies the relevant case law and is wrong. Analyzed under a continuum, the observer data is less like the standardless child abuse determinations, and significantly more akin to driver's licensing decisions grounded in objective criteria.

At one extreme, child abuse questions raised during a license revocation hearing may involve countless witnesses giving purely subjective testimony regarding a "wide variety" of issues. Because such evidence does not involve a standardized process, trained observers or objective, statistically valid evidence, the Ninth Circuit recognized the risk of erroneous deprivations. Chalkboard, 902 F.2d at 1381. In stark contrast, driver's license suspension decisions based on systematic and standardized reports of traffic convictions by trained persons are not viewed with the same suspicion. Mackey v. Montrym, 443 U.S. 1, 14 (1979).

The HP Program falls on the objective side of this continuum. It is built on a standardized structure designed to award HP permits based on statistically valid data.<sup>3</sup> As a key component of the program, observers follow a standard methodology for collecting and

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<sup>3</sup> Observer data gathering is recognized as essential to manage fisheries consistent with conservation and management principles. See Discards in the Groundfish Fisheries of the Bering Sea/Aleutian Islands & the Gulf of Alaska During 1993, prepared for The Alaska Department of Fish and Game, August, 1994, at 2.

recording data.<sup>4</sup> To bolster the reliability of agency decisions, observer data is reviewed and adjusted by National Marine Fisheries Service officials to minimize disparities between vessels. See, e.g., Discards in the Groundfish Fisheries, supra at n. 4. The accuracy of observer data is therefore measured with reasonable precision according to external standards, and poses a de minimus risk of erroneous deprivation.

NOAA's suggestion, that determinations "susceptible of reasonably precise measurement by external standards" are limited to expert-like decisions cannot withstand the weight of authority. Opinion at 4. Agency decisionmaking need not be perfect or based on professional or expert judgments to be consonant with the Due Process Clause. See, e.g., Ramirez v. Ahn, 843 F.2d 864, 868-69 (5th Cir. 1988), reh'g denied, 849 F.2d 1471 (1988). Instead, the Ninth Circuit focuses on "whether the [decisionmaking] process has produced or is substantially likely to produce a significant number of wrongful denials." Nat'l Ass'n of Radiation Survivors v. Derwinski, 994 F.2d 583, 591 (9th Cir. 1992), cert. denied, 114 S.Ct. 634 (1993) (citing Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305,326 (1985)) (emphasis added). In Derwinski, the court concluded that claimants of VA benefits were not improperly denied a full evidentiary hearing because of the medical and scientific complexities of the issues raised in their claims. Similarly, it is unlikely that a "significant number" of HP

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<sup>4</sup> Potential observers attend a three week course covering fisheries management, sampling methods, biological data collection, data forms, obtaining haul information, delivery weight allocation, catch message transmission, species identification, and compliance. See William A. Karp, Prequalification Requirements for Groundfish Observers, attachment to Marine Observation Report, Jan. 4, 1995 at 1, 3. Failure to pass a final examination precludes a potential observer's certification and employment. Id.

applicants will be denied permits because of inaccurate observer data in light of the standardized structure comprising the HP proposal.<sup>5</sup>

Furthermore, courts have been very willing to find that an informal pre-deprivation hearing adequately protects against a risk of an erroneous deprivation. Even in Chalkboard, upon which NOAA places great emphasis, the Ninth Circuit found the risk of error to be "high," and yet did not require an adversarial pre-deprivation hearing. Chalkboard, 902 F.2d at 1382 ("Chalkboard was entitled to notice and some form of opportunity to respond prior to the summary suspension of its license"); see also Hewitt v. Helms, 459 U.S. 460 (1983) (prison disciplinary proceedings utilizing staff reports); Amsden v. Moran, 904 F.2d at 756 (zoning board relied on evidence collected outside permit applicant's presence).

C. The Importance of the Government Interest

Contrary to NOAA's assertion, under the Mathews balancing test, the government's interests weigh strongly in favor of an informal hearing. The government's interest in ensuring the proper effectuation of the Magnuson Act is paramount here. See, e.g., Barchi, 443 U.S. at 64. In these circumstances, the government's interest in protecting and conserving

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<sup>5</sup> Given the margin of error permitted in agency decisionmaking before a full evidentiary hearing is warranted, an argument that individual observers may not perform their job appropriately simply will not undercut an entire standardized agency program. See, e.g., Parham v. J.R., 442 U.S. 584, 612-13 (1979) (informal hearing appropriate despite potential for improper motives tainting agency decision to commit minor). Moreover, observers are responsible to their supervisors, and may be decertified for falsification of data, failure to complete their duties, or an inability to work without supervision. See Karp, supra at n. 4. Inappropriate observer behavior or incompetence may be the basis for appeal of the denial from HP application in a particular case, but cannot serve as an adequate basis to conclude that the program as a whole is likely to lead to significant numbers of wrongful denials.

April 7, 1995

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fishery resources is firmly grounded in law and public policy. See 16 U.S.C. § 1801(b) (denoting conservation purposes of Magnuson Act). Both NMFS and the North Pacific Fishery Council have identified reduction of bycatch as a paramount management goal. NMFS, Comprehensive Fishery Management Goals, (December 1984).

Because the HP proposal, if adopted, would constitute a primary way of meeting conservation goals through bycatch reduction, the government has a valid interest in the success of the HP program. Yet HP success hinges on there being a brief lapse of time between the reward and general fishing seasons in order to create effective incentives to reduce bycatch. Consequently, when weighing the importance of the government interest, the Mathews scale tips in favor of an informal pre-deprivation hearing promptly concluded before the start of the HP season.

In addition, the Supreme Court has recognized the government's interest in minimizing the costs and administrative burdens associated with more formalized hearings. Mathews, 424 U.S. at 335, 347. As agencies are not solely charge with protecting the constitutional rights of a few individuals, the rights of the public at large in "conserving scarce fiscal administrative resources is a factor which must be weighed." Id. at 348; see also Hall v. Cal. Dep't of Corrections, 835 F.Supp. 522, 528 (N.D. Cal. 1993). The National Marine Fisheries Service has an important interest in efficiently processing HP appeals and therefore avoiding a trial-type hearing.

NOAA suggests that the government interest in conserving agency resources is "doubtful" given the current allocation of resources to adversarial hearings under the VIP

program... Opinion at 5. NOAA once again misses the point. The proper focus for inquiry is upon the government's fiscal constraints under the present program. Mathews, 402 U.S. at 334-35. Accordingly, a court is unlikely to find that the allocation of agency resources toward one program, with its different goals, structure and procedures, necessitates comparable funding to a wholly separate program with its own goals, structure and procedures. If anything, prior commitments of resources elsewhere enhances the concern that procedures be streamlined in future programs.

C. Balancing the Mathews Factors

In the event that the HP Program is challenged as a whole prior to its implementation, a court will weigh the three Mathews factors enumerated above to determine whether the Due Process Clause guarantees, as NOAA suggests, an adversarial pre-deprivation hearing to all denied applicants or whether the nearly universal informal process will be adequate. Mathews, 424 U.S. at 335; Washington v. Harper, 494 U.S. 210, 229 (1990); Chalkboard, 902 F.2d at 1380; accord Opinion at 3.

The only case the government could find requiring an adversarial pre-deprivation hearing is Goldberg v. Kelly, involving the denial of welfare benefits to current recipients of those benefits. Goldberg, 397 U.S. 254; Opinion at 4. Here, neither the HP applicant's interest nor the risk of an erroneous deprivation is sufficiently weighty to override the government's interest in expeditiously processing appeals to effectuate fully its conservation goals. A court will conclude, based on the Mathews test, that an informal opportunity to be heard is constitutional.

First, the HP applicant's interest is unlikely to be viewed as so substantial as to require an adversarial hearing. Unlike government benefits cases in which a claimant's interest is afforded great weight, the HP applicant does not depend on the HP permit for his or her entire livelihood, nor rely on the permit to the same extent as a permit holder who, based on the certainty of a permit in hand, reasonably expends time and resources.

By contrast, the government's interest in implementing an effective conservation strategy is well recognized. Here, NMFS's ability to carry out HP hinges on effective incentives unfettered by protracted appeal proceedings. Hence, the government interest is certainly tantamount, if not superior to, the private interest.

Moreover, the risk that an HP applicant will suffer an erroneous deprivation of a reward fishing opportunity carries little weight. An HP application decision does not depend on the credibility of witnesses, but rather focuses on the results of a standardized methodology followed by both at-sea observers and their supervisors. Because both the courts and the HP Program<sup>6</sup> leave some room for agency error in decisionmaking, the potential for sporadic inaccuracies among observers is insufficient to undercut the entire HP Program with a pre-deprivation adversarial hearing requirement.

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<sup>6</sup> Of course, the Secretary retains flexible rulemaking authority to cure any perceived inadequacies through additional standardization measures. For example, AMCC has suggested that the statistical confidence interval for HP bycatch rates could be built into the reward determination. Thus, a target bycatch rate could be set at 5% with an additional 3% allowed to cover data discrepancies. Thus, any participant in the qualification fishery who demonstrates a less-than-8% bycatch rate, would qualify for the reward season.

NOAA's analysis concludes with another irrelevant issue—whether the denial of an application for an HP permit is penal.<sup>7</sup> This is not a relevant question under the Mathews analysis. The proper focus for any due process inquiry is not whether an individual will suffer a loss or penalty or sanction, as everyone denied government benefits will suffer a loss in some sense, but whether the process is adequate to protect the interest at stake. See Mathews, 424 U.S. at 335.

A balancing of these factors supports the constitutionality of an informal process like that contained in the AMCC HP proposal. NOAA itself recognizes that "[p]rocedural due process is a flexible concept." Opinion at 3 (citing Chalkboard at 1380 (requiring "hearing appropriate to the nature of the case")). The United States Supreme Court soundly supports the principle that "[t]he very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." Cafeteria Workers v. McElroy, 367 U.S. 886, 895 (1961); see also Richardson v. Wright, 405 U.S. 208, 209 (1972) (administrative process "must have a reasonable opportunity to evolve procedures to meet needs as they arise"). The Court has therefore discounted the need for trial-type administrative hearings in favor of more practical procedures which serve the needs of both the individual and the regulatory program. See, e.g., Morrissey v. Brewer, 408 U.S. 471,

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<sup>7</sup> NOAA states that:

The due process . . . rights to a prior hearing at issue in such a program are not the rights of those who get to participate in the "reward" fishery, but are, rather, the rights of those who are excluded from the fishery. . . . A clear understanding that the "reward" fishery provisions of the HPP are in fact "penal," and constitute a "sanction" leads to certain inevitable results under due process . . . ."

Opinion at 5, 6.

481(1972); Goss, 419 U.S. at 581-82 (full evidentiary hearing is not synonymous with due process); Zinerman v. Burch, 494 U.S. 113, 127 (1982).

Thus, NOAA's adherence to a traditional trial-type hearing is inconsistent with the judicial trend toward informality and practicality. Since the Mathews decision, which recognized that the "judicial model of an evidentiary hearing is neither required, nor even the most effective method of decisionmaking in all circumstances," 424 U.S. at 348, the Court has repeatedly allowed less than full adversarial hearings. See Bell v. Burson, 402 U.S. at 540 (1971); Hewitt v. Helms, 459 U.S. 460 ("informal nonadversary review of evidence" adequate during prison's confinement hearings); Goss v. Lopez, 419 U.S. 565 (notice, opportunity for informal conference and some statement of reasons sufficient for school suspension hearing). More specifically, courts recognize that a strictly paper hearing is often adequate to protect an individual's right to confrontation, cross-examination of witnesses, and counsel. See Gleason v. Bd. of Education of City of Chicago, 792 F.2d 76, 79-80 (7th Cir. 1986); Natural Resources Defense Council, Inc. v. U.S. E.P.A., 859 F.2d 156 (D.C. Cir. 1988) (cross-examination is not fundamental to due process); Wolff v. McDonnell, 418 U.S. 539 (1974) (representation by counsel is not a due process right).

Simply stated, the informal HP appeal process is constitutional on its face.<sup>8</sup>

Administrative hearings must meet minimum due process protections, including notice, an

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<sup>8</sup> Should the appeal process extend in a particular case into or beyond the reward season despite deadlines which should prevent this result in most cases, a "due process as applied" claim against the government is foreseeable. In that rare case, the entire program, which is structured to conclude before the relevant HP season, is not invalidated. In Barchi, for instance, the Supreme Court found that a state agency's appeal procedures failed, as applied,



opportunity to comment on the adverse observer data, and a statement of reasons for the denial. See generally, Goss v. Lopez, 419 U.S. 565. However, even these minimum criteria may be applied to fit the interests at hand. See, e.g., Cloutier v. Town of Epping, 714 F.2d at 1191 (written notice and opportunity to meet with decisionmakers following sewer permit revocation is constitutional). Under HP, therefore, notice, access to an informal oral or written hearing, an opportunity to respond with written affidavits to adverse observer data, and a record of decision provide the HP applicant with informal due process protections consistent with the Due Process Clause. NOAA's argument for an adversarial trial type hearing is a red herring properly left in the ocean.<sup>9</sup>

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to ensure the prompt conclusion of license suspension hearings. Unlike the process in Barchi, however, the HP appeal process would be facially and substantively designed to accommodate all appeals prior to the HP reward season. For that reason, a court will be much less likely to accept an "as applied" argument than in Barchi. In any event, because the basic fairness of an appeal proceeding does not turn on the outcome in a particular case, the important point is the entire HP appeal process will not be vanquished by a few "as applied" claimants. See, e.g., Walters, 473 U.S. at 305.

<sup>9</sup> There are, obviously, a variety of forms of informal appeals procedures that would meet the requirements of due process in this case. AMCC has suggested a process like that used for the halibut ITQ program which may involve oral hearings. The agency need not provide oral hearings to meet constitutional requirements in these circumstances. An opportunity to provide written argument and evidence followed by written decision from the agency would be adequate.

The agency could also meet due process requirements by providing an abbreviated opportunity to respond to a proposed decision, say through a 30 day period after notice, then make a decision to grant or deny an HP permit. The agency could then provide for a more thorough appeal process following the decision, but still exclude the fisher from the HP season if the appeal were not concluded. This process would have the advantage of more quickly reaching a decision which the agency could implement but may be perceived as more resource intensive. The point is that the agency has a variety of options to choose from and can create a process which meets constitutional requirements and is practical for the agency.

## II. THE MAGNUSON ACT

The issue now becomes what impact, if any, the Magnuson Act has on the HP proposal. The first question is whether the HP Proposal is a valid interpretation of the authority granted to the Secretary of Commerce by the Magnuson Act. The second issue is NOAA's contention that NMFS' regulations arising out of the sanction provisions of the Act must govern HP decisions.

### A. The Secretary Has Broad Authority Under Magnuson Act To Manage Fisheries.

As envisioned by AMCC, in order to implement HP, the current general permit scheme would be changed to clarify that a general fishing permit in no way entitles a fisherman to participate in all the fisheries in the North Pacific. Permits to participate in a HP reward season would only be granted under the auspices of the HP Program, its rules and implementing regulations. Thus, it is in this context that the Secretary's authority must be analyzed.

As an initial matter, administrative agencies have broad discretion to develop and change permitting programs. See, e.g., City of Chicago v. Fed. Power Comm'n, 385 F.2d 629, 637 (D.C. Cir. 1967), cert. denied, 390 U.S. 945 (1968). When reviewing agency rulemaking, a court will "defer[] to the agency's statutory interpretation to the extent that it [does] not conflict with the actual terms of the statute." See Air North America v. D.O.T., 937 F.2d 1427, 1432 (9th Cir. 1991); Lawrence v. Commodity Futures Trading Comm'n, 759 F.2d 767 (9th Cir. 1985); Washington Dep't of Ecology v. EPA, 752 F.2d 1465 (9th Cir. 1985).

Furthermore, Congress' delegation of rulemaking authority to an administrative agency is not only "consonant with the Constitution, [but also] necessary for proper effectuation of [a] statute." United States v. Grimaund, 220 U.S. 506 (1911). Though when promulgating regulations an agency must implement Congressional intent, gleaned either expressly or implicitly from the relevant statute, *see, e.g., Brock v. Writers Guild of Am., West, Inc.*, 762 F.2d 1349, 1353 (9th Cir. 1985), an agency otherwise retains substantial flexibility in applying Congressional policy to the numerous circumstances arising in connection with the program. Misretta v. U.S., 488 U.S. 361, 372 (1989) (Congress can delegate power to an agency under broad general directives); Lichter v. United States, 334 U.S. 742 (1948).

Further, no bar exists to an agency making substantial changes to an existing regulatory or management scheme. Kelly v. United States Dep't of Interior, 229 F.Supp. 1095, 1100 (E.D. Cal. 1972) (the power to make rules includes the power to change them). Creativity and flexibility in rulemaking are inherent to an agency's role:

Administrators need room to freshen stale policies, adjust their rules to reflect actual experiences and even reverse their thinking if necessary to promote Congress' programs effectively.

Id. The Ninth Circuit has similarly recognized

. . . when the language and policy of a statute permit a wide range of alternative approaches to a particular problem, the courts must allow the agency charged with implementing the statute to choose the alternative the agency prefers.

Air North Am. at 1431-32 (interpreting Chevron USA v. Natural Resources Defense Council, 467 U.S. 837, 843-44 (1984)) (court deferred to agency's policy change in both cases); accord Maine v. Kreps, 563 F.2d 1052, 1055 (1st Cir. 1977) (when examining regulations pursuant

to the Magnuson Act, court will only determine whether Secretary's discretion was exercised "rationally and consistently with the standards set by Congress"); Alaska Factory Trawler Ass'n v. Baldrige, 831 F.2d 1456, 1460 (9th Cir. 1987).

Congress delegated expansive rulemaking authority for the effectuation of fishery management plans (FMP's) to the Regional Fishery Management Councils (Councils) and to the Secretary. See 16 U.S.C. §§ 1853(c), 1854, and 1855 (Councils generally propose plans and promulgate regulations which the Secretary then implements). The Secretary may exercise this authority consistent with these general principles to modify and amend existing regulations to effectuate Congress' broad policies under the Act.

The HP program does not conflict with any specific Congressional guidance in the Magnuson Act. To the contrary, the Act affords the Secretary great flexibility in fashioning a permit program. For example, the "discretionary provisions" of the Act not only allow the Council to formulate a permit program and set limits on the catch of fish, but even more generally, to "prescribe such other measures, requirements or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery." See 16 U.S.C. §§ 1853(b)(1), (3), 1853(c). This broad discretion extends to both initial and subsequent planning and regulatory efforts. 16 U.S.C. § 1853(c) ("regulations which the Council deems necessary or appropriate for purposes of carrying out a plan or amendment to a plan") (emphasis added). Simply put, the Magnuson Act does not prevent the Council and NMFS from developing a distinct, incentive-based HP permitting process.

Even if a general permit holder possesses a legally cognizable property interest in his or her permit under the existing regulatory program, the HP program is not invalid for altering the value of that permit by restructuring the program. Agencies may diminish a licensee's entitlement under a license by way of rule making if a generic rule imposes new criteria on all interested persons. See Upjohn Co. v. FDA, 811 F.2d 1583, 1585 (D.C. Cir. 1987) (after notice and comment rulemaking, agency entitled to expressly revoke manufacturer's right under current certificates) (emphasis added); see also Interport Pilots Agency Inc. v. Sammis, 14 F.3d 133 (2d Cir. 1994); Am. Airlines, Inc. v. C.A.B., 359 F.2d 624 (D.C. Cir. 1966), cert. denied, 385 U.S. 843 (1966). Similarly, the HP qualifying standards will be adopted by general regulation modifying the existing permit program and will broadly apply to all past and future general permit holders. Thus, there is no blanket prohibition against changes to the general fishery permit regulations to accommodate the HP program.

Consequently, the regulatory restructuring of the present fishery season into a general season and a reward season (the HP program) can define the general permit holder's interest in what will become the HP reward season. Rulemaking alone should distinguish the applicant's interest in the two programs so that a general permit holder has no statutory right to fish during the reward season.

In analogous circumstances, the Ninth Circuit has refused to recognize a limited licensee's interest in further licensing. Kraft v. Jacka, 872 F.2d 862 (9th Cir. 1989). In Kraft, holders of one year limited gaming licenses sought further licensing after their limited licenses automatically expired. Regardless of the limited licensee's substantial investment

under the belief that a permanent operating license would be granted, the court held that the legislature did not intend to grant entitlements to limited licensees who, from the outset, had not been considered deserving of a permanent license. *Id.* at 866-69. The court concluded the statutory regime offered clear guidance that denial of further licensing does not constitute a "revocation or suspension of an existing license." *Id.* at 867. In other words, a permittee's interest in engaging in an activity under a conditional permit will not necessarily foreordain his interest in continuing the same activity under a separate permit. In a similar way, the general permit grants fishing privileges for a finite period, and eligibility for that season is distinct from, and not determinative of, eligibility for the HP season.

**B. The Magnuson Act's Sanction Provisions Do Not Apply to HP.**

NOAA categorizes the HP reward fishery as a "sanction" against those who, because their bycatch rate during the general fishery period is too high, are precluded from the reward fishery. *Opinion* at 8-10. Referencing general rules of statutory construction, NOAA states that "'penal statutes are to be construed strictly' . . . and that one 'is not to be subjected to a penalty unless the words of a statute plainly impose it,'" *Opinion* at 7-8. NOAA then argues that either the HP program will have to be managed under the Act's sanction provisions, and the cumbersome regulations which implement them, or the program will violate the Act.

NOAA's conclusion is a classic example of the "the tail wagging the dog." Following NOAA's logic, any regulatory restructuring that restricts a fisher's access to her or his current

harvest rights violates the Act because it is penal.<sup>10</sup> While restrictions on an agency's authority certainly exist, i.e., regulations must not conflict with Congressional intent, Brock, 762 F.2d at 1352-53, the preceding discussion illustrates that the agency has ample authority to adopt a new program even if it means altering privileges granted under the existing structure. As Congress stated, the Secretary is "to take immediate action to conserve and manage the fishery resources found off the coasts of the United States . . ." 16 U.S.C. § 1801(b)(1).

The sanction provisions of the Act, and the implementing regulations, on the other hand, exist for the purpose of punishing actions taken by fishers in violation of the mandatory requirements of the Act, agency regulation or individual permits. 16 U.S.C. §§ 1857-60; 50 C.F.R. §§ 904.300-01. For example, a person who fishes in the reward season without an HP permit would violate the mandatory requirements of the statute and be subject to the sanction provisions and procedures. But assuming, as we have shown, that the Secretary could lawfully adopt the HP program and restructure the permit system, no fisher denied an HP permit will have violated any provision of the Act or permit condition, and will, therefore, not be subject to the sanction provisions. The fisher will simply have failed to qualify for a permit. That under a prior regulatory program a fisher was entitled to fish the entire season under a general permit without meeting additional requirements will no longer be relevant.

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<sup>10</sup> Using NOAA's logic, the halibut/sablefish ITQ appeal regulations would also violate the Magnuson Act because they are streamlined and do not employ the permit sanction regulations. NOAA attempts to distinguish the ITQ program by saying it is not "penal." Opinion at 5 n.1. Yet clearly the ITQ program imposes a restriction on historic participants in a fishery—exactly the reason NOAA gives for saying HP is "penal" and, therefore, requires imposition of permit sanctions.

As a result, NOAA's suggestion that HP permit denials must be handled through the sanction regulations in order to be consistent with the Magnuson Act is just another artificial barrier that can be safely ignored.

### III. ADMINISTRATIVE PROCEDURE ACT

The provisions of the APA which set out the procedural requirements for withdrawals of licenses are not applicable to the HP proposal. Even if they were applicable, the HP proposal as currently structured meets the requirements of the APA.

#### A. Section 558(c) of the APA Does Not Apply to HP Permit Denials.

NOAA suggests the APA imposes substantial procedural obligations for the denial of an HP permit. The relevant portion of the APA cited by NOAA reads as follows:

Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given-

- (1) notice by the agency in writing of the facts or conduct which may warrant the action; and
- (2) opportunity to demonstrate or achieve compliance with all lawful requirements.

5 U.S.C. 558(c) (emphasis added).

As the plain language of the APA shows, this section of the APA is not applicable to the HP program because the denial of an application for an HP permit is not a "withdrawal, suspension, revocation, or annulment of a license." No existing license is revoked when an



HP permit application is denied. The NOAA opinion includes the following quote from one court interpreting section 558(c) of the APA, but ignores the critical words of the court:

A paraphrase of the provision taken as a whole might read "before an agency can institute proceedings to withdraw, revoke, etc., an existing license, it must provide the licensee with notice in writing of the offending conduct and a hearing . . . ."

Bankers Life & Gas Co. v. Calloway, 530 F.2d 625, 635 (5th Cir. 1976), reh'g denied, 536 F.2d 1387, cert. denied, 429 U.S. 1073 (1977) (emphasis added). The HP program is not a sanction that revokes existing licenses. The program merely denies applicants who choose to attempt to qualify for the reward season, but do not meet the bycatch standards, from fishing in the reward season. As a result, the procedures required by this section of the APA do not apply.

B. The HP Proposal Complies With Section 558(c).

Even if section 558(c) of the APA applied to denial of HP permit applications, the proposed program's appeal process meets its requirements. Because section 558(c) does not mandate formal adjudicatory hearings, NOAA retains some flexibility in structuring and streamlining a permit application appeal proceeding. Marathon Oil Co. v. EPA, 564 F.2d 1253, 1260-61, n.25 (9th Cir. 1977). Section 558(c) merely requires that the agency give: (1) notice in writing of the facts or conduct which warrant the action, and (2) an "opportunity to demonstrate or achieve compliance." See 5 U.S.C. § 558(c). An agency need only give a licensee an opportunity to demonstrate compliance to satisfy section 558(c)(2); it need not also provide an opportunity to achieve compliance. See Central National Bank of Mattoon v. U.S.

Dep't of Treasury, 912 F.2d 897, 906 (7th Cir. 1990) (agency's duty under section 558(c)(2) is disjunctive.) See also Moore v. Madigan, 900 F.2d 375, 379 (8th Cir. 1993). Under the HP proposal described above, written notice will be provided of NMFS's determination that a fisherman did not qualify for the reward fishery. Further, the agency will afford an applicant an opportunity in an appeal to submit information in response to the notice. Only then will NMFS make the final determination whether that particular fisherman failed to qualify for the reward season.

#### CONCLUSION

As described above, the appeal process set up under the HP Proposal is constitutionally and statutorily valid. NOAA's conclusions to the contrary are not supported in the law and should not buttress inaction on the HP Proposal by either the Council or the Secretary of Commerce.

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Name of Proposer: Groundfish Forum Date: August 15, 1997

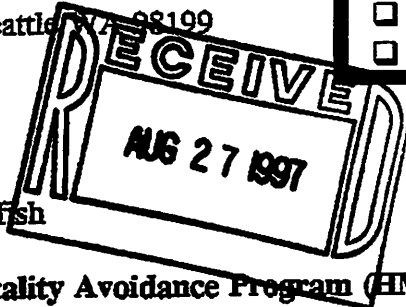
Address: 4215 21st Ave West Suite 201, Seattle, WA 98199

Telephone: (206) 301-9504

Fishery Management Plan: BS/AI Groundfish

Please check applicable box(es)

- IFQ Program  
 Bycatch Reduction  
 BSAI Groundfish FMP  
 GOA Groundfish FMP  
 BSAI Crab FMP  
 Scallop FMP



**Brief Statement of Proposal: Halibut Mortality Avoidance Program (HMAP) through towing protocols and regulated deck sorting**

The Council and NMFS, in conjunction with the trawl industry and the IPHC, would create a system where interested groundfish companies could follow a set of procedures to greatly reduce halibut mortality in trawl fisheries. Participation in this program would be limited to those companies willing to carry the level of observer coverage deemed necessary to accurately record halibut catches and follow procedures to rapidly return halibut to the sea. Participation would be allowed on a selective basis and evidence of non-compliance with the required protocols or a demonstrated inability to work with observers would make a participant ineligible for continued participation in the program.

Elements of the program are as follows:

1. Vessels in the program must take the necessary number of observers and all hauls must be observed. Vessels in the program are not subject to the VIP program. In the absence of a requirement for VIP sampling, vessel crews and observers will sort halibut on deck instead of dumping unsorted hauls into live tanks below deck prior to any sorting.
2. Vessels must limit tow duration, maintain catches at or below an average catch per tow limit (average over a day), and only codends under a specified tonnage can be used.
3. Codends must be spilled slowly into live tanks so crew members, under the supervision of observers, can carefully remove halibut before they enter live tanks. Observers then count and measure halibut lengths for conversion to weight equivalents and halibut are immediately released off stern ramp.

Deck crew must assist observers in carrying halibut (in an approved manner) to a designated area where measuring occurs. Crew must also assist in release of halibut.

4. No sorting of catch in live tanks can begin until deck sorting of halibut is complete and the observer on duty is present in the factory. Verification of this may require installation of an indicator light device on deck that verifies that belts in the factory are not moving. Other such devices for verification may be required.
5. Observers carry out basket sampling for species composition and PSC estimations for species other than halibut.

6. After a pre-determined trial period, the success of the HMAP program will be evaluated and the NMFS/Council/IPHC will adjust halibut mortality for fishing under the program. According to evidence from the Grid Sorting analysis and Dr. Ellen Pitkitch's (draft) research, halibut mortality could be as low as 20-30% in a well-conceived and implemented program.
7. After the program is deemed to be successful, the Council can allocate halibut bycatch limits between the group of vessels in the HMAP program and vessels that, for whatever reason, elect not to participate or are ineligible for the HMAP because of non-compliance with the prescribed protocols.

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

Each year, unnecessary halibut mortality occurs in trawl fisheries due to current procedures that are used on most trawl vessels. These procedures are, in large part, due to requirements for VIP sampling. In addition, long tows aimed at maximizing catch per tow cause higher halibut mortality. Many boats could aim at maximizing the flow of fish through the factory over time by using shorter tows and smaller codends. For some trawlers, smaller tows may not significantly reduce production and there is an added benefit of allowing for a reduction in halibut mortality.

Requirements for VIP sampling contribute to halibut mortality on trawl vessels because, under the current regime, no sorting can occur until fish are lowered into a live tank. VIP sampling requirements mandate that fish placed in live tanks can only be removed when they exit the tanks on conveyor belts where basket sampling occurs. This increases mortality greatly.

It is commonly believed that the trawl industry can currently employ deck sorting on unobserved tows if they desire to do so. This is impractical, however, for the following reasons. Under the present regime, an observer may elect to sample any tow based on the random sampling protocol of the Observer Program. The vessel skipper does not know in advance whether a tow will be sampled. This makes it impractical for the crew to deck sort unsampled tows because the flow of work on the deck would thus be largely dependent on the observer's determination (at the last minute) as to whether the tow will be sampled. Because assistance from additional crew members is needed to efficiently deck sort halibut, this would entail tasking some workers (from the factory or elsewhere) to be available at a moment's notice, depending on the direction of the observer.

Deck sorting unsampled tows would only be practical if the crew knew in advance whether the observer intended to sample the tow. Yet advance knowledge is not provided to the skipper because NMFS believes it would bias the skipper's decision of where to fish. One additional reason why deck sorting of unsampled tows does not occur is that it creates potential for misunderstandings and possible accusations of illegal pre-sorting activities. These misunderstandings could result from a miscommunication over whether a haul was going to be sampled or not. Most skippers and vessel owners avoid any additional potential for misunderstandings and the potential consequences associated with it.

Under the current regime halibut catches are estimated by basket samples. Due to the large size of most halibut compared to target species, basket sampling is biased and likely introduces considerable inaccuracy on a tow by tow or individual vessel basis, as demonstrated by the (draft) Pitkitch report.

The proposed system would greatly increase accuracy because the halibut catch estimate would be based on a "whole-haul" count and all tows would be sampled.

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

- The Council must balance OY objectives against the Magnuson-Stevens mandate to reduce bycatch. The industry can come forward with solutions it feels will accomplish both objectives effectively. HMAP is such a system and it cannot be implemented by industry alone, or legally established on a voluntary or ad hoc basis.

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

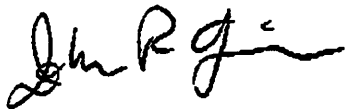
Halibut bycatches will be more accurately enumerated, halibut mortality will be reduced and this means less halibut is required to fund the groundfish fisheries while allowing greater catches of groundfish. The resource, halibut fishermen, and the groundfish fishery will benefit.

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

The industry has implemented efforts to avoid halibut bycatch such as Sea State with some success. It could be that the greatest potential for additional improvement comes from reducing the bycatch mortality of halibut as well as continuing to improve avoidance efforts. This proposal provides an opportunity for committed members of the industry to reformulate fishing strategies and incorporate incentives to reduce halibut mortality into their operations. The only other system under consideration to create such incentives is VBAs. HMAP may be more expeditious and easier to implement than VBAs. HMAP does not involve the implicit allocation decisions that VBAs may involve. HMAP could certainly be instituted as a stand alone program or in conjunction with VBAs.

**Supportive Data & Other Information: What data are available and where can they be found?**  
Supporting materials for the Grid Sorting proposal, including at-sea study. Dr. Ellen Pitkitch's recent study (draft document) on handling as a factor in halibut mortality. Results from Groundfish Forum's EFP pollock catch reduction experiment where deck sorting was successfully conducted.

**Signature:**



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

**Please check applicable box(es):**

- |   |   |
|---|---|
| <input type="checkbox"/> IFQ Program                | <input type="checkbox"/> GOA Groundfish FMP |
| <input type="checkbox"/> Bycatch Reduction          | <input type="checkbox"/> BSAI Crab FMP      |
| <input checked="" type="checkbox"/> BSAI Groundfish | <input type="checkbox"/> FMP Scallop FMP    |

**Name of Proposer:**

United Catcher Boats

**Date:**

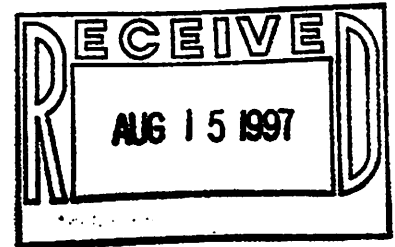
August 15, 1997

**Address:**

1711 W. Nickerson, Suite B, Seattle, WA 98119

**Telephone:**

206/282-2599



**Brief Statement of Proposal:**

Implement a Bering Sea PSC cap for the groundfish pot fishery for red king crab in Zone 1 and for *bairdi* tanner crab in Zones 1 & 2.

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

Red king crab and *bairdi* tanner crab populations are currently at relatively low levels. Crab fisheries have been impacted by these low stock sizes, such that some fisheries have been closed and others have lower harvest guidelines. All groundfish fisheries that have bycatch and mortality of these crab should be regulated in order to reduce impacts of gear on crab stocks and thus promote rebuilding of these crab species. Any reduction in mortality will slow the decline of the crab stocks. In groundfish pot fisheries, red king crab mortality is estimated at 37% and *bairdi* tanner mortality is estimated at 30%. Currently there are not caps or any other restrictions on the amount of crab mortality that is allowed in the groundfish pot fishery. The *bairdi* tanner crab population is critically low. Caps should also be considered to reduce the *bairdi* tanner bycaught by groundfish pot fishermen.

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

The Council is responsible for regulating bycatch in groundfish fisheries. Trawl, longline, and pot gear used in fishing for groundfish in federal waters are all under the Council's jurisdiction.

Both the BS Groundfish and Crab Plan Teams have rated this proposal as high priority in 1996.

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

Groundfish pot fishermen would be prohibited from fishing in Zone 1 or Zone 2 if they exceeded their bycatch cap. The mortality of bycaught crab from the crab savings areas would be limited to the cap amount. Since these areas are

important crab habitat and molting areas, the crab stocks would benefit from the decreased mortality. Crab fishermen would benefit from decreased mortality of bycaught crab.

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

Yes. The areas of high bycatch could be closed to groundfish pot fishing to protect crab during the molting period and to decrease bycatch overall. However, this does not allow as much flexibility as a PSC cap for groundfish pot gear.

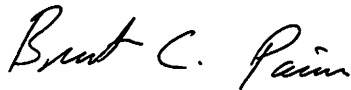
**Supportive Data & Other Information: What data are available and where can they be found?**

Additional Analysis for Amendment 37 and EA/RIR for Amendment 41, May 10 of 1996 and March 28 or 1996

EA/RIR for Amendment 37, August 24, 1995

Crab Rebuilding Committee Report, April 1995

**Signature:**



Brent Paine  
Executive Director

North Pacific Fishery Management Council

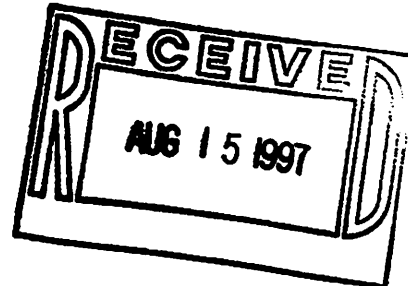
Please check applicable box(es):

<input type="checkbox"/>	IFQ Program	<input type="checkbox"/>	GOA Groundfish FMP
<input checked="" type="checkbox"/>	Bycatch Reduction	<input type="checkbox"/>	BSAI Crab FMP
<input checked="" type="checkbox"/>	BSAI Groundfish FMP	<input type="checkbox"/>	Scallop FMP

Name of the Proposer: Date:  
Alaska Fisheries Conservation Group Tom Casey, Executive Director 15 August 97

Address:  
P.O. Box 910 Woodinville, WA 98072

Telephone:  
Phone (425) 488-7708 Fax (425) 823-3964



Fishery Management Plan:  
Bering Sea Aleutian Islands Groundfish FMP

Objectives of the Proposal: (What is the Problem?)  
To close to on-bottom trawling the lower 10-minutes of latitude in the King Crab Savings Area. More than 80% of last November's directed king crab catch was taken out of the KCSA. The 1997 rocksole and yellowfin sole fisheries were successfully conducted by on-bottom trawlers even though they voluntarily stayed out of the lower 10-minutes of latitude in the KCSA.

Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)  
BSAI red king crab stock re-building is a top priority of the NPFMC. The KCSA is a small, but vital, area of red king crab abundance. By closing the entire KCSA to on-bottom trawling, the NPFMC improves the probability of king crab stock recovery and fishery performance.

Forseeable Impacts of Proposal: (Who wins, who loses?)  
King crab fishermen win big. On-bottom trawlers lose marginally, if at all.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?  
Reduce to zero the bycatch cap for on-bottom trawling in this area. Our proposal and this alternative achieve the same results.

Supportive Data & Other Information:

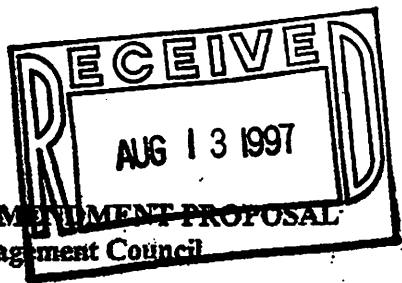
Signature:

*Thomas A. Casey*

8.15.97 @ 11:30 PDT AM

3 of 3





FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer: DAVID HILLSTRAND

Date: 08/08/97

Address: Box 1500  
HOMER AK 99603

Telephone: 907 235-8706

Fishery Management Plan: BSAI GROUND FISH - BYCATCH REDUCTION

Brief Statement of Proposal: IDENTIFY AREAS OF EXCESSIVE SNOW CRAB; OPILIO BYCATCH AND CLOSE TO TRAWLING ON THE BOTTOM, OR PERMINEATE CLOSURE IF UNENFORCEABLES. SUCH AS PRIBILOF AND BRISTOL BAY TRAWL CLOSURE AREAS.

Objectives of Proposal: (What is the problem?) STUDY AND ANALYZE OPILIO BYCATCH PER TOW. IDENTIFY AREAS OF 100, 200, 300, 500 + 1000 CRAB PER TOW. THEN DETERMINE HOW MANY CRAB PER TOW IS EXCESSIVE AND CLOSE THAT AREA FOR CRITICAL HABITAT

Need and Justification for Council Action: (Why can't the problem be resolved through other channels?) REDUCE BYCATCH IN ACCORDANCE WITH MAGNUSON/STEVENS ACT REQUIREMENTS, PROTECT HABITAT. LACK OF RECRUITMENT, AND ADVANCED ACTION BEFORE A COLLAPSE OCCURS.

Foreseeable Impacts of Proposal: (Who wins, who loses?) CRAB STOCKS WILL BENEFIT, HABITAT WILL BE UNDISTURBED, DIRECT FISHERS OF CRAB WILL BENEFIT ALSO. TRAWL AREAS WILL BE LOST. THE STUDY + ANALYST WILL SHOW THE BEST OPTION FOR THE NATION.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem? PERMINEATE CLOSURE, ONLY CONSIDERED IF UNENFORCEABLES. 10% + 20% OF FLEET MAY NOT OBEY THE BAN ON BOTTOM TRAWLING IN THIS AREA. YET THIS GIVES THE FLEET A CHANCE AT PROVING THEMSELVES.

Supportive Data & Other Information: What data are available and where can they be found? NIMFS TRAWL SURVEYS. OBSERVER DATA. PERSONAL OBSERVANCE

Signature: David Hillstrand

**GROUND FISH & CRAB FISHERY MANAGEMENT PLAN AMENDMENT  
PROPOSAL; NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

**DAVID HILLSTRAND  
BOX 1500  
HOMER, ALASKA 99603  
(907) 235-8706**

**Date: 7/22/97**

**Fisheries Management Plan:  
BSAI Groundfish FMP - BYCATCH REDUCTION**

**Brief Statement of Proposal:**

- a. Identify and close areas with High Baridi crab bycatch.**
- b. Analyze the economic loss to bottom trawling and Scallop dredging in these closed areas; compared to the recovery and economic income to the crab fisheries; in each of these closed area options.**
- c. The options being 50, 100 and 200 crab per tow or dredge.**

**Objectives of Proposal:**

- 1. Identify Habitat areas with Baridi crab bycatch of 50, 100 and 200 crab per tow and dredge.**
- 2. Determine excessive bycatch; which identifies areas of important Habitat, Close areas of High Crab Bycatch for the Baridi crab stocks.**
- 3. To rebuild the collapsed Baridi stocks in the BB/BS. To create essential crab habitat areas for the recovery, and future recruitment.**

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

- 1. The Baridi fisheries is collapsing with no recruitment in sight.**
- 2. Essential areas have been closed by the State of Alaska and the NPFMC for other crab species such as in the GOR, Pribilof Islands for Red and Blue King crab; and in the Bristol Bay Red King crab fisheries, to rebuild these fisheries.**

3. It is appropriate to see an analysis request put in place under the mandate from the new revision of the Magnuson act being submitted to Congress; because area closures can be identified from areas of high crab bycatch; from NMFS bycatch gathering data in place already.
4. Habitat for food and growth is being extensively disturbed from the natural state.

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

1. The study will show the savings in bycatch reduction of Baridi and the economic loss to trawling and Scallop dredging in economic analysis.
2. The closure will allow the area to return to the natural state with no disturbance to schools of crab.
3. Bycatch will be lessened in sensitive areas, where high density of crab exist in there habitat.

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

1. Area closures are our conclusion to the rebuilding of the Baridi fisheries along with reduced exploitation rates. They will instantly reduce crab bycatch by identifying areas of high crab bycatch. Along with preserving essential habitat for Baridi by showing the areas where they live in the BB/BS. The other solutions are needed along with closed areas, and will be proposed.

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

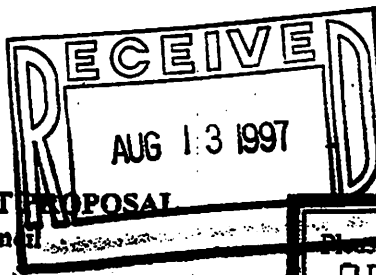
1. The NPFMC has already done analysis on area closures, for other crab species. The analysis showed areas of high crab bycatch; which were closed.
2. NMFS Observer data gathering is ready to study and identify areas of high Baridi bycatch.

**3. This action is appropriate to consider with the mandate from Congress.**

**4. Area closures are within the NPFMC ability to accomplish.**

**5. We can see on land that areas such as our National Parks need to be set aside.**

**Signature: David Hillstrand**



FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer: DAVID HILLSTRAND

Date: 08/07/97

Address: Box 1500  
HOMER AK 99603

Telephone: (907) 235-8706

Fishery Management Plan: ~~GOA~~ BSAI GROUND FISH FMP

Brief Statement of Proposal: DIVIDE ZONE #1 + ZONE #2 up into smaller sections; THEN TAKING THE CRAB BYCATCH CAPS FOR RED KING CRAB, TANNER + SNOW CRAB AND DIVIDE TO UP AMONG THOSE SECTIONS.

(SEE ATTACHED SHEETS FOR DETAILS)

Objectives of Proposal: (What is the problem?) EXCESSIVE BYCATCH OF CRAB IN ONE CONCENTRATED PLACE OF A LARGE ZONE AREA.

Need and Justification for Council Action: (Why can't the problem be resolved through other channels?) CONCENTRATED EFFORT HAS HARMED CRAB POPULATIONS IN CRAB HABITAT; OR HOT SPOTS. THE ONLY WAY TO RELIEVE THE EFFORT IS TO SPREAD THE FLEET OUT INTO THE ENTIRE ZONE.

Foreseeable Impacts of Proposal: (Who wins, who loses?) BOTH CRAB AND FISH BIOMASSES BENEFIT FROM NOT BEING TARGETED ON, AND LEAVING STOCK IN THE AREA FOR FUTURE YEARS.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem? NONE

Supportive Data & Other Information: What data are available and where can they be found?  
PERSONAL OBSERVANCE OF TRAWLING OPERATIONS, AND FISH PRACTICES

Signature: David Hillstrand

RED KING CRAB  $35,000 < 8.4 + \text{ESB} < 14.5$ ,  $100,000 > 8.4 + \text{ESB} < 55 \text{ million}$ ,  $200,000 \text{ ESB} > 55 \text{ million}$  ON NEW BYCATCH CAPS. 200,000 NOW 66,666 PER ZONE, 33,333 AND 11,666 CRAB. DEPENDING ON PSC SET FOR THAT YEAR.

THE BYCATCH CAPS ARE SET ON THE ENTIRE ZONE AND WHAT IS JUSTIFIED FOR MAINTAINING A HEALTHY BIOMASS AND STILL INSURING A BOTTOM FISH FISHERY. WHEN CONCENTRATED IN SUCH A SMALL AREA THE CRAB BIOMASS IS UNABLE TO HANDLE THIS EXTRACTION AND FISH EFFORT, OR CONTINUAL TRAWLING ON THE BOTTOM DISTURBING HABITAT, YES THE CLOSED AREAS ARE REDUCING TRAWLING EFFORT, AND YES THE BYCATCH CAPS ARE REDUCED. THE REMAINING AREA IN FIGURE #2 WILL BE EXCESSIVELY FISHED CAUSING UNKNOWN AFFECTS. COMPELLING THE NEED TO SPREAD OUT FISHING EFFORT.

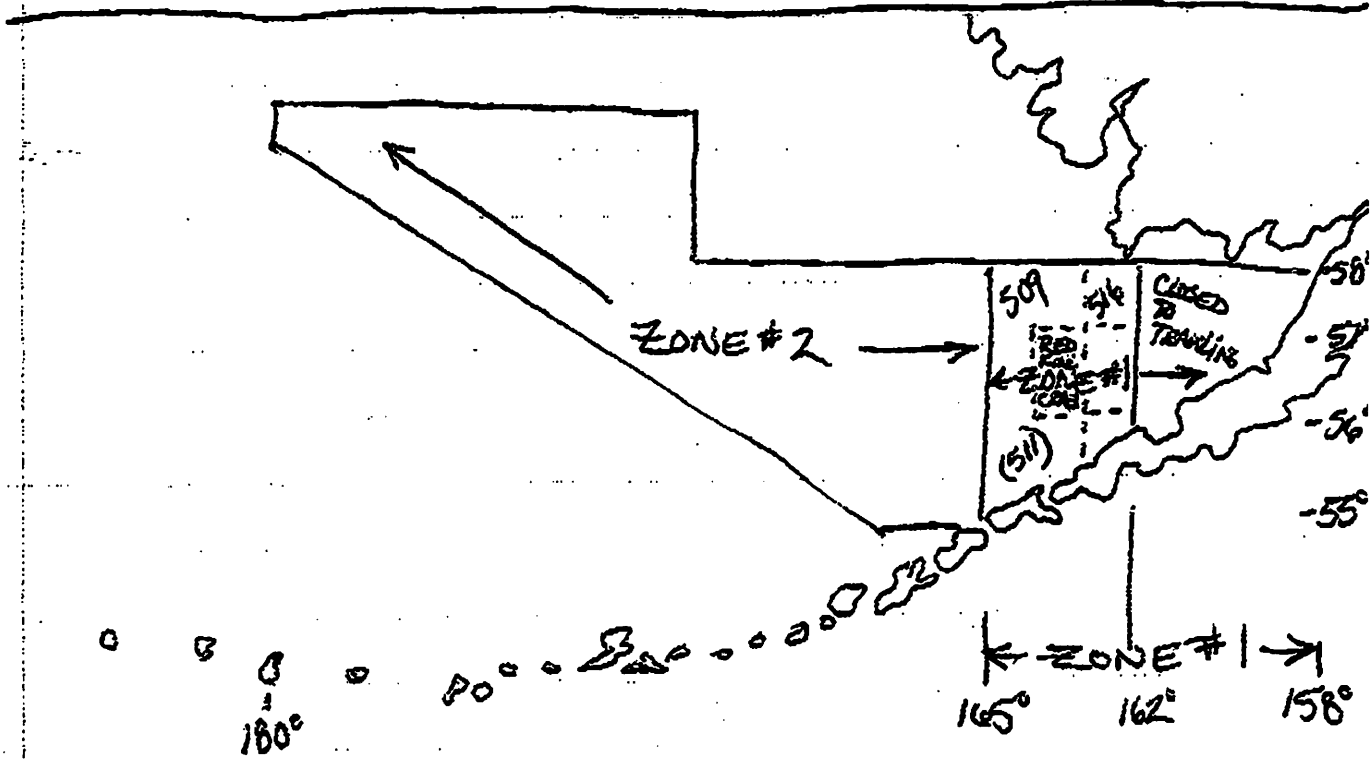
ZONE # 2 GOES FROM  $165^{\circ} \text{W}$  TO  $180^{\circ} \text{W}$ ; 420 KM AND FROM  $55^{\circ}$  TO  $58^{\circ}$  TO  $60^{\circ}$ ; 300 KM 126,000 SQ KM.

WITH 3 MILLION BARIDI AND UP TO 15,000,000 MILLION OPILO CURRENT BYCATCH REDUCTIONS HAVE REDUCED THESE CRAB CAPS DOWN TO PERCENTAGES OF THE BIOMASS, WHICH SHOULD BE DIVIDED EQUALLY INTO THESE NEW AREAS.

PROPOSAL DIVIDE ZONE # 2 INTO FOUR AREAS FOR SPREADING OUT CRAB BYCATCH AND FISHING EFFORT.

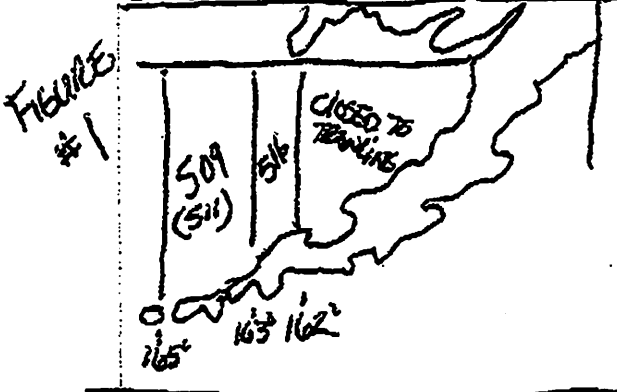
1.  $55^{\circ}$  TO  $58^{\circ}$  -  $165^{\circ}$  TO  $167^{\circ}$
2.  $55^{\circ}$  TO  $58^{\circ}$  -  $167^{\circ}$  TO  $170^{\circ}$
3.  $55^{\circ}$  TO  $60^{\circ}$  -  $170^{\circ}$  TO  $173^{\circ}$
4.  $55^{\circ}$  TO  $60^{\circ}$  -  $173^{\circ}$  TO  $180^{\circ}$

SEE FIGURE # 3 (NOT RECEIVED - WILL BE AVAILABLE LATER)

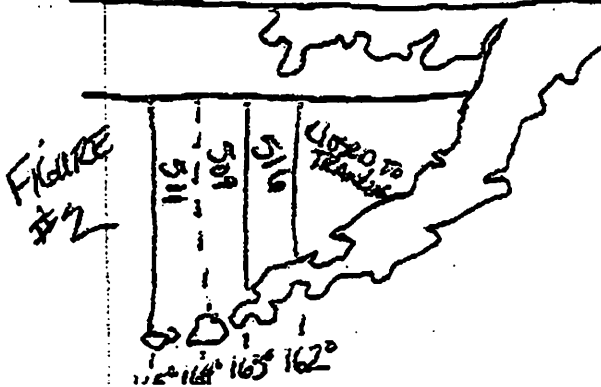


ZONE # 1 GOES FROM 158° TO 165°; 210 KM, TO 55° TO 58°; 180 KM; ROUGHLY 20,000 SQ KM.

PROPOSAL: ZONE # 1 HAS TWO STATISTICAL AREAS ALREADY 516 AND 509. SEE FIGURE # 1. ESTABLISH A THIRD AREA



BY DIVIDING 509 IN HALF. A LINE DOWN LONGITUDE 164° FROM 58° TO 55° SEE FIGURE # 2. THEN DIVIDING CURRENT RED KING CRAB AND BANIDI BYCATCH INTO THESE THREE AREAS. BANIDI HAS HISTORICALLY BEEN AT 1. MILLION CRAB FOR ZONE # 1 NOW IT WOULD BE 333,333 CRAB FOR EACH AREA. CURRENT PSC UNITS WOULD CHANGE EACH YEAR AS BIOMASS FLUCTUATES



**GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

**DAVID HILLSTRAND  
BOX 1500  
HOMER, ALASKA 99603  
(907) 235-8706**

**Date: 6/16/97**

**Chairman Richard Lauder**

**C-9 Magnuson-Stevens Act Provisions:**

**(c). Essential Fish Habitat: Progress report/initiate analysis**

**Brief Statement of Proposal:**

- 1. We request an analysis on an area closure in the Bristol Bay/Bering Sea for Tanner crab; Baridi, to trawling on the bottom, and to Scallop dredging.**
- 2. Identify areas with Baridi crab bycatch of 50, 100 and 200 crab per tow.**

**Objectives of Proposal:**

- 1. To rebuild the collapsed Baridi stocks in the BB/BS. To create essential crab habitat areas for the recovery, and future recruitment of crab.**

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

- 1. The Baridi fisheries is collapsing with no recruitment in sight.**
- 2. Essential areas have been closed for other crab species such as in the Pribilof Islands for Red and Blue King crab; and in the Bristol Bay Red King crab fisheries, to rebuild these fisheries.**
- 3. It is appropriate to see an analysis request put in place under the mandate from the new revision of the Magnuson act being submitted to Congress; because area closures can be identified from areas of high crab bycatch; from NMFS bycatch gathering data in place already.**



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

1. The study will show the savings in bycatch reduction of Baridi and the economic loss to trawling and Scallop dredging in economic analysis.

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

1. Area closures are our conclusion to the rebuilding of the Baridi fisheries along with reduced exploitation rates. They will instantly reduce crab bycatch by identifying areas of high crab bycatch. Along with preserving essential habitat for Baridi by showing the areas where they live in the BB/BS.

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

1. The NPFMC has already done analysis on area closures for other crab species. The analysis showed areas of high crab bycatch; which were closed.

2. NMFS Observer data gathering is ready to study and identify areas of high Baridi bycatch.

2. This action is appropriate to consider with the mandate from Congress.

3. Area closures are within the NPFMC ability to accomplish.

**Signature: David Hillstrand**

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer:

Date: 8/12/97

YUKON RIVER DRAINAGE FISHERIES ASSOCIATION

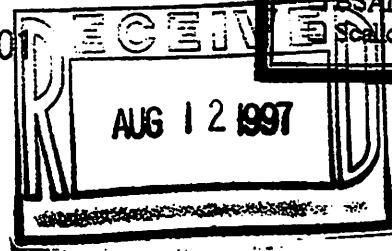
Address:

733 W. 4TH AVE, #881 ANCHORAGE, AK 99501

Telephone:

1-800-328-9437

Fishery Management Plan:



**BSAI GROUND FISH**

**Brief Statement of Proposal:**

LOWER THE CHINOOK BYCATCH TRIGGER OF 48,000 FISH TO 36,000 OR LESS WITH AN OVERALL A SEASON PSC LIMIT OF 48,000.

ESTABLISH CHINOOK BYCATCH TRIGGER CLOSURES AND SAVINGS AREA FOR THE B SEASON AS WELL AS A B SEASON PSC LIMIT OF X,000 FISH.

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

CURRENT 48,000 KING BYCATCH TRIGGER IS SO HIGH AS TO BE MEANINGLESS. HIGH 1996 BYCATCH OF KINGS IN SEPT. & OCT. MUST NOT BE REPEATED.

**OVERALL PSC CAPS/LIMITS ARE ALSO NECESSARY**

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

SALMON RESEARCH FOUNDATION IS DISSOLVING FOR VARIOUS REASONS. NO OTHER MECHANISMS AVAILABLE TO REDUCE BYCATCH

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

COMMERCIAL, SUBSISTENCE AND RECREATIONAL USERS OF CHINOOK STOCKS AS WELL AS ADF&G MANAGERS AND US/CANADA YUKON TREATY PROCESS WILL BENEFIT. TRAWL INDUSTRY WILL HAVE TO ADJUST ITS FISHING PRACTICES.

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

NONE FORESEEN, HOWEVER WE ARE WILLING TO WORK WITH TRAWL INDUSTRY (AS WE DID AS PART OF S.R. FOUNDATION) TO CRAFT A PROPOSAL THAT WILL LOWER CHINOOK BYCATCH BUT STILL ENABLE INDUSTRY TO CATCH THEIR TARGET SPECIES.

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

NMFS/AKR: BSAI FISHERY STATISTICS, BYCATCH BY TARGET FISHERY

Signature: AND WEEK

DAN SENECAL-ALBRECHT, EXECUTIVE DIRECTOR

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

**Please check applicable box(es):**

- |   |  |
|---|--|
| <input type="checkbox"/> IFQ Program                  | <input checked="" type="checkbox"/> GOA Groundfish FMP |
| <input checked="" type="checkbox"/> Bycatch Reduction | <input type="checkbox"/> BSAI Crab FMP                 |
| <input checked="" type="checkbox"/> BSAI Groundfish   | <input type="checkbox"/> FMP Scallop FMP               |

**Name of Proposer:**

United Catcher Boats

**Date:**

August 15, 1997

**Address:**

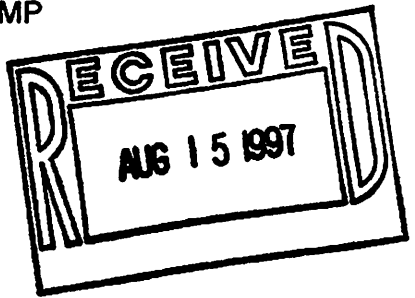
1711 W. Nickerson, Suite B, Seattle, WA 98119

**Telephone:**

206/282-2599

**Fishery Management Plan:**

Bering Sea and Gulf of Alaska Groundfish FMPs



**Brief Statement of Proposal:**

1. Re-evaluate the methods in estimating the mortality of discarded trawl caught halibut;
2. Establish regulations for handling techniques for quick release of trawl-caught halibut; and,
3. Develop clear instructions and guidelines for on-board observers to employ in determining halibut PSC mortality in the Bering Sea trawl fisheries.

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

1. The problem is that present methods for estimating halibut mortality in the Bering Sea trawl fisheries are erroneous and result in halibut mortality being over-estimated. The best scientific information suggests that the current mortality rates assigned to the BSAI and GOA trawl fisheries are not accurate.

Secondly, present regulations that require halibut to remain on-board a vessel prior to observer action results in higher mortality. The objectives of this proposal are to develop methods of accurately estimating mortality of trawl-caught halibut and then to accurately assign mortality rates to the fleet. This will greatly contribute to the sustainability of the halibut resource by reducing halibut mortality in the trawl fisheries as well as assign accurate mortality rates of PSC halibut in the Bering Sea trawl fisheries.

2. Re-analyze the Grid Sorting Amendment. Current regulations require halibut to go down into the bins below deck so observers can account for halibut taken in the trawl fisheries. The result is higher mortality rates and more dead halibut. Halibut mortality with grid sorting is significantly less due to the fish returning to the water as quickly as possible.

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

PSC mortality rates are currently established by the NMFS Regional Director with input from the Council. The IPHC generally provides their advise to the RD in the setting of halibut mortality rates in the Bering Sea trawl fisheries. The need for such an action is found in the current inaccurate accounting procedures and also present NMFS requirements of retaining halibut until enumerated by an observer.

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

A reduction in halibut mortality is a savings to the trawl fleet and the directed setline fleet due to a reduction in halibut taken in the trawl fisheries. More halibut will be available to the setline fishery because mortality estimates of discarded halibut are a factor in determining the guideline harvests of the directed fishery. This also allows for the trawl fishery to harvest greater amounts of its directed catch. The halibut resource benefits because of greater accuracy of fishing mortality.

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

No.

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

Practical Applications of Fishing and Handling Techniques in Estimating the Mortality of Discarded Trawl-Caught Halibut, By Dr. Pikitch et al, University of Washington Fisheries Research Institute; for the Alaska Fisheries Development Foundation; February 25, 1997

EA/RIR Analysis of Grid Sorting Proposal, NPFMC, 1995

Various IPHC documents

**Signature:**



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

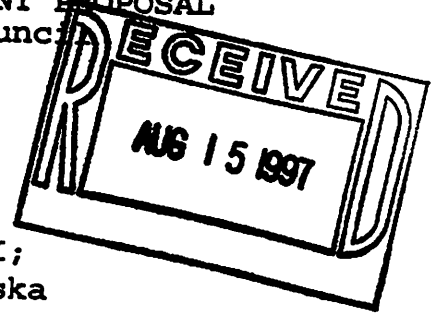
**Date:** August 15, 1997

**Name of Proposer:** United Catcher Boats

**Address:** 1711 W. Nickerson, Suite B, Seattle, WA 98119

**Telephone:** 206/282-2599

**FMP:** Groundfish Fishery of the BSAI;  
 Groundfish of the Gulf of Alaska



**Brief Statement of Proposal:** This amendment proposal would allow NMFS to close fisheries on 24 hours notice by announcing the closure through standard, specified means, such as the NMFS electronic BBS, internet homepage, telephone hotline, etc., if advance filing in the Federal Register was not possible. A closure notice would be filed in the Federal Register as soon as practicable after the closure date.

**Objectives of Proposal:** Regulations now require NMFS to file a notice of closure in the Federal Register, which cannot occur on weekend days or holidays. The four hour time difference between Alaska and Washington D.C., where the Office of the Federal Register (OFR) is located, exacerbates the problem. NMFS must make projections of fishery closure in advance, and frequently cannot wait until the most current weekly data are available to make a more accurate closure decision, simply due to the exigencies of the Federal Register schedule. The increased number and short duration of many fisheries, as well as the advent of daily electronic reporting, make it critical that NMFS be able to close fisheries on short notice, using very current data.

**Need and Justification for Council Action:** A plan amendment is needed to change the requirement for advance Federal Register filing of closure notices. Council and industry support of closure announcements through specified distribution channels is also important.

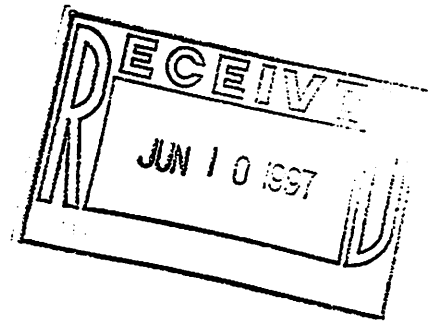
**Foreseeable Impacts of Proposal:** Benefits include improved precision in fishery closure dates, fewer underages and subsequent reopenings, and fewer overages. Enforcement of a closure announced through standard means, but not yet filed with the OFR, may be more difficult, if NMFS must prove actual notice to the industry. However, the high level of compliance with fishery closures at the present time, which are announced by news release and distributed electronically and by fax, indicates the effectiveness of those notification means in the North Pacific groundfish fishery.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?:**  
The status quo is not acceptable, and the problems will increase as electronic reporting and increased daily monitoring make timely data available on a continuous basis throughout the course of a fishery. The current system has two undesirable consequences. First, if NMFS projects fishery closures on a short, fast paced fishery, an underage frequently occurs, resulting in lost revenue to the industry and the need to reopen the fishery for an even shorter duration. Second, if NMFS determines on Friday that a fishery should close Saturday, Sunday, or Monday (of a holiday weekend) the fishery cannot be closed until the next working day when the OFR is open, resulting in a quota overrun. No other alternatives to the proposed amendment have been identified.

**Supportive Data & Other Information:** NMFS has fishery catch and closure information, and information about procedures and limitations of closure notice filing. Precedence exists for the proposed approach of notifying the public of fishery closures in regulations governing the Pacific Coast salmon and groundfish fisheries.

Signature: 

June 10, 1997



Mr. Richard B. Lauber, Chairman  
North Pacific Fisheries Management Council  
605 West 4th Avenue Suite 306  
Anchorage, AK 99501

BY FAX: 907-271-2817

Dear Mr. Lauber,

I am a Washington resident that owns and operates, part time, a 58 foot Trawl vessel operating out of Sand Point, Alaska. We have fished Cod and Pollack since 1990. What we experience when ever there is a Gulf opening, that does not coincide with a Bering Sea opening, is an influx of large boats from the Bering Sea. These boats severely diminish our time and quota for Pollack. I do not support any more laws or restrictions, but I do support Gulf and Bering Sea openings that will mirror each other.

There is no advantage to having a June opening if we could harvest that same quota in September. I understand the quarterly quota in the Gulf addresses the sea lion issue. What is the difference between the Gulf and the Bering Sea where there is an A-B season in place? If the Bering Sea and the Gulf opened at the same time, I believe most of our concerns would be addressed.

Thank you for your time.

Sincerely,

John T. Evich  
F/V Karen Evich  
2051 North Shore Rd.  
Bellingham, WA 98226  
FAX (360) 671-4681

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**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Please check applicable box(es)

- IFQ Program  
 Bycatch Reduction  
 BSAI Groundfish FMP  
 GOA Groundfish FMP  
 BSAI Crab FMP  
 Scallop FMP

Name of Proposer: Groundfish Forum

Date: 8/15/97

Address: 4215 21st Ave West Suite 201, Seattle, WA 98199

Telephone: 206 301-9504

Fishery Management Plan: BS/AI Groundfish (Council could include GOA Groundfish)

**Brief Statement of Proposal: Program to control trawl effort via Species Endorsements**

Existing fishery participants are greatly impacted when vessels with larger catching or processing power enter fisheries in which they have not previously participated and catch significant quantities of fish in a short period of time. Large vessels move into non-traditional fisheries for many reasons (decrease in the TAC for their normal target species, improvements in processing equipment or new product forms, need for additional fishing days). These shifts in effort can preempt current fishery participants who depend upon a reasonable opportunity to fish. Those impacted vessels may try to make up lost revenues in other fisheries and this creates a chain reaction of "spill over" effects.

Effort shifts are already occurring with increased frequency in the fisheries of the North Pacific. An unprecedented wave of effort shifts will be set into motion if the BS/AI pollock TAC decreases significantly. Large effort shifts mean increases in effort in fully capitalized fisheries, creating several undesirable effects such as poor utilization of target catch or bycatch caps, and TAC and PSC overages. Measures to prevent large influxes in effort would help to avoid these undesirable effects on utilization and bycatch. The species endorsement system described in this proposal provides an outline for the Council to create a measure of protection from effort shifts and associated negative effects on the fishery.

**Proposed Amendment to Current LLP System: Species Endorsements:**

Create an effective species endorsement system and amend it to the License Limitation Program (LLP effective in 1998).

Examples of Potential Options:

**Trawl or fixed gear licenses:**

1. Amend LLP to include a "trawl" or "fixed gear" designation for existing LLP area-specific licenses
2. Amend LLP to include gear-specific designations for existing LLP area-specific licenses (trawl, longline, pot, etc.)

**Qualification Criteria:** For a given target species or target species group, vessels are granted species endorsements to reflect current and historic participation as well as economic dependence.



**Note: The species endorsement system should not exempt vessels from IR/IU requirements. Vessels are required to retain bycatches of IR/IU species (up to the required percentages) even if they do not possess a species endorsement for those species.**

**Options:**

1. Endorsements are granted to vessels for target species or target species groups that make up a percentage of the vessel's catch during the qualifying period. To receive a species endorsement (or endorsement for a group of species), X percent of the vessel's overall catch during a qualifying period must be comprised of that species or group of species (see qualifying period below).
2. All trawl vessels are required to have species endorsements.
3. Trawl catcher vessels under 125 ft are not required to have species endorsements to target species or species groups in BS/AI or GOA
4. Trawl catcher vessels under 125 ft are not required to have species endorsements to fish in BS/AI and/or GOA (assuming GOA included in Species Endorsement Plan)

**Qualification Period:**

The Council should establish this to reflect current and historical participation and economic dependence on species or groups of species. A year or suite of years could be used. The qualification period must be a period of time prior to August of 1997. It is believed that any system that would have a qualification period based on future catches would create incentives for effort shifts and speculative landings which would aggravate the current situation.

**Disposition of Species Endorsements:**

1. Tradable
2. Non-tradable

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

Shifts in effort between trawl fisheries can create devastating economic effects on existing fishery participants who depend on reasonable fishing opportunities. Effort shifts that occur under the current management system create several undesirable effects such as poor utilization of bycatch caps as well as TAC and PSC overages. Effort shifts can reduce yields from fisheries because in-season management is forced to employ extra-conservative estimation and extrapolation techniques to ensure that TACs are not exceeded. The brief openings and reopening that in-season management is forced to use cause efficiency losses for participants who must guess how long fisheries will last and when they will be reopened.

The NPFMC recognizes that the trawl fisheries are overcapitalized. Recently, effort from pollock factory trawlers has increased in non-pollock fisheries such as yellowfin sole and especially Atka mackerel. In the case of Atka mackerel, just four pollock factory trawlers garnered 40% of the Central Aleutians Atka mackerel quota in about two weeks during 1997.

H&G fishermen and the catcher vessel sector in the Gulf of Alaska have already been impacted by this expansion of pollock factory trawlers. Related ripple effects are created by H&G vessels

shifting effort in response to the expanded fishing patterns of pollock factory trawlers. Measures need to be developed to control this situation before the problem increases dramatically. A Species Endorsement system needs to be in place when and if the BS/AI pollock TAC decreases as a result of a temporary downturn in the pollock biomass. The requirements of the pollock fleet for raw fish could easily overwhelm other groundfish fisheries.

The objective of this proposal is to develop a more comprehensive system to control effort shifts and spill over effects than the "band aid" approaches that are currently in place. Existing measures, such as "stand down" regulations, will be ineffectual if the pollock TAC decreases significantly because the cost of waiting a week or ten days before starting to fish will be small compared to the need for additional revenues.

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

The current system offers little or no effective protection from the negative effects of effort shifts. A system needs to be in place to regulate the amount of effort flowing into groundfish fisheries so fisheries are easier to manage on an in-season basis. Benefits from spreading effort between target fisheries are: longer seasons and more efficient allocation of capital assets between target fisheries, more productive utilization of bycatch caps, and increased stability in the industry. In this way, the industry's investment in the future of the fishery can be undertaken more rationally and all sectors are treated fairly.

The proposed License limitation plan scheduled to become effective next year is not species or target-specific. License Limitation grants licenses by "catcher vessel" or "catcher processor" designations, and a processor or catcher designation can be used on either type of vessel. This leaves open an avenue for increasing trawl effort through, for example, the purchase of one of the relatively abundant inactive longline CP licenses which can be used on a trawl vessel of equal length that is brought into the North Pacific fishery. For this reason, License Limitation alone does little or nothing to prevent increases in effort and effort shifts that frequently occur in overcapitalized fisheries.

ITQs might have been effective at controlling spill over effects but they will not be allowed for the next three years. It is not even known if ITQs would prove effective in multi-species trawl fisheries such as flatfish. Existing measures such as "stand downs" between trawl fisheries are already insufficient for controlling effort and these measures will be grossly inadequate if a decrease in pollock TAC occurs. If the Council does not take action now to develop some protection from spill over effects, a great deal of the Council's future time and energy will be consumed developing "band aid" fixes that attempt to resolve problems from effort spillovers.

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

1. Effort shifts will be more controlled and predictable, thus existing participants will have at least some protection in their core fisheries.
2. Effort will be spread more evenly between fisheries and participants can be more easily identified.

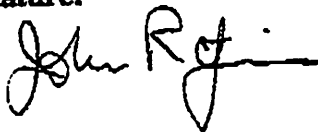
3. In-season management will be able to manage TACs and PSC caps more effectively because fisheries will not be dramatically affected by large effort increases and swings.
4. Bycatch caps and TACs will be utilized more effectively and wisely because the chaos that currently dominates many fisheries will be reduced. Some of the incentives to "race to fish" that currently exist will decrease because the incentive to fish faster is, in part, attributable to the fear that more boats will enter the fishery in the near future.

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

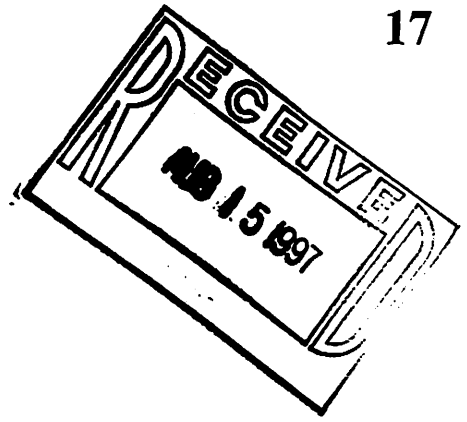
As explained before, IFQs are not possible for at least 3 years, and stand downs are "band aids" that cannot offer protection when there are large incentives for effort shifts. The proposed LLP is offers no real protection from effort shifts and may allow for increases in overall effort.

**Supportive Data & Other Information: What data are available and where can they be found?**  
NMFS Data on increasing percentage of TACs going to pollock catcher/processors in yellowfin sole and Atka mackerel. NMFS check in report to evaluate shifts in target species for large vessels and effort patterns within existing fisheries. NPFMC's problem statements and rationale for creating the LLP system. The EA/RIR analysis for LLP, where the analysis demonstrates that effort is not effectively limited by LLP.

**Signature:**



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**



**Please check applicable box(es):**

<input type="checkbox"/>	IFQ Program	<input checked="" type="checkbox"/>	GOA Groundfish FMP
<input checked="" type="checkbox"/>	Bycatch Reduction	<input type="checkbox"/>	BSAI Crab FMP
<input checked="" type="checkbox"/>	BSAI Groundfish	<input type="checkbox"/>	FMP Scallop FMP

**Name of Proposer:**

dave fraser

**Address:**

PO. Box 771 Pt. Townsend WA, 98368

**Telephone:**

360-385-6248

**Fisheries Management Plan:**

BSAI/GOA Groundfish & Crab

**Brief Statement of Proposal:**

Amend the LLP to disallow the use of trawl gear by any vessel which had not made landings of trawl caught fish before June 17th 1995.

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

The LLP does not provide for gear endorsements. Any fixed gear vessel can upgrade to trawl gear. This represents a huge potential capacity increase. LLP also liberalized the crossover provision of the Moratorium which was gear specific and opened up a new vector of capitalization. Bycatch problems in the trawl fisheries are exacerbated by the race for fish and the crowding of the grounds. More effort in the trawl fisheries will make bycatch problems more difficult to resolve.

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

The council considered a motion to do so in the final hours of the LLP debate, but the motion was withdrawn due to lack of analysis of the option.

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

Winners include those who want to limit capacity increases and control bycatch levels

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

Individual Bycatch Quotas allocated on the basis of past participation in the trawl fishery would be a solutions that would have the effect of limiting further entry into the trawl fishery. However, it is unclear how expeditiously such a program will be adopted.

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

Past analysis of LLP and Individual Bycatch Quota proposals.

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Please check applicable box(es):**

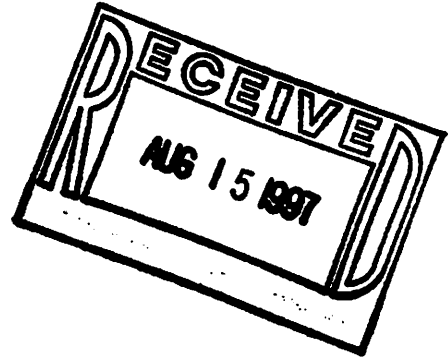
IFQ Program                       GOA Groundfish FMP  
 Bycatch Reduction             BSAI Crab FMP  
 BSAI Groundfish                 FMP Scallop FMP

**Name of Proposer:** dave fraser

**Address:** PO Box 771 Pt. Townsend WA, 98368

**Telephone:** 360-385-6248

**Fisheries Management Plan:**  
 BSAI/GOA Groundfish



**Brief Statement of Proposal:**

Amend the LLP to allow use of MW trawl gear in the EGOA east of 140 degrees.

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

Because a bottom trawl only restriction was never considered by the council during the LLP analysis, OY will not be achieved for species such as POP, O-Rock, and the off shore component of Pelagic Rock if the Secretary of Commerce approves the all trawl ban portion of Amendment 39.

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

The problem could be solved if the Secretary disapproves the the trawl ban portion of Amendment 39.

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

There are no losers by allowing MW trawl for these species. There are no bottom impacts on benthic habitat. There is no significant bycatch of Shortraker, Roughey, Thornyheads or Halibut which might concern competing fixed gear users.

The winners are those trawlers who would be able to harvest some of the species they have depended upon fishing in the EGOA in the past.

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

No, unless the Secretary disapproves the the trawl ban portion of Amendment 39.

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

Observer data from vessels fishing the EGOA this year shows that Pelagic gear can be used effectively for these species without bycatch problems.

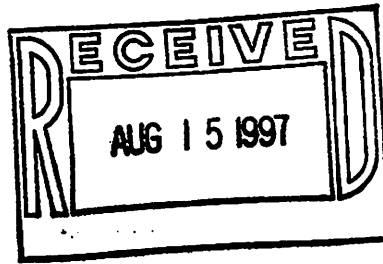
**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Please check applicable box(es):**

- IFQ Program                       GOA Groundfish FMP
- Bycatch Reduction             BSAI Crab FMP
- BSAI Groundfish                 FMP Scallop FMP

**Name of Proposer:**

dave fraser



**Address:**

PO. Box 771 Pt. Townsend WA, 98368

**Telephone:**

360-385-6248

**Fisheries Management Plan:**

BSAI/GOA Groundfish & Crab

**Brief Statement of Proposal:**

Begin analysis of a Comprehensive ITQ program for groundfish and crab, to be ready to have a complete program to submit to the SOC at the end of the congressional moratorium on ITQs.

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

The LLP does allow for thousands of licenses beyond what actually participate in the fishery. This represents a huge potential capacity increase. Bycatch problems in the fisheries are exacerbated by the race for fish and the crowding of the grounds. More effort in the fisheries will make bycatch problems more difficult to resolve.

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

The EA/RIR for Amendment 39 made it clear that the underlying problem was overcapitalization and almost none of the other 14 facets of the problem can be addressed effectively by LLP. LLP was to be a 1st step. ITQs were according to the analysis, the alternative most likely to address the root problem. Its time to move on with the councils commitment to the next step.

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

Winners include those who want to limit capacity increases and control bycatch levels

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

No.

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

Past analysis of LLP, CRP, and Individual Bycatch Quota proposals.

Dave Fraser

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Please check applicable box(es):**

IFQ Program                       GOA Groundfish FMP  
 Bycatch Reduction             BSAI Crab FMP  
 BSAI Groundfish                 FMP Scallop FMP

**Name of Proposer:**

dave fraser

**Address:** PO. Box 771 Pt. Townsend WA, 98368

**Telephone:** 360-385-6248

**Fisheries Management Plan:**  
 BSAI/GOA Groundfish & Crab



**Brief Statement of Proposal:**

Extend the current Moratorium for an additional 3 years.

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

The moratorium will expire after 1998, and the LLP plan which the council adopted has serious deficiencies which may result in it's being sent back to the council.

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

It is important that there be some constraint on open access to the fishery until a program that really addresses overcapitalization is developed by the council and approved by the Secretary.

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

Those who fail to qualify for the Moratorium lose. Those who don't want a new wave of entry in overcapitalized fisheries win.

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

The Secretary of Commerce could do a partial approval of the GQP portion LLP program and return it to the council for the development of a of a point system for measuring dependency that would truly limit entry in a fair and equitable way, while actually dealing with overcapacity.

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

The record for LLP is an additional data source.

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Please check applicable box(es):**

IFQ Program                       GOA Groundfish FMP  
 Bycatch Reduction             BSAI Crab FMP  
 BSAI Groundfish                 FMP Scallop FMP

**Name of Proposer:**

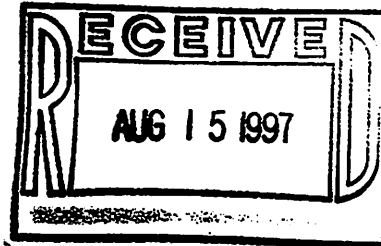
dave fraser

**Address:**

PO Box 771 Pt. Townsend WA, 98368

**Telephone:**

360-385-6248



**Fisheries Management Plan:**

BSAI/GOA Groundfish

**Brief Statement of Proposal:**

Adopt a requirement for registration, check-in, and daily reporting for fisheries which meet certain criteria, which would prohibit retaining a plurality or majority of a species or species group for which a vessel has not registered. (See attached sheet for details.)

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

To allow better real time quota monitoring by NMFS, and timely extensions of fishing seasons when premature closures are announced. (During the 97 Aluetian Pollock fishery there were 4 openings due in large measure to NMFS uncertainty about effort)

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

Under the current system NMFS has no way of knowing how much effort will be deployed in a given fishery before it opens, thus it must project 'worst case' scenarios which in turn results in premature closures. The flip side of this problem is that there have been quota over-runs as well.

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

The fleet as a whole will be winners in that quotas will be more fully harvested and the costs of re-crewing for a mop-up opening will be avoided. Individual vessels have in the past benefited by being in the area at the time of a late re-opening, in which they have reaped the benefit of reduced competition for the balance of a quota. These vessels would lose, however, no one can be sure of reaping these 'windfall' benefits.

There will be increased reporting costs, however, in many fisheries the fleet has all ready undertaken daily reporting on a private basis.

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



ITQs would make this problem moot, along with many other symptoms of open access management. While this has been widely recognized, and is supported by extensive background work by council staff and others, as the optimal approach to the overall problem of the 'tragedy of the commons', various political realities make near term adoption of this solution unlikely.

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

A review of catch data and fishery closure information is available at the NMFS-AK WWW-site.

**Further Details of the Proposal:**

This proposal would require pre-registration , check-in, and daily reporting for fisheries which meet certain criteria. It also provides for timely re-openings when pre-mature closures occur and feedback of real time fishery status information to the fleet.

*Criteria*

These criteria would be related to NMFS's estimate of the duration of the fishery under conditions of maximum projected effort. A fishery would be defined by area, based either on a TAC category or a PSC category. (i.e.: The rockfish fishery in the AI area might close based on the attainment of its halibut PSC, or the POP component might close based on its TAC.) The proposal would also give NMFS the authority to require daily reporting of catch for all vessels including catcher vessels at the point in the fishery the RD believes such reporting is necessary to close on target.

If NMFS estimates a fishery would have a duration of less than two weeks, it would announce at least ten days prior to the opening that pre-registration would be required. The requirement to register and do daily reports would also apply in-season to fisheries for which NMFS estimates that less than two weeks remain.

*Registration*

Vessels would be required to pre-register for such a fishery at least 48 hours in advance of checking into such a fishery and to give an intended check-in date/time.

For fisheries for which NMFS determines in-season that less than two weeks remain, vessels would have 72 hours to register to remain in the fishery upon such an announcement by NMFS.

*Check-In*

A vessel would further be required to check-in to the fishery before commencing fishing. The act of checking into a fishery would define the beginning of a new trip.

A vessel not registered for a fishery would not be allowed to retain a plurality of the species or species group which defines that fishery. (The point here is not to prohibit retention of amounts greater than the DFS - i.e.: 20% for P Cod - and thus create a conflict with IR/U, but to prevent vessels from having such a species or species group be its primary target without registering.)

A vessel need not check-in to a fishery for which it has pre-registered. However, it would not be allowed to fish in any other groundfish fishery for 48 hours after de-registering, unless such de-registration occurred 48 hours prior to its declared intended check-in date/time.

Example: Assume POP in the AI is opening July 1st at 1200hrs, a vessel would need to register on or before June 29th at 1200hrs, for a July 1 check-in. Assume the vessel was participating in a YFS fishery, and had pre-registered on June 27th, then decided for some reason not to switch fisheries. The vessel could continue fishing YFS uninterrupted as long as it de-registered by June 29th. If the vessel made the decision on July 1st not to enter the POP fishery, and de-registered at that point, there would be a 48 hour period during which it could not participate in any groundfish fishery.

The intent of this provision is to prevent speculative registration for fisheries which would undermine the utility of this mechanism to NMFS for predicting effort.

### *Reporting*

Reporting requirements for catcher processors would be the same as they are now, or as they may be modified by the pending requirements for electronic reporting, except that the requirement would be daily rather than weekly. Catcher vessels would be required to send estimated catch data based on their daily logbook via a designated reporting agent ( i.e.: a processor or home office, allowing vessels without Sat-Com capabilities to report catch data by radio to be forwarded to NMFS.) Catcher vessels in a fishery to which is defined based on a PSC category, and which are carrying an observer, could also be required to relay relevant observer data on PSC rates.

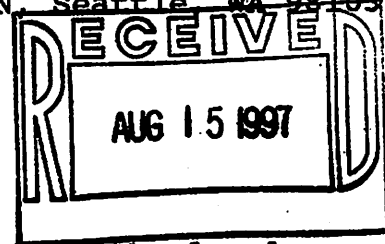
### *Re-Openings and Reports to the Fleet*

Additionally, NMFS would be required to process such reports within 36 hours of the close of a fishery and announce a re-opening (if appropriate) within 48 hours of the closure.

NMFS would be required to make announcements of in-season registration requirements on a scheduled broadcast on 4125 SSB from its Dutch Harbour and Kodiak offices, and by 'fleet-net' Sat-Com transmission. NMFS would also be required to provide timely status reports on the progress of fisheries to which these requirements apply by the same means.

**GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Plan**

**Name of Proposer:** Greenpeace  
**Address:** 4649 Sunnyside Ave N, Seattle, WA 98103  
**Telephone:** (206) 632-4326



**Fisheries Management Plan:**  
 BSAI Groundfish

**Brief statement of Proposal:**

Implement management measures to ensure that the local exploitation rate for Atka Mackerel does not exceed 10-15%.

**Objectives of Proposal:**

Given that the 1996 Biological Opinions for BSAI and GOA admitted that currently "management measures cannot ensure that the amount of food available to sea lions will not be diminished by fishing", this proposal would serve to eliminate the potential for fishery-induced negative impacts on Steller sea lion populations by reducing localized depletions of Atka Mackerel, a major sea lion prey source in the Aleutian Islands.

**Justification for Council Action:**

The Council manages the Atka Mackerel Fishery and is charged with maintaining viable stocks, which is essential to the fishery and to marine predators on mackerel.

**Foreseeable Impacts of Proposal:**

The Atka Mackerel fishery is concentrated in the Sequam Pass area, this amendment would spread fishing effort into other areas, which would alleviate pressure on local mackerel stocks and reduce some fishery-induced pressure to sea lions in the Sequam Critical Habitat Foraging Area. Micromanagement of the atka mackerel fishery would allow for exploitation rates based on local abundance, so that exploitation levels do not exceed local biomass levels.

**Possible Alternative Solutions:**

Redistribute the Atka Mackerel fishery to utilize other areas and reduce the pressure on the Sequam Pass Stock by reducing TAC.

**Supportive Data and Other Information:**

Recent analysis of CPUE data from the western GOA/Aleutian Atka Mackerel fishery indicates that concentrated fishing on localized schools of fish can indeed cause depletion of the local prey base. Although the overall allowable exploitation rate is set at 10-15%, since effort is concentrated in one area, the localized exploitation rate based on CPUE for Atka Mackerel is actually 55-91%. (Do Trawl Fisheries off Alaska Create Localized Depletions of Atka Mackerel, Pleurogrammus monopterygius? L.W. Fritz. 1997. NMFS, AFSC).

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**GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Plan**

**Name of Proposer:** Greenpeace  
**Address:** 4649 Sunnyside Ave N, Seattle, WA 98103  
**Telephone:** (206) 632-4326

**Fisheries Management Plan:**  
BSAI Groundfish

**Brief statement of Proposal:**

Restrict factory trawlers from the Catcher Vessel Operational Area (CVOA) during the "A" Season and prohibit displaced trawlers from moving to other areas of critical habitat outside the CVOA.

**Objectives of Proposal:**

The CVOA (163 W-168 W) extensively overlaps the at-sea Critical Foraging Habitat area (164 W-170 W) of endangered Steller sea lions in the southeastern Bering Sea, and restricting factory trawling in this area during winter would alleviate fishery-induced pressure from prey removals on foraging sea lions, aiding their overwinter foraging success and survival.

**Justification for Council Action:**

The Council created the CVOA under Amendment 18 to the BSAI FMP 1992 and is charged with managing fisheries in this area.

**Foreseeable Impacts of Proposal:**

A small percentage of the total pollock fleet would be displaced by this restriction, but the removal of large factory trawlers would help to disperse the concentration of fishing effort occurring in this area. Shorebased trawlers would benefit from not having to compete with the larger capacity of the factory trawlers. Foraging sea lions would benefit from reduced competition with the fisheries for a crucial nutritional prey item. Pollock recruitment would benefit from decreased pressure on spawning stocks.

**Possible Alternative Solutions:**

Reduce the amount of TAC allocated to the Roe season for pollock from 45% to 25%, which would decrease fishery removals from the spawning stock and reduce the concentration of fishing effort in the CVOA.

**Supportive Data and Other Information:**

Pollock removals in the critical habitat areas of the southeastern Bering Sea and AI (much of which is overlapped by the CVOA) have increased dramatically since the late 1970s from an average of 200,000 mt to over 800,000 mt in the mid-1990s. Catch in critical habitat has occurred increasingly in the winter and on spawning pollock. 45% of the BSAI TAC, about 500,000 mt, is taken in the first quarter of the year much of it in Steller Critical Habitat in the southeastern Bering Sea where sea lions were most abundant and where they have suffered a more than 90% decline since the early 1970s.

**PAGE 2:proposal to restrict factory trawlers from CVOA**

The importance of spawning pollock to foraging sea lions was reported by NMFS scientists back in 1990 in a February Memo from Howard Braham to Joe Terry:

"Our research indicates that the recent declines in sea lion abundance in Alaska are linked, at least in part, to changes in either the quality or quantity of prey available. We are concerned that walleye pollock roe fisheries may be contributing to these declines for at least the following reasons: 1) these fisheries target on dense aggregations of gravid female Walleye pollock, which for sea lions are easy to catch (because of their concentration) and may be the most nutritional form of pollock. 2) these fisheries occur in the late winter and early spring, a time when pregnant adult, and newly weaned juvenile sea lions would be very vulnerable to nutritional stress.. we must support any proposal which would increase prey for sea lions."

An assessment of the impacts of the CVOA cited "considerable overlap in size distributions of pollock taken by the fishery and those eaten by Steller sea lions" (AFSC Processed Report 95-04, 1995). Studies of the stomach contents of dead sea lions incidentally taken in the large pollock trawl fishery in the Shelikof Strait of the mid-1980s indicated that females and juvenile males were feeding on the same size fish (approx. 39-42 cm average length) during the period of peak concentration during the spawning season (Incidental mortality of northern sea lions in Shelikof Strait, AK. T. Loughlin and R. Nelson, Jr. 1986. Mar. Mam. Sci. 2).

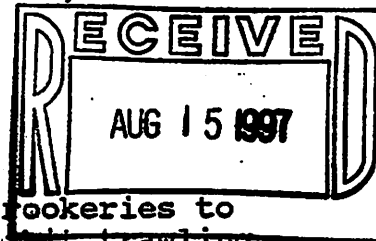
Research indicates that sea lions and the fishery compete directly for pollock and this competition should not be taking place in the critical foraging habitat of an endangered species during a crucial time of year. The 1996 Biological Opinions for the BSAI/GOA note that studies indicate that feeding trips are much more extensive for the declining sea lion population during the winter, which supports the hypothesis that winter is a critical time for Steller sea lion foraging.

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

15 August 1997

Name of Proposer: Greenpeace  
Address: 4649 Sunnyside Ave N, Seattle, WA 98103  
Telephone: (206) 632-4326

Fisheries Management Plan:  
BSAI/GOA Groundfish



**Brief statement of Proposal:**

Extend no-trawl zones around Steller sea lion rookeries to 60 nmi in winter and 20 nmi in summer and prohibit trawling in larger areas around major Steller haulouts to reduce fishing concentration in sea lion Critical Habitat Areas.

**Objectives of Proposal:**

Given that the 1996 Biological Opinions for BSAI and GOA admitted that currently "management measures cannot ensure that the amount of food available to sea lions will not be diminished by fishing", this measure would restrict the removal of sea lion prey by the fishery in major areas where Steller sea lions forage, thus it would reduce the potential for the fishery to diminish the amount of food available to endangered sea lions.

**Justification for Council Action:**

Existing trawl exclusion zones have not reduced fishery removals from Steller sea lion Critical Habitat, in fact, removals have dramatically increased, and sea lion numbers have continued to dwindle. The Council has the authority to regulate fishery removals from sea lion Critical Habitat, and the Steller sea lion is now listed as endangered, therefore this proposal should be implemented for the 1998 "A" Season.

**Foreseeable Impacts of Proposal:**

The proposed amendment would reduce localized depletions of major sea lion prey - pollock and Atka mackerel - in areas where Stellers forage, aiding sea lion recovery and dispersing fishing effort from Critical Habitat areas.

**Possible Alternative Solutions:**

The problem can only be resolved by reducing/eliminating large removals of prey from sea lion Critical Habitat.

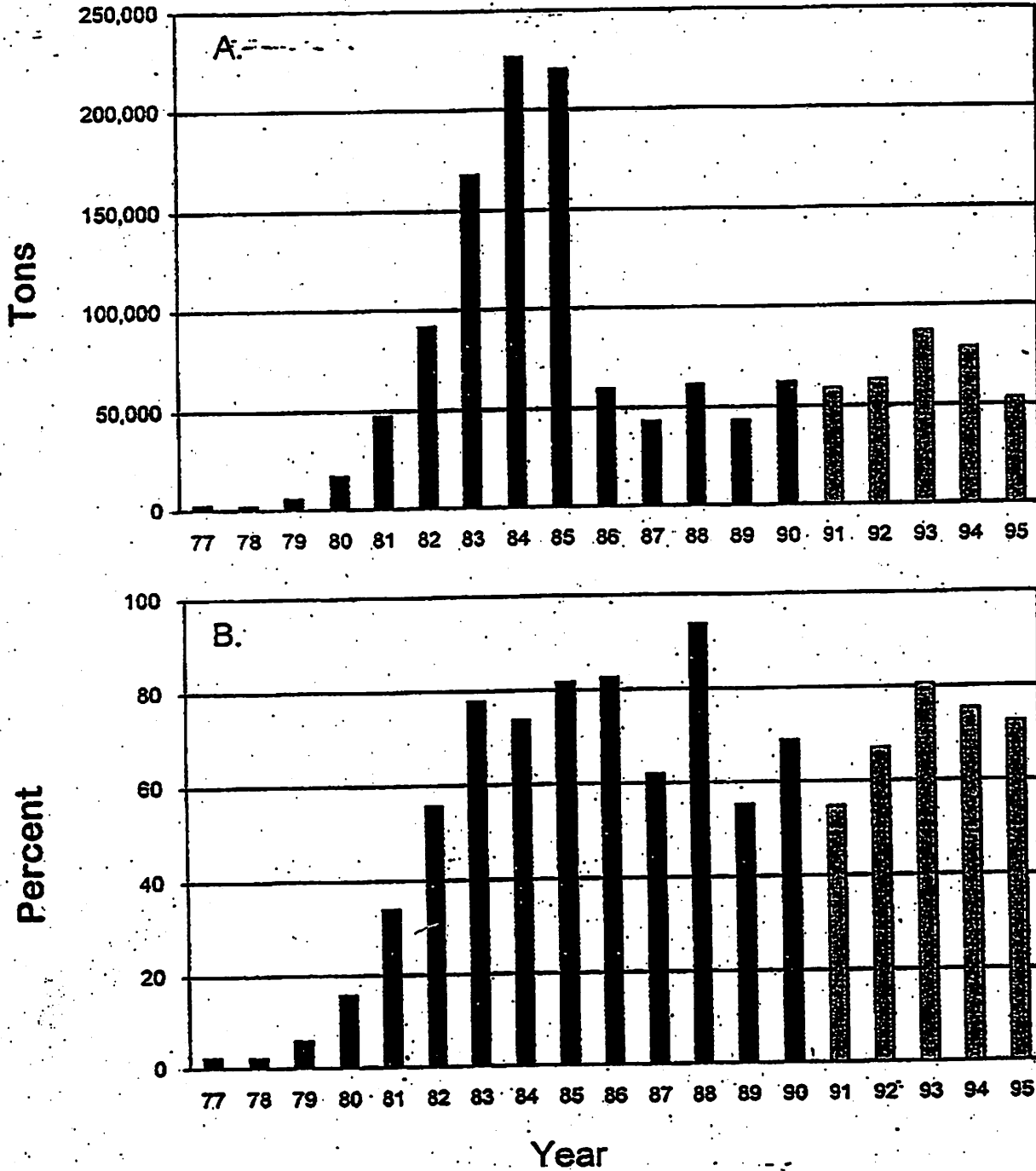
**Supportive Data and Other Information:**

The 20 nmi (summer) and 60 nmi (winter) buffer zones were originally identified as best encompassing the known foraging range of Stellers, however, management rejected these protective measures, in favor of economic cost/benefit considerations (EA for Amendments 20/25 to FMP).

NMFS scientists recognize that the established trawl exclusion zones do not accurately reflect knowledge of seasonal sea lion distributions or distribution of juveniles (Options in Steller Sea Lion Recovery and Groundfish Fishery Management. L.W. Fritz and R.C. Ferrero. 1997. NMFS, AFSC).

SUPPORTIVE DATA: Fritz Ferrero 1997

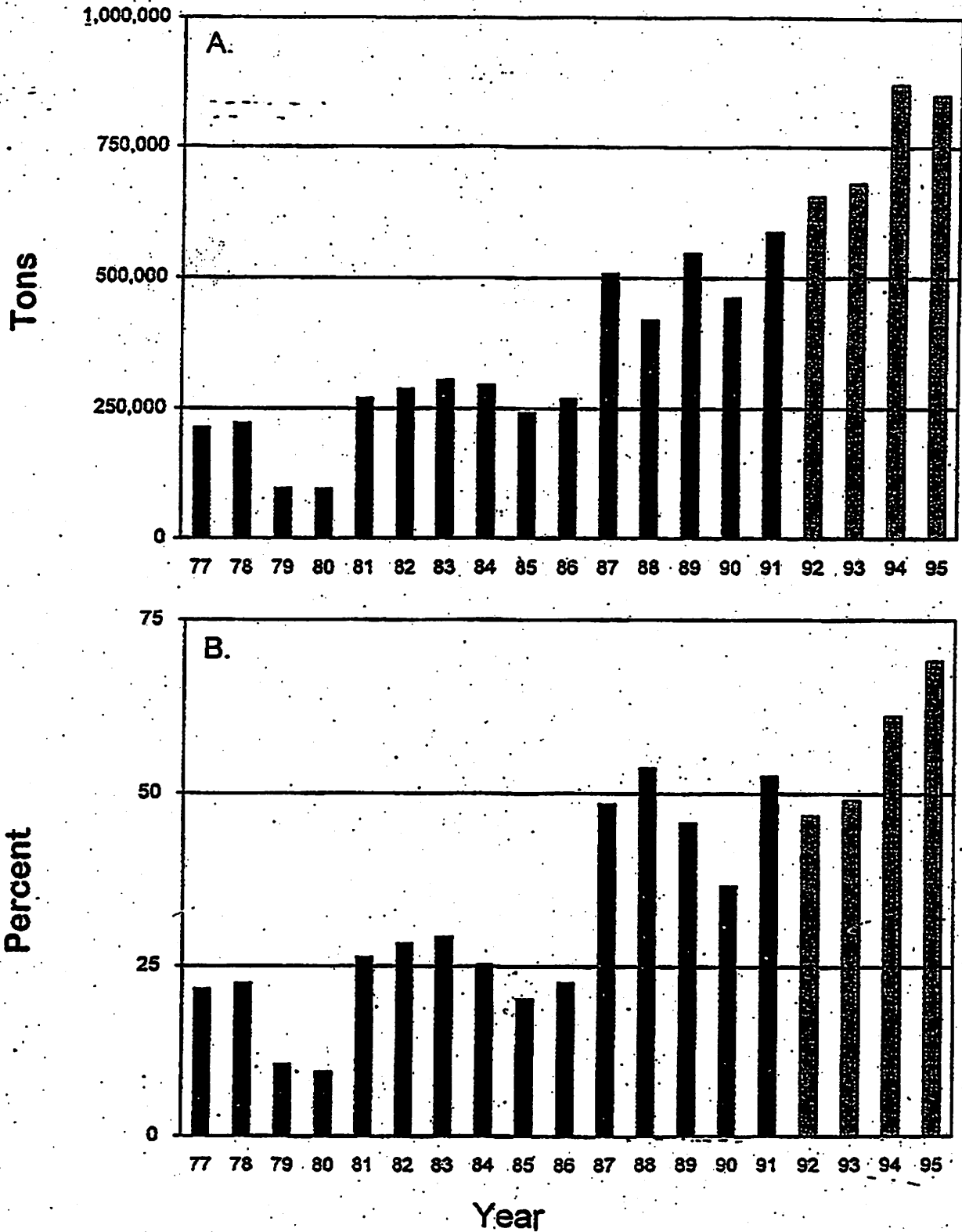
POLLOCK CATCH WITHIN STELLER SEA LION CRITICAL HABITAT  
IN THE GULF OF ALASKA, 1977-1995



A: Tons of pollock caught within critical habitat  
 B: Percent of annual GOA pollock catch from critical habitat  
 (years when sea lion protective measures were in place are  
 lightly shaded, 1992-1995)

SUPPORTIVE DATE: *Fritz + Ferrero 1997*

POLLOCK CATCH WITHIN STELLER SEA LION CRITICAL HABITAT IN THE EASTERN BERING SEA AND ALEUTIAN ISLANDS, 1977-1995



A: Tons of pollock caught within critical habitat  
 B: Percent of annual BSAI pollock catch from critical habitat (years when sea lion protective measures were in place are lightly shaded, 1992-1995)



## FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

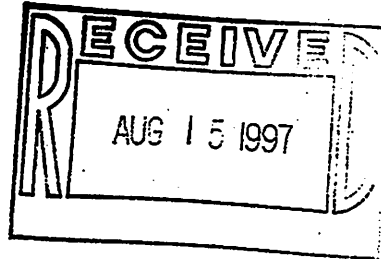
Name of Proposer: Kenneth Stump

Date: 8/15/97

Address: 5033 Brooklyn Ave. NE. Apt. A  
Seattle WA 98105

Telephone: 206-517-5657

Fishery Management Plan: BSAI



### Brief Statement of Proposal:

Prohibit factory trawlers from fishing in the CVOA during the 1998-pollock A season as well as the B season, reallocate that portion of the catch to endangered Steller sea lions, with the goal of significantly reducing pollock catch in critical sea lion foraging habitat which extensively overlaps the CVOA.

### Objectives of Proposal:

To achieve significant, immediate reductions in the large volume of pollock caught in designated Steller sea lion critical foraging habitat and to reduce first quarter pollock removals in order to make more sea lion prey available during the crucial winter months.

A large portion of eastern Aleutian critical habitat is overlapped by the boundaries of the CVOA off the eastern Aleutian Islands. Reductions in pollock removals from critical habitat are essential since (1) lack of available prey is the leading hypothesis to explain the population crash of Stellers (> 90% decline in the eastern Aleutians) and (2) the amount of pollock caught in BSAI critical habitat has skyrocketed from 100,000-300,000 metric tons of pollock from 1977-86 to 650,000-870,000 metric tons from 1992 to the present (NMFS 1996, 1997). Direct competition with the pollock fishery was recognized as a problem for Stellers in the 1980s, when researchers concluded that a significant interaction with the pollock fishery in the GOA led to a reduction in availability of pollock there, particularly of medium and large sizes, resulting in lower growth rates, delayed maturation, and reduced pup production for the GOA Steller population (Lowry et al 1988).

Listing of the Steller sea lion as endangered in western Alaska should compel NMFS and the Council to institute immediate management measures for the 1998 fishing season to reduce the large volume of pollock removed by the fishery from critical habitat, with particular emphasis on winter removals. One of the largest Steller populations in the world (estimated at 50,000 non-pups or more) thrived in the eastern Aleutian region as recently as the 1960s and foraged on the large pollock spawning grounds in the southeastern Bering Sea where the CVOA is located today. As of 1995, only 4,700 non-pups were counted at rookeries in the eastern Aleutians area - an increase from 1989 but still only a

small fraction of the population which existed there 30-odd years ago. (Overall, pup numbers in the GOA and Aleutian Islands continued to decline at a rate of 8% per year from 1990-94, and have continued to decline at 6.1% per year since then.) Unless the declining trend is halted and reversed soon, the species is projected dwindle toward extinction in western Alaska. The next 20 years are crucial to the survival of the western Alaska population. (NOAA/NMFS, Federal Register, Volume 62, Number 86, May 5, 1997)

Both the 1991 and 1996 Section 7 Biological Opinions observe that the effects of local depletion of sea lion prey would be worse in winter, when prey resources are more scarce and nursing and/or pregnant sea lions and juveniles are especially vulnerable to nutritional stress. It is thought that spawning schools of pollock provide a rich, concentrated food source in the winter/early spring months. Localized depletions of this important food source may cause food-stressed females (whose energy requirements are higher) to abort fetuses or wean nursing pups before they are able to feed themselves: *"The February to April roe fishery for pollock occurs during a time of presumed sensitivity for pregnant females and weaned pups. This a period of heavy storms and reduced space on land (caused by storms and high tides in winter) causing sea lions to expend more energy remaining at sea longer. Also, most females are pregnant and still nursing a pup from the previous breeding sea, which constitutes a high energy demand on the female. Removal of large quantities of energy-rich spawning fish, which are in compact schools and easily preyed upon, may compromise the health of these females and their fetus, or force them to wean their pups before the pup is developed sufficiently to feed on its own."* (T.R. Loughlin, internal memo to NOAA/NMFS personnel, 1990)

Since 1986, the pollock fishery has shifted increasingly to the first quarter of the year. The divisions of the BSAI pollock fishery into A and B seasons in 1990 actually increased pollock catches during the first quarter of the year compared to 1977-86 (AFSC/NMFS 1993). Although factory trawlers account for a small percentage of the total pollock fishing vessels in the CVOA, they account for a disproportionately large share of the catch. In 1994, the largest class of surimi factory trawlers comprised only 1.5% of the total number of groundfish vessels fishing in the BSAI yet accounted for 685,000 metric tons (30%) of the reported groundfish catch (NPFMC/NMFS 1997). Exclusion of factory trawlers from the CVOA in the pollock A season will provide important reductions in regional catch with minor impact on the bulk of participants.

The amount of catch foregone by the factory trawl fleet should not be reallocated to Shoreside trawlers but should be left in the system in order to make more prey available for foraging sea lions. Displaced factory trawlers should be further prohibited from moving to areas of critical habitat to the west of the CVOA boundary between 168 W and 170 W.

#### Need and Justification for Council Action:

The Endangered Species Act requires NMFS to ensure that the fishery does not jeopardize the species or adversely modify critical habitat which is essential to the survival of the

species. NMFS cannot ensure that current management measures will prevent high-volume groundfish fisheries from diminishing food availability for Stellers, nor were existing management measures designed to protect the at-sea foraging areas which were designated as critical foraging habitat in 1993. (NMFS 1996). Additional protective measures are needed to protect sea lion foraging areas and sea lion prey. However, proposed modifications to the FMPs must be approved by the Council. Council leadership to reduce the spatial and temporal compression of the fishery in the southeastern Bering Sea can help to reduce the high volume of fishing in Steller critical habitat and may benefit other pollock predators foraging in these areas in the winter months, including migrating northern fur seals.

Justification for additional measures to protect sea lion foraging areas is based on the inadequacy of existing rookery no-trawl zones, which offer crucial protection of terrestrial habitat for the summer breeding population but do not reflect present knowledge of seasonal sea lion distributions and foraging in winter months (Fritz and Ferrero 1997). Very little groundfish was harvested within the 10 nm no-trawl zones prior to their creation in 1992, but a very large volume of groundfish (about 357,000 metric tons based on 1990 observer data) was removed within 20 nm of sea lion rookeries in the BSAI and fully 34% of the groundfish removed from the BSAI (524,000 metric tons) came from within 60 nm of these rookeries in 1990 (NPFMC, EA/RIR of Amends. 20 and 25 to the BSAI and GOA Groundfish FMPs). In other words, very large volumes of Steller prey are being removed outside the existing rookery trawl exclusion zones in areas of aquatic habitat where sea lions are known to forage extensively in the winter months.

#### **Foreseeable Impacts of Proposal:**

A very small percentage of the total pollock fleet will lose a share of pollock catch quota in the CVOA. Shore-based trawlers fishing in the CVOA should benefit from less competition and the rate of pollock removals in or close to critical sea lion foraging areas will be slowed down. Steller sea lion foraging efficiency and success may be enhanced by increased prey densities as the result of leaving more pollock in the system. However, if displaced factory trawlers are allowed to shift to areas of critical sea lion habitat to the west of the CVOA boundary, the benefit to sea lions will be lost. Therefore the measure must stipulate that the displaced factory trawl effort shall not move into Steller critical habitat outside the CVOA.

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

Other precautionary measures which can help to spread out fishing effort, minimize the likelihood of pulse fishing and localized depletion, and reduce catch in critical foraging habitat, include:

- quarterly allocation of the BSAI pollock TAC, e.g., a reduction of first quarter pollock removals to no more than 25% of the total TAC in order to spread out effort and catch more evenly over the course of the year;
- district allocation which breaks up the southeastern Bering Sea quota spatially;
- and much more extensive use of no-trawl zones, e.g., 20 nm rookery trawl exclusion zones in summer and 60 nm exclusion zones in the winter.

Of the three main alternatives, only the third will provide significant reductions of catch in critical sea lion habitat. Based on 1990 observer data, a seasonal 20/60 nm no-trawl configuration would have reduced the volume of groundfish removals around sea lion rookeries in the BSAI by 524,000 metric tons in 1990 (NPFMC, EA/RIR of Amends. 20 and 25 to the BSAI and GOA Groundfish FMPs). In the absence of trawl exclusion zones encompassing large foraging areas, a record 870,000 metric tons of pollock (70% of TAC) was caught in BSAI critical sea lion habitat in 1995. Some combination of all these measures is necessary to reduce groundfish removals in critical habitat from the record-high levels of today, thereby reducing the significant risk of depleting of the local prey base in areas essential to survival of the species.

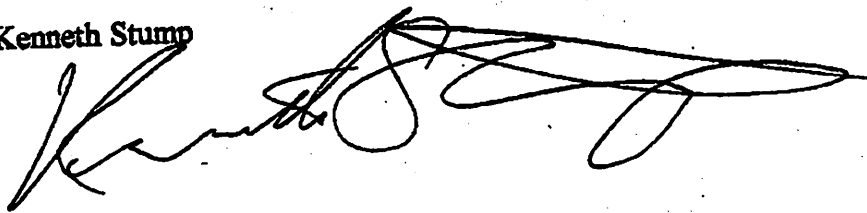
Exclusion of factory trawlers from the CVOA and reallocation of that foregone portion of the catch to sea lions offers an effective way to achieve a significant reduction in 1<sup>st</sup> quarter fishery removals from eastern Aleutian Islands critical foraging habitat with relatively minor (perhaps beneficial) impact on the majority of fishery participants.

#### Supportive Data & Other Information:

Extensive bibliography available upon request.

Signature:

Kenneth Stump



## FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

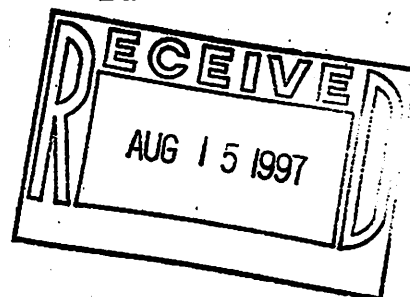
**Name of Proposer:** Kenneth Stump

**Address:** 5033 Brooklyn Ave. NE. Apt. A  
Seattle WA 98105

**Telephone:** 206-517-5657

**Fishery Management Plan:** BSAI/GOA

Date: 8/15/97



### Brief Statement of Proposal:

Reduce localized groundfish exploitation rates to no more than the target exploitation rate for each managed stock as a whole.

### Objectives of Proposal:

To prevent very high exploitation rates on single species relative to local fish biomass; prevent localized pulse fishing and depletion of the local prey base.

### Need and Justification for Council Action:

The North Pacific Council and NMFS have justified groundfish TACs principally by maintaining that current levels of exploitation are low compared to overall biomass estimates for managed stocks of fish. North Pacific groundfish harvest levels appear conservative when compared to overall groundfish biomass estimates for single species, but target species are not uniformly distributed and neither are the fisheries. What appears "conservative" in the context of overall biomass estimates could translate into much higher exploitation rates relative to the exploitable biomass locally.

Evidence of very high local exploitation rates and local depletion of target species comes from analysis of CPUE data in the Aleutian/western GOA mackerel fishery, which indicates that concentrated fishing on localized schools of fish can indeed cause depletion of the local prey base (NPFMC Ecosystem Considerations 1997). Atka mackerel exploitation rates in the study areas ranged between 55-91% of the local biomass, far higher than the target harvest rates of between 10-15% for the managed population as a whole (Lowe and Fritz 1996, Fritz and Ferrero 1997).

Based on the evidence from the mackerel fishery, spatial and temporal compression of other large groundfish fisheries appears likely to produce similar high exploitation rates relative to exploitable biomass in areas where these fisheries are concentrated, thus increasing the likelihood of localized depletions and diminished prey availability for groundfish predators. For instance, since 1991 there has been about a 500,000 metric ton increase in the pollock catch on the southeastern Bering Sea shelf - from the Pribilofs

southward and eastward to the Unimak Island area. More than 90% of the total annual BSAI quota is being caught in the region, up from 55% in 1991. This is the epicenter of the eastern Bering Sea pollock spawning grounds where a large portion of Steller sea lion critical foraging habitat has been designated. It is also an area where other marine wildlife populations are concentrated and are vulnerable to the effects of pulse fishing on the local prey base. Management measures are needed now to reduce the effects of spatially and temporally compressed fisheries in these critical foraging areas.

**Foreseeable Impacts of Proposal:**

Refinement of fishery stock assessments to reflect regional and local distributions of fish populations will be required. Spatially and temporally compressed fisheries for pollock, Atka mackerel, cod and others will need to be spread out in space and time. A greater number of smaller districts will likely be required. Fishery participants may experience dislocation and reductions in catch. However, the risk of local depletions and reduced prey availability for groundfish predators will be substantially reduced. Assertions of sustainability in an ecosystem context will be more credible and "ecosystem-based management" will become more fully operative.

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

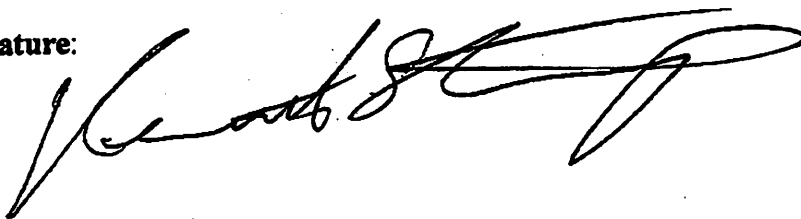
Spatial and temporal redistribution of the pollock fishery in the GOA may have stabilized pollock removals as a percentage of the TAC in critical sea lion habitat at 1985-91 levels, but it has not reduced them. Similarly, distribution of the Aleutian mackerel fishery into three districts has spread the fishery out spatially but has not resulted in reductions in the percentage of the catch in critical sea lion habitat. The most effective means of reducing catch in critical sea lion habitat would be an extension of trawl exclusion zones or caps on the amount of groundfish removed from these areas.

The proposed measure would require reliable estimates of exploitable biomass at the local and regional level in order to establish localized harvest rates that are consistent with the target harvest rates for the managed population as a whole. Assuming that biomass estimates can be refined to reflect local distribution of the exploitable population, this proposal could provide an effective way of achieving truly "sustainable" exploitation strategies and avoiding locally high exploitation rates and depletion of local prey bases which lead to diminishment of prey availability for groundfish predators.

**Supportive Data & Other Information:**

Ecosystem Considerations 1997, Stock Assessment and Fishery Evaluation 1996, Fritz and Ferrero 1997.

Signature:



## FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

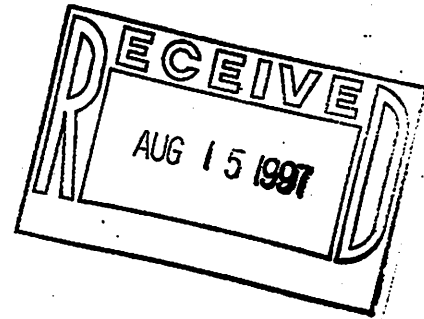
**Name of Proposer:** Kenneth Stump

Date: 8/15/97

**Address:** 5033 Brooklyn Ave. NE. Apt. A  
Seattle WA 98105

**Telephone:** 206-517-5657

**Fishery Management Plan:** BSAI



### **Brief Statement of Proposal:**

Designate the Aleutian Island pollock quota as a bycatch-only fishery for the 1998 fishing season.

### **Objectives of Proposal:**

Relieve pressure on pollock stock which has been in steady decline since the 1980s, minimize risk of depleting the prey base of pollock predators such as the endangered Steller sea lion and declining Pacific harbor seal.

### **Need and Justification for Council Action:**

The Aleutian pollock stock has been in decline for more than a decade. Furthermore, the western stock of Steller sea lions has been uplisted as endangered and relies heavily on pollock as a primary prey. By designating the Aleutian pollock fishery as bycatch-only for the 1998 fishing season, the Council can promote rebuilding of the stock biomass while enhancing prey availability for sea lions and other pollock predators in the region.

### **Foreseeable Impacts of Proposal:**

The Aleutian pollock fishery is relatively small and its closure to directed fishing will have relatively small impact on the pollock industry. Some displacement of trawler effort can be expected and should be mitigated.

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

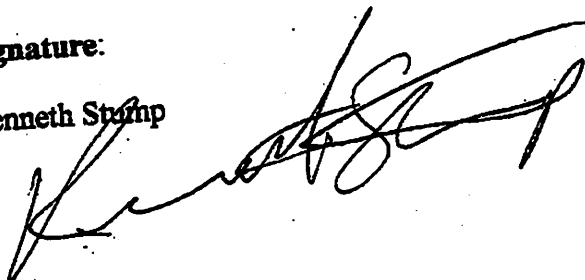
Members of the BSAI Plan Team have called for designation of Aleutian Island pollock as a bycatch-only fishery for several years – in part as a means of protecting the fish stock and in part to make more prey available to sea lions. Anything short of a moratorium on directed fishing appears insufficient to allow the stock the rebuild, given the steady decline of recent years.

**Supportive Data & Other Information:**

**NPFMC Stock Assessment and Fishery Evaluation for the BSAI Groundfish FMP**

**Signature:**

**Kenneth Stamp**

A handwritten signature in black ink, appearing to read 'Kenneth Stamp', written over the printed name.



# FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

Date: 8/15/97

Name of Proposer: Kenneth Stump

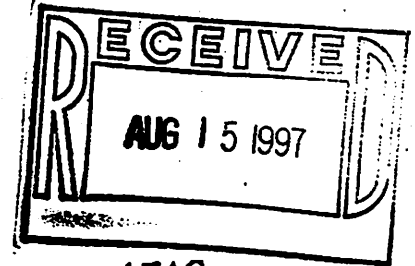
Address: 5033 Brooklyn Ave. NE. Apt. A  
Seattle WA 98105

Telephone: 206-517-5657

Fishery Management Plan: BSAI

Brief Statement of Proposal:

Reduction of 1<sup>st</sup> quarter pollock catch to no more than 25% of the total annual TAC.



Objectives of Proposal:

Reduce pollock removals in the winter months, reduce fishing on spawning pollock which are believed to be essential to foraging Steller sea lions, and spread out the catch over time.

Need and Justification for Council Action:

Satellite telemetry studies indicate that sea lion foraging distance and duration are much greater in the winter months, which supports the hypothesis that winter is a more difficult time of year for sea lions to find adequate prey near shore. Both the 1991 and 1996 Biological Opinions observe that the effects of local depletion would be worse in winter, when prey resources are more scarce and pregnant or nursing females and weaned juveniles might be especially vulnerable to nutritional stress.

Reductions in 1<sup>st</sup> quarter pollock removals would reverse a trend that began in the late 1980s, as the pollock fishery increasingly targeted spawning pollock. The fact that the largest concentrations of Stellers formerly inhabited areas where large spawning aggregations of pollock and Atka mackerel occur and that the largest declines of Stellers have occurred in in these same areas, led NMFS to designate these spawning grounds as critical sea lion foraging habitat in 1993. Given the continued decline of Stellers in western Alaska and the recent uplisting of the species to endangered status, as well as the probable vital importance of spawning pollock to pregnant and nursing sea lions and weaned pups, it is imperative that all efforts are made to reduce fishing on spawning aggregations in critical habitat.

Foreseeable Impacts of Proposal:

Will spread out the pollock catch over time, helping to alleviate the problem of large pulse fisheries and the likelihood of localized depletion of the prey base. The pollock-surimi

industry may see a decline in revenues owing to a reduction the lucrative roe fishery catch, but the majority of pollock vessels will probably experience little hardship. Benefits may accrue to the declining EBS pollock stock by reducing fishing pressure at the time of reproduction.

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

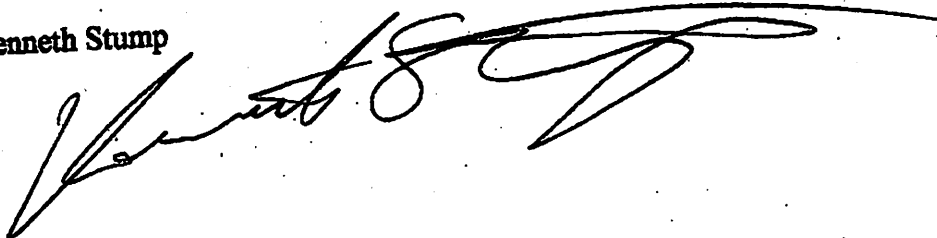
Large reductions in the volume of pollock removed from critical habitat can best be achieved through trawl exclusion zones in those areas. Given that the percentage of the BSAI pollock catch in critical sea lion habitat has risen steadily from about 10% in 1977 to about 70% (870,000 metric tons) in 1995, and that the percentage of pollock removed during the first quarter has dramatically increased since the mid-1980s, a combination of reductions in catch and seasonal redistribution of the fishery will be necessary to achieve meaningful results. The proposed measure, while not sufficient to protect critical sea lion foraging habitat by itself, offers an effective and relatively easy way to achieve the goal of reducing the first quarter pollock catch during the critical winter/early spring months.

**Supportive Data & Other Information:**

NMFS Section 7 Biological Opinions, 1991, 1996; AFSC Processed Report 93-13, 1993;  
NMML/AFSC/NMFS, MMS 93-0026, 1993

**Signature:**

**Kenneth Stump**



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

**Please check applicable box(es):**

- |   |  |
|---|--|
| <input type="checkbox"/> IFQ Program                  | <input checked="" type="checkbox"/> GOA Groundfish FMP |
| <input checked="" type="checkbox"/> Bycatch Reduction | <input type="checkbox"/> BSAI Crab FMP                 |
| <input checked="" type="checkbox"/> BSAI Groundfish   | <input type="checkbox"/> FMP Scallop FMP               |

**Name of Proposer:**

United Catcher Boats

**Date:**

August 15, 1997

**Address:**

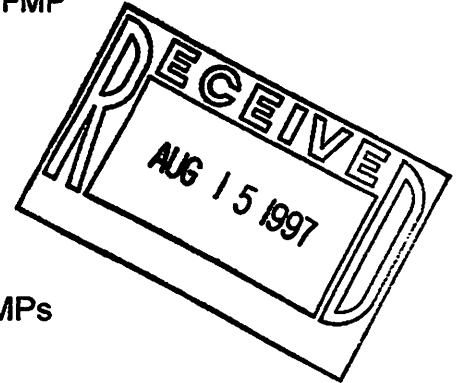
1711 W. Nickerson, Suite B, Seattle, WA 98119

**Telephone:**

206/282-2599

**Fishery Management Plan:**

BSAI & GOA Groundfish FMPs



**Brief Statement of Proposal:**

Implement methods to evaluate, determine and assign crab PSC mortality rates in the Bering Sea trawl fisheries. Assign accurate mortality rates for *bairdi*, red King and *opilio* crab taken as bycatch and discarded in the Bering Sea trawl fisheries.

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

The objective is to use existing research, develop and conduct needed experimental projects and then assign accurate mortality rates to the crab taken as bycatch in the trawl fisheries. The problem is that the Bering Sea trawl fleet is being assessed crab mortality rates that are incorrect. Secondly, similar to when the Council recommended switching from a halibut handled to a halibut mortality method of accounting for bycatch, the existing system lacks an incentive for trawl fishermen to employ means to reduce mortality of crab PSC.

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

The Council has the authority to recommend PSC management regimes for North Pacific fisheries.

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

The crab industry wins because less crab taken as bycatch in trawl fisheries results in an increase in the directed crab fisheries. The trawl fishery wins because accurate estimates of crab mortality will allow this fleet to fish longer. The crab resource wins because managers are beginning to use trawl mortality of crab as a factor in stock assessment. Accurate mortality estimates lead to

better stock assessments which are greatly needed to ensure the sustainability of the resource.

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

No.

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

Current research from the NMFS lab in Kodiak  
NMFS research done on the foreign mothership *F/V Sulak*.

**Signature:**

A handwritten signature in cursive script, appearing to read "Paul C. Rain".

# Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615

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

Name of Proposer: ALASKA GROUND FISH DATA BANK  
Date: August 13, 1997

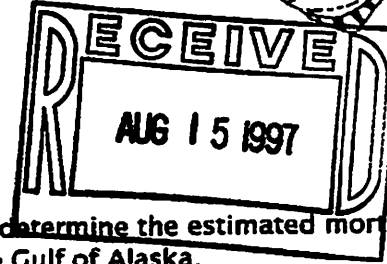
Address: P.O. Box 948, Kodiak, Ak. 99615

Telephone: 907-486-3033

Fishery Management Plan: GULF OF ALASKA



BYCATCH REDUCTION



**Brief Statement of Proposal:** Use best available data to determine the estimated mortality of king and tanner crab taken by trawl catcher vessels in the Gulf of Alaska.

**Objectives of Proposal: (What is the problem?)** Currently there is no established mortality estimate for crab taken by Gulf of Alaska trawl catcher vessels.

Crab bycatch taken in the groundfish fisheries by trawls and pot gear is of continued concern in the Gulf of Alaska. The degree of concern depends not only on the number of crab taken as bycatch, but of the actual mortality of the crab taken as bycatch. Further, the Magnuson Act mandates include reduction of mortality as a secondary option for reducing bycatch.

However, without an established "benchmark" of estimated mortality of crab taken in trawls and evaluation of contribution of the various conditions (season, size and length of tow, size of crab, shell condition of crab, etc.) there is no way to establish the effect of any changes in fishing practices nor to consider the effect of management measures on trawl crab bycatch mortality.

Work done in 1988 by ADF&G, Kodiak, (Regional Information Report No. 4-K-88-21) suggest that 64% of the tanner crab taken as bycatch in groundfish trawl hauls were returned to the sea in condition 1: No external injuries, vigorous movement of legs.

AGDB members feel establishing a mortality rate for crab taken as trawl bycatch is as important as the establishment of a mortality rate for halibut.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)** The estimation of mortality of crab taken by catcher boats in the Gulf of Alaska should be done through the formal NMFS/Council scientific process.

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

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?** Elimination of bottom trawling, elimination of crab stocks, successful net modification to eliminate crab bycatch are all alternatives; but eliminating bottom trawl or eliminating crab does not seem realistic and the wished for net modifications do not yet exist.

**Supportive Data & Other Information: What data are available and where can they be found?** ADF&G appears to have done most of the work on Gulf trawl catcher vessels.

  
Chris Blackburn, Director  
Alaska Groundfish Data Bank

# Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615

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

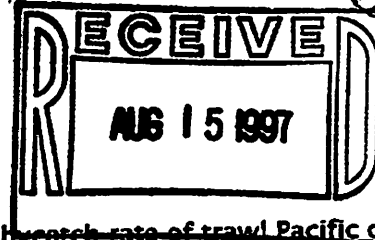
GOA GROUND FISH FMP

Name of Proposer: ALASKA GROUND FISH DATA BANK  
Date: AUGUST 13, 1997

Address: P.O. BOX 948, KODIAK, AK. 99615

Telephone: 907-486-3033

Fishery Management Plan: GULF OF ALASKA



**Brief Statement of Proposal:** Analyze the natural bycatch rate of trawl Pacific cod bycatch in the Gulf second quarter shallow flatfish target to determine if an increase in the MRB, currently 20%, is warranted to reduce regulatory discards.

**Objectives of Proposal: (What is the problem?)** Objective of the proposal is to reduce regulatory discards of Pacific cod.


**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)** The Kodiak trawl fleet for a number of years has complained that the current MRB for Pacific cod is too low during the second quarter and results in substantial discards. There has been hesitation to correct this situation for fear it would be seen by other gear types as a trawl grab for more Pacific cod.

NMFS Bulletin Board does not provide discards by gear type. Analysis of the amount of trawl Pacific cod discarded in the second quarter and the setting of an appropriate MRB, should the current MRB be found to be too low, can only be done by NMFS and the Council. The intent is to determine an MRB which minimizes current regulatory discards, but does not encourage topping off -- i.e. the fleet wants to keep the Pacific cod bycatch it is catching, not catch more.

**Foreseeable Impacts of Proposal: (Who wins, Who loses?)** If the current MRB does prove to be creating excessive regulatory discards, the Magnuson mandate to reduce discards would be met. The communities gain additional processing days. If a change in the MRB increased the amount of Pacific cod trawlers could catch, rather than just the retention of what is already being caught and discarded, this an allocative proposal.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?** The other alternative would be to modify the trawl gear so it caught flatfish, but not Pacific cod. So far no acceptable gear modification has been found. Increasing the MRB second quarter, if warranted, would decrease discards, but would not negate the need for continued efforts toward more selective trawl gear as the value of Pacific cod is greater during the normal target fishing period and the fleet would prefer to take its Pacific cod in the first quarter.

**Supportive Data & Other Information: What data are available and where can they be found?** NMFS has the observer data showing tow by tow catch composition.

  
Chris Blackburn, Director  
Alaska Groundfish Data Bank

# Alaska Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615

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

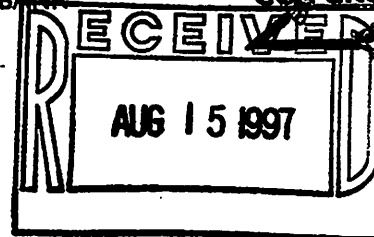
Name of Proposer: ALASKA GROUND FISH DATA BANK

Date: August 13, 1997

Address: P.O. BOX 948, KODIAK, AK. 99615

Telephone: 907-486-3033

Fishery Management Plan: GULF OF ALASKA



**Brief Statement of Proposal:** Increase the Maximum Retainable Bycatch of arrowtooth flounder in the Gulf of Alaska from the current 35% to 50%.

**Objectives of Proposal: (What is the problem?)** The purpose of this proposal is to reduce regulatory discards of arrowtooth flounder in the Gulf of Alaska.

Arrowtooth flounder is part of the Deep Complex halibut cap targets and becomes a bycatch species when the quarterly Deep Complex halibut cap is reached. The Shallow Complex halibut cap is usually reached sometime after the Deep Complex closes and vessels are required to discard arrowtooth flounder catch above the 35% MRB.

This year (1997) thru August 2nd the shorebased fleet in the Central Gulf delivered 48% of the arrowtooth flounder estimated catch. Of the 2740 MT delivered, 31% was used for meal and 69% was processed into other products, mainly surimi. During third quarter the halibut bycatch rate in the arrowtooth flounder target averaged around 2.5%, while the bycatch rate in the shallow flatfish target averaged around 8%. Tanner crab bycatch rates were similar in both targets.

When arrowtooth is on bycatch status, no other species may be retained against arrowtooth. Increasing the MRB to 50% when arrowtooth is on bycatch status was felt by AGDB members to be a reasonable step in increasing the deliveries of arrowtooth and reducing discards while research continues on the best time/area scenarios to take arrowtooth while avoiding PSC species.

It should be noted that not all processors are currently processing arrowtooth flounder.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)** Only the NPFMC can authorize a change in the MRB.

**Foreseeable Impacts of Proposal: (Who wins, Who loses?)** Reduction in arrowtooth discards is the major foreseeable impact.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?** The only alternative solution is to allow arrowtooth flounder to be targeted under both the Deep and Shallow Complex halibut caps. There was concern that making this great a step would reduce the amount of pollock and Pacific cod available for target fishing. Increasing the MRB was felt to be the most conservative method of exploring the impacts of increased arrowtooth flounder catch and deliveries.

**Supportive Data & Other Information: What data are available and where can they be found?** NMFS has the data on catch composition and discards.

  
Chris Blackburn, Director  
Alaska Groundfish Data Bank

Alaska

# Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615

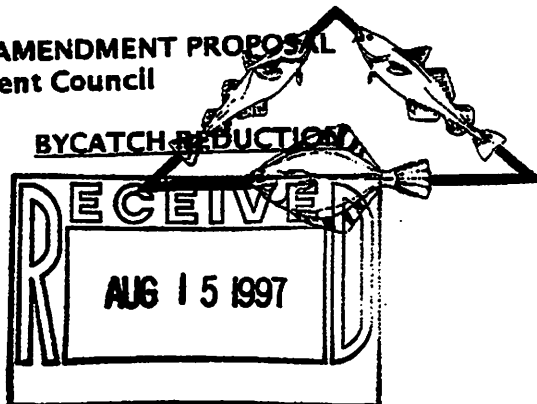
## GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL North Pacific Fishery Management Council

Name of Proposer: ALASKA GROUND FISH DATA BANK  
Date: AUGUST 13, 1997

Address: P.O. BOX 948, KODIAK, AK. 99615

Telephone: 907-486-3033

Fishery Management Plan: GULF OF ALASKA



**Brief Statement of Proposal:** For the purposes of expanding observed crab bycatch in trawl gear over unobserved catch in reporting area 630(Kodiak) create two reporting areas (630A and 630B) which separate the east and west sides of Kodiak Island.

**Objectives of Proposal: (What is the problem?)** The objective is to provide for better estimation of crab bycatch on unobserved vessels and create incentives for avoiding crab bycatch.

High crab bycatch rates are very area specific, yet the observed bycatch rates are expanded over all unobserved vessels. (This is as true for pot gear as it is for trawl gear.) This, combined with the use of three week running averages and default rates is felt to be producing erroneous estimates of crab bycatch. Further, an unobserved vessel has no incentive to fish a clean area when the skipper knows observed vessels are fishing in an area of high crab bycatch since the observed rate will be applied to his catch.

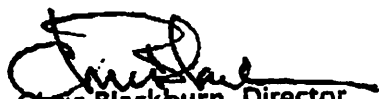
Adequate observer coverage in the flatfish fisheries, particularly, is a problem and default rates are often used. This proposal would allow development of default rates which are more area realistic.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)** Changing reporting areas can only be done by the Council.

**Foreseeable Impacts of Proposal: (Who wins, Who loses?)** Better estimation is a win for everyone.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?** The only alternatives are 100% observer coverage for all vessels fishing groundfish or even smaller reporting areas. Since 100% observer coverage would eliminate most of the smaller and medium sized trawlers it is not a viable and even smaller reporting areas would result in even more problems with inadequate observer coverage, the proposed action seems the most reasonable.

**Supportive Data & Other Information: What data are available and where can they be found?** ADF&G has data on catch by ADF&G reporting areas. NMFS observer program can provide the locations of observed catch.

  
Chris Blackburn, Director  
Alaska Groundfish Data Bank



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Please check applicable box(es):**

<input type="checkbox"/>	IFQ Program	<input type="checkbox"/>	GOA Groundfish FMP
<input checked="" type="checkbox"/>	Bycatch Reduction	<input type="checkbox"/>	BSAI Crab FMP
<input checked="" type="checkbox"/>	BSAI Groundfish	<input type="checkbox"/>	FMP Scallop FMP

**Name of Proposer:**

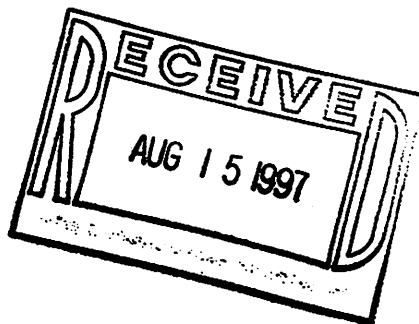
dave fraser

**Address:**

PO. Box 771 Pt. Townsend WA, 98368

**Telephone:**

360-385-6248



**Fisheries Management Plan:**

BSAI Groundfish

**Brief Statement of Proposal:**

Amend the trawl crab PSC cap plan amendments to shift to a weight based system rather than numbers of animals..

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

Crab bycatch caps based on numbers of animals have extremely variable resulting impacts in terms of adult equivalency effects. Also monitoring and estimating bycatch amounts will be simpler under a weight based accounting system. Caps have been higher than they might need to be because of fears by trawlers on attaining a cap based on encounters with large numbers of very small crab. Under a different system caps could be set somewhat lower.

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

The current system is changeable only by plan amendment.

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

The crab industry loses under status quo when bycatch occurs on larger animals. They will win under the weight based system. The trawl industry loses under status quo when the encounter large numbers of very small crab which due to natural mortality would have only had a small impact on the number of adults to reach crab fishery. Trawlers also win under a weight based accounting system.

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

Weights and numbers are the two means of accounting PSC catch. This is the only alternative to status quo. This approach was identified as a potentially better accounting system during the tanner crab cap negotiations, but there was a need to refine the adult equivalency impact data, so it was agreed to delay it to a later amendment cycle.

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

Crab natural mortality and length/weight at age data are available through AFSC. Bycatch numbers and weight data are available through the observer program.

Dave fraser

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Please check applicable box(es):**

- IFQ Program                       GOA Groundfish FMP
- Bycatch Reduction             BSAI Crab FMP
- BSAI Groundfish                 FMP Scallop FMP

**Name of Proposer:**

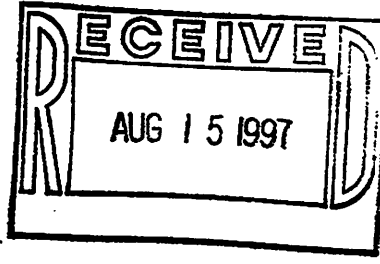
dave fraser

**Address:**

PO Box 771 Pt. Townsend WA, 98368

**Telephone:**

360-385-6248



**Fisheries Management Plan:**

BSAI/GOA Groundfish

**Brief Statement of Proposal:**

Adopt a VGBAMP (Vessel-Group Bycatch Account Monitoring Plan), modeled after current pollock CDQMPs (Community Development Quota Monitoring Plans). Each vessel in the trawl fishery would be assigned a fixed amount of halibut and crab PSC, which could only be utilized within the context of a Pool or Vessel Group which had submitted an approved Monitoring Plan to NMFS which would allow for closure of fishing by all vessels within the VG upon attainment of the sum of the PSCs assigned to the VG members. (See attached sheet for details.)

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

Under the current system of a common PSC cap, no one is accountable for their bycatch, and bycatch rates are excessive, thus PSCs constrain the harvest of the groundfish TACs and OY is not achieved. VGBAMPs are a means of allowing VGs to develop and enforce internal rules to control bycatch at the vessel level, while providing NMFS with a monitoring system that is statistically reliable.

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

Most other approaches to bycatch control are symptomatic applications of Band-Aids, or restrictions which tend to impose higher costs than necessary either on the trawl industry or on the other users of the species taken as bycatch. IBQs achieve the same end, and IBQs and VGBAMPs are both subsets of VBAs which the council is considering.

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

Groundfish fishers benefit by being better able to harvest their TACs within existing PSC caps. This in turn opens the possibility for further reducing PSC caps, benefiting other user groups. The consumers benefit by having more groundfish product available. Those who wish to make a career of bashing all trawlers with the behaviour of the dirty dozen (behaviour fostered by the system), lose an issue.

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

Congress could act to allow a fee based system for bycatch control. The halibut ITQ/CDQ plans could be amended to allow holders of quota to create a fee based program. A VGBAMP probably has more chance of being adopted in a timely fashion than either of the previous suggestions, though they would probably be superior in the sense of reducing the level of externalities imposed by the groundfish fishery. Other variations of a VBA are equally valid.

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

(see previous discussion papers by Joe Terry, Kent Lind, et al). The proposed rule for the groundfish CDQ PSQ management system is an example of a regulatory system for a VGBAMP intergrated with a ITQ system for groundfish. See also attached discussion paper by the proposer. A model of an allocation proposal and its documentation has been submitted to the council (VBMODL.DOC & VBAMDL.XSL)

### **I. Structure of a System to Monitor PSCs through a VGBAMP**

Vessel Group Bycatch Account Monitoring Plans (VGBAMPs) operating somewhat similarly to CDPs, with the authority to submit 'amendments' to NMFS to suspend a member's ability to fish, provide a means of dealing with enforcement on an individual vessel level without adopting a complete IBQ system.

The model of individual vessels receiving the annual assignment of a PSC amount and then having the opportunity to submit a group monitoring plan to NMFS for approval, is one which should be further developed as a VGBAMP.

The default assumption could be that a vessel leaves its allocation in the common fishery and NMFS would monitor the attainment of the 'default pool' in the same fashion that it now determines when the fleet reaches various caps.

The second option could be that a vessel joins a pool or vessel group (VG), by assigning its PSC to the VG. The VG would submit a "monitoring plan" which would have to achieve a required statistical confidence level (equal to or greater than the statistical confidence level attained in the status quo monitoring program for the fleet as a whole). A VG could then proceed to structure, under civil contracts amongst its members, internal 'regulations' on the behaviour of individual members and terms upon which the VG would be able to file an amendment with NMFS suspending a vessel from continued fishing under the auspices of the VG's 'PSC permit'. Because this is very similar to the mechanism by which CDPs add or remove a vessel from fishing on the CDP's CDQ, it seems this should pass legal muster with NOAA general consul.

(As a possible alternatively, a vessel might submit a "monitoring plan" of its own, perhaps agreeing to a higher level of observer coverage, thus becoming a "group of one". In order for NMFS to approve the plan, NMFS would also require that the monitoring plan achieve a certain statistical confidence level - equal to or greater than the statistical confidence level attained in the status quo monitoring program for the fleet as a whole.)

Pools might expel a member for cause (i.e., the vessel was using excessive share of PSC). It also might allow a member to withdraw from a VG voluntarily (perhaps the member had been in a pool with fellow catchers delivering to a mothership, and it quit the market to move to a shoreside market focusing

on a different species and wanted to be part of a homogeneous VG). In either case, it would be the VG itself, as the NMFS-registered entity controlling the group PSC, that would have the authority to determine what vessels are authorized to operate under its permit, and whether an exiting vessel would be able to take a remaining balance of its original PSC with it on exit. If a vessel disagreed with the managing entity of the VG, its recourse would be in civil court with the VG, not with NMFS, since it had originally voluntarily surrendered its assignment of PSC to the VG.

Once a vessel which had been a member of a VG withdrew from - or was expelled by - a VG, that vessel could only join another VG by the consent of the other VG. This would present an issue relative to a vessel which had remaining PSC which was released to the vessel by its prior pool. If no other pool accepted it, the vessel could continue to fish *only* if it submitted a qualified monitoring plan of its own (as a group of one). The only alternative scenario (if the vessel didn't have the ability to construct a qualified monitoring plan and was not voluntarily accepted by another VG) would be for the vessel to be put back in the 'default pool'. This might be acceptable *only* if the vessel had its entire initial PSC allocation intact, so that it would not be 'double dipping' (since a 'default' VG by definition, has no managing entity and no ability to control the behaviour of its members).

VGs would be allowed to transfer between VGs in-season up to 30% of the initial VGBA, subject to a 10% devaluation (see discussion below) upon transfer. Such transfers would be required to be registered with NMFS. Internally, use of PSC by members of the VG would be subject to civil agreements amongst the members, and enforcement of such agreements would be by civil courts.

## **II. Discussion of Allocation Scenario**

One approach to initial allocation is to divide the PSC cap for each BSAI trawl fishery category by the number of vessel weeks in the fishery, and then multiply the resultant number by the number of weeks of participation of an individual vessel in each target fishery during the prior year (or set of years) to calculate the VBA for a vessel.

Example:

The PSC cap for species A in target fishery Y is 100MT.

The total vessel weeks of effort in the fishery Y is 25 vessel/weeks.

The number of weeks of participation in fishery Y by vessel Q is 3.

Vessel Q's VBA for PSC A in fishery Y is:  $(100/25) \times 3 = 12\text{MT}$ .

This approach can be done very simply without subdividing the PSC caps into target fishery categories. However, given that the bycatch profiles of each target fishery differ, it would seem to make more sense to go through the process on a fishery by fishery basis, and then sum up the sub-allocation by vessel for its VBA.

This approach does not scale the resulting allocations by vessel size. However, it could be combined with a data source of vessel lengths or some other capacity index, to multiply the vessel total VBA by a scaling factor.

## **III. Discussion on Limited Transferability**

There is a legitimate concern about the 'commodification' of PSCs, and that the council should place constraints on their transferability under a VBA system.

VBAs are not intended to equate to ITQs in the sense of being a quasi perpetual, quasi property interest in a fixed share of a PSC cap. For example:

1. A PSC allocation would be annual in nature, and a vessel would be unable to transfer a future right since none exists.

2. The council should retain the ability to adjust the overall PSC cap.
3. The council should be able to design into the annual allocation process a mechanism where vessels which performed poorly would receive a smaller share of the allocation in a subsequent year.

Nonetheless, limited in-season transferability serves a number of important functions.

The first function is to compensate for less than optimal initial distribution of PSCs within a very heterogeneous fleet. One allocation scenario is that all vessels participating in the trawl fishery would receive equal shares of the PSC caps, or shares proportionate to a vessel size formula. Another, more equitable scenario is that the allocation would be proportionate to the recent target catch history of a vessel, with an allocation of those PSCs appropriate to the particular target fisheries. The following discussion assumes the later scenario, however, most of the issues described relative to the later apply to the former, but to a greater degree.

Without some transferability a vessel is locked into repeating the fishery it participated in the year before. If it participated in cod which has mostly a halibut bycatch, it would be functionally precluded from doing flatfish which has more of a crab bycatch, because it would have been allocated mostly halibut PSC, but very little crab PSC. Since the Bering Sea flatfish fishery has been almost entirely a factory trawl fishery to date, shoreplants would be unable to develop flatfish operations, because their catchers would lack the baseline amount of crab PSC necessary to participate in the fishery.

Without some transferability a vessel loses its incentive to do the best it can. Assume that the amount of PSC a vessel which participates in cod receives is adequate to conduct the fishery for the time it has available. Assume that if the skipper is willing to slow down and work at fishing cleaner, the vessel's halibut rate can be cut in half. If there is no time to use the savings to catch more cod (because the cod quota has been caught, or the vessel only has a limited market, or it is scheduled to go on a tendering contract), there is no reason to achieve those savings. However, if there is another vessel which does have a market to continue in that fishery or some other fishery and the vessel which achieved the savings can sell it, then there is an incentive. Or perhaps, the vessel which achieved the savings in halibut in the cod fishery has a new opportunity to participate in a flatfish fishery, but received little or no crab initially. The savings achieved in halibut would have value if it was possible to buy some crab PSC from a vessel which had achieved a savings in a flatfish fishery.

It has been suggested in the Proposed Rule, that the CDQ PSC program include a restriction on in-season transfers of PSC between CDPs, and that this should be the model for VBAs. (Transfers are allowed by a "substantial amendment" to a CDP, though it is unclear how timely a process this will be.) Non-transferability of CDQ PSCs presents some of the same problems relative to the need for an optimal initial allocation. However, CDPs will have a way around part of the problems, because they will have direct allocations of the target species, which will be transferable. Thus, there is an incentive to achieve a savings of PSC because there is the possibility that some other CDP group will not achieve its harvest of target, and will be forced to sell off the target quota to a CDP group that has achieved a PSC savings.

(However, even under a CDQ program non-transferability presents a problem when one CDP has done very well in reducing crab, but used up all its halibut, and another has used all its crab but done well in reducing its halibut. In that situation even though they can transfer their target catch quotas, it will do no good without a shuffle of the PSCs as well.)

A concern raised about transferability is that the 'dirty' boats will buy up the savings of the clean boats and keep fishing. While this is theoretically possible, it isn't the logical outcome. As long as there are market opportunities for the target catch, the boat that can catch 2 tons of target for each crab should be able to pay twice as much for an additional crab as the boat that can only catch 1 ton of target per crab.

Another concern raised about transferability is that there will be no overall 'savings' of PSC at the end of the year because the individual vessel's 'savings' will be used by those who buy them to pursue other

fisheries. While it is true that the same amount of PSC would be used, it would be used more efficiently. The difference from the current system is that it would be possible to catch the TACs that are now left unharvested, because the fleet would be operating at a lower overall rate of bycatch. In-season transferability provides a mechanism and a reason for putting PSC in the hands of the most operators with the lowest individual rates.

Overall savings can best be achieved by lowering the overall PSC caps. Lowering the overall PSC caps can be justified when there is a system in place which allows the PSC to be used by the most efficient (i.e., cleanest) operator.

A means of achieving an overall savings with transferability would be to "tax" the transfer, by devaluing the amount to be transferred. (i.e., VG1 has a savings of 100 crab it wishes to sell to VG2, it may do so. However, while VG1 surrenders 100 crab, VG2 receives only 90 crab with the balance becoming a true net savings.)

**Fishery Management Plan Amendment Proposal - North Pacific Fishery Management Council  
BSAI Groundfish FMP**

**Name of Proposer:** Groundfish Forum and Alaska Groundfish Data Bank

**Date:** August 8, 1997

**Address:** 4215 21st Avenue West, Suite 201, Seattle, WA 98199

**Telephone:** GF (206) 301-9504  
AGDB (907) 486-3033



**Fishery Management Plan:** BSAI Groundfish

**Brief Statement of Proposal:**

Delay the opening of the directed rockfish fishery in the Aleutian Islands (or specific subareas of the Aleutian Islands) until July 1.

**Objectives of Proposal:**

To coincide with the rockfish opening in the Gulf of Alaska for the purpose of distributing effort by creating an additional fishing opportunity in the Aleutians in July. This would allow NMFS to better manage the small rockfish quotas to OY. This would benefit industry by having a more orderly, predictable fishery and would prevent underharvesting or overharvesting of the various rockfish species. It would also help to reduce regulatory discards if more rockfish species were open to directed fishing at the same time in the same area.

**Need and Justification for Council Action:**

Council could recommend to NMFS to accomplish this through the annual specification process by having zero halibut PSC available until the third quarter for BSAI rockfish but NMFS may need greater justification (regulatory or plan amendment) for a longer term objective.

**Foreseeable Impacts of Proposal:**

The resource wins by reducing the likelihood of exceeding rockfish TAC's in both the GOA and BSAI through greater distribution of effort. NMFS will have an easier time managing the fishery. The H/G fleet will have to choose between the GOA and the BSAI in July and rockfish opportunity in the winter/spring would no longer be an option. The atka mackerel fishery and rock sole/offat fishery may see a slight increase in effort during that time period. Industry (both the H/G fleet and Kodiak shore fleet) could benefit by achieving OY on some species which are now being closed prematurely.

**Are there Alternative Solutions?:**

1. Exclusive registration.
2. Pre-registration with stand down time if vessel changes areas.
3. BSAI atka mackerel 'A' and 'B' seasons where 'B' season would open July 1.

Alternative solutions should be addressed in the context of the CRP process with a longer range view. This proposal is viewed as an interim solution and could hopefully provide relief beginning in 1998.

**Supportive Data and Other Information:**

NMFS weekly catch, discard and effort reports for the past three years.

**Signature:**



**Fishery Management Plan Amendment Proposal - North Pacific Fishery Management Council  
BSAI Groundfish FMP**

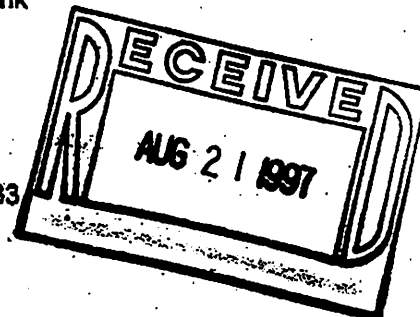
**Name of Proposer:** Groundfish Forum and Alaska Groundfish Data Bank

**Date:** August 8, 1997

**Address:** 4215 21st Avenue West, Suite 201, Seattle, WA 98199

**Telephone:** GF (206) 301-9504

AGDB (907) 486-3033



**Fishery Management Plan:** BSAI Groundfish

**Brief Statement of Proposal:**

Open the directed pacific ocean perch (POP) fishery in the Bering Sea on July 1.

**Objectives of Proposal:**

To coincide with the rockfish opening in the Gulf of Alaska for the purpose of distributing effort by creating an additional fishing opportunity in the Bering Sea in July. This would allow NMFS to better manage the small rockfish quotas to OY. This would benefit industry by having a more orderly, predictable fishery and would prevent underharvesting or overharvesting of the various rockfish species. It would also help to reduce regulatory discards if more rockfish species were open to directed fishing at the same time in the same area. Since 1994 NMFS has not opened the Bering Sea POP fishery until after the completion of the pollock 'B' season. This has been to prevent the possibility of overfishing of POP as bycatch in the pollock fishery. To our knowledge, the one year this appeared to be a threat was an anomaly and might have been prevented by closer, more timely monitoring. Additional comfort might be provided by leaving a buffer or certain amount of POP earmarked for potential bycatch in the pollock fishery.

**Need and Justification for Council Action:**

Council could recommend to NMFS to accomplish this through the annual specification process by having zero halibut PSC available until the third quarter for BSAI rockfish but NMFS may need greater justification (regulatory or plan amendment) for a longer term objective.

**Foreseeable Impacts of Proposal:**

The resource wins by reducing the likelihood of exceeding rockfish TAC's in both the GOA and BSAI through greater distribution of effort. NMFS will have an easier time managing the fishery. The H/G fleet will have to choose between the GOA and the BS in July. Industry (both the H/G fleet and Gulf shore fleet) could benefit by achieving OY on some species which are now being closed prematurely. The Bering Sea pollock fleet could be impacted by finite area closures if their bycatch of POP was abnormally high and there was a danger of exceeding the overfishing level of POP.

**Are there Alternative Solutions?:**

1. Exclusive registration.
2. Pre-registration with stand down time if vessel changes areas.
3. BSAI atka mackerel 'A' and 'B' seasons where 'B' season would open July 1.

Alternative solutions should be addressed in the context of the CRP process with a longer range view. This proposal is viewed as an interim solution and could hopefully provide relief beginning in 1998.

**Supportive Data and Other Information:**

NMFS weekly catch, discard and effort reports for the past three years.

**Signature:**

Two handwritten signatures in black ink. The first signature is on the left and the second is on the right. Both appear to be cursive and somewhat stylized.

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Name of Proposer:** Alaska Department of Fish and Game

**Date:** 8/28/97

**Address:** 304 Lake St. Room 103  
 Sitka, AK 99835

**Telephone:** (907) 747-6688

**Fishery Management Plan:**  
 GOA

**Brief Statement of Proposal:**

To prevent over fishing of groundfish species and to create a groundfish refuge by closing a small area of pinnacles off Cape Edgecumbe to commercial and sport fishing for groundfish, halibut, and lingcod. This area is very small (4 sq. nautical miles), but is comprised of two volcanic necks that have extremely high diversity and density of groundfish. The area to be closed is inside the following box: 56°55.5 N x 135°54' W and 56°57' N and 135°54 W and 56°57 N x 135°57' W.

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

These two pinnacles provide a very unique habitat of rock boulders, encrusted with *Metridium*, bryozoan and other fragile invertebrates which act as nursery habitat for an extremely high density of rockfishes. The area is used seasonally by lingcod for spawning, nest-guarding and post-nesting feeding. The pinnacles are also densely inhabited by yelloweye and pelagic rockfishes as well as various species of juvenile rockfish. This closure would protect the fragile nature of this unique habitat, and prevent the harvest or bycatch of these species during critical portions of their life phase.

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

Though the State of Alaska has closed this area to commercial and sport removals of lingcod in 1997, the state does not have the authority to close the area to halibut or other groundfish fisheries whose activities impact the epifaunal habitat critical to juvenile rockfishes, and have large bycatches of lingcod. Because the area is located in federal waters, the Council provides the clearest avenue to protect this unique area.

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

The area to be closed is so small that it should not have a negative economic impact on fishermen. Lingcod on this site are particularly vulnerable to harvest due to their territorial nature during nest-guarding and to their unusually high density during summer feeding. Preventing this area from being targeted may be beneficial to fisheries in the surrounding areas and will aid in scientific studies.

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

Alternative solution is status quo where the State has the authority to close the area to lingcod and DSR fishing only. This does not prevent bycatch mortality on lingcod and DSR when halibut and other groundfish fisheries are prosecuted here.

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

Video transect data from the area are available from the Sitka ADF&G Office.

**Signature:** *Victoria O'Connell*

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Name of Proposer:** Alaska Department of Fish and Game

**Date:** 8/28/97

**Address:** 304 Lake St. Room 103  
Sitka, AK 99835

**Telephone:** (907) 747-6688

**Fishery Management Plan:**  
GOA

**Brief Statement of Proposal:**

To develop an accurate accounting system for total bycatch mortality of demersal shelf rockfish (DSR) by requiring fishermen fishing east of 140° W longitude to bring in all DSR landed during fishing activities. They would be allowed to sell up to 10% of the bycatch (round weight equivalent of their target species weight) and the remainder of the fish would be relinquished to the NMFS and/or ADF&G. Proceeds from the sale of these fish would go to fisheries management and research activities for this fishery.

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

We do not have an accurate measure of total bycatch mortality of DSR in other fisheries. This proposal would allow us to manage within TAC without encouraging "topping off" with bycatch species. It would also reduce wastage, as DSR over the 10% limit must presently be discarded at sea.

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

There is no other way to account for true bycatch mortality.

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

If the bycatch is significantly greater than currently estimated then the directed fishery allocation may have to be reduced. However, if the true mortality is lower than currently estimated then the directed fishery allocation could be increased.

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

Status quo or changing the by catch rate.

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

IPHC bycatch data

**Signature:**

*Victoria O'Connell*

AGENDA D-5  
SEPTEMBER 1997

# IFQ PROPOSALS

**IFQ Proposals (as of 8/19/97)**

No.	Proposal	Proposer	Species	Area	Amendment	Comments	Rank
1	allow use of pots for IFQ sablefish fishing in all areas	Hankins	sablefish	both	plan		
2	prohibit halibut Category A, B, & C vessels from nearshore waters	Ward	halibut	both	regulatory	local area plan' proposal	
3	change percentages to QS units for all use caps	NPFMC Staff	both	both	regulatory		
4	eliminate January 2, 1998 sunset date for allowing 10% leasing	NMFS Staff	both	both	regulatory		
5	redefine 'a change in the corporation or partnership'	NMFS Staff	both	both	regulatory		
6	change IPHC regulations	Laukitis	halibut	neither	IPHC regs	refer to IPHC	
7	limit use of baiting machines	Kivisto et al.	both	both			
8	limit baiting machines, amend qualifying years, give crewmen QS	Pederson	both	both			
9-12	increase halibut vessel cap to 1.5%, with .5% to crewmen	Utter et al.	halibut	both	regulatory		
13	give surplus halibut to non-QS fishermen	Lee	halibut	both	regulatory		

cc: gael ✓

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

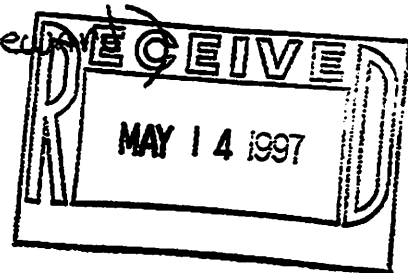
Name of Proposer: Fred Hankins

Date: 5-13-97

Address: Rt 3 Box 325 A (Currently in Southeast  
Astoria, OR 97103 Fishing

Telephone: (503) 325-9334

Fishery Management Plan: Sable fish I.F.Q's



**Brief Statement of Proposal:** I propose to extend the right to fish I.F.Q Sablefish to the entire state of ALASKA outside waters with blackcod pots.

**Objectives of Proposal: (What is the problem?)** Sea bird bycatch and a growing concern over the interaction ~~with~~ with sperm whales in the central and eastern gulf of ALASKA

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)** It's my understanding that pots are not legal to fish I.F.Q's in the gulf of ALASKA (Sablefish)

**Foreseeable Impacts of Proposal: (Who wins, who loses?)** the birds and whales win due to zero bycatch. I can't see any losers because there are no longer any gear conflicts due to I.F.Q's

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?** I do not see an alternative at this time. The bycatch of sea birds is getting worse, and the potential for negative impact on sperm whales is going to be the next hot issue for longlining in the gulf of Alaska.

**Supportive Data & Other Information: What data are available and where can they be found?** There is currently a blackcod pot fishery on the west coast, I have never seen any sea bird bycatch.

Signature: Fred Hankins

(2)

FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

North Pacific Fishery Management Council

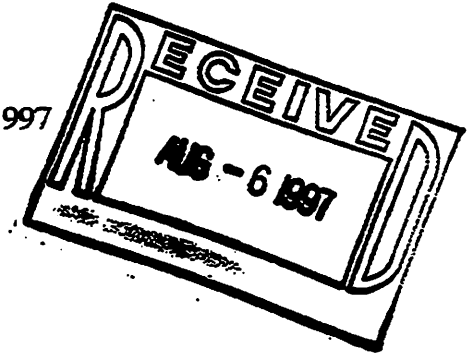
Name of Proposer: Robert Ward

Date: August 5, 1997

Address: P. O. Box 631

Anchor Point, AK. 99556

Telephone: (907) 235-7014



**Fishery Management Plan: Halibut IFO Management**

Brief Statement of Proposal

It is proposed that A, B, C, class IFQ vessels be prohibited from fishing in nearshore (or State) waters during the months of May, June, July, and August to provide some fishing pressure relief on nearshore Halibut stocks as well as State managed Rockfish stocks. All vessels would be permitted to fish in all waters outside of this prohibition, but would be prohibited during these months only thus allowing the other user groups (D class IFQ vessels, Subsistence, Non-Guided Recreational, Guided Recreational users) access to the nearshore stocks.

Objectives of Proposal

The current IFQ plan and the current Charterboat issue does nothing but continue the status quo of nearshore fishing pressures and in order to correct the excessive fishing pressure something must be done to eliminate some of the pressure in nearshore waters. The D class IFQ vessels, Subsistence, Non-Guided Recreational, Guided Recreational users are not able to access the Traditional Halibut Longliner fishing grounds and have always fished the nearshore waters, but now the larger IFQ vessels are fishing the same nearshore waters with nearshore stock depletion occurring as a result. To eliminate the major user group pressure from these waters would bring about the greatest fishing pressure relief. Outside of the traditional Subsistence, Non-Guided Recreational, Guided Recreational season the IFQ vessels can fish in the nearshore waters and not contribute to this user group conflict as well.

Justification for Council Action

The North Pacific Fishery Management Council is the proper body to address this user group conflict as well as provide a remedy for the nearshore depletion as discussed in the Charterboat and the Subsistence issues now before the council. The Council implemented the IFQ program without knowledge of this conflict and now something should be done to minimize it.

Foreseeable Impacts of Proposal

There should be very little impact to the IFQ vessels affected due to the prosecution of previous "Derby" openers of only a day or two in the May, June, July, August season as in years past and their "traditional" fishing grounds were always those areas where more abundant stocks were available. The IFQ fishery plan has caused those Longliners to fish nearer to home and has caused this conflict. The IFQ fishery should be prosecuted in the "Traditional" fishing grounds as before.

Possible Alternative Solutions

There is no other way to lessen the nearshore fishing pressure without moving some or all of the other user groups out of nearshore waters.

Supportive Data and Other Information

All supportive data is contained in the various discussion papers and EA/RIR's pertaining to the Halibut Charterboat issue, Subsistence issue and the Sitka Sound Halibut Management Plan issue. NMFS can provide the changing fishing practices by area for the IFQ fishery, the State of Alaska can provide the Subsistence, Non-Guided Recreational and Guided Recreational fishing practices by area.

Signature: 

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Please check applicable box(es): <input checked="" type="checkbox"/> IFQ Program <input type="checkbox"/> Bycatch Reduction <input type="checkbox"/> BSAI Groundfish FMP <input type="checkbox"/> GOA Groundfish FMP <input type="checkbox"/> BSAI Crab FMP <input type="checkbox"/> Scallop FMP
--

**Name of Proposer:** NPFMC Staff

**Date:** August 7, 1997

**Address:** 605 W. 4th Avenue, Suite 306  
Anchorage, AK 99501

**Telephone:** 907/271-2809

**Fishery Management Plan:** GOA and BSAI regulatory amendment

**Brief Statement of Proposal:** Technical change to regulations to revise sablefish use caps and sablefish and halibut vessel caps to be listed in 1996 QS units instead of percentage of total catch limit. This proposal would revise CFR 679.42(e) Sablefish QS use, (h) Vessel limitations (1) Halibut and (2) Sablefish.

**Objectives of Proposal: (What is the problem?)** The proposed changes would make federal IFQ regulations conform with the Council's 1996 action to revise the initial Area 4 halibut use cap in percentage of total catch limit to 1996 QS units. In 1996, the Council also chose to revise the halibut and sablefish sweep-up levels from pounds to 1996 QS units. With the proposed changes, the regulations would explicitly state the caps in QS units.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)** QS units are fixed and do not fluctuate annually as do annual catch limits (pounds). These changes require amending the federal IFQ regulations.

**Foreseeable Impacts of Proposal: (Who wins, who loses?)** Fishery participants, administrative and enforcement staff all benefit from having uniform and fixed ownership and use caps explicitly stated in the federal IFQ regulations in 1996QS units.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?** Status quo will lead to conflicting criteria in federal regulations for determining compliance with vessel and use caps. These amendments may be combined with other technical changes to the IFQ program into an omnibus package and submitted directly to the Secretary of Commerce upon concurrence by the Council.

**Supportive Data & Other Information: What data are available and where can they be found?** NMFS RAM and Fishery Management Divisions have the required conversion rates between percentages of total catch limits and QS units readily available.

**Signature:** *Jane D. Cosimo*





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

4-5

August 13, 1997

Mr. Clarence Pautzke  
Executive Director, North Pacific  
Fishery Management Council  
605 W. 4th Avenue  
Anchorage, Alaska 99510


Dear Clarence,

Enclosed are two proposals for amendments to the regulations implementing the IFQ program.

The first proposal would extend the authorization for catcher vessel QS/IFQ holders to transfer up to 10% of their annual IFQ to another person. Absent an extension, the current authority expires on January 2, 1998.

The second proposal would change the IFQ regulations to "tighten up" on QS holders that are not individuals (i.e., corporations, partnerships, estates, etc.). If adopted by the Council, this change would allow NMFS to more closely monitor the legal status and membership of such entities, thereby ensuring more compliance with Council intent for the IFQ program.

Sincerely,

for:   
Steven Penoyer  
Administrator, Alaska Region

Enclosures



④

## CALL FOR PROPOSALS NPFMC

**Name of Proposer:** Alaska Region, NMFS  
RAM Division

**Address:** P.O. Box 21668  
Juneau, AK 99802

**Telephone:** 907-586-7344  
**Fax:** 907-586-7354  
**E-Mail:** <Phil.Smith@noaa.gov>

**Fishery Management Plan:** IFQ Program

**Brief Statement of Proposal:**

Eliminate the January 2, 1998, sunset date for the ability to transfer 10% of an IFQ holder's annual catcher vessel IFQ. Regulation would be amended as follows:

679.41(h)(2) ~~(Applicable until January 2, 1998).~~ A person may transfer no more than 10 percent of the total IFQ resulting from QS held by that person and assigned to vessel categories B, C, or D for any IFQ species in any IFQ regulatory area to one or more persons for any fishing year.

Thus, the only change would be to eliminate the current sunset date, and make the "10% IFQ Transfer" provision a permanent feature of the IFQ program.

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

The problem is that the ability to transfer 10% of one's catcher vessel IFQ goes away at the end of the current year. This will have the effect of disadvantaging those who (for whatever reason) need the flexibility to adjust their fishing practices in order to ensure full utilization of their quota. Currently, many who need to be away from their vessels when fishing occurs take advantage of the "hired skipper" provisions; however, as time goes on, there will be fewer initial recipients of QS and their ability to hire a skipper will diminish, thereby eliminating some of the current flexibility in the program.

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

Only the Council can recommend a change to the current

regulations that govern the IFQ program. It should be noted that this matter was brought before the IFQ Implementation Workgroup in late 1996. When the issue was subsequently brought before the Council, no action (one way or the other) was taken.

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

"Winners" are those IFQ fishermen who need a modical amount of flexibility in the way they conduct their operations. In particular, this flexibility could be important to IFQ holders who experience disabilities and do not have the ability to hire a skipper to take over the fishing operation. Likewise, a number of IFQ holders could use this provision for fishing remaining IFQ later in the season, thus encouraging full utilization of the resource.

There are no "losers" (except, perhaps, those who feel that "leasing" of QS/IFQ, under any circumstances, should be prohibited).

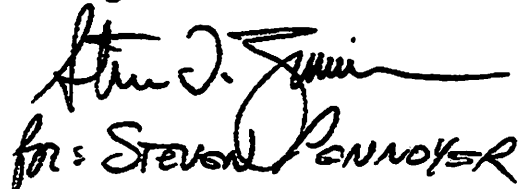
**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

There are no alternative solutions to a sunset provision except doing away with it (and, of course, *status quo*). There are many other approaches that could be taken to the "10% leasing" provision (for instance, different levels); however, it appears to be working as designed. Simply taking action to keep it in place would be appropriate.

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

During the last three IFQ seasons ('95, '96, & '97 to date), the RAM Division has approved a total 67 "10% Transfers" of IFQ. There were 9 such transfers in 1995, 40 in 1996, and 12 through August 4, 1997. Because the numbers of "initial issues" is expected to decline in the future, we anticipate that more IFQ holders will be taking advantage of the opportunity in the future.

**Signature:**

  
for: Steven Pennoyer

⑤

**CALL FOR PROPOSALS  
NPFMC**

**Name of Proposer:** Alaska Region, NMFS  
RAM Division

**Address:** P.O. Box 21668  
Juneau, AK 99802

**Telephone:** 907-586-7344  
**Fax:** 907-586-7354  
**E-mail:** Phil.Smith@noaa.gov

**Fishery Management Plan:** IFQ Program

**Brief Statement of Proposal:** Redefine "a change in the corporation or partnership" found under "Use of IFQ resulting from QS assigned to vessel categories B, C, or D by corporations and partnerships", and add a requirement that non-individual quota share (QS) holders provide updated ownership information annually.

679.43(j)(2) For purposes of this paragraph (j), "~~a change in the corporation or partnership non-individual entity~~" means either the dissolution of the non-individual entity, or the addition of any new shareholders(s) or partner(s), except that a court appointed trustee to act on behalf of a shareholder or partner of a non-individual entity who becomes incapacitated is not a change in the partnership non-individual entity.

Each non-individual entity that holds QS must annually report to NMFS its current status and membership.

Under this proposal, a "change" would also include the dissolution of any corporation, partnership, or other non-individual entity that holds QS. Also, to assist in monitoring the status of such entities, they would be required to annually submit a report containing information on their legal status (if changed, e.g., dissolved) and their membership.

**Objective of Proposal: (What is the problem)**

QS was initially issued to any person that owned or leased a vessel that made legal landings of halibut or sablefish during the qualifying years. Many of these persons were corporations, partnerships, successors-in-interest to same, and/or other entities (e.g., estates). The regulations allow corporations and partnerships to hold catcher vessel QS, and to use the IFQ resulting from it (by hiring a master), until such time as a "change" in the corporation or partnership's owners occurs. Upon

such a "change," the corporation or partnership must divest itself of the QS by transferring it to eligible individuals. As noted above, a change only occurs with the addition of any new owners.

The proposed change would make it clear that this section applies to all non-individual QS holding entities, and not only to corporations or partnerships. It would also provide that, upon the dissolution of such an entity, the QS must transfer to an eligible individual(s), and would require annual reporting to ensure that NMFS was aware of the status of such entities and could effectively implement Council intent with respect to the movement of QS to individuals.

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

Although, technically speaking, NMFS could initiate this regulatory change, because of policy implications, we believe it is best for the Council to recommend changes to the current regulations that govern the IFQ Program.

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

"Winners" are those who believe that Council intent was for the IFQ program to facilitate the transfer of QS from multiple-owner entities to individuals who will actually be present on board when the IFQ is being fished. "Losers" are those entities that now hold QS in the name of a defunct, or altered, non-individual entity and are taking advantage of the use of QS as "initial issues."

**Are there Alternative Solutions? If so, What are they and why do you consider your proposal the best way of solving the problem?** There may be a variety of options to the current requirements that govern corporations and partnerships; however, most of them will involve fundamental policy decisions by the Council. This proposal is designed to ensure more vigorous implementation of existing Council policy, as expressed in the regulations; as such, the only alternative approach is maintaining the status quo.

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

There is anecdotal evidence that some entities that hold QS are, in reality no longer in existence; however, in the absence of authorizing regulations, no formal data collection effort has been undertaken to verify those possibilities. Collection of updated non-individual entity makeup and ownership percentages, compared with existing data, will provide the necessary information.

Signature

*John J. [Signature]*  
for: STEVEN BRUNSON

FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer: Buck LAUKITIS

Date: 8/13/97

Address: 33 Stonewall Place  
FALSE PASS, AK 99583

Telephone: 907-548-2210

Fishery Management Plan: Pacific Halibut

Brief Statement of Proposal: Two alternatives: 1) change section 9. Closed Area to include those waters North of a line from CHUNAK Pt to Cape Krenitzin (N. Entrance to FALSE PASS) instead of "N of line 54°49'00" in Isanctski Strait; 2) amend language to allow persons to possess halibut within the False Pass area besides for "continuous transit."

Objectives of Proposal: (What is the problem?) There are two problems. One is that people buy fish for halibut in nearby bays that are open to commercial halibut fishing but they are unable to either return home for the night or to clean fish at the dock. There is also a proposed halibut buying processing facility in False Pass, and fishermen wonder if they can legally move halibut in and out of the area without undue restrictions.

Need and Justification for Council Action: (Why can't the problem be resolved through other channels?) Local fishermen who come home with halibut aboard seem to be out of compliance of I.P.C. regulations.

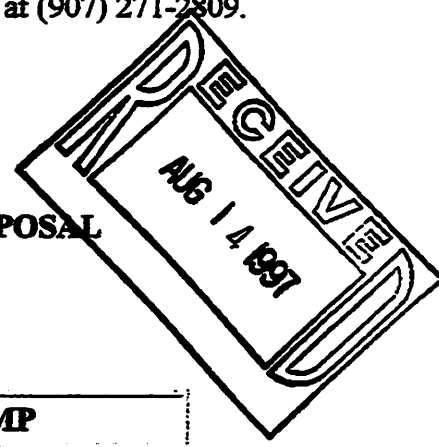
Foreseeable Impacts of Proposal: (Who wins, who loses?) If only the "continuous transit" clause is changed, then there might be an enforcement problem. Changing the closed water line would alleviate the problem without negatively impacting the resource.

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

Supportive Data & Other Information: What data are available and where can they be found?  
Contact FALSE PASS FISHERY GAME ADVISORY COMMITTEE

Signature:

For further information on bycatch reduction measures, crab, scallops or groundfish proposals, please contact David Witherell and for IFQ program proposals contact Jane DiCosimo at (907) 271-2809.



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

Please check applicable box(es):

<input checked="" type="checkbox"/> IFQ Program	<input type="checkbox"/> GOA Groundfish FMP
<input type="checkbox"/> Bycatch Reduction	<input type="checkbox"/> BSAI Crab FMP
<input type="checkbox"/> BSAI Groundfish FMP	<input type="checkbox"/> Scallop FMP

Name of Proposer: Date:

Kevin Kivisto, Kimberley Kivisto, Clint Payne, Brent Payne August 13, 1999

Address:

P.O. Box 1352  
Petersburg, AK. 99833

Telephone:

907 772-9260

Fishery Management Plan:

Protecting the rights of crew members under the IFQ Program.

Brief Statement of Proposal:

Limit the use of automatic baiting systems.  
Protect the rights of crew members.

Objectives of Proposal: (What is the problem?)

Boat owners are replacing men with machines.  
Crew members are left without jobs and chances for re-education

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

There are many displaced crew in need of help from the council

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

Limiting Use of Auto baiting machines would preserve crew jobs.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the

The man share system.

best way of solving the problem?

This would be a fair way to set issuance of IFG's

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

Department of Labor WARN act

State Training & Employment Program

**Signature:**

Kevin Kivisto

Kimberly Kivisto

Clint Payne

Brent Payne

and many other crew members who have inputted to this matter.



## Objectives of Proposal

We are not against the IFQ system. The council has to consider what it has done to long line crew members without Quota Shares. We understand that we are eligible for QS if you have been a harvesting crew member for 150 days or more, the purchase amount for these IFQ's to be able to stay in the industry is out of many crew members and their family's reach.

The loan program that congress required the National Marine Fisheries Service and the Council to establish will not be available until 1999, many of us are out of work now.

Following are some idea's put together by crew members being effected now. We want to limit the use of auto baiting systems in order to preserve crew member jobs. If you didn't have an auto baiting system during the qualifying years then you should not be able to use them now.

They stopped fisherman from using drum seiners in order to preserve crew member jobs when the State implemented limited entry in the salmon seine fishery, and you can't fish freezer shares now because you didn't during the key years.

This year two men from the same boat lost jobs to an auto baiting system that will be put into use this coming 1998 season. This was done without warning!

The Department of Labor enacted the WARN (Worker Adjustment and Retraining Notification Act) on August 4, 1988 and became effective on February 4, 1989. This should have been part of the implementation of the IFQ system.

### **Need and Justification for Council Action**

The council has to consider what the IFQ system is doing to the economical situation of the long line crew member and their family's. People are put out of work without warning, without chances for reeducation, because of commercial fisherman being considered as self employed.

### **Alternative Solutions**

The man share system. Man Share (defined) two words MAN SHARE, man meaning working individual. Share meaning individual's allotment of vessel's gross stock after expenses.

The share system is an established system that has been implemented through out the long line fleet for years. There are four basic parts, full share, three quarter share, half share, and quarter share. The share depends on the person's experience.

The best way to describe it is through an example:

If there are five full shares including the skipper and the boat takes 30%, then each full share crew member would receive 14% of the fish that are sold per trip. This leaves the skipper or boat owner with a total of 44% and the crew with a total of 56%. In most cases over 50% of the allocated fishery went to support over 80% of the participants and their family's. The man share system should have been taken into consideration with the initial issuance of IFQ's.

Respectively Submitted,  
Kevin Kivisto  
Kimberley Kivisto  
Clint Payne  
Brent Payne

For further information on bycatch reduction measures, crab, scallops or groundfish proposals, please contact David Witherell and for IFQ program proposals contact Jane DiCosimo at (907) 271-2809.

8

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

Please check applicable box(es):

<input checked="" type="checkbox"/> IFQ Program	<input type="checkbox"/> GOA Groundfish FMP
<input type="checkbox"/> Bycatch Reduction	<input type="checkbox"/> BSAI Crab FMP
<input type="checkbox"/> BSAI Groundfish FMP	<input type="checkbox"/> Scallop FMP

Name of Proposer: Date:

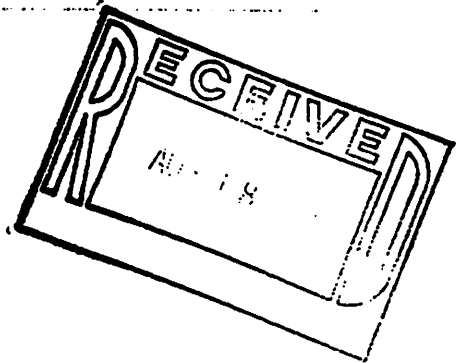
Lloyd Pederson

Address:

Box 447  
Petersburg Alaska 99833

Telephone:

(907) 772-3242



Fishery Management Plan:

Brief Statement of Proposal:

- 1- abolish automatic baiting machine
- 2- move back qualifying yrs. at least to ~~1950~~ 1950
- 3- Historical fishermen or crew men be given G.S.

Objectives of Proposal: (What is the problem?)

see see all my detailed correspondence previously stated.

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

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

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

CALL FOR PROPOSALS  
08/07/97 15:41:49

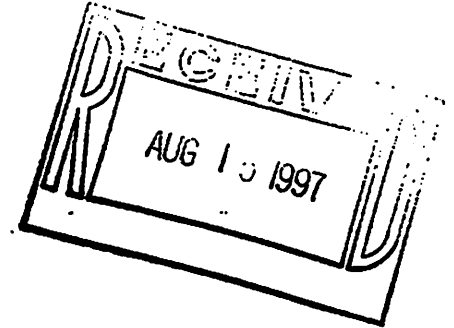
**Supportive Data & Other Information: What data are available and where can they be found?**

**Signature:**

*Lloyd Pederson*

**PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**IFQ PROGRAM**



**Name of Proposer:** Albert Utter  
**Address:** P. O. Box 3049  
Kodiak, Alaska 99615  
**Telephone:** 907-486-8333

**Fishery Management Plan:** IFQ program for the halibut fishery

**Proposal:** Increase the halibut vessel harvest cap from 1% of the statewide TAC to 1.5%, provided that the additional .5% is held ONLY by bona fide IFQ crew members who are physically on board the vessel.

**Objectives of Proposal:** Some career longline skippers and crew members are unable to purchase quota and harvest them on the vessel by which they are employed, due to the vessel owner being at or near the ownership and harvest caps. This proposal would allow for crew members to purchase quota and not be as restricted in selecting the vessel on which to harvest the IFQ.

**Need for Council Action:** The harvest caps were set by the Council and this is a regulatory change to the IFQ program.

**Foreseeable Impacts:** Competitive, aggressive crew members who wish to purchase quota shares will be able to acquire better jobs and have a higher level of job security. Losers would be those crew members or skippers who don't have the financial resources to purchase quota shares and who don't have vessel owners willing to provide financial assistance.

**Alternative Solutions:** Keep the system the same, which will force me to look for another vessel to harvest my shares as my own investment into the fishery grows. This would mean that my present job might be in jeopardy if my harvesting schedule and my current employer's harvesting schedule don't mesh.

**Signature:**

Albert Utter

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

Please check applicable box(es):	
<input checked="" type="checkbox"/>	IFQ Program
<input type="checkbox"/>	Bycatch Reduction
<input type="checkbox"/>	BSAI Groundfish FMP
<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP

Name of Proposer: Kenneth Martin ~~Master~~ Date: 8/12/97

Address: RRI, Box 688  
Astoria, OR. 97103

Telephone: (503) 325-9719

**Fishery Management Plan:**

To fish presently owned IFQ in the future as I have in the past.

**Brief Statement of Proposal:**

to raise ~~the~~ <sup>CG</sup> from 1.0% to 1.5700 FTAC to allow crew members to fish IFQ on vessel they are presently employed on

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

Vessel I am presently on is near to ~~CG~~ CGP with original allocation, leaving no room to fish my quota

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

If I cannot fish my quota on present vessel I must look for another vessel to fish my quota

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

Raising vessel CG to 1.5700 FTAC would enable me to continue fishing my quota on the vessel I have tied on for years giving me a secure future w/o losing present position.

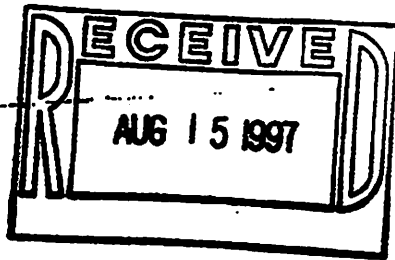
**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

yes. To get my own boat and fish my quota on it however doing this I would have to manage my own boat which would take time away from my present duties which I cannot afford to do

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

Signature: Kenneth Martin ~~Master~~

JOC (11)



1 OF 2

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer: *STEVEN R. SMITH* Date: *8-14-97*  
 Address: *P.O. Box 892*  
*F/V BALLAD*  
*Chehalis, WA 98532*

Telephone: *425-883-6102*

**Fishery Management Plan:**

*IFQ PROPOSAL FOR NPFMC 97/98 cycle.*

**Brief Statement of Proposal:**

*AMEND IFQ Regulations: Raise vessel cap (halibut) to 1.5% OF TAC provided extra .5% is utilized by IFQ crewmembers.*

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

*crew members cannot purchase IFQ if vessel they are employed on is at or near vessel cap. This action will eliminate or reduce only drawback to IFQ system.*

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

*As written up by Linda Kozak, I agree 100%.*

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

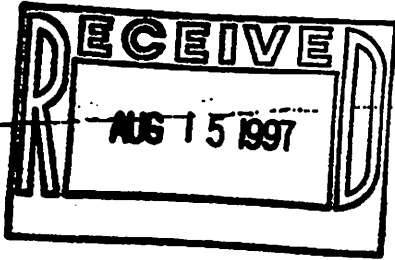
*Will allow easier access for crew members to build equity in their career by making IFQ purchase easier to obtain financing, no need for additional boat etc. Only losers will be unmotivated or part time fishermen.*

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

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

Signature:

Joe 12



2 OF 2

FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer: *Troy R. Huls* Date: *8-14-97*

Address: *P.O. Box 2844 F/V BALLAN  
Palmer AK. 99645*

Telephone: *907-745-8769*

Fishery Management Plan:

Brief Statement of Proposal: *I personally as a crewman who already owns IFQ shares, believe strongly in the purpose of this proposal.*

Objectives of Proposal: (What is the problem?) *This plan as offered gives job security back to the experienced career longliner.*

Need and Justification for Council Action: (Why can't the problem be resolved through other channels?) *I feel no other action is needed. This proposal would solve the problem fairly.*

Foreseeable Impacts of Proposal: (Who wins, who loses?) *I can see no true drawbacks to this program. The career longliner could only gain from this proposal.*

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

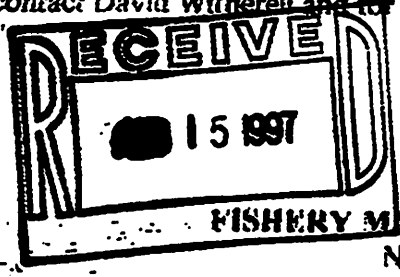
Supportive Data & Other Information: What data are available and where can they be found?

Signature: *Troy R. Huls*

For further information on bycatch reduction measures, crab, scallops or groundfish proposals, please contact David Witherell and for IFQ program proposals contact Jane DiCosimo at (907) 271-2809.

13

907 271-2817



FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

Please check applicable box(es):

- IFQ Program
- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP

Name of Proposer: Date: ERIC LEE AUG. 15, 1997

Address: Box 251  
PETERSBURG, AK 99833

Telephone: (907) 712-3251

Fishery Management Plan: HALIBUT T.F.Q. PROGRAM

Brief Statement of Proposal: In a surplus year such as this one (1997) the surplus should be harvested by reserving fishermen who were unfairly excluded in the original qualifying program.

Objectives of Proposal: (What is the problem?)  
CONT. (SEE ATTACHED PAGE)  
(SEE ATTACHED PAGES)

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

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

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the



## BRIEF STATEMENT OF PROPOSAL: (CONT.)

Vessel owners with over approximately 20,000 lbs. of halibut I FQ, should only be able to catch the amount they were originally allocated or purchased.

## OBJECTIVE OF PROPOSAL:

The objective of my proposal is to make the program more equitable and provide economic relief for those halibut fishermen who are now in bad financial situations due to the qualifying criteria which excluded them.

## NEED AND JUSTIFICATION FOR COUNCIL ACTION:

Without substantial changes, the I FQ program shares will become more and more concentrated in the hands of a few, and the struggling fishermen who need the money most will be excluded.

This consolidation of I.T.O. shares into the hands of a few will only make it more obvious as time goes by that the government has implemented a management system which does indeed monopolize a public resource. An examination of the fisheries which have used the I.T.O. system clearly shows this to be true.

As it becomes more obvious that the same is happening here, the whole program will become more susceptible and vulnerable to lawsuits.

Many of the fishermen unfairly excluded by the present system have been hit so hard economically that they cannot afford to go to buy I.T.O. More importantly though, is the fact that they shouldn't have to. The program simply must have provisions which give all deserving fishermen at least some opportunity to participate.

If changes are not made, the bitterness between the unfairly excluded fishermen and the lucky ones who qualify will only grow as time passes and the economic Gulf between them widens.

For those fishermen who leased boats or worked as trusted crewmen know full well what it was largely through their own efforts that the vessel owners got their I.T.O.s. And they know

that it was largely their own efforts which enabled the vessel owners to purchase and pay off their boats. It can be truthfully said that without the crewmen to do the work, there would be no big longline vessel worth anything but a small amount of T.F.O.s.

The utter disregard for their crewmen shown by the vessel owners who participated in the advisory groups when the system was being set up is very hard with those men who are now left with nothing.

The whole system of eligibility for T.F.O.s is based on the principle of part participation in the fishery. No one participated more than the fishermen who actually ran the boats, baited the gear, hauled in the fish, dressed them and iced them in the hold.

All these fishermen who were unfairly excluded from by the qualifying criteria established largely by the vessel owners, for themselves, deserve a chance to make some money in the fishery. They certainly deserve some recompense for their efforts which put the vessel owners in the position they are now in.

## POSSIBLE IMPACTS OF PROPOSAL:

If fishermen who were excluded from the T.T.Q. program could go out and catch the surplus fish, it would relieve their economic burden and provide much needed money to get sea re-established in another fishery or occupation. It would also provide a substantial economic boost to the fishing communities, for the fishermen would spend most of the money on essential necessities right in their communities.

It is true that the vessel owners would not be with over the limit of T.T.Q.s to fish in the surplus fishery would be unable to participate and therefore lose some additional income, but they would gain ~~it~~ in the sense that their conscience would be appeased.

The ultimate truth which must be fully acknowledged is that no one loses by making the system more fair.

## ARE THERE ALTERNATIVE SOLUTIONS?

Yes, there are other alternative solutions which would do as much or more to make the I.F.O. program a system that is fair and acceptable.

However, my proposal seems relatively uncomplicated to implement and that is one of its main strengths.

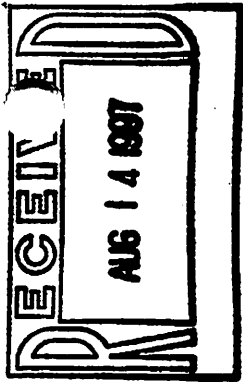
A similar proposal to the one I submit here would be to lower the maximum allowable I.F.O.s that one vessel owner can own. This would make available some shares to those fishermen who were excluded ~~to~~ the original qualifying criteria. If more criteria were adopted that enabled deserving fishermen to get I.F.O.s, the shares would be available from the shareholders who profited most in the initial government giveaway, and given to those who need it most. However, it would take time to implement a program like that, and there would doubtless be lawsuits from the top shareholders. My proposal is simple and workable. I would like to participate in any further discussion regarding the viability and implementation of my proposal, and would like to be informed of the council's ~~own~~ opinion of it.

Sincerely,  
Eric Lee

AGENDA D-5  
SEPTEMBER 1997

# **CRAB & SCALLOP PROPOSALS**

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**



Name of Proposer: Crab Group Inc. Date: August 14, 1997

Address: 302 Gold Street, Juneau, Alaska 99801

Telephone: 907 747 7967 Fax: 907 747 4954

Fishery Management Plan: Bering Sea/Aleutian Islands King  
and Tanner Crab FMP

**Brief Statement of Proposal:**

Initiate Council action to sanction a buyback program that will reduce the number of licenses and/or vessels in the Bering Sea/Aleutian Islands crab fisheries. Also, allow severability of crab licenses from LLP crab/groundfish license package--solely for purposes of retirement to a buyback program.

**Objective of Proposal/Problem Statement:**

With the establishment of a license program in the crab and groundfish fisheries, it is apparent that the crab resource, which is in a critical state, will have more licenses allocated to it than is compatible with sustainable participation. The buyback program would alleviate the serious problems of overcapitalization and waste in the BSAI crab fisheries.

**Need and Justification for Council Action:**

The license limitation program which was adopted by the Council does not reduce overcapacity, it simply caps the effort at a level higher than current participation. For the license limitation program to be effective at reducing effort, it is imperative that some sort of buyback program be established.

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

The winners in this program are the resource, the public and the industry.

**Alternative Solutions?**

For the crab fisheries, there appears to be no other alternative solution under a license limitation program. The reauthorized Magnuson/Stevens Act provides the legal framework for the Council to sanction a buyback program.

**Supportive Data and other Information:**

The State of Alaska Commercial Fisheries Entry has a comprehensive data base on the BSAI crab fisheries, vessels and vessel owners. Also, see NPFMC, Agenda Item C-7(d), Crab Buyback Program Report, Crab Group, 6/18/97.

Gordon Blue   
CRAB, Workgroup Coordinator

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council

**Please check applicable box(es):**

- |   |   |
|---|---|
| <input type="checkbox"/> IFQ Program                  | <input type="checkbox"/> GOA Groundfish FMP       |
| <input checked="" type="checkbox"/> Bycatch Reduction | <input checked="" type="checkbox"/> BSAI Crab FMP |
| <input type="checkbox"/> BSAI Groundfish              | <input type="checkbox"/> FMP Scallop FMP          |

**Name of Proposer:**

United Catcher Boats

**Date:**

August 15, 1997

**Address:**

1711 W. Nickerson, Suite B, Seattle, WA 98119

**Telephone:**

206/282-2599

**Fishery Management Plan:**

Bering Sea Crab FMP



**Brief Statement of Proposal:**

Initiate a program of reporting and accounting for mortality of discarded crab (sub-legal and female and non-targeted crab species) in the Bering Sea crab fisheries.

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

Red king crab and bairdi tanner crab populations are currently at relatively low levels. Crab fisheries can be better managed if all sources of crab removals, including bycatch of crab in directed crab fisheries are accounted for.

Providing this information to the fleet will help fishermen reduce mortality of bycaught crab via peer pressure and greater awareness of the problem.

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

Currently, crab bycaught in directed crab fisheries is assumed to be negligible, or zero. This results in under assessing the amount of crab mortality attributed to fishing.

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

The crab resource benefits from better assessment of the stocks. The crab fishery wins as well because efforts to reduce mortality of non-directed crab will result in healthier stocks of crab.

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

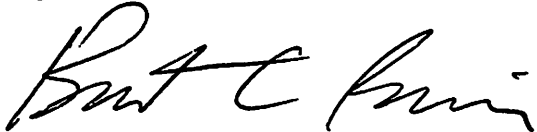
No.



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

Recent Research conducted by State of Alaska, NMFS and University of Alaska personnel.

**Signature:**

A handwritten signature in black ink, appearing to read "Brent C. Smith". The signature is written in a cursive style with a large initial 'B' and a distinct 'C'.

FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

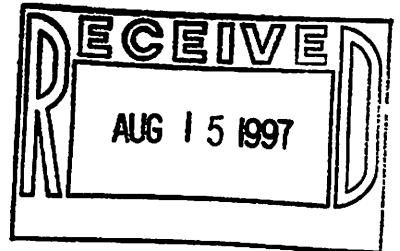
Please check applicable box(es):

<input type="checkbox"/>	IFQ Program	<input checked="" type="checkbox"/>	GSA Groundfish FMP
<input type="checkbox"/>	Bycatch Reduction	<input checked="" type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	BSAI Groundfish FMP	<input type="checkbox"/>	Scallop FMP

Name of the Proposer: Date:  
Alaska Fisheries Conservation Group Tom Casey, Executive Director 15 August 97

Address:  
P.O. Box 910 Woodinville, WA 98072

Telephone:  
Phone (425) 488-7708 Fax (425) 823-3964



Fishery Management Plan:  
Bering Sea Aleutian Islands Crab Fishery Management Plan

Objectives of the Proposal: (What is the Problem?)  
To end institutional discrimination and to extend due process and equal protection as provided for in the United States Constitution to two-thirds of the BSAI crab fleet (living in Washington and Oregon) who are not represented by any of the seven Alaska residents on the Alaska Board of Fisheries. For the purposes of crab management in the federal waters of the BSAI, therefore, add to the Alaska Board of Fisheries four voting members from Washington State and three voting members from the State of Oregon.

Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)  
The North Pacific Council and the Secretary have deputized the Alaska Board of Fisheries to regulate and manage the BSAI crab fisheries. Only the Council and the Secretary have the authority under the Magnuson-Stevens Act to change the terms of the Crab FMP to make it fairer and more equitable to citizens of Washington & Oregon.

Forseeable Impacts of Proposal: (Who wins, who loses?)  
Crab vessel owners from Washington and Oregon win because they will gain direct representation in the future management of the federal BSAI crab fisheries, which they deserve as U.S. citizens. The State of Alaska loses because it will no longer monopolize crab management in the federal waters of the BSAI.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?  
The NPFMC, itself, could conduct the BSAI crab management and regulatory functions it currently authorizes the Alaska Board of Fisheries to perform under the BSAI Crab FMP.

Supportive Data & Other Information:

Signature:  
*Thomas A. Casey*

8.15.97 at 11:30 PDT  
AM

2 of 3

**GROUND FISH & CRAB FISHERY MANAGEMENT PLAN AMENDMENT  
PROPOSAL; NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

**DAVID HILLSTRAND  
BOX 1500  
HOMER, ALASKA 99603  
(907) 235-8706**

**Date: 7/22/97**

**Fisheries Management Plan:  
BSAI Groundfish FMP - BYCATCH REDUCTION**

**Brief Statement of Proposal:**

**1. Reduce the exploitation rate for Tanner; Baridi crab from 39% to 20% for rebuilding, and having the ability to raise it back up to 30% after the stock has been rebuilt by 5% increments.**

**2. Reduce the exploitation rate for Snow crab; Opilio from 59% to 35% for rebuilding and having the ability to raise it back up to 50% after the stock has been rebuilt by 5% increments.**

**Objectives of Proposal:**

**1. To rebuild the Tanner, and Snowcrab stocks and to prevent over harvest from occurring.**

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

**1. Depressed stocks in the Baridi crab fisheries. Future recruitment not showing up in the trawl surveys for Snowcrab.**

**2. To use as a tool in managing the crab stocks.**

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

**1. Reduced Quotas will affect the crab fishers economically. Stocks will be rebuilt. A short term loss for a future profit.**

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

**1. Closed seasons. Closed seasons will rebuild the stock; yet over harvesting can bring a stock to collapse with no recovery in sight. We would rather have a small quota and a season than to be shut down for a long unknown time.**

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

**1. NMFS Trawl surveys.**

**Signature: David Hillstrand**

SCALLOP FMP

FLSHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

North Pacific Fishery Management Council

Name of Proposer: Jim Stone

7216 Interdocken Drive, SW  
Tacoma, WA 98499  
253-582-2580  
Fax 253-589-0508

Mark and Tereza Kandianis

Kodiak Fish Company

2977 Fox Road

Femdale, WA 98248

360-366-9131

Fax 360-366-9132

Fishery Management Plan: Scallop FMP

Brief Statement of Proposal:

Increase the allowed opilio bycatch for the scallop fishery in the Bering Sea from the present level of 0.0032% of the most current abundance estimate to 0.0065% of the most current abundance estimates.

Objectives of Proposal:

The current bycatch cap for opilio in the scallop fishery in the Bering Sea was set based on the existing record of opilio bycatch as a percentage of the biomass at the time the Scallop FMP was being developed by the Council. Though the scallop fishery was 100% observed there was some concern that opilio bycatch was not being as thoroughly monitored as the bycatch of king crab and hard tanner crab. Additionally, the opilio population was not located in the area where the scallop fishery occurred. These two factors set the opilio bycatch (based on the experience to that date in the scallop fishery) at a very low level when expressed as a percentage of the population as the opilio biomass was much higher at that time than that of subsequent surveys. The lower opilio population from the 1996 survey set the cap for the scallop 1997 fishery. This resulted in an opilio cap in numbers for the 1997 scallop fishery of 172,000 animals. Further, the opilio population shifted south and east moving down into the area where the scallop fishery is prosecuted. So, the combination of factors have made the bycatch of opilio crab a constraining factor in this fishery which we believe is not what the Council's action intended.

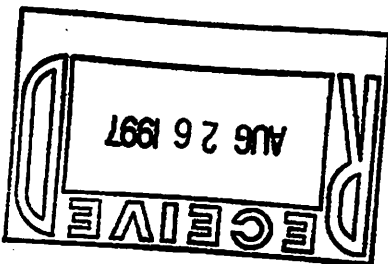
Need and Justification for Council Action:

The Council must amend the Scallop FMP to change any of the bycatch caps in that fishery.

Foreseeable Impacts of Proposal:

A doubling of the floating cap to 0.0065% of the most current abundance estimate would, even if fully taken in the scallop fishery, have no impact on the health of the opilio resource. Further, since the cap has a one year lag time due to the timing of the crab survey, and since the opilio population is subject to dramatic changes in abundance from year to year, the scallop fleet would have a more reasonable opportunity to achieve OY in the Bering Sea scallop fishery. With unpredictable shifts in population, opilio bycatch has become a limiting factor on the fishery. Having a very small increase, which in 1996 survey numbers would total an opilio cap of 344,000 animals, would take into consideration these unpredictable shifts while still providing a very strict control on the bycatch of opilio by the scallop fleet. Observer reports on the viability of opilio caught in the scallop fishery indicate a survival rate of 90%.

Are there Alternative Solutions? Another possible solution is to restrict the bycatch cap on opilio to the area known as the opilio crab bycatch reduction zone. This zone was drawn through industry to industry

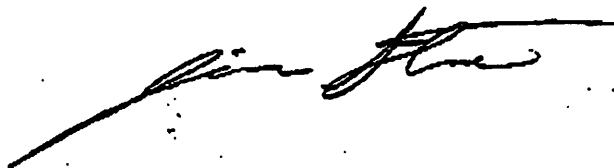


## SCALLOP FMP

negotiations between the crab industry and the groundfish trawl industry. The purpose of the zone is to protect crab populations in areas of greatest sensitivity while not constraining the groundfish fishery in areas important to that fleet. In this way, OY can be achieved by each segment without undue negative effects on either group. This would also be an acceptable alternative to the proposers but would also require an amendment to the Scallop FMP.

**Supportive Data and Other Information:**

Due to the small number of vessels participating in the Bering Sea scallop fishery in 1997, observer data and fishery information is confidential; however, both vessel owners submitting this proposal have agreed to release all observer data for public deliberation by the Council. ADF&G and NMFS can provide information on opilio abundance and areas of population density with indications of how these areas have shifted. ADF&G can provide information as to the location of the Bering Sea scallop fishery. The NPFMC can provide charts showing the opilio crab bycatch reduction zone and the floating cap on the groundfish trawl fishery associated with that zone.

**Signatures:**

Mark Kardianis

Teressa Kardianis

IFQ Proposals (as of 9/17/97)							
No.	Proposal	Proposer	Species	Area	Amendment	Comments	Rank
1	allow use of pots for IFQ sablefish fishing in all areas	Hankins	sablefish	both	plan		
2	prohibit halibut Category A, B, & C vessels from nearshore waters	Ward	halibut	both	regulatory		
3	change percentages to QS units for all use caps	NPFMC Staff	both	both	plan		
4	eliminate January 2, 1998 sunset date for allowing 10% leasing	NMFS Staff	both	both	regulatory		
5	redefine 'a change in the corporation or partnership'	NMFS Staff	both	both	regulatory		
6	change IPHC regulations	Laukitis	halibut	neither	IPHC regs	refer to IPHC	
7	limit use of baiting machines	Kivisto et al.	both	both			
8	limit baiting machines, amend qualifying years, give crewmen QS	Pederson	both	both			
9-12	increase halibut vessel cap to 1.5%, with .5% to crewmen	Utter et al.	halibut	both	regulatory		
13	give surplus halibut to non-QS fishermen	Lee	halibut	both	regulatory		
14	allow tendering of D class halibut	NW Setnetters	halibut	both	regulatory		
15	change vessel cap from lb to %	Corbin	both	both	plan	same as # 3	
16	eliminate landing requirement for < 500 lb of halibut in P. cod fishery	Allan	halibut	GOA	regulatory		

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**IFQ Program**

**Name of Proposer:** Northwest Setnetters Association

SEPT 17, 1997

**Address:** P.O. Box 3047,  
Kodiak, AK, 99615

**Telephone:** (907) 486-1481

**LATE**

**Fishery Management Plan:** IFQ Halibut

**Brief Statement of Proposal:** Amend IFQ regulations to allow tendering of halibut from Class D vessels.

**Objectives of Proposal:** Many Class D vessels have been disenfranchised from the halibut fishery by the IFQ program restriction on tendering. These vessels, many of them from Kodiak Island, traditionally fished halibut in remote areas and delivered to tenders, and were awarded IFQ on that basis. Because of the distance to registered hailing ports, they were, and are, unable to deliver the fish to these ports themselves.

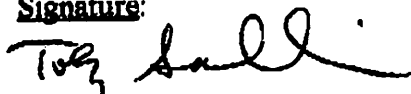
**Need and Justification for Council Action:** The Northwest Setnetters Association proposed a waiver to the tendering restrictions to NMFS Enforcement in Juneau earlier this year. Such waivers were granted in previous years to fishermen in Cook Inlet, and we believe such a waiver would have been the simplest solution to the problem. However, our proposal was denied in May of this year making this proposal to the Council necessary.

**Foreseeable Impact of Proposal:** The small boat fishermen in remote areas of Alaska would be the obvious winners if the Council took positive action on this issue. We have heard of no objections from any other fishermen.

**Alternative Solutions:** A tendering restriction waiver through NMFS Enforcement was previously proposed. (See Need and Justification above).

**Supportive Data:** See attached testimony to the Council, (June 1997), Proposal to NMFS Enforcement from Northwest Setnetters Association (April 1997), Registered Buyer Waiver granted to Paul Seaton (March 1997), Letter from Mark Kirkland, NMFS Enforcement (March 1997).

**Signature:**



Toby Sullivan  
Northwest Setnetters Association



**Toby Sullivan  
Northwest Setnetters Association  
Box 3047, Kodiak, AK 99615  
(907) 486-1481**

**Testimony to:  
North Pacific Fisheries Management Council**

**June 18, 1997**

**Good morning:**

**My name is Toby Sullivan. I am here today as a representative of the Northwest Setnetters Association, a salmon setnet gillnetter group here on Kodiak Island.**

**At the inception of the IFQ program in 1995, about 150 Kodiak Island salmon setnet permit holders were awarded Individual Fishing Quota halibut shares based on their historical participation in the halibut fishery. These are mainly Class D shares of under 1,000 lbs. each, caught almost exclusively in skiffs under 25 feet. During the qualifying years, these setnetters used skiffs to fish for halibut whenever halibut openings occurred while they were at their salmon fish camps in remote areas of Kodiak Island, and used tenders to get this halibut to plants in the town of Kodiak. With distances from these setnet sites to Kodiak city varying between 25 and 150 miles, tendering was, and is, the only practical way for these skiff fishermen to participate in the halibut fishery from anywhere beyond a few miles radius of the town of Kodiak. Since existing regulations make no provisions for tendering however, many have been unable to fish halibut since the beginning of the program, despite holding valid IFQ shares. In the last two fishing seasons many of these shares have gone unfished.**

**Many setnetters would be willing to forego their traditional halibut grounds near their setnet sites, to fish nearer the town of Kodiak, and deliver there, if it could be done. However, because of other jobs and fisheries, halibut fishing before or after salmon season is difficult for many setnetters. Also, because setnet skiffs are commonly stored during the off season at several salmon canneries around Kodiak Island or at the setnet sites, it is logistically difficult to use the skiffs anywhere but near the sites themselves.**

**In the last two summers, several setnet skiff fishermen have run their halibut from Uganik Bay, on the west side of Kodiak Island, to Kodiak, a distance of about eighty miles. Although these fisherman delivered their halibut without incident, many of us remember the loss of a skiff with several men from Kodiak who were not setnetters during a rough weather halibut opening near Spruce Island, about ten miles from Kodiak, in the early '90's. Although one of the stated reasons for implementing the IFQ program was increasing fishermen's safety, we are concerned that long distance travel to a limited number of landing points as required by the program, ignores the realities**

of small boat fishing in Alaska, and makes safety again an issue.

We believe the prohibition of tendering unfairly hurts small boat fishermen who do not have access to the presently allowed landing ports. We believe this inequity should be addressed by the Council.

In March of this year I expressed the concerns of our group to Phil Smith of the RAM Division while he was in Kodiak attending the Comfish show. He assured me the problem had been addressed and remedied, and referred me to National Marine Fisheries Enforcement for particulars.

After speaking with Enforcement agents Ken Hansen in Kodiak and Steve Meyer in Juneau, I initially thought some kind of regulation change might be implemented to address the lack of tendering provisions in the IFQ program. Agent Meyer discouraged this line of thinking however, saying Enforcement preferred case by case waivers rather than a full blown regulation change. He agreed to consider a Transaction Terminal Waiver for Kodiak setnetters similar to one previously granted to a tender operator in Homer in 1996, and re-approved in March of 1997.

In late April I wrote a proposal similar to the one already approved for the Homer setnetters, involving about 25 setnetters in Uganik and Viekoda Bays, on the west side of Kodiak, and two delivery locations, one in each bay. My boat, the Swallow, was the proposed tender, and I proposed a specific date, June 12th of this year as halibut tendering day. The fish were to have been delivered to Cook Inlet Processors in Kodiak.

On May 23 Agent Meyer told me a committee was deliberating the fate of my proposal and he would get back to me. I called him May 30th and was told my proposal had been denied. His stated reason was that NMFS lawyers had concluded that my and two other tendering proposals under consideration might be more than Enforcement could control. The previously approved waiver for the Homer based setnetters was also rescinded. Agent Meyer suggested I pursue a full blown regulation change through the North Pacific Fisheries Management Council.

Seeing as how a regulation change would be unlikely to go into effect until next year, even if one were written now, I would like you to consider granting a waiver similar to the one denied by Agent Meyer, applicable to this season.

Your time and consideration in this matter are appreciated.

**Toby Sullivan**

**Toby Sullivan  
Northwest Setnetters Association  
Box 3047  
Kodiak, Alaska 99615  
(907) 486-1481**

**Stephen A. Meyer  
Special Agent, Alaska Enforcement Division  
National Marine Fisheries Service  
P.O. Box 21767  
Juneau, AK 99802-1767**

**April 24, 1997**

**Dear Agent Meyer:**

**As I explained in our phone conversation on 3/27/97, about 150 Kodiak salmon setnet permit holders have Individual Fishing Quota halibut shares. They are mainly Class D shares of under 1,000 lbs. each. Due to the remoteness of their fish sites and the small size of their skiffs, these setnetters used tenders to get their halibut to town for many years. Unfortunately, current IFQ regulations make no provisions for tendering and as a consequence few setnetters have been able to fish halibut since the IFQ program was implemented. Despite being initially awarded various amounts of IFQ, these fishermen have effectively been disenfranchised from a fishery they are legally entitled to.**

**In the last two summers several setnet skiff fishermen have run their halibut from Uganik Bay, on the west side of Kodiak Island, to Kodiak, a distance of about eighty miles. Though these fisherman delivered their halibut without incident, many of us remember the loss of a skiff with several men from Kodiak (not setnetters) during a rough weather halibut opening near Spruce Island in the early '90's. The Northwest Setnetters Association is concerned that such a tragedy might happen again should the tendering issue not be addressed satisfactorily.**

**After speaking with Ken Hansen in Kodiak about NMFS Enforcement concerns, I have written a proposal for a limited Transaction Terminal Waiver, involving about 25 fishermen in Uganik and Viekoda Bays, on the west side of Kodiak, and two delivery locations.**

**At this point it appears that there would be about 25 IFQ card holders participating, with about a dozen in each of the two bays. Although Tim Blott, (the plant manager at Cook Inlet Processors), and I are unsure exactly which setnetters still own IFQ shares and how much they amount to, we think there are about 15,000 lbs. total extent within this group. These fishermen are a cohesive group who fish exclusively for Cook Inlet**

Processors, and we would like to see them treated as such in any final waiver plan.

We propose June 12, 1997, as the day to tender the halibut, as this date falls between salmon openings and would not interfere with that fishery and the CIP salmon production schedule. If the weather or other factors prevent the full harvesting of their IFQ by the harvesters on this date, we would like to be able to run a mop up tendering operation at a later date, with details to be coordinated with NMFS Enforcement beforehand.

The tender would stand by at one location within each bay, the specific locations to be decided on by weather, and the fishermen would skiff their fish to these locations to deliver.

If you need any other information please let me know. I hope to hear from you soon.

Yours sincerely,

cc: Ken Hansen  
Leigh Selig

**Proposal for Individual Fishing Quota Registered Buyer  
Waiver for the use of Transaction Terminal**

**TENDER NAME** SWALLOW

**OFFICIAL NUMBER** 590388

**OWNER'S NAME** TOBY SULLIVAN

**OWNER'S ADDRESS** P.O. BOX 3047  
KODIAK, ALASKA 99615  
(907) 486-1481

**SHORESIDE PROCESSOR** COOK INLET PROCESSORS  
GIBSON COVE  
KODIAK, ALASKA 99615  
TIM BLOTT, MANAGER  
(907) 486-6385 Fax (907) 486-6592

In lieu of a transaction terminal to report IFQ landings, I propose that the above named vessel tender halibut from harvesting vessels in Uganik and Viokoda Bays on Kodiak Island, and deliver them to the above named processing plant in Kodiak city.

- 1.) Manual IFQ Landing Reports would be completed and signed by the registered buyer and IFQ card holder before the harvesting vessel leaves the tender.
- 2.) The tender vessel, through the processor, would notify NMFS Enforcement by phone at least six hours prior to offloading in Kodiak, consistent with 50 CFR 679.5 (1)(1)(i).
- 3.) All IFQ Manual Landing Reports would be faxed to NMFS Enforcement within six hours of offloading in Kodiak.
- 4.) All Manual Landing Reports would be attached to appropriate State of Alaska fish tickets and made available for inspection by NMFS Enforcement agents.

**PROPOSED BY:**

**TOBY SULLIVAN  
NORTHWEST SETNETTERS ASSOCIATION  
BOX 3047  
KODIAK, ALASKA 99615**



UNITED STATES DEPARTMENT OF COMMERCE  
NOAA / National Marine Fisheries Service  
Alaska Enforcement Division  
P.O. Box 21767  
Juneau, Alaska 99802-1767

**INDIVIDUAL FISHING QUOTA REGISTERED BUYER  
WAIVER FOR THE USE OF TRANSACTION TERMINAL**

REGISTERED BUYER NUMBER IR9750587

TENDER NAME GEORGIA STRAITS

COAST GUARD NUMBER 619111

OWNER'S NAME PAUL SEATON 235-6342

OWNER'S ADDRESS 58360 BRUCE DR.

HOMER, AK 99603

CONTACT NAME ICICLE S.F. - DON BEESON

CONTACT PHONE (907) 235-8107

This is a waiver for the above named tender vessel for the requirement to use a transaction terminal to report IFQ Landings while operating as an IFQ Registered Buyer. In lieu of the transaction terminal, the following methods must be used:

- 1) Manual IFQ Landing reports must be completed and signed by the registered buyer and the IFQ card holder prior to the harvesting vessel leaving the tender vessel.
- 2) Tender vessels delivering IFQ species must notify NMFS Enforcement at 1 800 304-4846 or (907) 586-7163 at least six (6) hours prior to the offloading the IFQ species and according to regulations in 50 CFR 679.5(l)(1)(i).
- 3) All Manual IFQ Landing Reports completed must be submitted by fax to the NMFS Enforcement Office at (907) 586-7313 no later than six (6) hours after all IFQ species are offloaded from the tender vessel.
- 4) All Manual IFQ Landing Reports must be attached to the appropriate State of Alaska Fish Buying Ticket and be made available for inspection as required in 50 CFR 679.5 (l)(1)(iii).

Failure to comply with the above stated alternate methods will be considered a violation of the reporting requirements under 50 CFR 679.5 (l). THIS WAIVER EXPIRES ON: 11/16/97

APPROVING OFFICER NAME & DATE: STEPHEN A. MEYER 3/26/97

APPROVING OFFICER SIGNATURE: Stephen A. Meyer





**UNITED STATES DEPARTMENT OF COMMERCE**  
**NOAA / National Marine Fisheries Service**  
*Alaska Enforcement Division*  
P.O. Box 21767  
Juneau, Alaska 99802-1767

March 28, 1997

**TO:** Mr. Toby Sullivan  
Po Box 3047  
Kodiak, Ak. 99615

**FROM:** Mark A Kirkland  
Special Agent, Alaska Enforcement Division

Mr. Sullivan, I talked with Special Agent-in-Charge Stephen A. Meyer concerning the use of a tender vessel to accommodate the Kodiak Island setnetters. The use of Tender Vessels for receiving and delivering IFQ species requires a waiver and must be approved and issued by the Special Agent-in-Charge Alaska Region. Special Agent-in-Charge Meyer is willing to consider a waiver for the Kodiak Island setnetters upon submission of a written plan detailing the specific methods and means for receiving, reporting, and delivering IFQ species to a shoreside processor/registered buyer.

I discourage you from submitting a plan that involves receiving fish from multiple locations or delivering to multiple shoreside processors/registered buyers. Our ability to monitor and control the receipt and delivery of IFQ species is a strong consideration in granting a waiver to allow a tender vessel to receive IFQ halibut & sablefish. I am enclosing a copy of the Waiver issued to Icicle Seafoods as an example only. The arrangement with the Kalgin Island fisherman was through Icicle Seafoods in Homer. It involves one tender vessel, one registered buyer, and a concerted effort on the IFQ cardholders part to fish and deliver to the tender vessel at a predetermined time and place.

If I can be of further assistance don't hesitate to contact me at 907-586-9350. As a side note, our friends the Canadians have eliminated the use of tender vessels completely in their IVQ system.

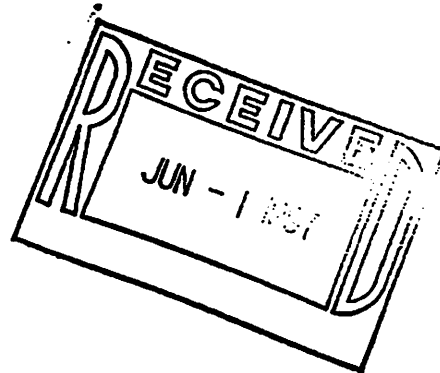
Mark A Kirkland, Special Agent

National Marine Fisheries Service



**F A X**

P.O.Box 3047  
Kodiak, AK 99615



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To: Clarence Pautzke  
Company:  
Fax number: +1 (907) 271-2817  
Business phone: 907-271-2809

From: Toby Sullivan  
Fax number: tobys@ptialaska.net@+1 (907) 486-1481  
Business phone:  
Home phone: (907) 486-1481

Date & Time: 6/2/97 2:39:39 PM  
Pages: 3  
Re: Halibut tendering

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Toby Sullivan  
Northwest Setnetters Association  
Box 3047, Kodiak, AK 99615  
(907) 486-1481

Fax (907) 486-5542

Rick Lauber, chairman  
North Pacific Fisheries Management Council

June 2, 1997

Dear Mr Lauber:

□At the inception of the IFQ program in 1995, about 150 Kodiak Island salmon setnet permit holders were awarded Individual Fishing Quota halibut shares based on their historical participation in the halibut fishery. These are mainly Class D shares of under 1,000 lbs. each. These fishermen necessarily used tenders to deliver their halibut during the qualifying years, but since existing regulations make no provisions for tendering, many have been unable to

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participate in the fishery since the beginning of the IFQ program. The shares have gone unfished.

□ We believe the current IFQ program unfairly prevents small boat fishermen in remote areas from fishing halibut, despite a previous participation which qualified them for initial IFQ shares. We believe this inequity should be addressed by the Council.

□ During the qualifying years, these setnetters used skiffs to fish for halibut whenever halibut openings occurred while they were at their salmon fish camps, and used tenders to get this halibut to plants in Kodiak. With distances from these setnet sites to Kodiak varying between 25 and 150 miles, and using skiffs under 25 feet, tendering was, and is, the only practical way for them to participate in the halibut fishery from anywhere beyond a few miles radius of the town of Kodiak.

□ Many setnetters would be willing to forego their traditional halibut grounds near their setnet sites, to fish nearer the town of Kodiak, if it could be done. However, because of other jobs and fisheries, halibut fishing before or after salmon season is difficult for many setnetters. Also, because setnet skiffs are commonly stored during the off season at several salmon canneries around Kodiak Island or at the setnet sites, it is logistically difficult to use the skiffs anywhere but near the sites themselves.

□ In the last two summers several setnet skiff fishermen have run their halibut from Uganik Bay, on the west side of Kodiak Island, to Kodiak, a distance of about eighty miles. Although these fisherman delivered their halibut without incident, many of us remember the loss of a skiff with several men from Kodiak (not setnetters) during a rough weather halibut opening near Spruce Island in the early '90's. Although one of the stated reasons for implementing the IFQ program was increasing fishermen's safety, The Northwest Setnetters Association is concerned that long distance travel to a limited number of landing points is inherent in the program, and that safety is again an issue.

□ In March of this year I expressed the concerns of our group to Phil Smith of the RAM Division while he was in Kodiak attending the Comfish show. He assured me the problem had been addressed and remedied, and referred me to National Marine Fisheries Enforcement for particulars.

□ After speaking with Enforcement agents Ken Hansen in Kodiak and Steve Meyer in Juneau, I initially thought some kind of regulation change might be implemented to address the lack of tendering provisions in the IFQ program. Agent Meyer discouraged this line of thinking however, saying Enforcement preferred case by case waivers rather than a full blown regulation change. He agreed to consider a Transaction Terminal Waiver for Kodiak setnetters similar to one previously granted to tender operator Paul Seaton in Homer in 1996, and re-issued in March of 1997.

□ In late April I wrote a proposal similar to Mr. Seaton's, involving about 25 setnetters in Uganik and Viekoda Bays, on the west side of Kodiak, and two delivery locations, one in each bay. My boat, the Swallow, was the proposed tender, and I proposed a specific date, June 12th of this year as halibut tendering day. The fish were to have been delivered to Cook Inlet Processors in Kodiak.

□ On May 23 Agent Meyer told me a committee was deliberating the fate of my proposal and he would get back to me. I called him May 30th and was told my proposal had been denied. His stated reason was that NMFS lawyers had concluded that my and two other tendering proposals under consideration might be more than Enforcement could control. The previously approved waiver to Mr Seaton in Homer was also rescinded. Agent Meyer suggested I pursue a regulation change through the North Pacific Fisheries Management Council.

□ Seeing as how a regulation change would be unlikely to go into effect until next year, even if one were written now, I would like you to consider granting a waiver similar to the one denied by Agent Meyer. I intend to testify at the Council meeting in Kodiak June

18th, much as I have written above.

Your time and consideration in this matter are appreciated.

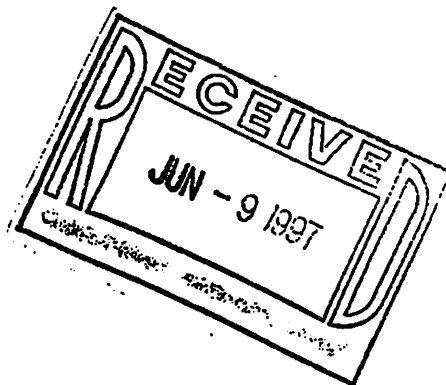
Yours sincerely,

Toby Sullivan

cc: Clarence Pautzke

- Dave Benton
- Seth Macinko
- Steve Pennoyer
- Steve Meyer
- Ken Hansen
- Leigh Selig
- Kevin O'Leary
- Jeff Stephen
-

Buck & Ann LLC  
P.O.B. 8212  
Kodiak Ak. 99615



**LATE**

Dear Mr. Stephan,

I ran into a problem with the vessel use cap for the IFQ fishery in Alaska this year.

I have been in a partnership on the F/V Buck & Ann for 8 years now. My partners, Bernie Burkholder, and Jody Burkholder were issued halibut IFQ's in the beginning, I was not issued any shares. Bernie was issued approx. 65,000 pounds, Jody was issued approx. 64,000 pounds. Last year Jody also recieved approx. 15,000 pounds through appeals. Also last year I bought Approx. 38,000 pounds of halibut to get the Buck & Ann close to the maximum the boat could catch.

We then owned approx. 182,000 pounds. With the cap being 187,000 pounds, I felt we were close enough and could concentrate any future effort toward sablefish.

When the TAC went up this year, I thought nothing of it because I was under the limit. Until the other day a computer glitch at NMFS thought I had exceeded the vessel use cap. It was found that I had not, but revealed to me that my 267,000 pounds this year was over the vessel cap this year set at 255,000 pounds. After long deliberations with NMFS Kodiak, and the RAM Division about how I could possibly be over this year when I was under last year, I realized that when I area (3B) went up so much, even though I didn't buy any more, it put me over 1/2 % of the TAC.

I really wonder how to judge how much quota to own. I would like to fish all of our quota on our own boat. It is not cost effective for me to lease quota to another boat, as I have a big mortgage on the shares I bought, and I also do not have any desire to own more quota than I can effectively fish myself. I would like to be at the vessel cap, but I don't know how to do that with an ever changing TAC. I could sell some now, but next year if certain areas went down, I could end up short. Then if I bought more, the next year I might be over again.

I am not sure how unique my situation is at this time, but I can see that there will be more people affected by this in the future.

I would like to see you consider this problem and possibly make a regulatory amendment to put the vessel cap at 1/2 % of quota share units instead of pounds. This would give a consistant target area instead of one that changes every year.

Thank-you for your time,

A handwritten signature in cursive script, appearing to read "John E. Corbin".

John E. Corbin  
F/V Buck & Ann

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September 17, 1997

**LATE**

Dear Ms. DiCosimo,

I realize that this submission is very late and possibly may not be addressed by the Council at the upcoming meeting. If at all possible please include it in discussions of IFQ rule changes or if necessary, consider it as submitted for the next proposal cycle.

I will try to get a copy to Jeff Stephan for the IFQ Implementation work group today.

Sorry to be so late and thanks for your help.

Sincerely,



Peter Allan

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Name of Proposer: Peter Allan

Date: 9/17/97

Address: POBox 2160, Kodiak, Ak. 99615

Telephone: 907-487-2333

Fishery Management Plan: IFQ Halibut

**Brief Statement of Proposal:**

Dispensation of NMFS landing requirements for small amounts of IFQ halibut (suggested amount: up to 500lbs) which may be caught incidentally during the prosecution of the newly instituted Alaska State waters directed Pacific Cod Jig Fishery.

**Objectives of Proposal:**

1. This proposal would make it feasible for Halibut IFQ holders who participate in the State waters Pacific Cod Jig Fishery to deliver small amounts of halibut which are sometimes caught incidentally without the disruption to their schedule that is caused by the advance hailing and limited hours operations of NMFS' IFQ unloading requirements.

2 This proposal would also promote economic efficiency as these incidentally caught halibut would not be the target of directed fishing efforts at some other time.

**Need and Justification for Council Action:**

I was told by the IFQ implementation work group and NMFS enforcement personnel that this was the proper avenue to address this issue.

**Foreseeable Impacts of Proposal:**

**Who wins?:**

Halibut IFQ holders who participate in the Alaska State Pacific Cod Jig Fishery.

**Who loses?:**

There may be possible inconvenience to processors or buyers when dealing with small volumes of fish without advance notice, but this currently is and should continue to be dealt with on an individual basis between fishermen and their markets.

**Alternative Solutions?:**

Same as Justification for council Action.

**Supportive Data and Other Information:**

The Alaska State waters Pacific Cod Jig Fishery is a newly instituted management regime that is currently being managed and fished at this point in time. I expect that there is little data currently available as the initial season is not yet completed.

**Comments:**

1. I hope and expect that this is not a controversial proposal, as there are no allocative aspects to it.

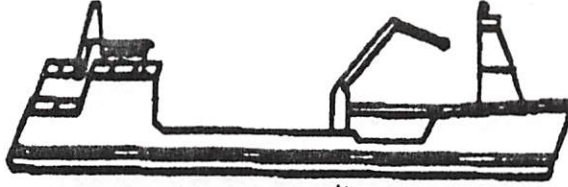
2 I think this proposal would largely mirror one that is already in place for IFQ halibut caught during the SE Alaska Troll Fisheries.

**Signature:**

Casay/Painter

D-5

F/V Trailblazer Partnership  
Alaska Seafood Producers, Inc.  
Midstate Pacific Enterprises



Gary L. Painter

4388 Yaquina Bay Road • Newport, Oregon 97365  
(503) 874-0266 • Fax (503) 874-0380

7/26/95

AK. STATE RESOURCE TAX & SALES TAX ON SEAFOOD DELIVERIES

Alaska State resource tax	3.34 on gross sales
Borough tax in Pribilof Islands	3.04
Borough tax at Akutan	2.04
Borough tax at Kodiak	.55

TAXES  
WE ALREADY  
PAY

F/V Trailblazer gross seafood sales 1994	\$2,174,857.55
Alaska State tax (\$3.34)	71,770.30
Borough tax (All areas.)	53,468.03
Total State & Borough tax	<u>\$125,238.33</u>

F/V Trailblazer gross seafood sales 1995 YTD	\$1,751,909.57
Alaska State tax (\$3.34)	57,813.02
Borough tax (All areas.)	53,468.03
Total State & Borough tax (YTD)	<u>\$111,281.05</u>



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Please check applicable box(es):

<input type="checkbox"/>	IFQ Program	<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	Bycatch Reduction	<input checked="" type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	BSAI Groundfish FMP	<input type="checkbox"/>	Scallop FMP

**Name of the Proposer: Date:**

Alaska Fisheries Conservation Group Tom Casey, Executive Director 15 August 97

**Address:**

P.O. Box 910 Woodinville, WA 98072

**Telephone:**

Phone (425) 488-7708

Fax (425) 823-3964

**Fishery Management Plan:**

Bering Sea Aleutian Islands Crab Fishery Management Plan

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

To end institutional discrimination and to extend due process and equal protection as provided for in the United States Constitution to two-thirds of the BSAI crab fleet (living in Washington and Oregon) who are not represented by any of the seven Alaska residents on the Alaska Board of Fisheries. For the purposes of crab management in the federal waters of the BSAI, therefore, add to the Alaska Board of Fisheries four voting members from Washington State and three voting members from the State of Oregon.

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

The North Pacific Council and the Secretary have deputized the Alaska Board of Fisheries to regulate and manage the BSAI crab fisheries. Only the Council and the Secretary have the authority under the Magnuson-Stevens Act to change the terms of the Crab FMP to make it fairer and more equitable to citizens of Washington & Oregon.

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

Crab vessel owners from Washington and Oregon win because they will gain direct representation in the future management of the federal BSAI crab fisheries, which they deserve as U.S. citizens. The State of Alaska loses because it will no longer monopolize crab management in the federal waters of the BSAI.

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

The NPFMC, itself, could conduct the BSAI crab management and regulatory functions it currently authorizes the Alaska Board of Fisheries to perform under the BSAI Crab FMP.

**Supportive Data & Other Information:**

**Signature:**

*Thomas A. Casey*

8.15.97 at 11:30 PDT  
9am



# Proposed BSAI Crab Management Board

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## 1. Voting Membership

- A. 7-Alaskans
- B. 4-Washingtonians
- C. 3-Oregonians

## II. Crab SSC

- A. Crab biologists from WA, OR & AK
- B. Advise Board during deliberations on new proposed regulations and harvest strategies

## III. Crab Species

- A. NPFMC's FMP crab fisheries

## IV. In-season Management Authority

- A. Emergency management authority:  
ADFG Commissioner
- B. Daily management responsibility:  
ADFG Dutch Harbor staff in consultation with ADFG's  
Westward Regional Manager in Kodiak

# ***Alaska Fisheries Conservation Group***

Bering Sea Crab Vessel Owners from Alaska, Washington & Oregon

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Box 910 Woodinville, WA 98072

(425) 488-7708

Fax (425) 823-3964

August 27, 1997

John White, Chairman  
Alaska Board of Fisheries  
West Coast International Inn  
Anchorage, AK

John,

Your Vice-chairman, Dan Coffee, has treated me and our organization like dogs since March 1996 when we first met him at the Board's Shellfish meeting.

At the beginning of that meeting, I asked you what the best way would be for our group to have continuous in-put into the Board's decision-making process. You told me to submit our written comments, everyday if necessary, in the form of Record Copies or RC's. We did exactly that. You can check the file. We must have submitted ten of them over the course of the meeting.

But when Dan Coffee came up to me out of nowhere and told me that it was "useless" for me to submit RC's because "...I don't read them" I felt like he was discouraging me from being part of the Board process. But we kept submitting RC's anyway.

But later when Dick Powell of Kodiak came up to me and told me "Dan Coffee thinks you have a crucifixion complex" it started to bug me and it convinced me that Dan was prejudiced against me and our group and the federal crab management policies we advocated.

The icing on the cake though happened at a joint ABF-NPFMC meeting here in Anchorage last July when Dan started the crab discussion by saying

"I'd like to begin the crab portion of this meeting by asking Tom Casey to leave the room."

Then he chuckled.

Dan Coffee is a big reason why our group is convinced that we need to supplement ABF's 7-votes with seven more from Washington and Oregon to form a new group under the FMP to manage crab in the BSAI.

But there are other reasons, too. After the Alaska Board of Fisheries voted to wait until the end of this summer to decide how to manage the 1997 Bristol Bay red king crab season (which we begged you not to), we followed the FMP appeals process and filed a formal appeal to that decision. John, we were ignored by the Board for 7-weeks and only after Ron Berg of NMFS-Juneau intervened did we finally get a terse go-to-hell response.

That proved to us that the Board's monopoly power over BSAI crab management was stacked against us and that the odds of us getting a fair shake from the Board in the future were slim to none.

So on August 15th, we filed a formal proposal with the North Pacific Fishery Management Council to to add 7-voting members (equal to the ABF's voting membership) from Washington and Oregon to a new crab management committee under the FMP.

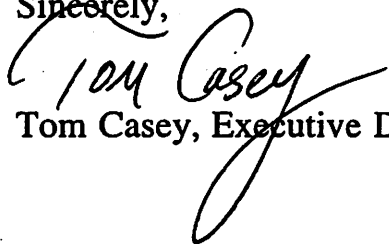
Lat night you asked Gary Loncon , the Chairman of PNCIAC, if he favored Washington and Oregon having voting membership on ABF. Loncon said no, he felt Washington and Oregon were "adequately" represented by the seven Alaskans who now enjoy exclusive voting control of ABF.

I just want to be sure you understand that Loncon does not speak for us or any of our members who serve on PNCIAC.

We want 7-more votes on ABF from our states. That would give us the due process and equal protection we are entitled to as citizens of the United States. Anything less is inadequate.

I swear these facts to be true and, at your request, I will repeat them under oath to anyone who cares.

Sincerely,



Tom Casey, Executive Director