

M E M O R A N D U M

TO: Council, SSC, and AP Members

FROM: Jim H. Branson
Executive Director

DATE: July 10, 1981

SUBJECT: Bering Sea/Aleutian Islands Groundfish Amendment #3, Controlling
the Catch of Prohibited Species

ACTION REQUIRED

The Council is scheduled to adopt the final form of Amendment #3 for Secretarial approval.

BACKGROUND

Amendment #3, Controlling the Catch of Prohibited Species was approved by the Council for public review in February. Public hearings were held in Seattle on April 18 and in Anchorage on April 22.

The Council heard testimony on the Amendment at the May meeting, and selected the preferred options for the final draft.

The PDT met in Seattle on June 29 and on June 30 with interested parties and drafted their final version of the amendment.

The Amendment package in your notebooks has been redrafted by the Council staff to reflect the intent of the Council's motion passed in May.

AMENDMENT #3

Controlling the Incidental Catch of Prohibited
Species in the Bering Sea/Aleutian Groundfish FisheryINTRODUCTION

The first version of Amendment #3, Controlling the Incidental Catch of Prohibited Species in the Bering Sea/Aleutian Islands Groundfish Fishery, has gone through two public hearings (April 18 and 22, 1981) and been reviewed by the North Pacific Fishery Management Council (NPFMC). This version is drafted to take into consideration the comments and recommendations made by the public, the SSC, and the Council through the May 1981 meeting. The purpose of Amendment #3 is to reduce the amount of those prohibited species taken incidentally in the extensive groundfish fisheries in the Plan region.

This package contains: I. Council Instructions to the PDT; II. Guidelines; and III. Proposed Procedure. A section IV, Alternative PDT Proposal for In-season Implementation of PSC, has been added by the PDT for Council consideration.

I. COUNCIL INSTRUCTIONS TO PDT

At the May meeting of the NPFMC, the Council instructed the Plan Development Team (PDT) to redraft Amendment #3 to the Bering Sea/Aleutians Groundfish FMP. The specific instructions, according to minutes of the Council, are:

"Don Bevan moved that the Council ask the Plan Development Team to draft a modified version of Amendment #3 based on the Allowable Incidental Catch concept which would close a nation's fishery when it reaches its assigned AIC. The draft should include the use of an initial AIC (a percentage reduction of final AIC) to assure that the Bering Sea/Aleutian Islands area is closed to a nation before the final AIC is reached, and authority for the Regional Director to re-open areas to specific gear types which demonstrate an ability to avoid prohibited species until the final AIC is reached, when the entire area would close to all that nation's groundfish fleets. The

Team should explore additional incentives to minimize prohibited species catches and provide flexibility for the Regional Director to respond in emergency situations. Amendment #3 would not apply to the domestic fishery; the foreign longline fishery would be exempted for catches of crab and salmon; and further study would be conducted to explore the impact of foreign longliners on the catch of halibut. The motion was seconded by Charles Meacham. Upon call for the question, the motion was unanimously approved. The Council expressed concern over the connotation of the term "Allowable Incidental Catch" because it infers that such catches are permissible and retainable. They asked the Plan Development Team to find a term to replace AIC--possibly PSC--"Prohibited Species Catch," which would underscore the fact that prohibited species are to be avoided and cannot be retained."

II. GUIDELINES

Two sets of guidelines are used to determine procedures for controlling the incidental catch of prohibited species:

- A. that procedures chosen should provide incentives and opportunities for fishermen to modify their gear, fishing techniques, or whatever is appropriate to reduce incidental catch of prohibited species so that long-term solutions would result from the actions; and
- B. that procedures chosen should be potentially applicable to both foreign and domestic fishermen.

III. PROPOSED PROCEDURE

The recommended procedure of the Council is to establish prohibited species catch (PSC) levels for certain species whereby the groundfish fishery may be subject to closure if exceeded.

Prohibited species catches will be established for salmon (all species combined), Pacific halibut, king crabs, and Tanner crabs. All other prohibited species listed in the FMP are subject to their present regulations.

Features of the PSC concept include the following:

- A. Determination of PSC's for each prohibited species:
 - 1. determination of base PSC levels for measurement,
 - 2. determination of target level and period of reduction, and
 - 3. determination of annual percentage level of reduction.
- B. Annual review of PSC.
- C. Application of PSC concept to foreign and domestic fishermen.
- D. Allocation of PSC's to fishing groups.
- E. Retention of prohibited species.
- F. In-season implementation of PSC proposal
- G. Estimation of prohibited species catches.

A. Determination of Prohibited Species Catch

- 1. Base PSC levels for measurement. The average incidental catch during 1977-80 is used as the base level for each prohibited species from which catch limits are determined.

Note: This base PSC level differs from the earlier proposal when the 1977-79 average catch level was used. The new average includes the 1980 data which became available since the first version of Amendment #3 was drafted. Using 1980 data should provide a fairer long-term estimate of prohibited species catches.

- 2. Target level and period of reduction. Target level and period of reduction for each prohibited species are determined differently for each species as follows:

Pacific halibut - 75% reduction in 5 years as originally proposed.

Salmon - About 80% reduction in 6 years as proposed by agreement for chinook salmon between Alaskan Natives and Japanese trawling interests. This schedule is very similar to the original PDT proposal.

King and Tanner Crabs - 25% reduction in 5 years.

Note: This reduction schedule differs from the earlier proposal. The PDT felt that the reduction schedule should more accurately reflect conditions in these fisheries, i.e., (1) the insignificant biological impact of the incidental catch on the population of crabs, and (2) the lesser socioeconomic impact of the incidental catches on the domestic crab fishing industry. As reported in Reeves (1981, Council Document #13) most of the crabs taken are golden king crabs (77-91% of king crab by-catch) and Chionocetes opilio (59-75% of Tanner crab catches).

3. Annual percentage level of reduction. A straight line schedule of reduction is adopted to simplify the implementation of controlling incidental catches. This schedule and other aspects of prohibited species regulations are subject to review by the Council for 1984 and 1985.

Based on the principles adopted for the three main components for determination of PSC levels, the following schedule for reductions is recommended by the PDT:

TABLE 1 -- Proposed Reduction Schedule

Year	Metric Tons		Number of Individuals	
	Halibut	Salmon ^{1/}	King Crab	Tanner Crab
1977-80 Average	3,363	80,524	1,008,225	16,057,046
(1981)	--	--	--	--
(1982)	2,859	59,400	957,814	15,254,193
(1983)	2,354	48,900	907,403	14,451,341
(1984)	-----to be determined-----			
(1985)	-----to be determined-----			
(1986)	841	17,500	756,169	12,042,785

^{1/} based on the assumption that 93% of incidentally-caught salmon are chinook salmon

The catch reduction schedule for salmon is for all species of salmon combined. The principal user groups (Alaskan Natives and Japanese trawling interests) have further agreed that the schedule of reduction for chinook salmon should be as follows:

65,000 fish in 1981
 55,250 fish in 1982
 45,500 fish in 1983
 --to be determined in 1984--
 --to be determined in 1985--
 16,250 fish in 1986

The PDT endorses this agreement. The catch reduction schedule in Table 1 for all salmon is based on the assumption that 93% of incidentally-caught salmon are chinook salmon.

The recommended schedule of reduction also includes the following features:

- (a) A roll-over PSC limit which, in effect, fixes the by-catch levels over three years, will be in effect. In any year, prohibited species catch may exceed established limit by 10%. Such excess catch would be compensated for in the following two years. Catches below PSC limits may be made up in following years subject to the 10% annual overage allowed and so long as the sum total of the 3-year catch does not exceed the 3-year PSC limit.

Note: The PDT recommends that this degree of flexibility be applied to all species' PSC's.

- (b) Once the final PSC level is reached for salmon, Bering Sea Area II will be closed to trawlers of the affected nation, as well as part of Area I lying between 55° and 57°N and between 165° and 170°W for so much of the months of January, February, March, October, November, and December which remain in that fishing year.

- (c) If any more salmon are caught in the areas which remain open, those catches would be deducted from the next two years' by-catch levels of the affected nation consistent with the roll-over PSC limit.
- (d) Once the final PSC for halibut is reached, the entire Bering Sea/Aleutian Islands area would be subject to closure to all foreign fishing of the affected nation.
- (e) Once the final PSC for king crab and Tanner crab is reached, the entire Bering Sea/Aleutian Islands area would be subject to closure to trawl fishing of the affected nation.
- (f) The target level and the schedule of reduction will be subject to review for 1984 and 1985 in light of prohibited species catch regulations on:
 - (1) impact to foreign and domestic fisheries;
 - (2) stock condition and abundance of target groundfish and prohibited species; and
 - (3) socioeconomic implications of prohibited species regulations.

B. Annual Review of Prohibited Species Catch

Since fisheries resources and socioeconomic conditions of the fishing community are expected to change, the Council should review, annually, the PSC regulations. Taking into consideration the latest incidental catch data, abundance of prohibited species, amount of groundfish OY, and relative importance of prohibited species to the fishermen, the Council may wish to review annually:

1. the base PSC for measurement;
2. the target level and period of reduction; and
3. the percentage level of reduction from the previous year.

C. Application to Foreign and Domestic Fishermen

The PSC concept will have a direct effect on foreign fishermen only. Domestic and joint-venture fishermen will not be directly affected by these measures. If their catch of prohibited species presents a problem to management, appropriate measures may be promulgated to resolve the problem. In essence, these fisheries are exempt from PSC provisions at this time.

The PDT considers the PSC as a means of controlling mortality on prohibited species and thereby managing these resources. Consequently, the catch of prohibited species by domestic and foreign fisheries combined should not exceed the designated PSC's. Because the Council does not wish to place restrictions on the domestic and joint-venture groundfish fishery at this time, the PSC's will not apply directly to these exempt fisheries. However, the projected catch of prohibited species by domestic and joint-venture fisheries should be used to calculate the PSC available to foreign fisheries.

The proposed procedure is to set PSC's available to foreign fishermen by subtracting the projected prohibited species catch in domestic and joint-venture fisheries.

$$\text{PSC}_{\text{Foreign Fishermen}} = \text{PSC}_{\text{Level}} - (\text{Projected catches by domestic, and joint-venture fisheries.})$$

We recommend that the projected catch be set equal to the estimated catch of the previous year or by other more reliable procedures:

$$\text{Projected catch in year } i = \text{estimated catch in year } i-1.$$

The estimated catches of prohibited species in 1980 by domestic and joint-venture fishermen are shown in Table 2.

TABLE 2 -- 1980 Domestic and Joint-Venture Prohibited Species Catch

Species	(Units)	Domestic	Joint-Venture	Total
Halibut	(mt)	26	286	312
Salmon	(numbers)	27	1,898	1,925
King Crab	(numbers)	--	289,542	289,542
Tanner Crab	(numbers)	--	179,816	179,816

The Council should periodically review the status of exempt fisheries to determine at what point the PSC should apply or if other measures should be taken to control the incidental catch of prohibited species. The PDT is concerned that if meaningful restrictions are not placed on the domestic fishery that excessive incidental catches could result in unwarranted closure of the foreign fishery. We recommend that the Council define a point of concern to reconsider the exempt status of domestic and joint-venture fisheries and suggest that this be defined in two ways:

1. when the rate of incidental catch by domestic and joint-venture trawlers exceeds twice the average rate by foreign trawlers; and
2. when the total incidental catch of prohibited species by domestic and joint-venture fisheries exceeds half of the PSC.

D. Allocation of PSC's to Fishing Groups

It is recommended that PSC's be allocated by nation in direct proportion to the nation's groundfish allocation.

The foreign longline fisheries are exempted for PSC's for salmon, king crabs, and Tanner crabs because they have negligible impact on these species.

E. Retention of Prohibited Species

Incidentally caught prohibited species must be returned to the sea with a minimum of injury regardless of condition in order to discourage covert directed fishing on them.

F. In-Season Implementation of PSC Proposal

The Council passed a motion in May endorsing the concept of a two stage PSC. Under this proposal an initial PSC equal to 75% of the target PSC will be allocated to each nation at the beginning of the fishing year in direct proportion to the nation's initial groundfish allocation. When the initial PSC for the nation is reached fishing activities of the nation are subject to actions by Regional Director of NMFS, in consultation with the Council.

Actions which the Regional Director and the Council can consider are:

1. allocating portions of the remaining 25% of the PSC to that nation so that fishing can continue;
2. permitting only selected gear types to continue fishing until target PSC or final TALFF is reached.

Groundfish reserves or unneeded DAH will be allocated only to nations with unused PSC. The amount of groundfish allocated will be based on the likelihood that target PSC's will not be exceeded.

Since reserves and unneeded DAH could be fairly large, the prospect of additional groundfish allocation from these sources would be sufficient incentives for foreign fishermen to avoid catching prohibited species.

If any nation reaches its target PSC, the Regional Director, in consultation with the Council, is authorized to close that nation's fisheries, subject to consideration of the 10% annual overage allowed, and, in the case of salmon, to the special time/area closure.

G. Estimation of Prohibited Species Catch

Catches of prohibited species will be estimated by U.S. observers and other reported statistics that are considered reliable.

IV. ALTERNATIVE PDT PROPOSAL FOR IN-SEASON IMPLEMENTATION OF PSC.

In reference to III-F above, In-Season Implementation of PSC Proposal, the PDT would like to underline its shortcomings. This procedure will require a substantive amount of information on incidental catches by different fishery elements; i.e., combinations of nation-gear types, vessel-class-month-area-target-species, categories. Information on all of these elements will be required for decision-making. The PDT believes that accurate information on these fishery elements cannot be obtained in a timely manner to carry out procedure III-F.

Moreover, procedure III-F does not meet Guideline 1 for controlling the incidental catch of prohibited species, which the Council endorsed in May. The proposed procedure would place the onus for determining the proper combination of effort and fishing strategy on the Council. The PDT believes that the nations themselves are better able to make these determinations, and that they should be made responsible.

Therefore, the PDT proposes the following, a Single Stage PSC:

The entire target PSC is to be allocated to each foreign nation at the beginning of the fishing year in direct proportion to the nation's initial groundfish allocation. The nation can continue to fish subject to its availability of unused PSC and TALFF. When PSC is reached, the actions taken by the Regional Director will depend on the species in question (selected time/area closure for salmon, complete closure for halibut and crabs).

When groundfish are allocated from the reserve or unused DAH, the nation will be allocated reserves in proportion to the amount of PSC's still available to the nation. If the nation has attained any species' PSC, it will not be eligible for groundfish allocation from reserves because it cannot fish without PSC allocation.

Since reserves and unneeded DAH may be fairly large, the prospect of additional groundfish allocations from these sources would be

sufficient incentives for foreign fishermen to avoid catching prohibited species.

Whether the Council adopts proposal III-F, or the PDT alternative proposal, the PDT also recommends the following:

- A. that the Regional Director, in consultation with the Council, be empowered to adjust the PSC level at any time to respond to unexpected variations in prohibited species' abundances in order to minimize operational problems in the groundfish fisheries and still protect prohibited species; and
- B. that the Regional Director, in consultation with the Council, be empowered to allow selected gear types to continue fishing under specified conditons until TALFF is reached, if the enforcement and observer coverage are sufficient to ensure that the gear is operating properly and not a serious threat to prohibited species. Any additional prohibited species catch would have to be counted against the 10% roll-over PSC limit, and made up in the following two years.

the domestic fleets--other than prohibited retention--it will do so taking into account the different legal status of the domestic fleets and the fact that these fleets (shrimp, bottomfish, crab and scallop) all generate jobs, dollars, and food to the U.S. As regards the biological implications, they are similar for both foreign and domestic fleets. The economic implications, however, of mortalities generated by a U.S. fleet and costs transferred to other fisheries is significantly different. The foreign fleets generate no income to the U.S. economy and foster losses in U.S. crab, halibut and salmon fisheries. U.S. fleets transfer certain losses to other fleets but contribute in a significant way to our economy. That is why we currently tolerate our crab, shrimp and herring fisheries. The growing U.S. trawl fleet deserves similar consideration. We would hope this distinction is made clear by the Council.

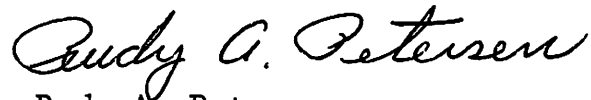
The target reductions for foreign fleets may be okay but if they were to be imposed on the U.S. fleet we doubt that we could develop the gear or fishing patterns necessary to achieve the goals in the time allocated--particularly for halibut--without major increases in operational costs which could weaken our competitive position in the U.S. and world market. We hope the domestic industry is not ultimately shackled to live up to what we consider as rather unrealistic goals.

One final comment. The whole approach seems to bind the Council with mandatory reduction numbers even though reviewed periodically which puts the Council on an annual basis on the sidelines. As we understand the proposal, the Council's flexibility is associated with a 10% plus or minus adjustment. Inasmuch as annual variations in recruitment and availability are ignored, a simple upward shift in abundance of a species with a relatively small increase in U.S. fishing for say flounder (which takes large amounts of crab) could easily result in a requirement to decrease foreign fleets by 50 to 80%. Great for us but would you leave to NOAA a similar ability to govern the future of the U.S. fleet in that way? By the way, we believe the current decline in king crab abundance may more than offset the PDT's goals on crab; hence, it is of little value and may even allow increased harvest rates by foreigners. The Council needs more flexibility to deal with annual changes in abundance and other factors. The Council should be given this freedom as long as the basic goal of bringing about some reduction in mortality rates imposed by foreign

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July 13, 1981
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fishing is achieved. It should not be locked into a schedule that may soon appear unworkable and unachievable by the Department of Commerce.

Sincerely,



Rudy A. Petersen
President

cc: The Highliners



NATURAL RESOURCES CONSULTANTS

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AGENDA E-6(b)
July 1981

ACTION	ROUTE TO
	Exec. Dir.
	Deputy Dir.
	EXEC. DIR.
	Staff Asst. 2
	Staff Asst. 3
	Economist
	Sec./Bkkr.
	Sec./Typist
<i>July Council Books Pme</i>	
JUL 17 1981	

July 10, 1981

The Honorable Clement V. Tillion, Chairman
North Pacific Fishery Management Council
P. O. Box 3136 DT
Anchorage, Alaska 99510

Dear Clem:

We have read with interest the June 30 version of Amendment No. 3. Although it shows significant improvement over previous versions, we remain concerned regarding its practical implementation and achievability - unless it is designed to get rid of the foreign fishing. Of greater concern are the management implications, as they might impact domestic trawl, shrimp and crab fisheries. The following comments are submitted to you and the Council for consideration in your deliberations of this issue.

1. The document appropriately points out (in the introduction) the economic losses transferred to U.S. fishermen as a result of foreign incidental catches. However, in the section dealing with Application to Foreign and Domestic Fishery, it fails to distinguish the legal and policy aspects which clearly separates foreign and domestic fishing activity and the consequences of such fishing to our economy. The retention of certain species of fish by foreign fishermen is prohibited under the FCMA on the basis of their full utilization by domestic fishermen and, hence, the absence of a TALFF. There is nothing in the FCMA which establishes such species as prohibited to U.S. fishermen. Halibut, crab, and salmon became prohibited as a result of certain domestic regulation presumably generated on the basis of improving biological and/or economic yield from the species of interest. In an historical sense, other than prohibiting their retention of the species harvested by certain gear types, there has been little or no attempt to control the level or expansion of domestic fisheries

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based on an incidental capture of halibut, crab or salmon. The fundamental difference between domestic and foreign fisheries is that the U.S. fisheries generate substantial economic gain to our economy even though creating some loss to other fisheries. Fisheries interaction of this sort has been a way of life. We tolerate the mortality generated by our shrimp and crab fleets because of their socioeconomic contributions. Even though not explicitly recognized, the above is implicit in the action of the Council and State agencies. Are we to ignore these values when gauging regulations on domestic trawl fishermen?

Point: The document and Council should clearly recognize and note the differences in establishing controls on foreign fisheries which transfer economic loss to our industry but do not generate any significant economic contributions to our society as compared with domestic fisheries which create both economic gains and losses and which are not specifically excluded from harvesting such resources just because they are fully used by other fishing groups.

2. Although the document makes an effort to insure domestic fishermen that they will not be impacted by the proposed amendment, it clearly links the prohibited species catch (PSC) with the domestic harvest, that is, the PSC of foreign fishermen is equal to the established PSC level (for all fisheries) minus that taken by the domestic fisheries. We note, however, under both options the PSC will decline each year. Other factors being equal, if the foreigners are unable to adjust their technological or operational pattern to the required reduction, they must either go away or the Council modify its objective. If we presume the latter does not occur and there is no longer a foreign element of the industry, is the domestic fishery then regulated by the PSC? If so, in five years we may well have reduced the Alaska trawl potential to one-fourth of the 1977-1979 level of foreign fishery. That is, presumably the PSC declines to one-fourth the start up level (for halibut) over a five year period. If the U.S. and the foreigners do not find a technological or operational solution, then the total groundfish harvest reduces to one-fourth that now allowed. If I were making a major investment in the U.S. groundfish industry, it would scare the hell out of me. Even worse, the historical averages are

largely dominated by a large directed pollock fishery with reasonably low incidental catch rates of halibut and crab. If the U.S. fishermen are expected to even further reduce incidental capture rates, the future of a large scale Alaska groundfish industry directed toward anything but pollock seems questionable. Fine for joint ventures concerned with pollock but a disaster to the hopes of the Alaska coastal trawl fishery.

Point: The draft leaves unclear what happens if the foreign fleet cannot adjust and does not speak to the issue of the impact of the PSC on domestic fisheries if there is no longer a TALFF. In our view it should be clear that at such time as regulation is required of the domestic sector, that interception rates will be re-evaluated in terms of biological and economic goals associated with all U.S. fishermen prohibited from capturing these species. As such, the contribution of a fishing versus economic loss transferred to other users will be taken into account.

3. The consequences of the proposal to foreign fisheries are rather staggering. Although the scale down on the surface seems reasonable, it would appear that minimal increases in U.S. fisheries which take high incidental catches of king crab could have an impact on foreigners substantially beyond that implied in the five year 25% phase down approach.

Point: The Council should recognize that current goals could wipe out foreign fisheries with modest increase in U.S. harvest. (Perhaps just what the doctor ordered.)

4. Failure to take into account annual variation in recruitment of prohibited species coupled with changes in target species abundance (other than in the review aspects) could result in increased mortality rates being imposed in some years rather than reductions. The straight line reduction approach is obviously simple but could have drastic impact on goals (even with the 10% flexibility) for prohibited species, as well as foreign and domestic trawl fisheries. It is obvious that abundance patterns of salmon and crab have resulted in major changes over four years and even annually. If king crab decline 50% in abundance over

the five year period, the authorized catch will result in a 50% increase in prohibited species mortality rate. On the other hand, if stock sizes of prohibited and directed species are increasing and decreasing, respectively, the reduction required will be greatly aggravated. Link this problem with the issue noted above, and it creates an extremely difficult management problem.

Point: Year-to-year variations in abundance should be taken into account and annual adjustments of the PSC by the Council should be authorized following submission of supporting evidence by NMFS, ADF&G or IPHC, etc.

5. Although we endorse the goal of reducing the incidental take of prohibited species, the goal set for halibut seems ambitious. NMFS worked for over five years attempting to find a solution to the incidental catch of finfish in shrimp trawls with no acceptable or practical solution. Establishing the goal may be admirable but it is not technologically or operationally sound. It may lead to expectations which go beyond what is possible.

Point: If the goals are unreasonable, it may create political and legal expectations that cannot be achieved by the foreigners and might not be duplicated by the domestic fleet in the short run without substantial reduction in the authorized OY of bottomfish.

Conclusions and Suggestions

Although the new package is a substantial improvement, it still needs some adjustment and tuning and its impact on U.S. fisheries requires clarification. We strongly urge that 1) the Council clearly establish that different factors must be weighed in establishing regulations which will govern domestic fisheries, 2) that the PSC for foreigners take into account domestic developments but not be directly linked, and 3) that the Council establish the goal of reducing the rate or relative rate of interception by foreign fishermen, and that the goal be approached by use of numerical targets along the lines proposed by the PDT. However, the Council should be given the authority to adjust the PSC on an annual basis if evidence shows significant changes in recruitment and/or abundance trends are

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significantly effecting the rates, as long as the adjustment results in a decreased mortality rate on prohibited species. And 4) that the target reduction in rates of interception be reviewed annually by the Council in terms of practicality and achievability.

Yours sincerely,

NATURAL RESOURCES CONSULTANTS



Dayton L. Alverson
Managing Partner

P.S. See you at your new adobe in Halibut Cove!

Under Agend E-6
Drafted by Pat Travers.

The Regional Director, after consultation with the Council, may, by order, adjust the PSC for any species at any time if he finds:

- (1) that the abundance of that species at that time is so great that implementation of the original PSC would prevent the vessels of a foreign nation that has significantly reduced its rate of catch of that species from harvesting as much of that nation's allocation of groundfish as they were able to at previous higher catch rates for that species; or
- (2) that the abundance of that species at that time is so low that implementation of the original PSC would be likely to result in harm to one or more stocks of that species; or
- (3) that the amount of that species caught by United States vessels fishing for groundfish is so great that implementation of the original PSC would prevent the vessels of a foreign nation that has significantly reduced its rate of catch of that species from harvesting as much of that nation's allocation of groundfish as they were able to at previous higher catch rates for that species.

Language
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These tables compare the domestic groundfish fishery's total groundfish catch and total incidental catch of halibut and king crab with the total harvestable groundfish and the total allowable incidental catch (PSC) of halibut and king crab under various assumptions.

In each case, it is assumed that total harvestable groundfish remains constant at the 1980 catch level, and that increases in domestic groundfish fishery's harvest are accompanied by a constant incidental catch rate of halibut and king crab.

The tables differ only in the assumption concerning the growth of the domestic groundfish fishery harvest as follows:

Table 1 assumes a straight line growth of domestic groundfish harvest doubling by 1981

Table 2 makes same assumption doubling by 1982

Table 3 makes same assumption doubling by 1983

Table 4 makes same assumption doubling by 1984

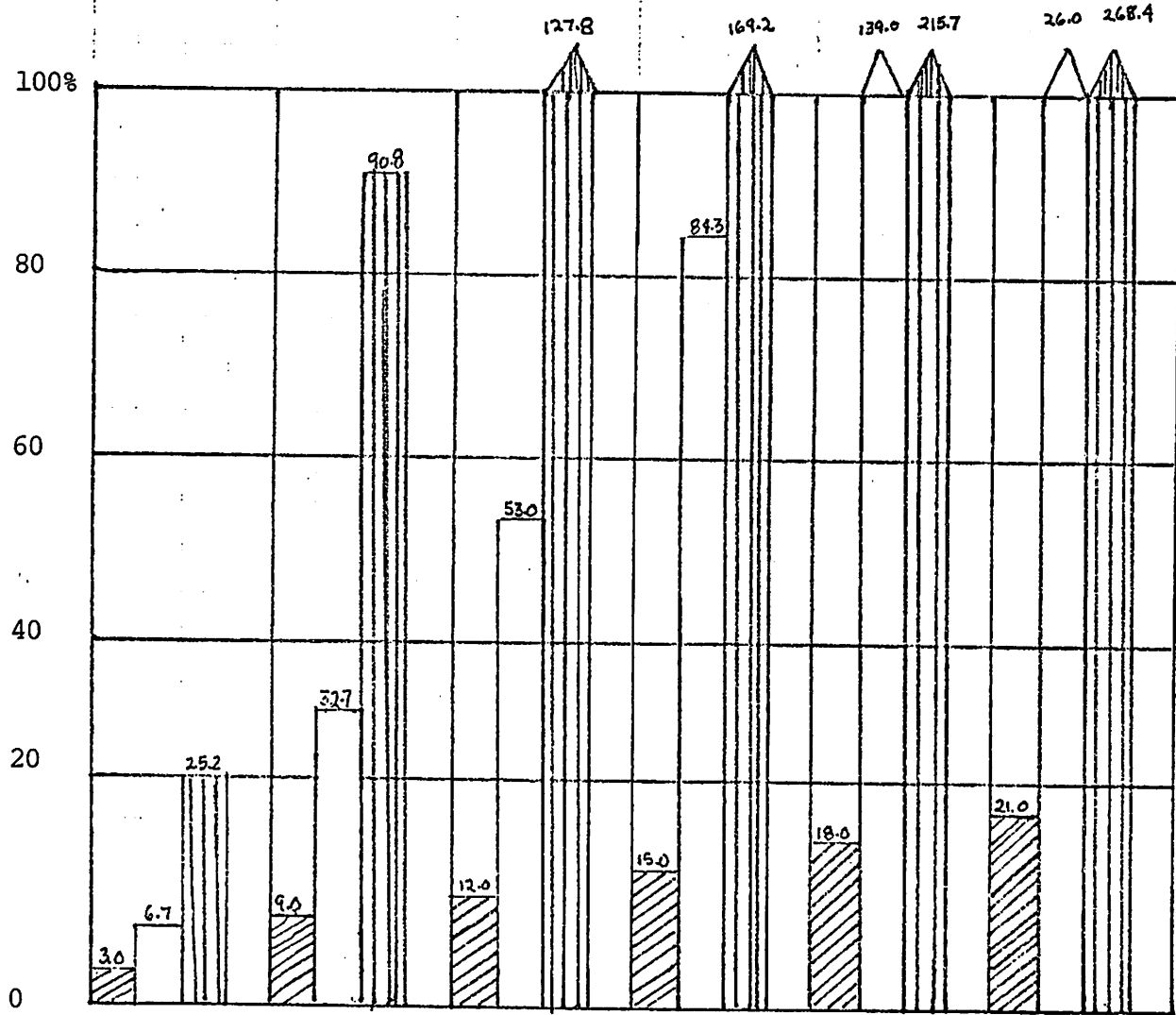
Table 5 makes same assumption doubling by 1985


Table 6 makes same assumption doubling by 1986


Table 7 assumes a constant level of domestic groundfish at 1980 level

Table 1 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in first year

1980 1982 1983 1984 1985 1986



 % OF
GROUND FISH
HARVEST

 % OF
HALIBUT
PSC


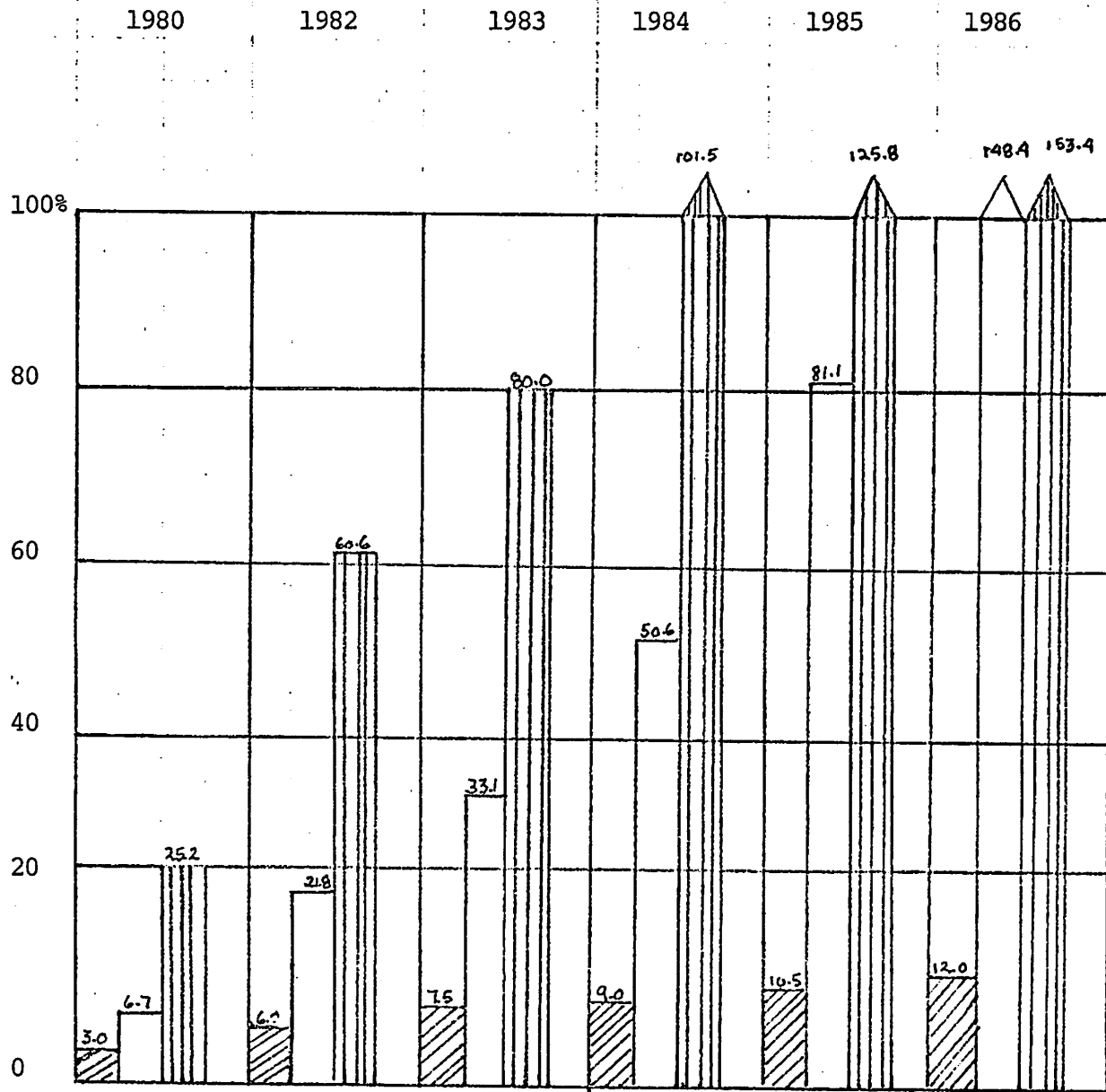


 % OF
KING CRAB
PSC

Table 2 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 2 years.



 = % of GROUND FISH HARVEST

 = % of HALIBUT PSC


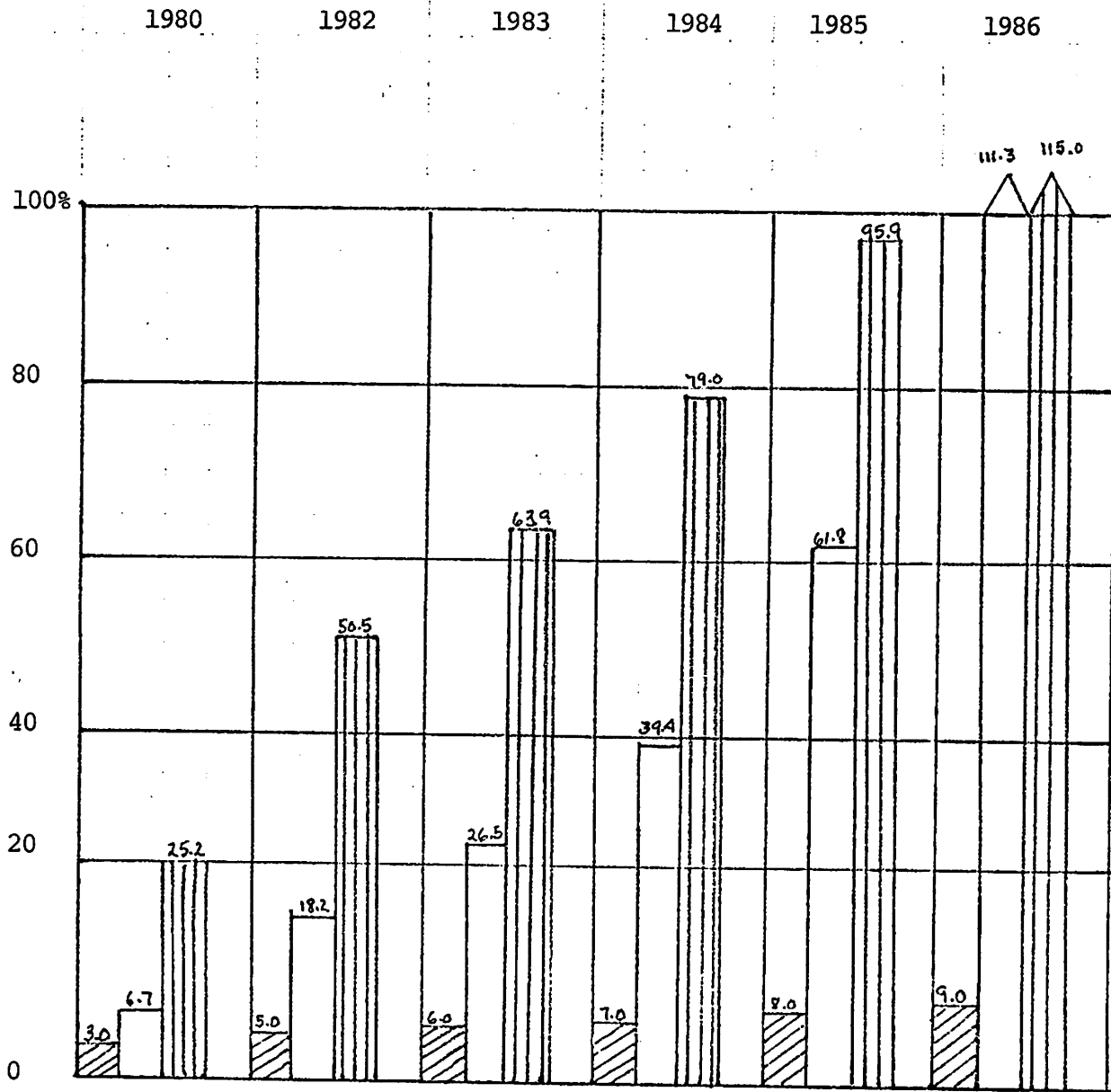

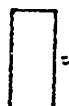
 = % of KING CRAB PSC

Table 3 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 3 years



 % of
 = GROUND FISH
 HARVEST

 % of
 = HALIBUT
 PSC

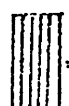
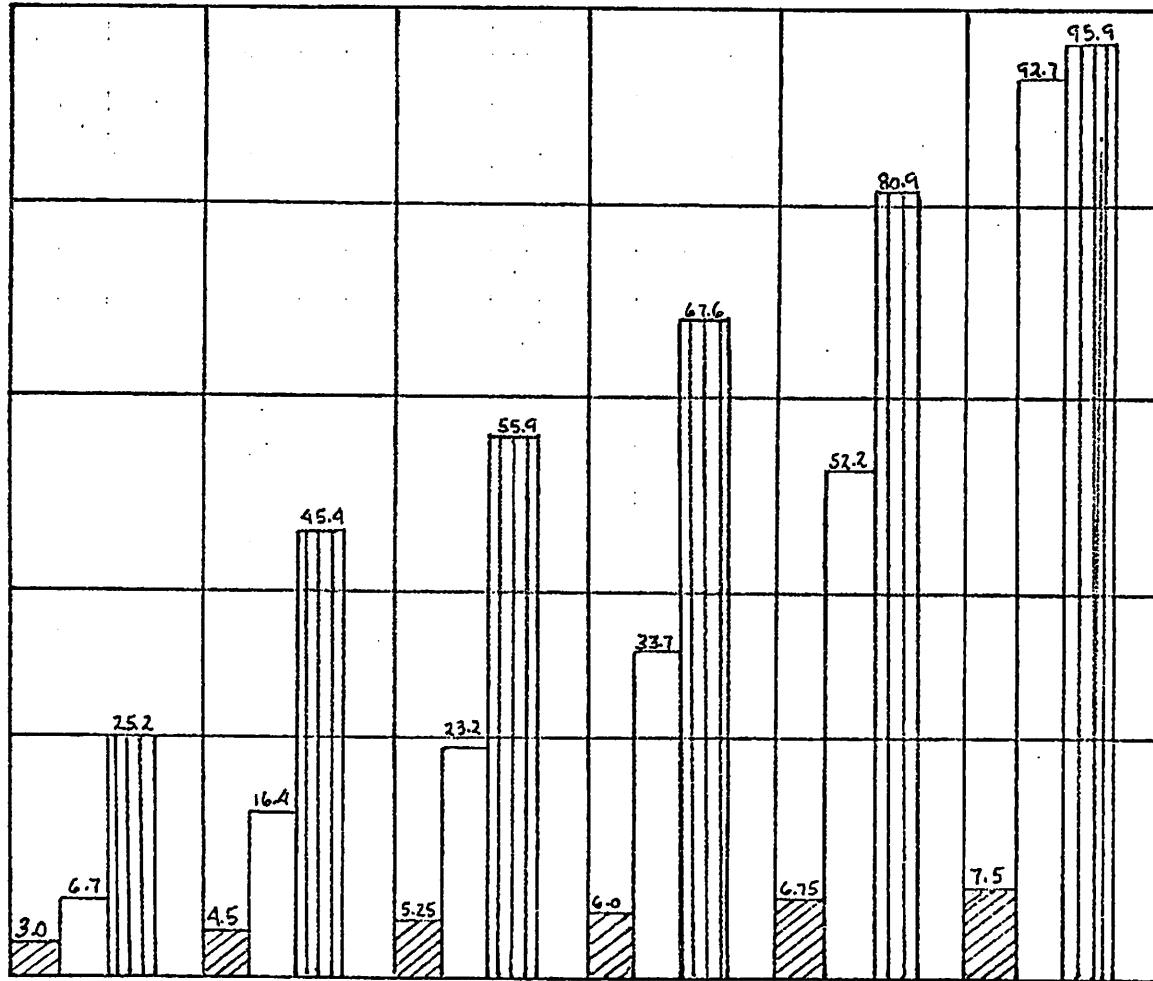


 % of
 = KING CRAB
 PSC

Table 4 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 4 years

1980 1982 1983 1984 1985 1986



 % of
 = GROUND FISH
 HARVEST

 % of
 = HALIBUT
 PSC


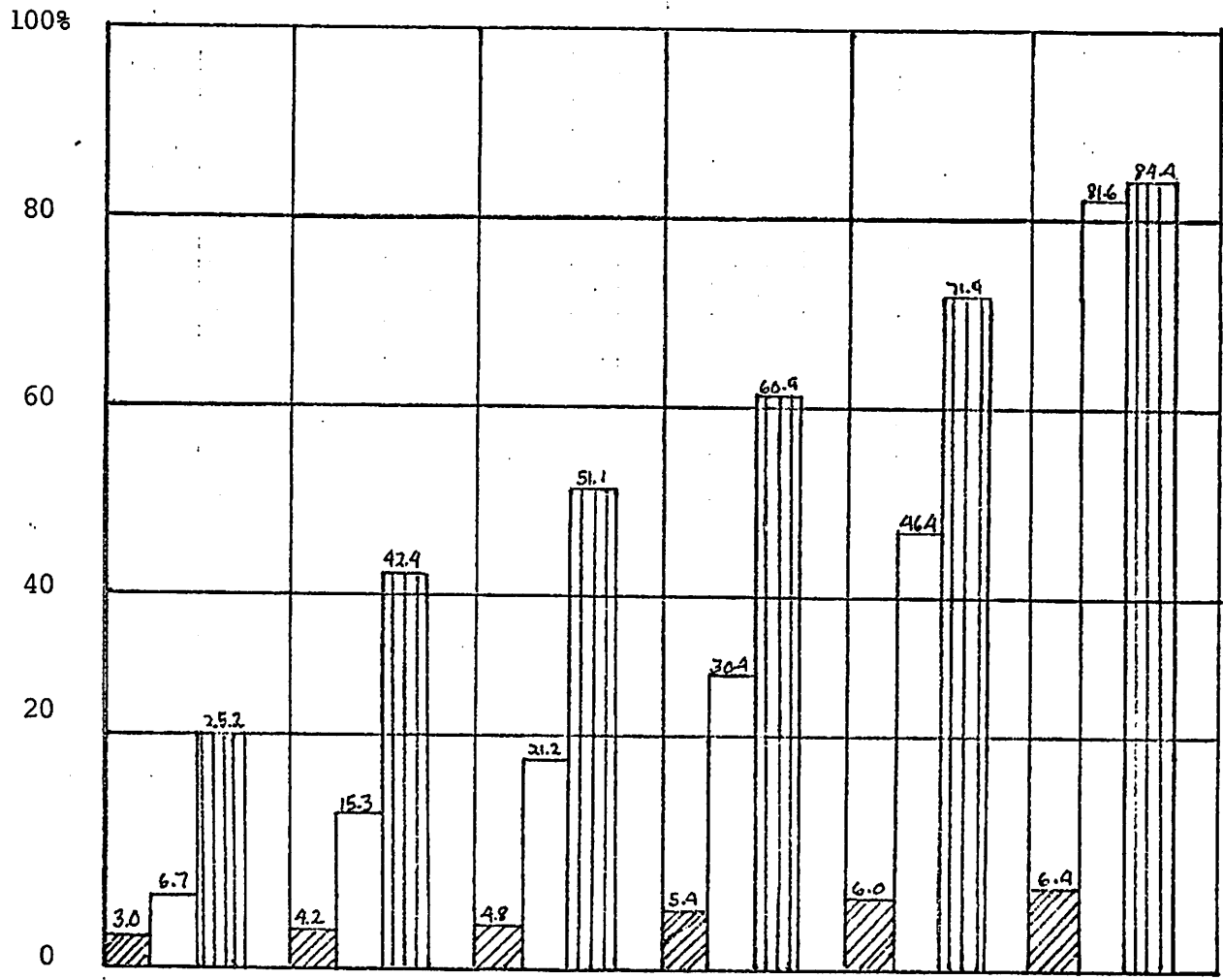


 % of
 = KING CRAB
 PSC

Table 5 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 5 years

1980 1982 1983 1984 1985 1986



 = % of GROUND FISH HARVEST

 = % of HALIBUT PSC


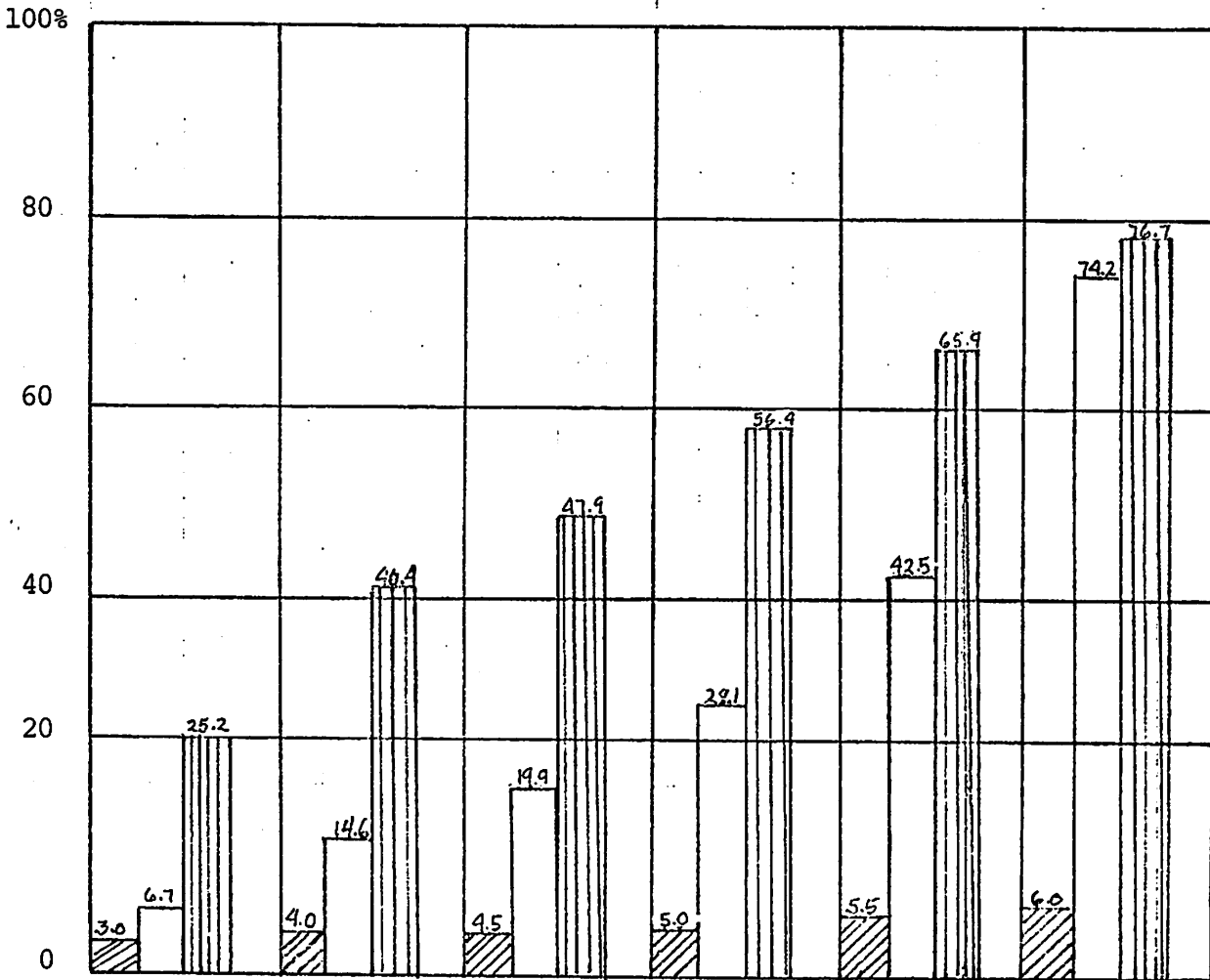
 = % of KING CRAB PSC

Table 1. Percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 6 years

1980 1982 1983 1984 1985 1986



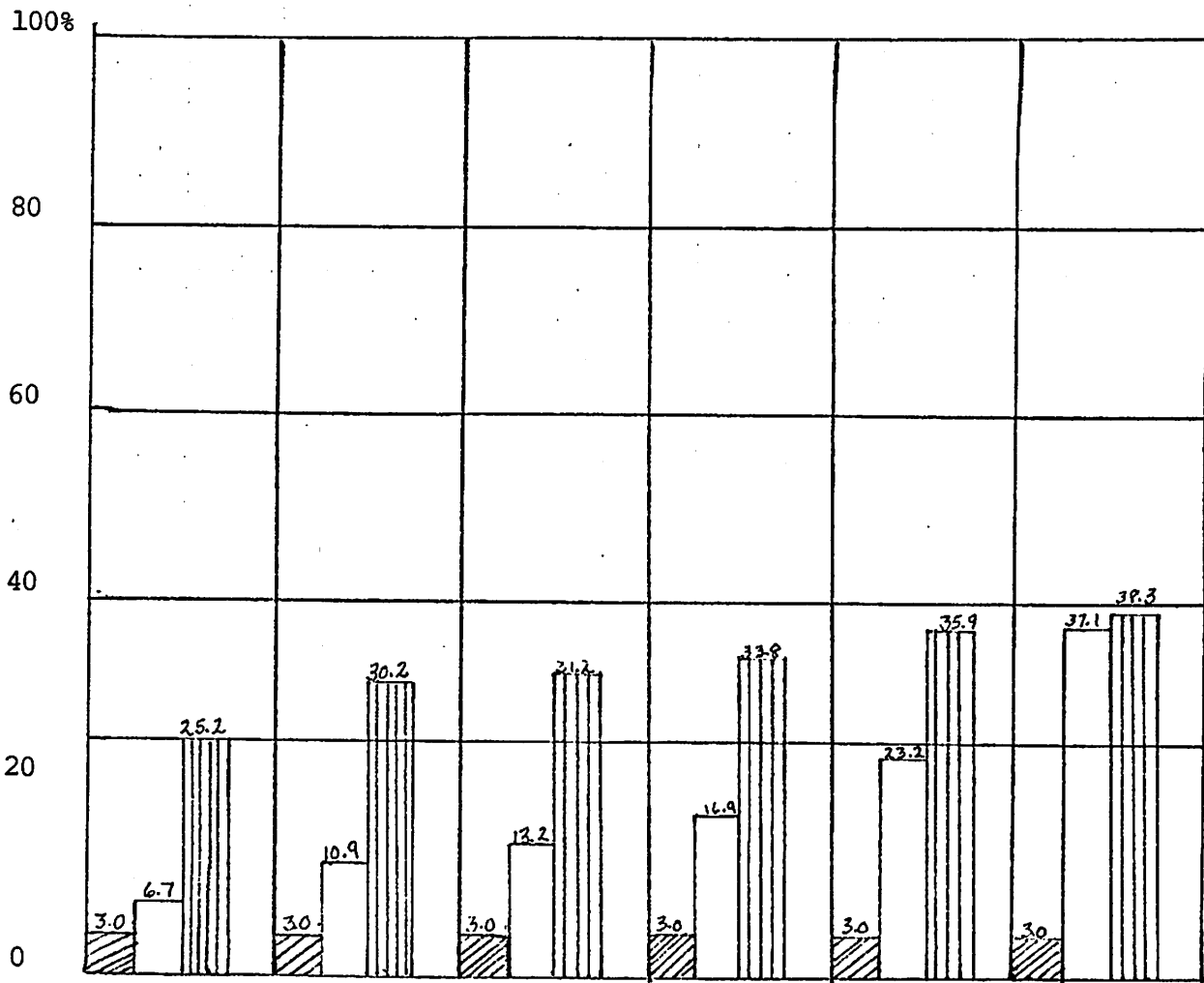
▨ % of
GROUND FISH
HARVEST


□ % of
HALIBUT
PSC


▤ % of
KING CRAB
PSC


Table 7 Percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - constant level of groundfish harvest

1980 Actual 1982 1983 1984 1985 1986



 = % of GROUND FISH HARVEST

 = % of HALIBUT PSC

 = % of KING CRAB PSC



**North Pacific
Fishing Vessel
Owners' Association**

July 20, 1981

Clement V. Tillion
Chairman
North Pacific Fishery
Management Council
P.O. Box 3136DT
Anchorage, Alaska 99510

Dear Mr. Tillion:

The North Pacific Fishing Vessel Owners' Association (NPFVOA) has reviewed the June 30, 1981 version of Amendment #3 to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan and has serious misgivings about this document. NPFVOA's concerns are contained in this letter.

In its April 22, 1981 letter to you regarding the version of Amendment #3 that went out for public comment, NPFVOA pointed out that the domestic fishery's catch of non-targeted species presents policy and legal issues which differ from those posed by the foreign fishery's catch of prohibited species. NPFVOA also questioned the methods used to establish Prohibited Species Catch (PSC) levels (then called AIC's) and the lack of analyses to ascertain the economic and environmental impacts of these restraints. Since the most recent version of Amendment #3 still places upper limits on the domestic groundfish fishery's catches of certain non-targeted species, much of NPFVOA's commentary on the earlier version of the amendment is still pertinent. Thus, NPFVOA asks that its April 22 observations be considered as part of these comments on Amendment #3.

The Domestic Fishery Is Still Covered By Amendment #3

The instructions from the Council to the Plan Development Team (PDT) were specific and clear: "Amendment #3 would not apply to the domestic fishery." (emphasis added) From a reading of Amendment #3, however, it appears the PDT ignored the mandate of the Council.

The PDT's guidelines for selecting methods to control incidental catches still retains the premise (contrary to the Council's desires) that the "procedures chosen should be potentially applicable to both foreign and domestic fishermen." (emphasis added) Using this faulty premise, the PDT then proceeded to construct a system which is to be applied to domestic fishing vessels.

In recommending the establishment of PSC levels, the PDT tried to downplay the applicability of these levels to the domestic fishery by noting that

"The PSC concept will have a direct effect on foreign fishermen only"

and

"Domestic and joint-venture fishermen will not be directly affected by these measures [that is, the PSC levels]."

Yet the Council did not say that Amendment #3 could indirectly affect the domestic fishery; the Council unequivocally declared the amendment would not apply at all to the domestic fleet.

In spite of the PDT's protestations that this amendment only indirectly impacts the domestic fishery, the effects on U.S. fishermen are direct and real. In the PDT's words it

"considers the PSC as a means of controlling mortality on prohibited species and thereby managing these resources. Consequently, the catch of prohibited species by domestic and foreign fisheries combined should not exceed the designed PSC's." (emphasis added)

It is apparent that in the future, the PDT intends the PSC levels to be lids on the domestic fishery's catch of incidental species. Other manifestations of this intent are: (1) the PDT's call for Council review of "exempt" fisheries "to determine at what point the PSC should apply," and (2) the PDT recommendation of points of concern "to reconsider the exempt status of domestic and joint-venture fisheries." (emphasis added) (One of these points would be "when the total incidental catch of prohibited species by domestic and joint-venture fisheries exceeds half of the PSC.")

NPFVOA requests that Amendment #3 be rewritten to truly reflect the Council's instructions that the amendment not be applied to the domestic fishery. As noted above, the catch of non-targeted species by the domestic fleet raises policy questions about the development of this fleet and legal problems regarding the allocation of catches between U.S. fishermen -- issues which the Council has yet to address or analyze. Therefore, the foreign fishery's incidental catch of prohibited species should not be evaluated "in tandem" with that of the developing domestic fishery as Amendment #3 now does.

The Foreign Fleet Should Sponsor
Workshops For Domestic Fishermen

NPFVOA's request for a redrafting of Amendment #3 is not to suggest that the domestic groundfish fishery should never be subject to regulation. However, at this time, the U.S. groundfish fishery in the Bering Sea and Aleutian Islands areas is in an embryonic stage. Unlike the foreign groundfish fishery which has decades of fishing experience in these areas, the domestic fleet is only a few years old: it is exploring areas in which to fish and experimenting with new methods of fishing. In this "age of discovery" — where trial and error is the primary learning method — domestic vessels are certain to take non-targeted species. Rather than threatening their vessels with retribution for their "mistakes," the Council should be encouraging and assisting these vessels in their attempts to develop fisheries which hold great economic promise for the United States and the State of Alaska.

In NPFVOA's April 22 letter to you, it suggested that the Council sponsor workshops for industry and the scientific community in order to find equitable solutions to potential allocation problems between U.S. fishermen. Now, NPFVOA proposes that the knowledge gained by the foreign fishery be used as a tool to educate and develop the domestic fishery.

The desire to remain fishing is supposed to be the incentive for the foreign fleet to devise new fishing strategies (in terms of times and areas) and technologies (methods of fishing and gear designs) to reduce incidental catches to target levels. Why shouldn't U.S. fishermen be the beneficiaries of the foreign fleet's experiences? Too often it seems, data are buried in reports which are never disseminated to fishermen and technologies are never revealed by their developers. The foreign fishery should be required to transfer directly to domestic fishermen the data and technologies developed in reducing the incidental catches of prohibited species. The medium of this transfer would be a series of seminars and workshops sponsored by the foreign fishery. The seminars would be held at least annually and at no cost to the U.S. fishermen or the federal government. To ensure that these meetings would be held, the U.S. government would make foreign participation and financial sponsorship of these meetings a condition of allocating Bering Sea and Aleutian Islands groundfish to a foreign nation and/or issuing a foreign vessel a permit to fish for these groundfish. NPFVOA believes that these workshops would go a long way to accelerate the development of the U.S. groundfish fishery and achieve harmony among all the U.S. fishermen who fish in the Bering Sea and Aleutian Islands areas.

Comments on Specific Provisions of Amendment #3

Because of Amendment #3's "backdoor" regulation of the domestic fishery, it is difficult to comment on this amendment's provisions without seeming to support the foreign fishery. However, there are a number of questions and issues, in addition to those posed in NPFVOA's April 22 letter, to which the PDT should respond.

Council Instructions

The Council asked the PDT to "explore additional incentives to minimize prohibited species catches". Did the PDT follow this instruction? If so, what are the additional incentives and why weren't they included in Amendment #3?

Base PSC levels

How does the addition of 1980 data affect the PSC averages? That is, are the 1977-80 averages higher or lower than the 1977-1979 averages? Were the population levels of the prohibited species in 1980 high, low or average?

Why should using 1980 data "provide a fairer long-term estimate of prohibited species catches"?

Target Levels of Reductions

Why was a 25% reduction in 5 years selected for king and tanner crabs? What other percentages were considered?

Where is the analysis that shows "the lesser socioeconomic impact of the incidental catches on the domestic crab fishing industry"? Also, "lesser" implies a comparison — what fishery is the domestic crab fishery being compared to?

Annual Percentage of Reduction

The proposed reduction schedule does not take into account the increase or decrease in populations of prohibited species.

Why are PSC levels fixed for three years? What if the populations of prohibited species change drastically from year to year? Why not evaluate and change PSC levels on a yearly basis?

Why was a 10% annual overage selected? What other overage levels were examined and why were they rejected?

Once a PSC has been reached, does it make sense to close down the entire Bering Sea and Aleutian Islands areas if the groundfish fishery (were it allowed to continue) would be conducted at a time and place where the prohibited specie is not to be found?

Annual Review of PSC

Amendment #3 appears to be internally ambiguous. On one hand, it says " the Council should review, annually, the PSC regulations." (emphasis added). But it continues on in an uncertain vein by noting that "the Council may wish to review annually: (1) the base PSC...; (2) the target level and period of reduction; and (3) the percentage level of reduction from the previous year." (emphasis added) The Council should review these components of the PSC system every year. In addition, why shouldn't the Council review the impact to foreign and domestic fisheries; stock condition and abundances of target groundfish and prohibited species; and socioeconomic implications of prohibited species regulations when it does its annual review?

When the Council does its annual review can it make changes to the reduction schedule? The amendment doesn't indicate that the Council would take any action on an annual basis. NPFVOA suggests that a mechanism be set up so that the reduction schedule can be changed on an annual basis without resorting to a plan amendment. One method of achieving this goal would be through a change to the regulations implementing the plan.

Application to Foreign and Domestic Fishermen

The PSC formula seems to assume that domestic fishing will be similar to foreign fishing. But what were the species that the foreign fleets were targeting on when the 1977-1980 average of prohibited species were caught? What areas were the foreign fleets operating in? Will the domestic fisheries be directing thier fishing activities at the same species and in the same areas? If not, how can one extrapolate that domestic activities will produce the same types (and amounts) of incidental catches as those generated by foreign fleets?

Why are joint venture catches separated from domestic catches? Joint venture fishermen are domestic fishermen; their harvests are domestic harvests. The PDT seems to be trying to drive a wedge between components of the domestic groundfish fishery.

How are catches by all U.S. fishermen estimated?

Why is the point of concern defined in two ways?

As mentioned above, the domestic fishery is learning how and where to trawl. Consequently, it is extremely possible that its incidental catch rate could be twice that of the foreign fleet. That does not mean that the Council necessarily should be concerned. One has to look at such other factors as areas fished, species targeted on, volume of target and non-targeted species caught, and time of year fishing is taking place. What other domestic

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incidental rates were looked at as a point of concern? Why was twice the foreign rate selected? Does one look at twice the foreign rate as being a point of concern for six months of fishing activity or does it apply for a year? Does one become concerned when twice the foreign rate is achieved in one area or is it over the entire Bering Sea and Aleutian Islands areas?

Why was "in excess of 50 percent of the PSC" defined as a point of concern for domestic incidental catches? What other percentages were examined and why were they tossed out in favor of "over 50 percent"?

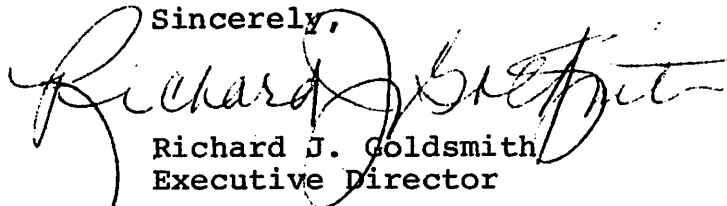
What are the "meaningful restrictions" to be placed on the domestic fishery so that excessive incidental catches don't result in unwarranted closure of the foreign fishery? What constitutes an "unwarranted closure of the foreign fishery"?

Estimation of Prohibited Species Catch

What are "other reported statistics that are considered reliable"? What makes these statistics reliable?

Again, NPFVOA would like to emphasize that regulations or the threat of regulations are not always the most effective way to achieve a goal. If through workshops and seminars there can be the exchange of information and technologies between the foreign and domestic fleets, and the opening of communications among trawl, longline and pot fishermen and the scientific community, then the Council is likely to achieve a long-lasting and amicable solution to allocating fish among the domestic fleet, and also make great strides in developing the unlimited potential of the domestic groundfish fishery of the Bering Sea and Aleutian Islands areas.

Sincerely,



Richard J. Goldsmith
Executive Director

Law Offices

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July 20, 1981

Mr. Jim H. Branson
Executive Director
North Pacific Fishery
Management Council
P.O. Box 3136 DT
Anchorage, AK 99510

Re: Comments of the Japanese Trawl Industry on the June 30, 1981
PDT Draft of Proposed Amendment No. 3

Dear Mr. Branson:

The following comments are submitted on behalf of the Japan
Deep Sea Trawlers Association and the Hokuten Trawlers Association.

The June 30 PDT revision to proposed Amendment No. 3 includes
three elements which guarantee the immediate breakdown of the
regulatory scheme proposed.

1. The June 30 PDT proposal introduces a new concept for
the establishment of PSC limits applicable to the foreign fishery.
Under this new proposal, PSC limits applicable to the foreign
groundfish fishery would be reduced not only by an annual reduction
factor but also by the projected incidental catch of the domestic
trawl fishery, while the domestic incidental catch would not be
subject to restriction. This proposal would make it impossible
for the foreign fishery to conduct its operations and would
result in wastage of massive amounts of the Bering Sea groundfish
resource. At the same time, the PDT proposal would leave the
domestic trawl fishery completely free to develop a "dirty"
fishery without any restrictions to limit its impact on the
established fisheries.

2. The proposed reduction of the halibut incidental catch
by 75% in 5 years is completely unrealistic.

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3. The PSC limits proposed are overly rigid. They do not include adjustments for changes in the size of TALFF or in the prohibited species populations.

If Amendment 3 is to be workable, these unreasonable elements of the PDT proposal must be changed.

1. Foreign Incidental Catch Limits Must Be Adequate to Permit the Harvest of the TALFF.

The June 30 PDT proposal would reduce the foreign PSC limit in any year by the amount of the domestic trawl incidental catch in the prior year. The PDT states its proposal in equation form as follows:

$$\text{PSC Foreign Fisherman} = \text{PSC Total} - (\text{Projected catch by domestic and joint venture fisheries})$$

where projected domestic catch in year i = estimated catch in year $i - 1$

This proposal would make the ability of the foreign nations to harvest their allocations depend not on their own efforts to improve their operations, but rather upon the size of the domestic incidental catch. At the same time, the domestic incidental catch is to be completely unrestricted under the PDT proposal. The effect is to impose restrictions on the foreign fishery which obviously will not permit the harvest of the TALFF. This is plainly inconsistent with National Standard No. 1 (requiring that OY be achieved on a continuing basis) and the policy of the Act to permit foreign fishing to the extent that fish resources within the FCZ are surplus to domestic harvesting capability.

Analysis based on 1980 domestic incidental catch rates demonstrates that the PDT approach (1) would fail in the very first year to provide reasonably adequate incidental catch limits to operate the foreign groundfish fishery and (2) would completely destroy the foreign fishery at a point where the domestic trawl catch is less than 10% of the Bering Sea/Aleutian groundfish OY. Although the domestic groundfish fishery in 1980 (including joint ventures) caught only a tiny fraction of the total Bering Sea/Aleutian groundfish harvest (about 3%, or 41,000 mt out of 1,330,000 mt), the domestic fishery already has reached high levels of incidental catch of the prohibited species, and most particularly halibut and King crab. The domestic halibut incidental catch of 312 mt constituted an incidental catch rate

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almost three times the foreign incidental catch rate. The domestic King crab incidental catch of 289,542 crabs constituted a rate of more than thirteen times the foreign incidental catch rate. The domestic incidental catch is especially significant in the case of King crab since NMFS reports that the domestic catch was almost entirely red King crab -- and in fact the number of red and blue King crab caught by the domestic fishery was almost double the foreign catch of those varieties. Thus the domestic trawl fishery -- at 3% of the total groundfish catch -- is already inflicting more damage on the domestic crab industry than the entire foreign fishery! The PDT proposal would encourage "dirty" operations by the domestic trawl fishery while restricting the foreign fishery more severely the "dirtier" the domestic trawl industry becomes.

The potential results of the PDT proposal are apparent when the 1980 domestic incidental catches are compared with the PDT's proposed PSC limits for 1982 and 1986. (Remember that the PDT proposal would close down the foreign fishery when the foreign incidental catch reached PSC minus last year's domestic incidental catch.)

	<u>1980 Domestic Incidental Catch</u>	<u>1982 PSC</u>	<u>1980 Domestic Incidental Catch as Percentage of 1982 PSC</u>
Halibut	312 (mt)	2,859(mt)	10.9
King Crab	289,542	957,814	30.2
Tanner Crab	179,816	15,254,193	1.18
Salmon	1,925	59,400	3.24

	<u>1980 Domestic Incidental Catch</u>	<u>1986 PSC</u>	<u>1980 Domestic Incidental Catch as Percentage of 1986 PSC</u>
Halibut	312 (mt)	841(mt)	37.1
King crab	289,542	756,169	38.3
Tanner crab	179,816	12,042,785	1.49
Salmon	1,925	17,500	11.0

Assuming no change in the domestic groundfish fishery's incidental catch rate for these species, and assuming a mere doubling of the domestic groundfish catch between 1980 and 1986, then by that date the domestic industry will have absorbed 74.2% of the proposed 1986 PSC for halibut and 76.6% of the proposed 1986 PSC for King crab, while still only harvesting about 82,000 mt -- about

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6% of the 1980 Bering Sea groundfish catch and an even smaller percentage of the groundfish OY. At that point, even though approximately 94% of the groundfish OY would not be exploited by the domestic industry, the foreign fishery could catch those fish only if it could reduce its incidental catch of halibut to 216 mt -- 25.8% of the proposed 1986 PSC -- and its incidental catch of King crab to 176,944 crabs -- 23.4% of the proposed 1986 PSC. To achieve this result, the foreign fishery would need to achieve an incidental catch rate approximately two percent (2%) of the rate achieved by the domestic fishery in 1980.

A higher growth rate for the domestic groundfish fishery would produce even more absurd results. As can be seen from the projections in table 1 (attached), if in 1981 the domestic groundfish industry harvests an amount equal to 9% of the 1980 total groundfish catch (approximately 120,000 mt), the domestic fishery will absorb nearly 91% of the 1982 PSC for King crab. Even with no further growth thereafter, the domestic incidental catch would exceed the total PSC for King crab in 1983. At this point there would be no portion of the PSC available to the foreign fishery even though their groundfish allocations were over 90% of the available yield. The system proposed by the PDT breaks down because it would not provide adequate incidental catch levels to permit the harvest of groundfish OYs. Using other projections in tables 1 and 2 (attached) showing somewhat more modest growth of the domestic groundfish harvest, the domestic industry will take the entire PSC for both halibut and King crab at some point between 1984 and 1986, while its total catch of groundfish remains at less than 10% of the total 1980 groundfish catch.

2. The Proposed Halibut PSC Reduction Schedule Cannot Be Met.

The PDT proposal to reduce halibut incidental catch by 75% in five years is completely unrealistic. There is no basis to believe that this can be accomplished in an economically viable groundfish fishery. Instead of adopting a 75% reduction schedule that cannot be achieved, we suggest that a 50% reduction schedule over six years would come closer to what is possible. The Japanese trawl industry would therefore support the following schedule of limits for the foreign fishery:

1982	3,363 mt.
1983	3,027 mt.
1984	to be determined
1985	"
1986	"
1987	1,682 mt.

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This would permit an immediate reduction in 1982 of 22% from the 1980 level and would guarantee major halibut savings within the next five years while giving the foreign fishery a realistic chance to both adapt to the PSC limitations and fully harvest the TALFF.

3. The Foreign PSC Limits Must Be Adjusted For Changes In Prohibited Species Populations and Changes in TALFF.

PSC limits should be flexible enough to permit the foreign fishery to harvest the TALFF (1) if TALFF increases or (2) if the prohibited species populations increase. Clearly, rigid, fixed PSC limits will jeopardize the ability of the foreign fishery to harvest the TALFF when TALFF or a prohibited species population increases. Likewise, if TALFF decreases or a prohibited species population decreases, a fixed PSC limit may not require enough effort from the foreign fleet or adequately protect the prohibited species. The most important factors for regulating incidental catch should be (1) the incidental catch rate and (2) the mortality rate. Consequently, PSC should be adjusted annually to reflect changes in the prohibited species populations and changes in TALFF.

4. Conclusion.

In the respects identified above, we strenuously oppose the PDT's June 30 proposal. In place of a combined foreign and domestic limitation upon the incidental catch of halibut, crab and salmon, we propose that the Council adopt a separate schedule for control of incidental catch rate by the foreign groundfish fishery which will offer foreign fishermen a reasonable chance to take their groundfish allocations. Should the Council wish to place limitations upon the incidental catch of the domestic industry, it could adopt whatever separate limitations on the domestic industry may be appropriate to the unique circumstances of the developing domestic trawl fishery.

Very truly yours,

GARVEY, SCHUBERT, ADAMS & BARER
A Professional Services Corporation

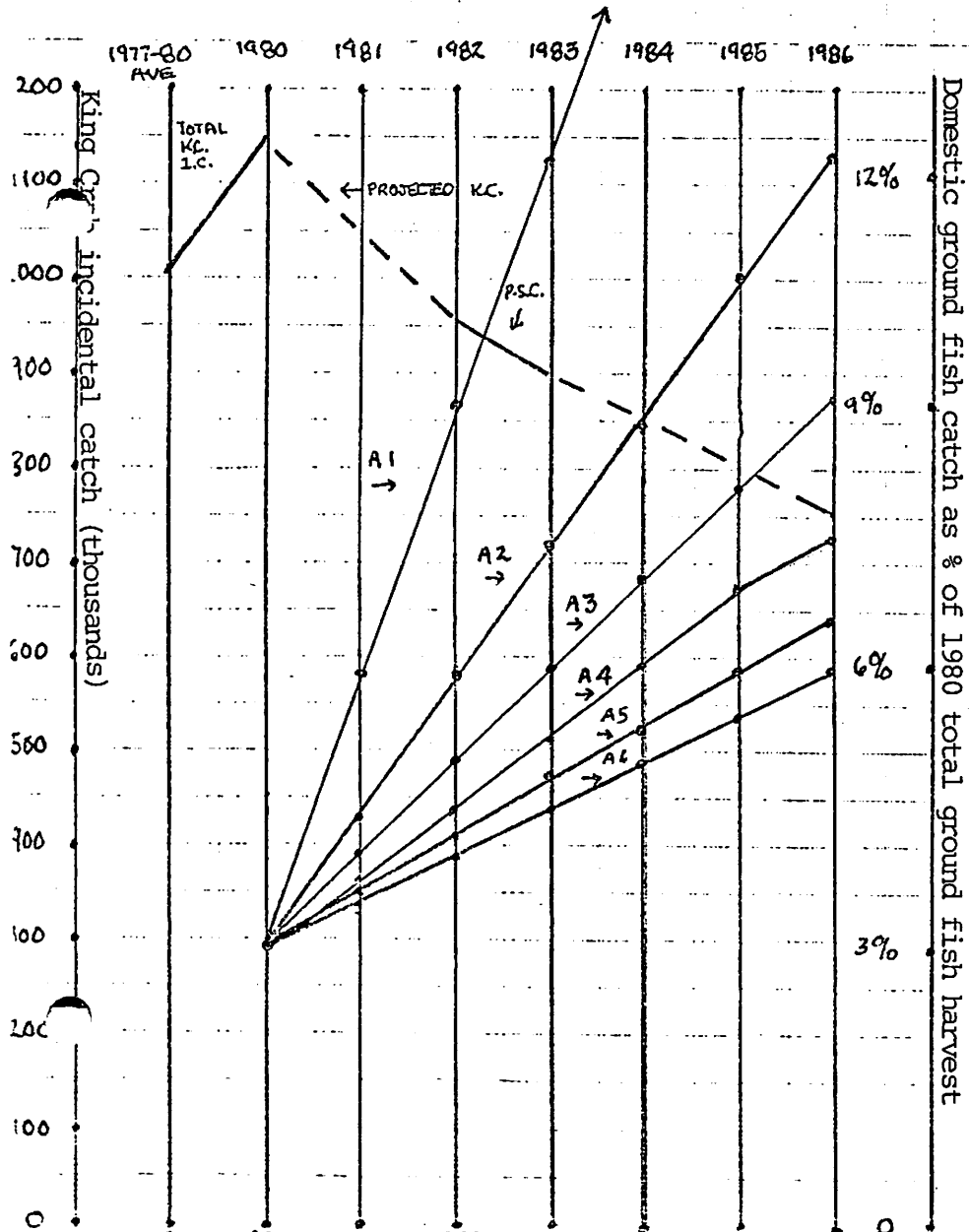
By _____
Stephen B. Johnson

COMPARISON OF GROWTH IN DOMESTIC KING CRAB INCIDENTAL CATCH WITH TOTAL ALLOWABLE INCIDENTAL CATCH (PSC) AND DOMESTIC % OF GROUND FISH HARVEST

TABLE I

NOTES TO CHART

1. Current (1980) domestic ground fish harvest (including JV's) was approximately 3% of total 1980 ground fish harvest.
2. This chart assumes domestic ground fish harvest growth will be accompanied by a constant king crab incidental catch rate.
3. Assumption 1 (A1) plots domestic king crab incidental catch assuming growth in domestic ground fish harvest which doubles in 1 year to 6% of total 1980 ground fish harvest and grows in straight line thereafter. Assumptions A2 through 6 assume doubling of domestic ground fish catch in 2 through 6 years respectively.
4. Intersection of projected domestic king crab I.C. with projected PSC (based on PDT proposal) is point where domestic incidental catch would reach the entire PSC.
5. Scale on right shows domestic ground fish harvest which would be attained, as a % of total 1980 ground fish harvest.



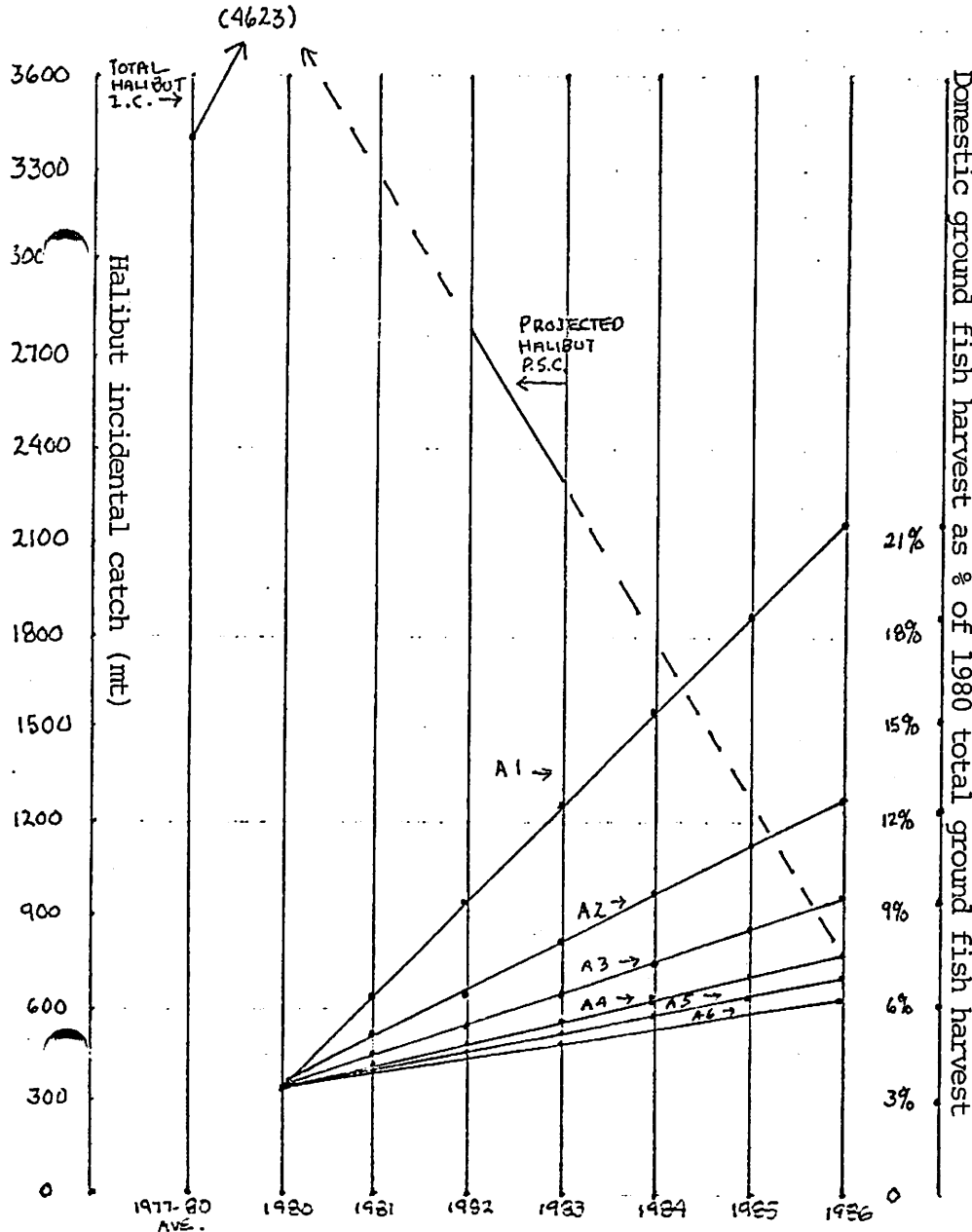
6. Under assumption 1, the graph shows that by 1983 the domestic I.C. of king crab will exceed PSC even though domestic ground fish harvest will only total about 10% of total 1980 harvest.
7. Under assumption 2, domestic I.C. will exceed PSC by 1984, at about 9% of total 1980 ground fish harvest.
8. Under the more conservative projections, domestic I.C. will approach or exceed PSC by 1986 or soon thereafter, but at even lower levels of total ground fish catch.

COMPARISON OF GROWTH IN DOMESTIC HALIBUT INCIDENTAL CATCH WITH TOTAL ALLOWABLE INCIDENTAL CATCH (PSC) AND DOMESTIC % OF GROUND FISH HARVEST

TABLE II

NOTES TO CHART

1. Current (1980) domestic ground fish harvest (including J.V.'s) was approximately 3% of total 1980 ground fish harvest.
2. This chart assumes domestic ground fish harvest growth will be accompanied by a constant halibut incidental catch rate.
3. Assumption 1 (A1) plots domestic halibut incidental catch assuming growth in domestic ground fish harvest which doubles in 1 year to 6% of total 1980 ground fish harvest and grows in straight line thereafter. Assumptions 2 through 6 assume doubling of domestic ground fish harvest in 2 through 6 years respectively.
4. Intersection of projected domestic halibut I.C. with projected PSC (based on PDT proposal) is point where domestic I.C. would reach the entire PSC.
5. Scale on right shows domestic ground fish harvest which would be attained, as a % of total 1980 ground fish harvest.



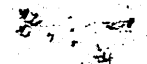
6. Under assumption 1, the graph shows that by 1985 the domestic I.C. of halibut will exceed PSC even though domestic ground fish harvest will only total about 16% of total 1980 ground fish harvest.
7. Under assumptions 2 and 3, the graph shows that by 1986, the domestic I.C. will exceed PSC at a range of from 8 to 12% of total 1980 ground fish harvest.
8. Under the more conservative projections, domestic I.C. will approach or exceed PSC by 1986 or soon thereafter, but at even lower levels of total ground fish catch.

What is a Prohibited Species?

The fisheries in the waters under the jurisdiction of the FCMA are divided into fisheries for which there is a surplus available for harvest by foreign fishermen and fisheries for which the total OY is harvested by vessels of the United States. FCMA, Section 201(d) (16 USC 1821(d)). The groundfish in the Bering Sea fall within the first category, while Bering Sea halibut, salmon, and King crab have been deemed to be stocks for which there can be no foreign directed fishery, as the OYs are fully utilized by domestic fishermen. The FCMA does not prohibit a fishery directed upon crab, salmon or halibut, nor does it use the term "prohibited species." The FCMA merely establishes the basis for determining whether to permit a foreign fishery targeted on those species. Any other species which may in the future become fully utilized by domestic fishermen will likewise become a "prohibited species."

Recognizing that fish do not sort themselves out conveniently into discreet species and that a fishery targeted on one species will necessarily and incidentally catch nontargeted fish, NMFS in adopting the foreign fishing regulations in 1978 (50 CFR §1611 et seq.) coined the term "prohibited species" as a species "with respect to any vessel," . . . "which that vessel is not specifically authorized to retain." Id. §611.2(bb). Thus the foreign fishing regulations require that foreign fishing vessels should minimize their catch of those species which they are "not specifically authorized to retain", sort them and return them to the sea immediately with a minimum of injury. Id. §611.13. The "prohibition" runs to the retention of these species -- not the catching of them incidentally to an authorized directed fishery for the underutilized species. Thus, it is not absolutely prohibited to catch the so-called prohibited species but only to target on them.

The scheme of the foreign fishing regulations is ignored in the new Amendment 3 proposal. The drastic, rigid restrictions proposed by the PDT would introduce an inflexible, absolutist approach to the incidental catch problem. Instead of a regulatory system which acknowledges the right of foreign nations -- guaranteed under the FCMA -- to conduct a fishery targeting on the underutilized species, the PDT proposal would abolish the foreign fishery if it cannot control its incidental catches within completely unrealistic limits -- limits that would be more restrictive than the "dirtier" the domestic trawl fishery becomes. By adopting a halibut reduction schedule that cannot be met and by reducing the foreign PSC limits by the amount of any domestic incidental catch, the PDT would make it impossible for any amount of technological innovation to save the foreign groundfish fishery and permit continued foreign access to Bering Sea groundfish surpluses. This is not the scheme of the FCMA.



These tables compare the domestic groundfish fishery's total groundfish catch and total incidental catch of halibut and king crab with the total harvestable groundfish and the total allowable incidental catch (PSC) of halibut and king crab under various assumptions.

In each case, it is assumed that total harvestable groundfish remains constant at the 1980 catch level, and that increases in domestic groundfish fishery's harvest are accompanied by a constant incidental catch rate of halibut and king crab.

The tables differ only in the assumption concerning the growth of the domestic groundfish fishery harvest as follows:

Table 1 assumes a straight line growth of domestic groundfish harvest doubling by 1981

Table 2 makes same assumption doubling by 1982

Table 3 makes same assumption doubling by 1983

Table 4 makes same assumption doubling by 1984

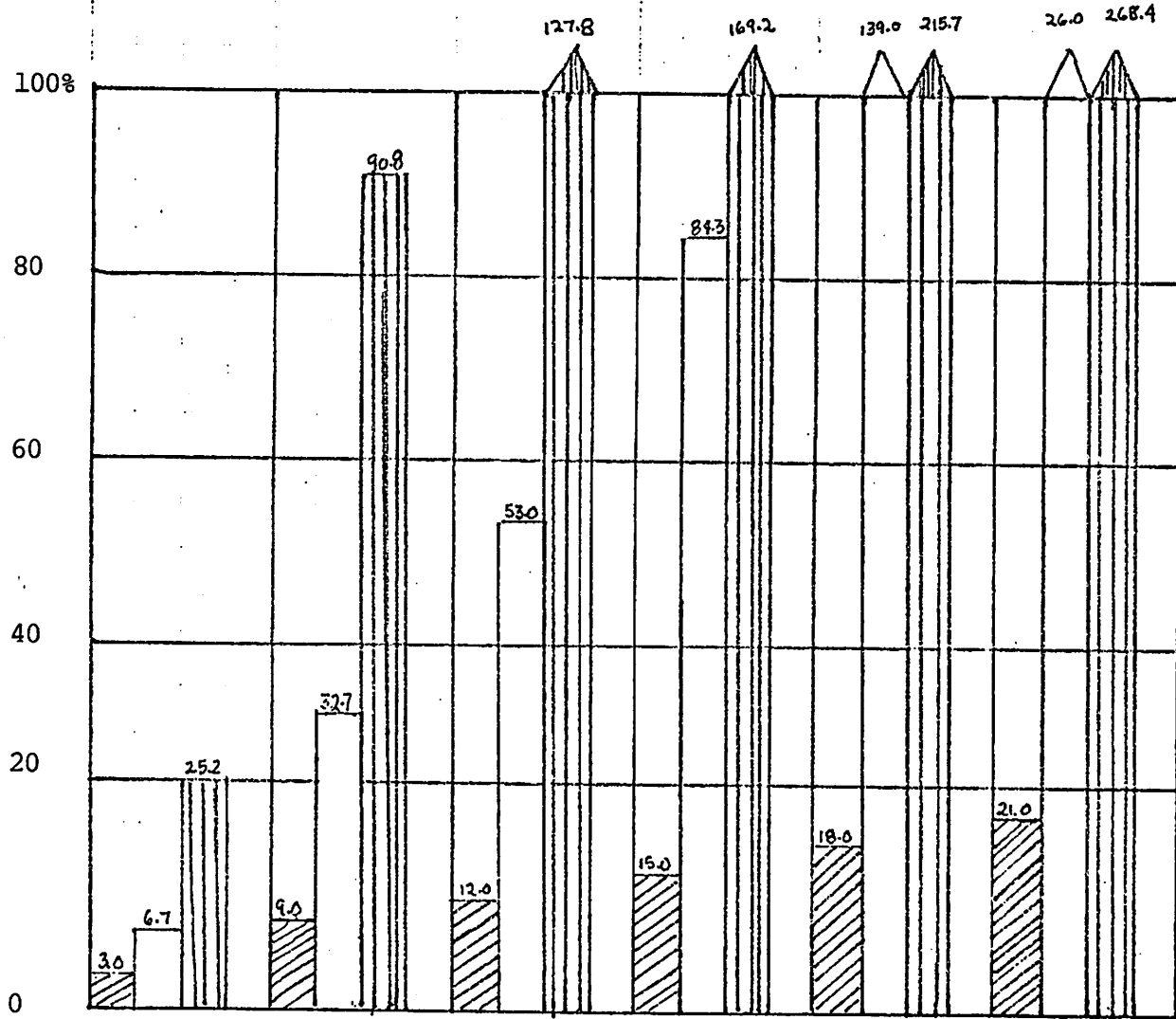
Table 5 makes same assumption doubling by 1985


Table 6 makes same assumption doubling by 1986


Table 7 assumes a constant level of domestic groundfish at 1980 level

Table 1 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in first year

1980 1982 1983 1984 1985 1986



 % of
 GROUND FISH
 HARVEST

 % of
 HALIBUT
 PSC


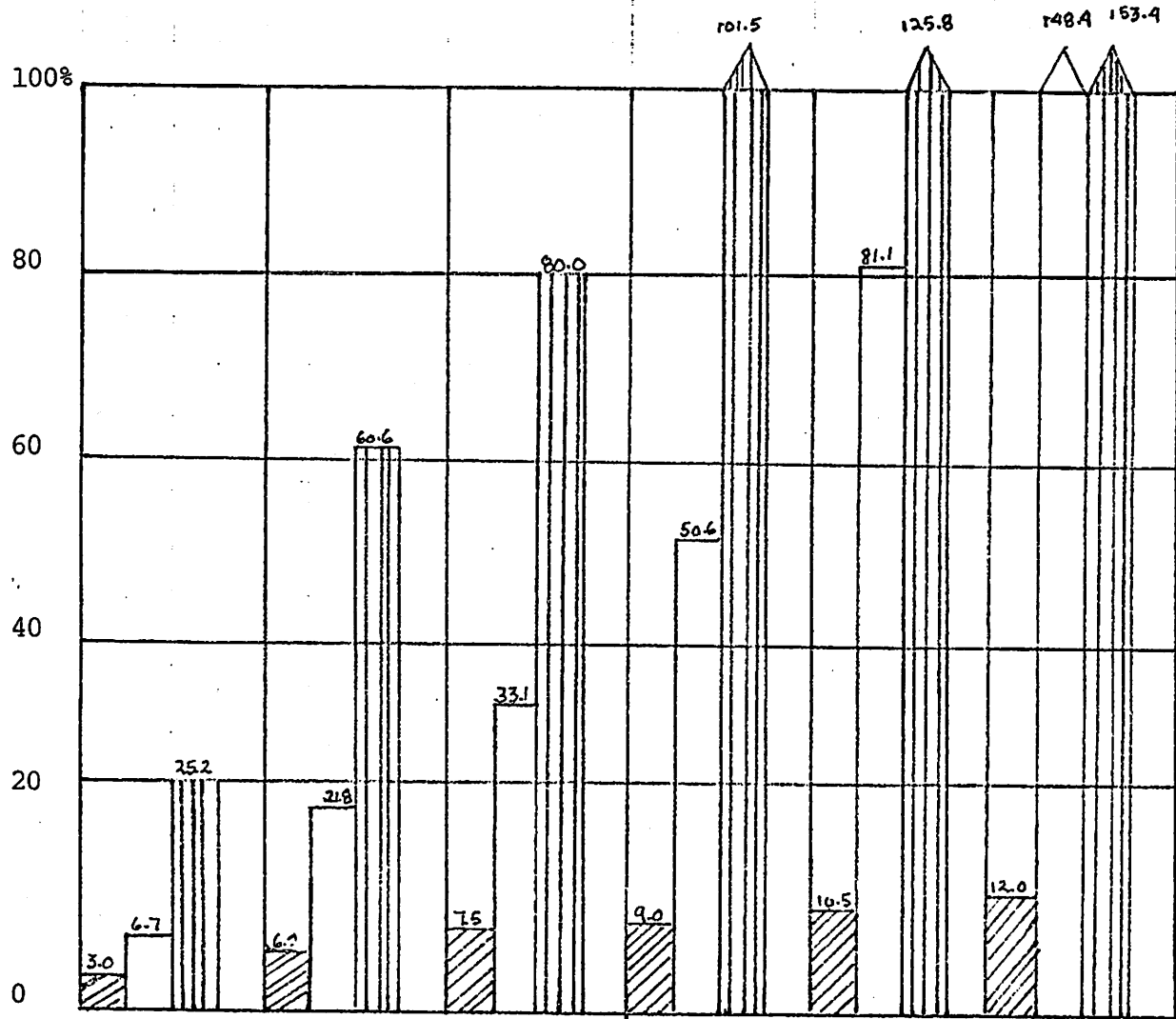

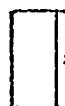
 % of
 KING CRAB
 PSC

Table 2 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 2 years.

1980 1982 1983 1984 1985 1986



 = % of GROUND FISH HARVEST

 = % of HALIBUT PSC


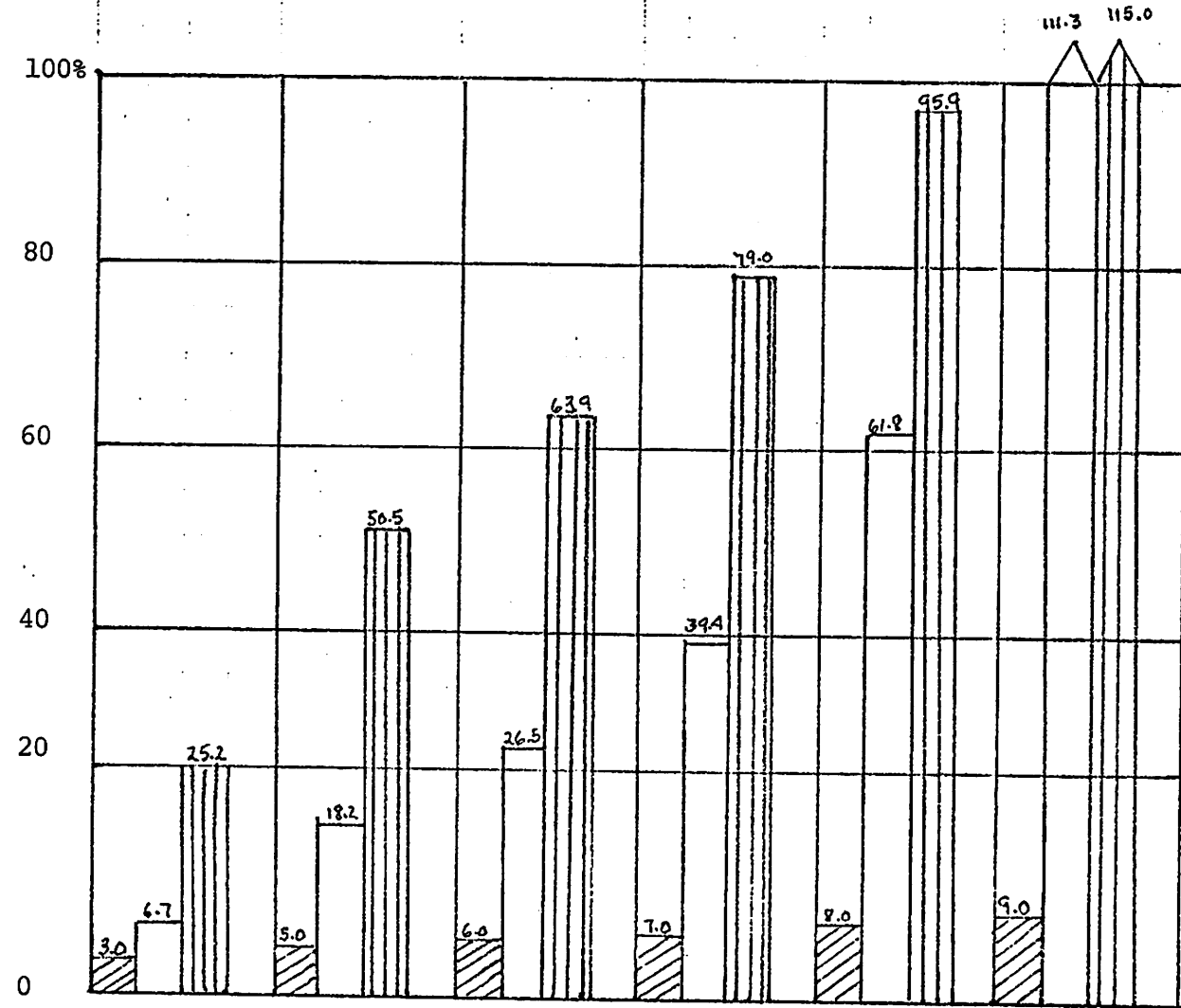


 = % of KING CRAB PSC

Table 3 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 3 years

1980 1982 1983 1984 1985 1986



 % of
= GROUND FISH
HARVEST

 % of
= HALIBUT
PSC


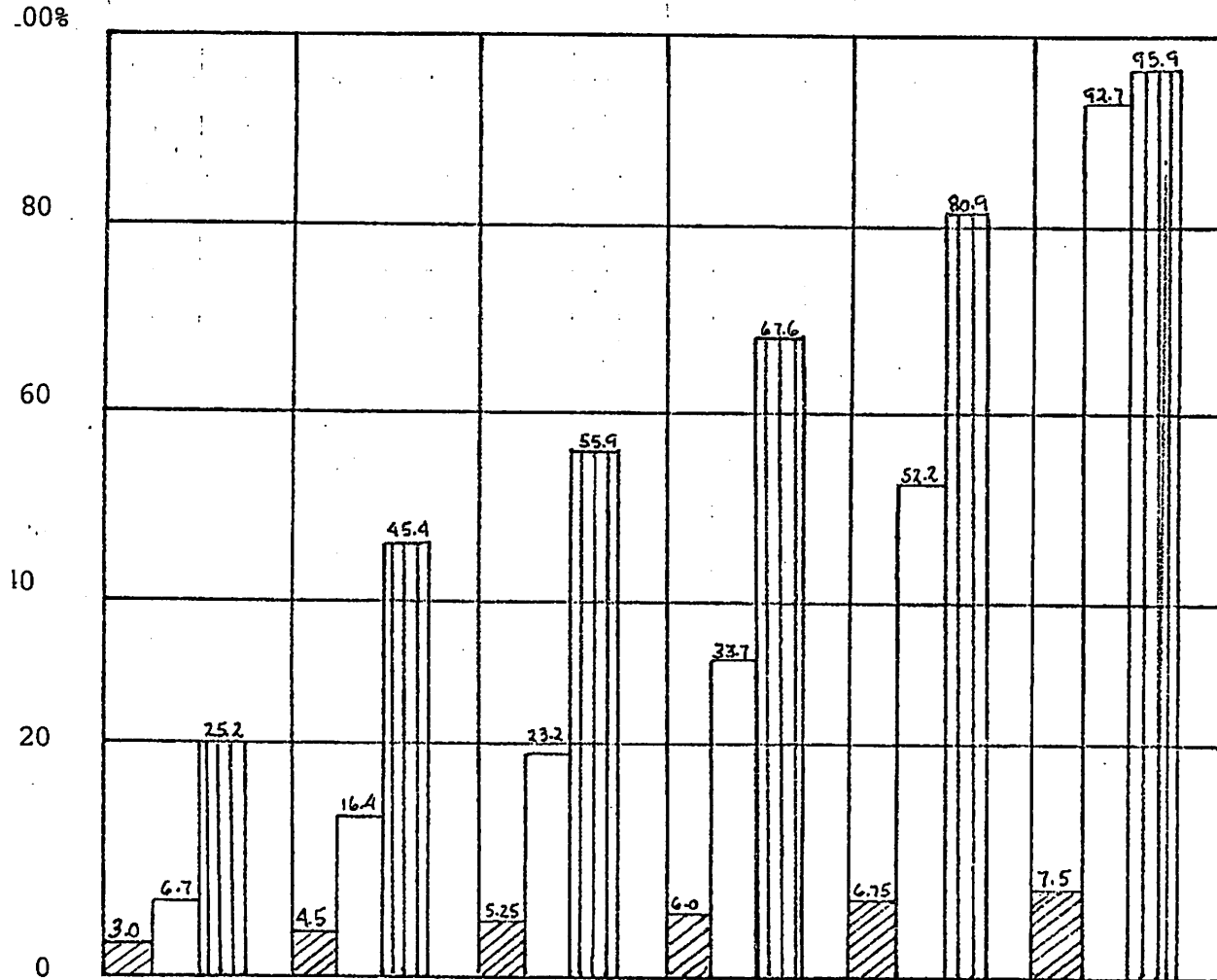


 % of
= KING CRAB
PSC

Table 4 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery- straight line growth, doubling in 4 years

1980 1982 1983 1984 1985 1986



 % of
 = GROUND FISH
 HARVEST

 % of
 = HALIBUT
 PSC


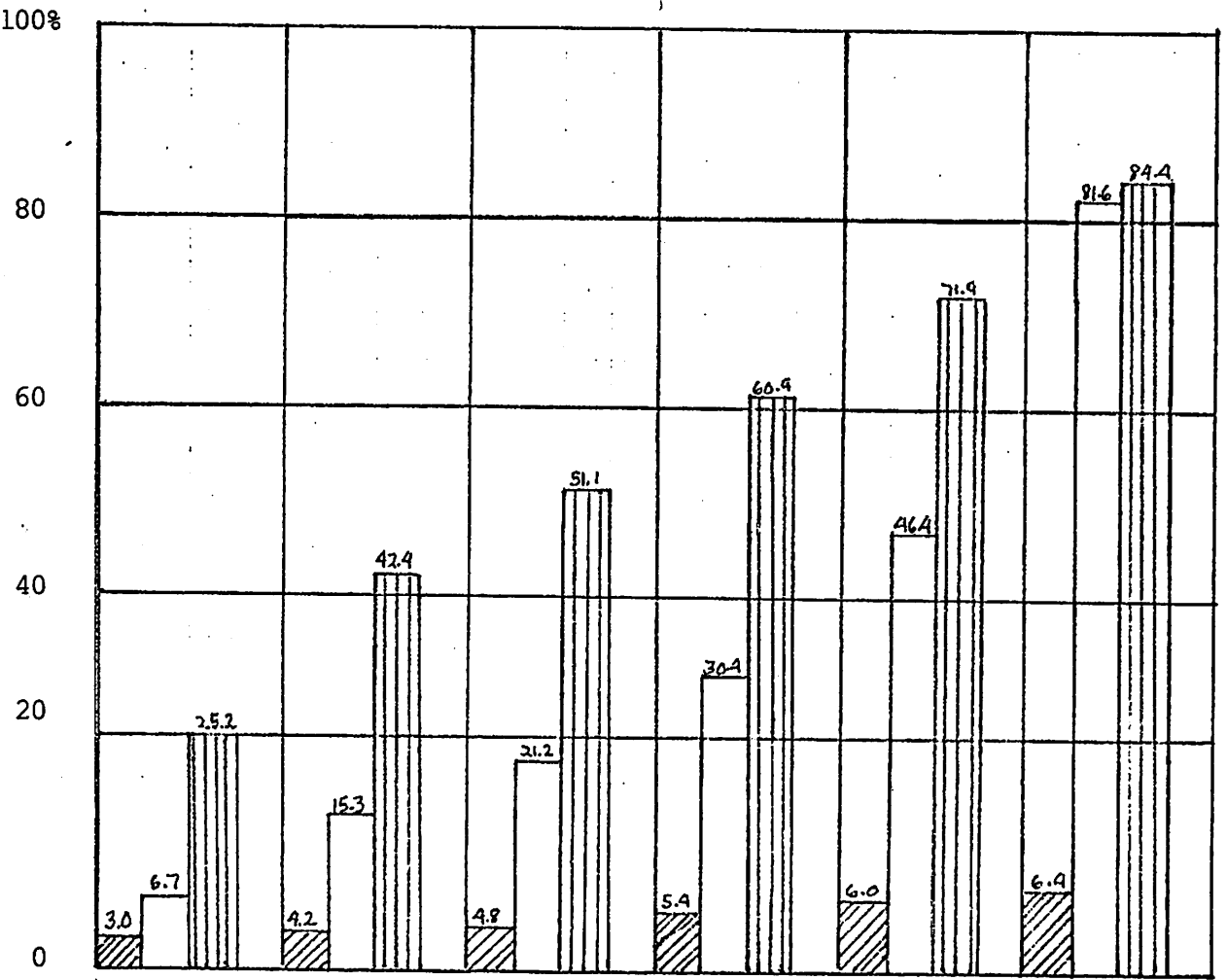


 % of
 = KING CRAB
 PSC

Table 5 percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 5 years

1980 1982 1983 1984 1985 1986



 % of GROUND FISH HARVEST

 % of HALIBUT PSC


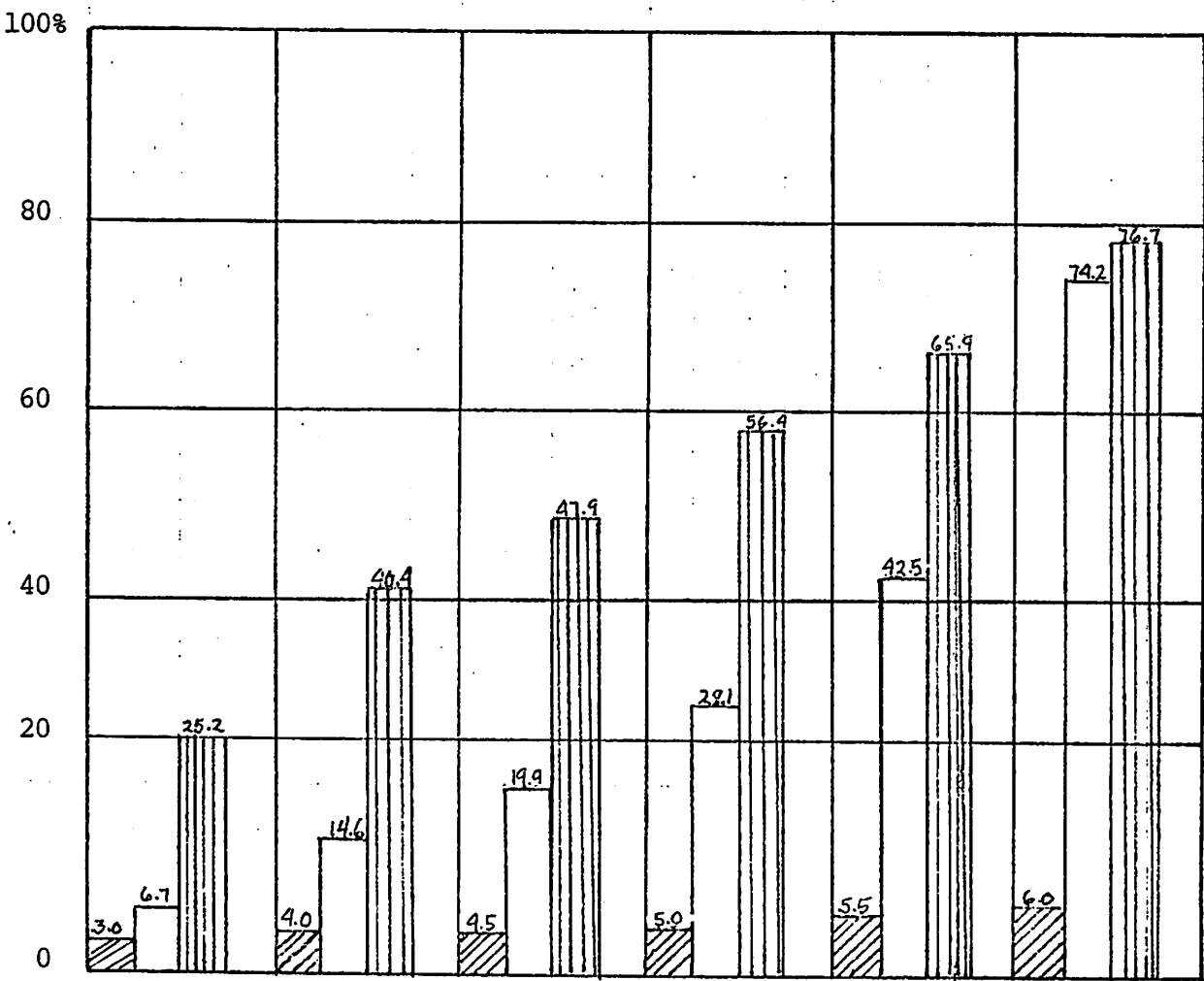

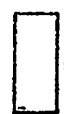
 % of KING CRAB PSC

Table 6 Percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - straight line growth, doubling in 6 years

1980 1982 1983 1984 1985 1986



 % of GROUND FISH HARVEST

 % of HALIBUT PSC


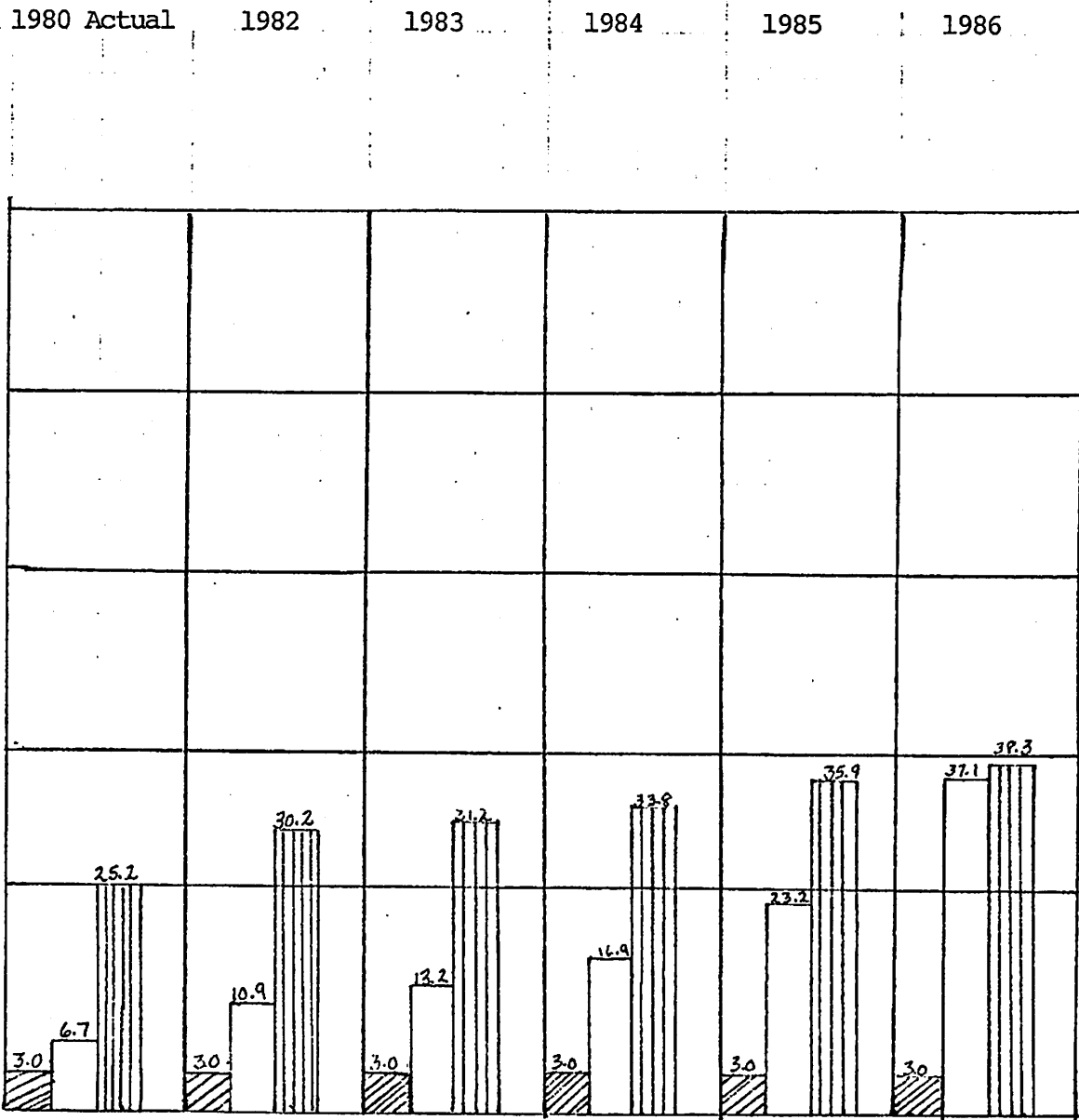



 % of KING CRAB PSC

Table 7 Percent of domestic groundfish fishery harvest compared to percentage of halibut and king crab PSC taken by domestic groundfish fishery - constant level of groundfish harvest



 % of
GROUND FISH
HARVEST

 % of
HALIBUT
PSC

 % of
KING CRAB
PSC