

North Pacific Fishery Management Council

Clement V. Tillion, Chairman
Jim H. Branson, Executive Director

Suite 32, 333 West 4th Avenue
Post Office Mall Building



Mailing Address: P.O. Box 3136DT
Anchorage, Alaska 99510

Telephone: (907) 274-4563
FTS 265-5435

May 22, 1979 JHB

EXECUTIVE DIRECTOR'S REPORT

SALMON FMP

The Council's salmon plan was approved by Administrator Frank on May 4. Regulations were published in the Federal Register on May 18 and became effective immediately. A copy of the action memorandum disapproving the ban on hand trolling and approving the rest of the plan is under tab 3 in your agenda book. Agenda item 16 will offer an opportunity for discussion of the troll salmon plan, alternatives to the ban on hand trolling and its overall relationship with the Pacific Council's salmon FMP.

GULF OF ALASKA AMENDMENTS

Secretarial review started on the amendments to the Gulf of Alaska plan on April 4. It should end on June 2. If the approval process follows its normal course we could expect them to be effective approximately August 21.

The Japanese Longline and Gillnet Association has asked for action as soon as possible on the amendments allowing a longline Pacific cod fishery east of 157° W. and an exemption from the all nation closure provision when one species allocation has been reached. The other Japanese fishing groups are also asking for interim regulations that

would allow relief on the other amendment items, particularly the reduction in number of regulatory areas in the Gulf. A good argument can be made that the amendments could be implemented by interim regulations following Secretarial approval, allowing the public hearing period for final regulations to run concurrently with interim regs. We should hear more from the representatives of the Japanese fishing associations during the public comment period on this subject.

BERING SEA AND ALEUTIAN GROUND FISH FMP

The Secretarial review period for this plan began April 22. It should end on June 19. We can expect that the review period will be prolonged if we do not get the reserved section on Aleutians closures to the Secretary as soon as possible. We have already been notified that reserving that section may delay Secretarial review of the rest of the plan.

COUNCIL CHAIRMEN'S MEETING

The Council chairmen's meeting is set for June 19-20 in Valley Forge, Pennsylvania. Copies of the agenda are under tab 3. It covers plan development and review, budgeting (including state pass-through money), fishery development, enforcement and the observer program, determination of U.S. capacity, how to establish OY, and the relationship between the fishery conservation zone, state waters, and inland waters. Joint ventures are also on the agenda.

The agenda does not include discussion of amendments to the FCMA. I have asked that this subject be included since a united Council approach to the Congressional Oversight Hearings scheduled for late June and mid-July would be much more effective than disparate approaches by individual Councils.

JOINT VENTURE ACTIVITIES

Permits have been issued to Marine Resources, Inc. for two Soviet processors/trawlers to buy fish from U.S. fishermen in the Gulf of Alaska. Permit restrictions are similar to those on the KMIDC permits, except that their by-catch of sablefish is limited to 1½% of their total catch. I expect a similar restriction will be added to the KMIDC permits in the near future.

One KMIDC ship, the BOOK NEUNG, has received fish from an American trawler in the Gulf of Alaska. As of May 5 they had taken 41 tons, mostly pollock with slightly over 10 tons of Pacific ocean perch. I hope to have an update during the Council meeting from the KMIDC representative in Anchorage, Ed Naughton, on current activities and projection of future fishing.

Copies of the suit filed by New England Fish Company, Icicle Seafoods, et al against the Department of Commerce and NOAA/NMFS are included in your agenda book under tab 3, as well as a short memo summarizing the points of the suit. We have no new information on action on this litigation.

FCMA WORKING GROUP

The FCMA working group met in Seattle May 14 to develop recommendations for the Council for the Oversight Hearings on the Act. A copy of that report is under tab 18 in your agenda book. Revision, acceptance, or rejection of these recommendations are needed from the Council at this meeting so the material can be used during the chairmen's meeting in mid June.

SOCIO-ECONOMIC WORKING GROUP

The socio-economic working group met in Seattle in early May and again in the Council offices the morning of the 22nd. An interim advisory report is under tab 3, a final report will be available at the June meeting.

DAH WORKING GROUP

The Council working group to develop better methods of arriving at domestic annual harvest capacity and processing capacity also met in Seattle in early May and briefly on May 23. It's not expected that a report will be made to the Council until June or July from this group.

NATIONAL ORIENTATION MEETING

NMFS has asked for the Council's recommendation on the desirability of a national orientation meeting for all Council people this fall, similar in scope to the first Council orientation meeting in September of 1976. It's expected that it would differ in format, using work groups and panels to explore and define specific problems, rather than the more general overall approach used in the first orientation conference. We need a Council recommendation at this meeting in order to respond to Mr. Leitzell's request.

RESIGNATION FROM THE SSC

Professor James Crutchfield has submitted a letter of resignation from the SSC because of his very heavy workload, recently increased by the loss of Don McKernan, and some health problems. He has recommended an Anchorage economist as a possible replacement.

REGIONAL BOTTOMFISH DEVELOPMENT COUNCIL

Mr. Leonard W. Saari, regional representative of the Secretary of Commerce, in a letter dated May 9, asked for an expression of interest in the development of a regional bottomfish fisheries development council. The letter is under tab 3. He envisions the council as 'a formal organization that would provide effective communications between the public and private sectors to support planning and to provide the necessary coordination between these entities to simplify the development process.'

I would appreciate direction from the Council in responding to this letter.

ABSENT COUNCIL MEMBERS

Council member Jensen will not be at this meeting. He is halibut fishing. John Harville and Keith Specking are attending the Fisheries Development Conference being held by NOAA/NMFS in Washington, D.C. this week.

FINANCE COMMITTEE MEETING

I would like to call a meeting of the Finance Subcommittee for Friday morning to discuss an amendment to the contract with ADF&G for development of a fisheries information system.



AGENDA #3

MAY 1979

**UNITED STATES DEPARTMENT OF COMMERCE
Office of the Secretary**

Federal Region X
Federal Building, Room 9801
915 Second Avenue
Seattle, Washington 98174

| | | | |
|------|------|------|----------|
| FILE | 3206 | INFO | ROUTE TO |
| | | | |
| | | | |
| | | | |
| | | | |

TWA

May 9, 1979

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

MAY 10 1979

Dear Mr. Branson:

We were very pleased that you were able to take the time from your busy schedule to attend the 200-Mile Fisheries Impact Conference here. As you may have heard, more than 700 people registered for the Conference, by far the largest Conference of its kind ever held. All segments of the seafood industry, as well as federal, state, and local government were represented.

We hope that the Conference was beneficial to you and your organization. And we invite your comments and suggestions for future fisheries conferences.

At the Conference, Phyllis Lamphere, Regional Director of the Economic Development Administration, introduced the interesting concept of a public and private sector regional bottomfisheries development council. As presented, the council would include representatives of the seafood industry and state, local, and federal government. We see the council as a formal organization that would provide for effective communications flow between the public and private sectors to support system level planning and to provide the necessary coordination between these entities to simplify the development process.

We would like to ascertain the level of interest in the council as expressed by participants in the Conference, including you. If there is sufficient interest in such a council, we would expect it to grow out of the ideas presented by people like you.

We know that you recognize the enormous economic potential in a fully developed fishery within the 200-mile limit. We believe that to institutionalize the development process of the bottomfish industry will speed development in the most efficient and least costly manner.

We wish to thank you in advance for taking the time to respond to our letter, and for giving us the benefit of your opinions.

Sincerely,

Leonard W. Saari
Regional Representative
of the Secretary

Enclosure



Question 1:

Do you support the establishment of a regional private and public sector organization to support the development of the bottomfishery?

YES

NO

Question 2:

Would you or a member of your organization be willing to participate in a task force to develop this organization?

YES

NO

Further Remarks:

Signature

Please return in the enclosed self-addressed envelope to:

Office of the Secretary
U.S. Department of Commerce
3206 Federal Building
915 Second Avenue
Seattle, WA 98174

OTHER ACTIVITIES AUTHORIZED AND ADDITIONAL CONDITIONS AND
RESTRICTIONS APPLICABLE TO PERMITS FOR VESSELS
KAZATIN AND KAMYSHIN

SUPPORT ACTIVITIES AUTHORIZED

Fishery support operations in the FCZ, as discussed in section 611.10 of the Foreign Fishing Regulations, by the vessels KAZATIN and KAMYSHIN in support of vessels of the United States harvesting fish in the FCZ are authorized in the GOA fishery subject to the following additional conditions and restrictions:

(a) Restrictions on Receipt of Fish.

(1) If the Assistant Administrator finds that the amount of any species of fish, except sablefish, harvested by vessels of the United States in any fishing area identified in Table I of section 611.92(b)(1) of the Foreign Fishing Regulations and received in the FCZ by foreign fishing vessels from vessels of the U.S. has reached the current amount specified as "Reserve" for the species and fishing area in Table I of section 611.92(b)(1), no further fish harvested by vessels of the United States in that fishing area may be received in the FCZ from vessels of the United States. The fishery closure procedures of section 611.15(c) of the Foreign Fishing Regulations apply.

(2) Retention of sablefish is limited to incidental amounts resulting from this U.S. trawl fishery. No sablefish may be received from a U.S. longline fishery. The amount of sablefish harvested by vessels of the United States in any fishing area which may be retained by the above vessels shall not exceed 1.5 percent of all fish received. This percentage limitation on retention shall apply to the initial 2,000 m.t. of fish received in the FCZ from vessels of the U.S. and each 10,000 m.t. increment thereafter. (For example, if the amount of sablefish harvested by vessels of the U.S. and delivered to and retained by the above foreign vessels in the FCZ reaches 30 m.t. before receipt by the foreign vessels of the initial 2,000 m.t. of all fish, no further sablefish may be retained until the initial 2,000 m.t. of all fish is received. A 150 m.t. limitation on retention of sablefish applies to each succeeding 10,000 m.t. of all fish received.)

(3) Any prohibited species (shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources) or part thereof which is received shall be treated in accordance with section 611.13 of the Foreign Fishing Regulations as if it was caught by the KAZATIN or KAMYSHIN.

(b) Area Restrictions.

(1) Processing of U.S. harvested fish and other operations in support of vessels of the U.S. may be conducted in the FCZ of the Gulf of Alaska (i.e., between three and 200 miles from the baseline used to measure the U.S. territorial sea) in accordance with section 611.10(b) of the Foreign Fishing Regulations. Processing of foreign harvested fish and other operations in support of foreign vessels may not be conducted between three and twelve miles from the baseline used to measure the U.S. territorial sea except in the areas and during the times specified in section 611.90(c)(2) of the Foreign Fishing Regulations.

(2) The closed areas specified in section 611.92(d)(1) do not apply to operations in support of vessels of the U.S.

(c) Reporting Requirements. Each vessel shall report its projected times and positions for commencing and ceasing operations in support of vessels of the U.S. not less than 7 days prior to such projected times. These reports shall be submitted in the manner prescribed in section 611.4(b).

(d) Fishery Closures. Operations in support of vessels of the U.S. are not subject to the fishery closure provisions of section 611.15(a)(3) and (4).

UNION OF SOVIET SOCIALIST REPUBLICS

APPROVED APPLICATIONS - 1979

10 MAY 1979

| <u>APPLICATION NUMBER</u> | <u>VESSEL NAME</u> | <u>VESSEL IDENTIFIER</u> | <u>FISHERY*</u> | <u>ACT*</u> | <u>FISHERY*</u> | <u>ACT*</u> |
|-------------------------------|------------------------|------------------------------|-----------------|-------------|-----------------|-------------|
| UR-79-0116 | KAZATIN ** | ESKZ | GOA | 2 | | |
| UR-79-0231 | KAMYSHIN ** | ESKT | GOA | 2 | | |

*Fishery Codes: GOA - Gulf of Alaska Groundfish Fishery

*Activity Codes: 2 - Processing and other support only

**Permit for this vessel will authorize Other Activities and will be subject to Additional Conditions and Restrictions shown on the attached pages.

Copies to: B. V. ...
B. A. ...
H. V. ...

AGENDA #3
MAY 1979

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED

OR

MAY 08 1979

LEWIS

PARKER, J.

NEW ENGLAND FISH COMPANY, a)
Corporation organized under)
the laws of the State of)
Maine, 4th and Vine Streets,)
Seattle, Washington 98122,)
(206) 284-2750,)

ICICLE SEAFOODS, INC., a)
corporation organized under)
the laws of the State of)
Alaska, 4241 21st Avenue, West,)
Seattle, Washington 98199)
(206) 282-0989,)

PELICAN SEAFOODS, INC., a)
corporation organized under)
the laws of the State of)
Alaska, P. O. Box 601,)
Pelican, Alaska)
(206) 632-9000,)

ALASKA LONG LINERS)
ASSOCIATION, an unincorporated)
association, P. O. Box 1117,)
Sitka, Alaska 99835,)
(907) 747-8849)

Plaintiffs,)

vs.)

JUANITA M. KREPS, Secretary)
of Commerce, and NATIONAL)
OCEANIC AND ATMOSPHERIC)
ADMINISTRATION, and THE)
NATIONAL MARINE FISHERIES)
SERVICE,)

Defendants.)

CIVIL ACTION
DOCKET NO.

79- 1196

MAY 1 1979

Attorneys for Plaintiffs
Beveridge, Fairbanks & Diamond
One Farragut Square South
Washington, DC 20006
(202) 638-7800

Of Counsel
James J. Seeley
Commerce & Franklin Streets
Bridgeton, New Jersey 08302
(609) 451-8050

Edward W. Furia
3515 East Spring Street
Seattle, Washington 98122
(206) 329-8950

Lawrence P. Brodie
6700 Sorrel Street
McLean, Virginia 22101
(703) 790-9693

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CIVIL ACTION NO.

NEW ENGLAND FISH COMPANY,)
ICICLE SEAFOODS, INC., PELICAN)
SEAFOODS, INC., and ALASKA)
LONG LINERS ASSOCIATION.)

Plaintiffs,)

vs.)

JUANITA M. KREPS, Secretary of)
Commerce and NATIONAL OCEANIC)
ATMOSPHERIC ADMINISTRATION,)
and NATIONAL MARINE FISHERIES)
SERVICE.)

Defendants.)

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

FIRST COUNT

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §2201, 2202, (The Declaratory Judgment Act); 5 U.S.C. §704 (The Administrative Procedure Act); 28 U.S.C. §1331 (Federal Question); 28 U.S.C. 1332 (Diversity of Citizenship); and 16 U.S.C. §1861 (d) (The Fishery Conservation and Management Act).

PARTIES

2. Plaintiff, NEW ENGLAND FISH COMPANY, [hereinafter NEFCO] is a corporation organized under the laws of the State of Maine, with its principal place of business at 4th and Vine Streets, Seattle, Washington. NEFCO is engaged in the purchase, processing, and sale of seafood products on the Pacific Coast in the State of Washington, and in Alaska.

3. Plaintiff, ICICLE SEAFOODS, INC., [hereinafter ICICLE], is an Alaska Corporation with its principal place of business at Box 1147, Petersburg, Alaska. Plaintiff, ICICLE SEAFOODS, INC., is engaged in the purchasing,

2

processing, and sale of seafood products on the Pacific Coast in the State of Alaska with processing plants located at Sitka, Petersburg, Homer, Seward, and Ninilchik, and particularly is engaged in the purchase, processing, and sale of Sablefish (also known as Black Cod).

4. Plaintiff, PELICAN SEAFOODS, INC.,

1. The Fishery Conservation and Management Act, 16 U.S.C. §1801, et seq., became effective March 1, 1977. In enacting this legislation, Congress found that there had been substantial over fishing in the United States fishing grounds caused in part by massive foreign fishing, and that a national program for the conservation and management of fish resources was necessary. 16 U.S.C. §1801(a)(6). The purposes of the act include the conservation and management of fish resources found off the coast of the United States, a promotion of domestic commercial fishing and encouragement of development of fisheries which are currently under utilized by United States fishermen. 16 U.S.C. §1801(b)

2. To assist in achieving the goals of the Act, Congress created a 200 mile fishing zone off the coast of the United States over which the United States exercises exclusive management authority. 16 U.S.C. §1811, 1812.

3. The Act limits foreign fishing in the 200 mile zone by establishing a quota limiting foreign fishing (The Total Allowable Level of Foreign Fishing - hereinafter TALFF) to that portion of the optimum yield of the fishery which will not be harvested by United States vessels, as determined in accordance with the Act.

4. On August 28, 1978, P.L. 95-354, (The Processor Priority Amendment) became Law. This amendment to the Fisheries Conservation and Management Act, (FCMA), clarified that the intent of Congress was the development of the entire United States fishing industry, including processing, rather than just the capacity of United states fishermen.

5. P.L. 95-354, the Processor Priority Amendment provides a priority for U.S. processors to receive fish caught in the 200 mile zone up to their full capacity and intent to process such fish. Only fish in excess of those which the U.S. industry can and desires to process can be

4

allocated to foreign processing activities within the 200 mile zone. The Processor Priority Amendment expressly provides in Section 4(6) that the Secretary (of Commerce) may approve the application (for Foreign Processing) unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned."

6. The Processor Priority Amendment also requires in Section 4(7)(B)(ii) that "the amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors."

THIS ACTION

1. Pursuant to the Fisheries Conservation and Management Act, the Secretary of Commerce received an application for the operation of processing vessels within the 200 mile zone in the Gulf of Alaska from the U.S.S.R., which desires to process fish purchased from U.S. fishermen on processing vessels of the Soviet Union within the 200 mile zone. These Soviet vessels are operated by Soviet crews and Soviet fish processing personnel. The processing application of The Soviet Union for this so called "joint venture" requested the following quantities of fish in the Gulf of Alaska: Pacific Cod--1900 metric tons; Pollock--2,000 metric tons; Pacific Ocean Perch--1,400 metric tons; Sablefish 400 metric tons; miscellaneous 300 metric tons. The aforesaid permit application states that the operations will be principally in the Chirikof and Shumagin regions of the Gulf of Alaska, but since the application is not limited

5

to these regions, it includes as well the other regions in the Alaska Gulf.

2. At the February, 1979, meeting of the North Pacific Regional Management Council (one of the regional councils created under the Act to give recommendations to the Secretary regarding permits), Plaintiff, NEFCO, and other U. S. processors presented testimony that Plaintiff and other processors would purchase all Sablefish caught in the Gulf of Alaska. Thereafter, the Affidavit of Robert Thorstenson, President of ICICLE, was presented to the NMFS, stating that ICICLE had the capacity and intent to purchase and process 5,000 metric tons of Sablefish in the Gulf of Alaska region. Thereafter, the Affidavit of John B. Harris on behalf of NEFCO stating that NEFCO had the capacity and intent to process at least 3,000 metric tons of Sablefish was presented to the NMFS. Thereafter an Affidavit on behalf of PELICAN stating that PELICAN had a capacity and intent to process at least 1,000 metric tons of Sablefish was presented to the NMFS. Thereafter, additional information was presented to the NMFS stating that other U.S. processors in the Gulf of Alaska had a capacity to process 5,000 metric tons of Sablefish. Between NEFCO, ICICLE, PELICAN, and other U.S. processors, there is a capacity and intent to purchase and process at least 14,000 metric tons of Sablefish in the Gulf of Alaska.

3. According to findings of the NMFS published in the Federal Register on October 30, 1978, at 43 F.R. 50476, the Domestic Annual Harvest of Sablefish for the entire Gulf of Alaska is 4,000 metric tons. Pursuant to additional findings of the NMFS published in the Federal Register on March 26, 1979, 44 F.R. 18021, the entire reserve of Sablefish for the Gulf of Alaska, being 3,250 metric tons will be caught by U.S. fishermen for delivery to joint ventures. Thus, the entire Domestic Harvest of Sablefish

for the Gulf of Alaska, including all fish to be delivered to joint venture processors is 7,250 metric tons.

4. The documented U.S. processor demand for Sablefish exceeds the Domestic Annual Harvest of Sablefish as found by the NMFS in excess of 6,000 metric tons. Notwithstanding this information having been presented to the NMFS, the NMFS has failed to find that the U.S. processor demand for Sablefish is sufficient to utilize the entire U.S. harvest of this species, and has failed to find that no foreign processing permits for Sablefish are available. To the contrary, the aforesaid Soviet permit application for Sablefish was sent for review to the North Pacific Council without any conditions placed upon the harvesting of Sablefish. Nor has the Secretary informed the Soviet applicants that no foreign processing permits for sablefish in the Gulf of Alaska are available. To the contrary, the Secretary has continued to process the Soviet applications for Sablefish and may at any moment approve the Soviet application notwithstanding the fact that the U.S. processor demand for Sablefish substantially exceeds the entire Domestic Annual Harvest of this Species. When the Soviet application is approved, notice of the approval will be delivered immediately to the Washington Embassy of the Soviet Union, and any effort at that time to have the resulting permit set aside or revoked will be extremely difficult because of the international affairs consequences of withdrawing a permit once granted. Thus Plaintiffs will suffer irreparable injury as set forth below unless the proposed action of the Secretary is declared illegal and enjoined before it is put into effect.

5. Any such action by the Secretary in approving foreign processing of a species for which there is U.S. processing capacity and intent for the entire U.S. harvest in the fishery is in direct contravention of Section 4(7)(B)(i)

7

of the Processor Priority Amendment which provides that the Secretary may approve such permits unless the Secretary determines that U.S. fish processors have adequate capacity and will utilize such capacity to process all United States harvested fish from the fishery concerned. Any finding by the Secretary that United States fish processors do not have adequate capacity and intent to process all of the U.S. harvested Sablefish caught in the Gulf of Alaska is in direct conflict with information supplied by Plaintiffs, NEFCO, ICICLE, and PELICAN, regarding their own declared intent and desire to purchase and actual offers to purchase, as well as clear information with respect to other U.S. processors, and any such finding by the Secretary is therefore arbitrary and capricious, unsupported by substantial evidence, ultra vires, and void as a matter of law. Any approval of an application or issuance by the Secretary of a permit for the operation of foreign processing vessels in the Gulf of Alaska for the processing of Sablefish under the aforesaid circumstances is ultra vires, illegal, and void as a matter of law.

6. According to findings of the NMFS published in the Federal Register on October 30, 1978, 43 F.R. 50476, the total U.S. harvest of Pacific Cod for the Gulf of Alaska is 15,500 metric tons. Accordings to additional findings of the NMFS published in the Federal Register on March 26, 1979, 44 F.R. 18031, the entire reserve of Pacific Cod for the Gulf of Alaska, being 7,498 metric tons, will be caught by U.S. harvesters and delivered to foreign vessels for processing in joint venture arrangements. Therefore, the total domestic harvest of Pacific Cod for the Gulf of Alaska for the 1979 season is 22,998 metric tons. Plaintiff, NEFCO, presented the Affidavit of John B. Harris to the NMFS stating that NEFCO had the capacity and intent to purchase a minimum of 6,000 metric tons of Sablefish for processing at

8

its Kodiak plant. The Affidavit of ICICLE presented to the NMFS states that ICICLE has a capacity for processing at least 250 metric tons per day of Pacific Cod during six months of the 1979 season; or a total capacity of at least 45,000 metric tons. The Affidavit of Pelican present to the NMFS states that Pelican has the capacity to process up to 90 metric tons per day of Pacific Cod during the 1979 season. Additionally, other U.S. fish processors located on Kodiak Island and in Southeastern Alaska have a capacity and intent to process substantial amounts of Pacific Cod in addition to those required by NEFCO, ICICLE, and PELICAN. The capacity and intent of NEFCO, ICICLE, and PELICAN, and other U.S. fish processors in the Gulf of Alaska region to purchase and process Pacific Cod is sufficient to utilize the entire U.S. harvest of Pacific Cod in the Gulf of Alaska.

7. Notwithstanding the information contained in paragraph 6 having been submitted to the NMFS, the Secretary has failed to find that the entire Domestic Annual Harvest of Pacific Cod would be utilized by U.S. processors and has continued to process a permit application of the Soviet Union for the processing on foreign vessels of 1,900 metric tons of Pacific Cod in the Gulf of Alaska. Any the finding of the Secretary that NEFCO, ICICLE, PELICAN, and other U.S. processors do not have the capacity and intent to purchase the entire U.S. harvest of Pacific Cod in the Gulf of Alaska regions is arbitrary and capricious and unsupported by substantial evidence.

8. The granting of a permit to foreign vessels for the processing of Pacific Cod in the Gulf of Alaska region, when the U.S. processing industry has the capacity and intent to purchase the entire U.S. harvest of Pacific Cod for that region would be in direct violation of the Processor Priority Amendment, P.L. 95-354 § 4 (7) (B) (i), ULTRA

9

vires, null and void, and of no legal effect.

9. A genuine dispute exists between Plaintiffs and defendants concerning the legality of issuing permits for foreign processing under the above alleged factual circumstances.

SECOND COUNT

1. Plaintiffs re-alleges the paragraphs of the First Count and incorporate them by reference herein.

2. Sometime in 1978, the Secretary of State received permit applications for fish processing within the 200 mile zone from the government of the Republic of Korea for the operation of two processing vessels. Sometime prior to December 1, 1978, the Secretary forwarded the aforesaid permit applications to the North Pacific Regional Council for comment thereon.

3. On December 1, 1978, the North Pacific Regional Management Council voted to recommend approval of the Korean permit applications. At the time such recommendation was made, no notice of the applications had been published pursuant to 16 U.S.C. §1824(b)(4)(A). Because no notice of the application was published until January 10, 1979, after the North Pacific Council had made its recommendation, the public was denied its right to comment on the permits pursuant to 16 U.S.C. §1824(b)(5) of the FCMA which expressly provides that "any interested person may submit comments to such council with respect to any such application. The council shall consider any such comments in formulating its submission to the Secretary." The action by the Secretary in submitting and receiving the recommendation of the North Pacific Council with respect to the Korean permit application without public notice is in violation of 16 U.S.C. §1824(b)(5) and any action on the said permits without public notice and compliance with the public comment provisions of the Act is a denial of due

10

process, arbitrary, capricious, illegal, null and void, and of no effect as a matter of law.

4. The Secretary approved the aforesaid Korean permits March 2, 1979, and they were issued March 21, 1979, without compliance with 16 U.S.C. §1824(b)(5).

THIRD COUNT

1. Plaintiff repeats the allegations of the Second Count and incorporates them by reference herein.

3. Pursuant to Section 4(7)(B)(i) of the Processor Priority Amendment, the amount of tonnage of U.S. harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors. Pursuant to findings published in the Federal Register on October 30, 1978, 43 F.R. 50476, the Secretary found that the U.S. harvest of Pollock in the Gulf of Alaska would be 14,200 metric tons. Pursuant to findings published at the same time, the Secretary found that the U.S. processor capacity and intent for Pollock in the Gulf of Alaska was 14,200 metric tons. Thereafter, on March 26, 1979, findings were published in the Federal Register at 44F.R. 18031 stating that the entire reserve in Pollock, being 100,350 metric tons would be caught by U.S. harvesters and processed pursuant to joint venture arrangements by foreign processors. Thus, the total U.S. harvest in Pollock has been found to be 114,550 metric tons. The NMFS determined that the U.S. harvest would be in this amount simply by asking one of the operators of a proposed joint venture the amount of fish he expected fishermen to catch. The NMFS made no independent factual investigation or inquiry with the harvesters with respect to their intentions to harvest. The above described method of determining the

U.S. harvest is grossly inadequate in that it did not involve the collection of data from the principal parties involved in harvesting and instead relied upon data from a party having an interest in providing a high estimate for the U.S. harvest in order to insure a finding by the NMFS that there was an excess of the U.S. harvest over the U.S. processor demand so that the excess would be available to joint ventures such as the one operated by the source of this information to the NMFS. Plaintiffs, NEFCO, ICICLE, and PELICAN, are greatly injured by the over estimate of U.S. harvesting of Pollock in that if the full estimated 114,550 metric tons are not harvested by U.S. harvesters, Plaintiffs, NEFCO, ICICLE, and PELICAN, may not receive their statutory entitlement to 14,200 metric tons, and rather some or all of that statutory entitlement may be sold to and processed by foreign processing vessels under the permits issued to foreign vessels entitling them to process the entire reserve amount.

4. The quantity of fish for which each of the Republic of Korea permits was issued was the "entire reserve amount", that is, all of the fish which have not been allocated to be caught by foreign fishing vessels. This reserve is the "cushion" out of which the NMFS might increase the domestic harvest and U.S. processor demand, if it were found to increase, but rather, it has allocated all of the reserve amount to foreign processing in total disregard of the U.S. processor preference. Indeed, each Korean vessel licensed is licensed to take up to the entire reserve, resulting in permits being outstanding for processing on foreign vessels of several times the reserve amount.

5. In order to properly implement the Processor Priority Amendment, P.L. 95-354, it is necessary for the Secretary to accurately find the amount of U.S. harvest of a

12

particular species so that that amount can be compared with the U.S. processor capacity and intent, and it can be ascertained whether or not there is an excess in that harvest over U.S. processor capacity and intent. The Secretary has failed to utilize empirical data and has failed to establish a record supported by substantial evidence as to what the extent of the U.S. harvest of Pollock in the Gulf of Alaska will be for 1979. Therefore, it is arbitrary, capricious, and an action unsupported by substantial evidence for the Secretary to conclude that there is an excess of the U.S. caught portion of the optimum yield of Pollock in the Gulf of Alaska which can be allocated to foreign processing, until such time as reasonable fact finding establishes that there is such an excess, and until such time as the Secretary declares that there will be such an excess.

6. In gathering information concerning the U.S. processor demand, personnel of the Defendant, NMFS, inquired of the U.S. processors as to what quantities of fish they actually expected to receive based on past experience rather than as what quantities they had the capacity to handle and the desire to purchase. The fixing of the U.S. processor's "capacity and intent" under the statute based on such information is arbitrary, legally erroneous, null, void, and of no effect.

7. The action of the Secretary in granting permits to The Republic of Korea for the processing of Pollock in the Gulf of Alaska without finding an excess of the U.S. harvest over the U.S. processor demand and in quantities above the excess of U.S. harvest over U.S. processor demand are the result of arbitrary and capricious action and are illegal, ultra vires, null, void, and of no effect.

13

FOURTH COUNT

1. PLAINTIFFS repeats the allegations of the Second and Third Counts and incorporate them by reference herein.

2. The aforesaid permits granted to the Republic of Korea for the processing of Pollock in the Gulf of Alaska authorize the foreign processing activities anywhere within the Gulf up to 3 miles from shore. The Fishery Management Plan for the Gulf of Alaska provides that there shall be no foreign fishing within 12 miles of shore. Under the FMA, fishing is defined to include support activities such as processing. 16 U.S.C. §1802(10)

3. Pursuant to 16 U.S.C. §1824(b)(7), the Secretary is directed to established conditions and restrictions on foreign processing permits which "shall be included in each permit issued pursuant to the application under paragraph 6, and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following: "All of the requirements of any applicable fishery management, or preliminary fishery management plan and the regulations promulgated to implement any such plan."

4. The permits issued by the Secretary to The Republic of Korea are in direct violation of 16 U.S.C. §1824(b)(7) in that they do not contain the restriction of the Fishery Management Plan for the Gulf of Alaska precluding foreign fishing and processing activity within 12 miles of shore.

5. The action of the Secretary in granting the Republic of Korea permits without the requirements of the applicable Fishery Management Plan, is arbitrary, capricious, illegal, ultra vires, null, void, and of no effect.

14

FIFTH COUNT

1. Pursuant to 16 U.S.C. §1802(10), fishing under the Act is defined to include support activities such as processing.

2. The Fishery Management Plan for the Gulf of Alaska sets the total allowable level of foreign fishing (TALFF) for Pollock and other species. The granting of processing permits to the Republic of Korea for 100,350 metric tons of Pollock is not included by the Defendant, NMFS, in calculating the total allowable level of foreign fishing, and the Secretary has granted other fishing permits which when combined with the Republic of Korea processing permits exceed the total allowable level of foreign fishing for Pollock for the Gulf of Alaska.

3. The failure of the Secretary to include the fish to be processed by the Korean vessels as foreign fishing to be calculated in the total allowable level of foreign fishing is in violation of 16 U.S.C. §1802(10)

IRREPARABLE INJURIES

1. Plaintiff, NEFCO, has invested over 2.2 million dollars in the installation of a bottomfish processing line for the processing of Pacific Cod and Sablefish and other bottom fish in its processing plant in Kodiak, Alaska.

2. The processing plant of NEFCO has a seasonal capacity for the processing of Pacific Cod of a minimum of 6,000 metric tons, and of Sablefish of a minimum of 3,000 metric tons.

3. NEFCO's entire Gibson Cove bottomfish operation is designed around and set up for Pacific Cod and if NEFCO's demand for this cod is not met, the bottomfish line will not be able to operate economically, resulting in operating losses, loss of capital investment in the equipment, as well as loss of markets and necessary layoffs

15

of employees.

4. Plaintiff, ICICLE, has recently invested \$5,000,000 each in two processing vessels for the processing of bottom fish, principally, Pacific Cod. These vessels have a capacity to process 250 tons per day of Pacific Cod. These vessels are available for processing Pacific cod for at least six months during the year for a total capacity of 45,000 tons. Additionally, ICICLE has processing plants at Homer and Seward, Alaska with the processing capacity for Pacific cod of 150 tons per day. If ICICLE's demand for Pacific Cod is not met by U.S. harvesters these processing facilities will remain idle during a portion of the year resulting in operating losses, loss of capital investment in the equipment, and loss of markets, and necessary layoffs of employees.

5. ICICLE is and has been a major purchaser of Black Cod in the Gulf of Alaska area. If ICICLE is unable to obtain its demand in Black Cod, it will not be able to meet the demands of its markets and will lose markets in this species that have been established, resulting in financial losses to the company, idle operating facilities, and layoff of employees.

6. Plaintiff, PELICAN SEAFOODS, is and has been a major purchaser of Black Cod in the Gulf of Alaska area. If PELICAN is unable to obtain its demand in Black Cod, it will not be able to meet the demands of its markets and will lose markets in this species that have been established resulting in financial losses to the company, idle operating facilities, and layoff of employees.

7. The inability to have an adequate supply of Pacific Cod and Sablefish will disable NERCO, ICICLE, and PELICAN from making contracts for the sale of this seafood product and meeting their contractual obligations for the supply of this seafood product and will be injurious to them

16

in their profits and in the growth and development of markets in bottomfish products.

8. If Plaintiff fish processors located in the ~~Gulf of Alaska~~ area are unable to receive an adequate supply ~~of Pacific Cod and Sablefish~~ to meet their demands for the operation of bottomfish processing lines, they will not make a market in those species and the members of the Plaintiff, ALASKA LONG LINERS ASSOCIATION, will not have sufficient shore based processing facilities to which they can sell their fish when they return to port. The members of the association will be forced to either fish for other species which may be less available or less profitable, or to remain idle, unless an adequate supply of these species to justify the operation of their lines is available to U.S. processors in the Gulf of Alaska area.

9. The authorization of foreign processing at sea of Sablefish and Pacific Cod, referred to Counts one through five above will reduce the supply of those species to shore based processing plants and create a substantial possibility that the minimum demand for those species to justify operations will not be satisfied and that the U.S. processors will cease making a market in those species, depriving the membership of Plaintiff, ALASKA LONG LINERS ASSOCIATION, of any shore based market for their fish.

10. The members of Plaintiff, ALLA, operate a longline fishery for Sablefish and are able to target on that species to the exclusion of other species. The quality of the fish product caught by the longline method with Sable fish is substantially better than the quality of the product of Sablefish caught in a trawl fishery. The proposed Soviet permit for Sablefish will authorize a trawl fishery for Sablefish taking that species along with a variety of other species by a method involving the dragging of a large net. That method results in an unnecessarily high catch of

17
incidental species not intended to be caught which is destructive to the fishery management of the variety of species available for fishing in the Gulf of Alaska.

Members of Plaintiff, ALLA, can catch the same quantity of Sablefish by the longline method without the destructive impact on other species resulting from the operation of a trawl fishery for Sablefish. Action by the Secretary in approving a trawl fishery for Sablefish for processing on foreign vessels when there is a 100% U.S. processor demand for Sablefish and an ample number of longline fishing vessels such as those operated by the members of Plaintiff, ALLA, available for catching those Sablefish and delivering a higher quality product to U.S. processors is arbitrary, capricious, and in violation of the FCMA. The licensing of this trawl fishery for Sablefish will reduce the quantity of Sablefish available to be caught by longliners such as members of Plaintiff, ALLA, for delivery to shore based U.S. processors and will result in the demand for Sablefish of shore based U.S. shore processors not being met, and the loss of market in that Sablefish product to members of Plaintiff, ALLA.

11. Both Plaintiff processors and fishermen will suffer the above financial losses and dislocations in their operating procedures as a result of the Secretary's failure to properly implement the Processor Priority Amendment, P.L. 95-354, without any adequate remedy at law because no party would be personally liable for these financial losses, and changes in the administrative program can not recoup the losses suffered over the weeks of the fishing season during which the Processor Priority Amendment is not being implemented. Thus, unless this Court renders the equitable relief sought in this action, Plaintiffs will be denied the benefits of P.L. 95-354, without any remedy at law to correct their losses.

WHEREFORE, Plaintiffs request judgment against Defendants:

- A. Declaring that no permits for the foreign processing of Sablefish and Pacific Cod in the Gulf of Alaska can be issued, and that any such permits which may have been approved or issued are null, void, and of no effect.
- B. Permanently enjoining the Defendants from taking any further action of any kind whatsoever in the implementation of or operation of any such permits.
- C. Declaring that the action of the Defendants in issuing the Korean permits is null, void, and of no effect in that such action violated the notice and comment provisions of the FCMA.
- D. Ordering and directing the Defendants to accurately find whether there is an excess of U.S. harvest of Pollock in the Gulf of Alaska which will not be utilized by U.S. processors before any permits for the foreign processing of Pollock are approved, granted, implemented, or operated in any way.
- E. Declaring that the action of the Defendants in granting the Korean permits without restrictions on processing activities within 12 miles of shore is in violation of the FCMA, null, void, and no effect.
- F. Ordering and directing the Defendants to apply all of the requirements of the applicable Fisheries Management Plan to processing permits in the Gulf of Alaska, and specifically directing the Defendants to impose the requirement that no such foreign

19

processing activity may take place within 12 miles of shore.

- G. Declaring that fish to be processed on foreign vessels within the 200 mile zone must ~~be included within the total allowable level of foreign fishing under the Act.~~
- H. Ordering the Secretary not to issue any permits for foreign fishing and/or foreign processing within the 200 mile zone which when taken in the aggregate exceeds the total allowable level of foreign fishing in the Fishery Management Plan for such zone.
- I. Granting such other relief as the Court deems equitable and proper under the circumstances.
- J. Granting costs and counsel fees to the plaintiffs.

Respectfully submitted,

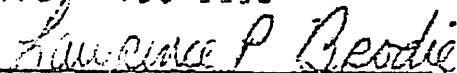
Beveridge, Fairbanks & Diamond
One Farragut Square South
Washington, DC 20006
(202) 638-7800
Attorneys for Plaintiffs

BY:


Charles A. Patrizia

Of Counsel

Lawrence P. Brodie
6700 Sorrel Street
McLean, Virginia 22101
(703) 790-9593


Lawrence P. Brodie



Agenda #3
 MAY 1979
 UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 Washington, D.C. 20230

OFFICE OF THE ADMINISTRATOR

| FILE | ACT | DATE | INITIALS |
|------|-----|------|----------|
| | | | 3 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

May 14, 1979

TO: A - Richard A. Frank
 DA - James P. Walsh
 F - Terry L. Leitzell

FROM: GC - Eldon V. C. Greenberg

SUBJECT: Litigation Concerning "Joint Venture" Fisheries
 Issues--INFORMATION MEMORANDUM

MAY 21 1979
[Handwritten signature]

1504-13-60A-08 030

On May 1, 1979, the New England Fish Company (NEFCO), Icicle Seafoods, Pelican Seafoods, and the Alaska Long Liners Association filed suit against Secretary Kreps, NOAA and NMFS in U.S. District Court in Washington, D.C. (Civil No. 79-1196).

Plaintiffs challenge NOAA's interpretation and implementation of P.L. 95-354, which amended the Fishery Conservation and Management Act of 1976 in response to the so-called "joint venture" issue. Basically, plaintiffs claim that:

1. P.L. 95-354 provides a priority to U.S. processors to receive fish up to their full capacity, intent, and desire;
2. U.S. processors intend to process more sablefish and Pacific cod from the Gulf of Alaska than U.S. harvesters are expected to catch;
3. the public was denied its right to comment on the Korean (KMIDC) foreign fishing application;
4. NMFS should conduct an independent factual investigation concerning the harvesters' statements as to amounts of fish they expect to catch (the complaint does not specifically call for an investigation of processors' statements of intent);
5. the defendants should estimate U.S. processing "demand" based on processors' statements of capacity and desire, rather than on processors' statements of what quantities of fish they actually expect to receive;



ADP/ALC

5. NMFS should estimate U.S. processing "demand" based on processors' statements of capacity and desire, rather than on processors' statements of what quantities of fish they actually expect to receive;
6. the Alaska Groundfish FMP provides that there shall be no foreign fishing within 12 miles of shore, and therefore a permit allowing foreign processors to support U.S. harvesters in to 3 miles is illegal; and
7. fish processed by foreign processing vessels in a "joint venture" with U.S. harvesters should be counted against the total allowable level of foreign fishing (TALFF).

Plaintiffs seek, among other things, an injunction (but not a T.R.O. or preliminary injunction) to prohibit the Agency from issuing permits to foreign processing vessels (e.g., Soviet vessels working with Marine Resources Company) which would process sablefish and Pacific cod in the Gulf of Alaska, and to invalidate a joint venture permit already issued to Korean vessels (KMIDC) for the Gulf of Alaska. The Pacific hake joint venture (Marine Resources Company) off of Washington and Oregon is not directly at issue in the complaint.

Defendants have until June 29 to answer the complaint.

I suggest that you inform your staffs that we are in litigation, and caution them against discussing any aspect of the case with persons outside the agency. I would prefer that such persons be referred to Brooks Bowen (634-7486) for further information.

cc: Reitze, FAK
White, GCAK
Johnson, FNW
Ancona, GCNW
Gordon, F3
Bilik, F37
Gutting, GCF
Bowen, GCF
Branson, NPFMC ✓
Nakatsu, PFMC
Donnellan, DOJ

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

A GENDA #3
MAY 1979

ROOM 2115 FEDERAL BUILDING
NORTH & NEW STREETS
DOVER, DELAWARE 19901

TELEPHONE: 302-674-2331

DAVID H. HART
Chairman
ELLIOTT GOLDMAN
Vice Chairman

JOHN C. BRYSON, F
Executive Director

May 1, 1979

MEMORANDUM

TO: Council Chairmen and Executive Directors
FROM: John C. Bryson *John C. Bryson*
SUBJECT: Agenda for Chairmen and Executive Directors'
Meeting

Attached please find a copy of the proposed agenda for the meeting of the Chairmen. The agenda for the Executive Directors will be the same including a discussion of the Administrative Handbook.

If you have any comments, suggestions, or other items you would like included, please contact me by May 15.

We have scheduled a breakfast meeting for 8:00-9:00 A.M. on June 19 for Councils and the NMFS representatives where we can informally discuss any sensitive items.

cc: Terry L. Leitzell

attachment

JCB/nbw

AGENDA

Council Chairman's Meeting June 19 & 20, 1979

LOCATION:

Sheraton Valley Forge Hotel
Route 363
King of Prussia, Pennsylvania 19406
(215) 337-2000

June 19th

9:00 - 9:05 Welcome
9:05 - 10:15 Joint Plan Review
10:15 - 10:45 Joint Plan Development Process
10:45 - 11:15 Total ECMA Budget Review
11:15 - 11:45 Adequacy of 25K Funding
11:45 - 1:00 Lunch
1:00 - 2:15 Council Role in Fishery Development
2:15 - 2:45 Enforcement Role and Observer Program
2:45 - 3:00 Break
3:00 - 3:45 Reevaluation of Roles/Responsibility in Research
3:45 - 4:30 Clarification of Determination of U.S. Capacity,
and OY, etc., Requirements for Establishment
4:30 - 5:00 FCZ, Territorial Sea, Inland Waters

June 20th

8:30 - 9:15 Joint Ventures
9:15 - 10:00 Environmental Issues
10:00 - Council Chairmen Executive Session (Council personnel)

DRAFT

REPORT TO THE NORTH PACIFIC COUNCIL
ON SOCIOECONOMIC DATA NEEDS

by

THE AD HOC WORKING GROUP ON SOCIOECONOMIC DATA NEEDS

Edward Miles, Chairman

George Rogers

James Crutchfield

Richard Marasco

Don Rawlinson

Bruce Hart

Marc Miller

May 15, 1979

At its January meeting, the North Pacific Council established an Ad Hoc Working Group on Socioeconomic Data Needs to pursue an alternative approach to the general questionnaire adopted by Centaur Associates on this problem. The group met in Seattle on May 8, 1979 and used as its working documents the following FMP's and draft FMP's:

- 1). Gulf of Alaska Trawl Plan
- 2). Bering Sea Trawl Plan
- 3). King Crab Plan
- 4). Tanner Crab Plan
- 5). Troll Salmon Plan
- 6). Bering Sea Herring Plan

It was decided that the High Seas Salmon Plan posed very different problems from the others and need not be evaluated in the same way.

The Working Group approached each Plan with the following set of questions.

- 1). What major analytic problems are posed by each Plan?
- 2). What socioeconomic information would have been useful but is missing?
- 3). What data are presented but are either not used or irrelevant to the major analytic questions posed?
- 4). What sources of information were utilized with what effectiveness?
- 5). What information on community characteristics appears to be necessary independently of particular FMP's?

As its Seattle meeting the Working Group agreed on some general guidelines, which we wish to recommend to the Council, and then proceeded to a collective evaluation of the King Crab Plan. Following that, individual assignments were made relative to the remaining Plans

and a second meeting was held in Anchorage the evening of March 21, 1979. The results of these two meetings are summarized below.

GENERAL COMMENTS

The Working Group was of the view that Plan Development Teams should adopt a selective approach to the Management Plan Outline recommended by the SSC. Not every item must always be included no matter what the fishery. Judgements have to be made by the Teams on what is appropriate in each case. More importantly, however, the Working Group argued that socioeconomic data were necessary in each Plan for two reasons: First, the EIS requirements demand a capability of making assessments of the socioeconomic impacts of different management options considered. Secondly, the determination of OY requires assessment of the major analytic problems posed by each FMP.

The Working Group was concerned that so far each Plan has simply provided socioeconomic descriptor categories without any or very much analysis of the implications of various management options. Data of varying quality are presented but consistently not used. Furthermore, almost all the Plans do not make any attempt to state at the beginning the major analytic problems to be addressed in the determination of OY. The Working Group has therefore outlined what it thinks are these major analytic problems posed by each Plan and recommends that most of the effort expended on collecting socioeconomic data be directed at analysing the following problems:

- 1). King Crab Plan
 - a). The need for and consequences of imposing different types of limited entry systems.
 - b). The utilities of maintaining a multiple yearclass

fishery.

- 2). Gulf of Alaska Trawl
- 3). Bering Sea Trawl
 - a). Determination of DAH. Prediction of domestic processor performance with respect to development and expansion of capacity.
 - b). The implications of joint ventures.
 - c). The longterm community effects of domestic developments in terms of infrastructure costs, employment, income, etc.
- 4). Tanner Crab
 - a). The probable effects of limited entry schemes applied to King Crab.
 - b). Market structure and effects of domestic expansion in the harvesting of C. bairdi and C. opilio.
- 5). Bering Sea Herring
 - a). The impact of commercial fisheries on subsistence fisheries.
 - b). Allocation among different users, in particular purse seines vs gillnets.
 - c). The impacts of a high seas fleet fishery on the inshore roe fishery.
- 6). Troll Salmon
 - a). Given the fact that the stocks are overexploited and there is a need for reducing the troll catch, what are the likely effects on fleet and communities of the various restrictions proposed, i.e. offshore closure on mixed stocks and time-area closures.

- b). Is it possible to quantify the benefits to be derived from imposing restrictions and reducing allocations among the troll and terminal net fisheries?

AN EVALUATION OF SOCIOECONOMIC DATA NEEDS FOR THE KING CRAB PLAN

With respect to the catch/effort data used in the Plan, the Working Group noted a great deal of variation in the data collected by specific management area. We wonder whether this variation reflects the different periods of time in which significant commercial fisheries developed or is simply the result of collecting what was easiest given time constraints in preparing the Plan. In any event, we see the need here for systematizing data over a common time period.

Of the data available in the Plan, the following items seem to us to be useful and necessary for doing the kinds of analyses we think required:

- 1). Catch totals/time period.
- 2). Ex vessel value of catch/time period.
- 3). Description and value of product/wholesale/time period.
- 4). Domestic commercial harvesting characteristics: quantity of vessels, type of gear, catch by vessel length and management area.
- 5). Total gross income of fleet/time period; productivity data (landings and catch per vessel).
- 6). Area community characteristics
- 7). Interaction between and among user groups.

On the other hand, the following information which was included is of limited or no utility for a variety of reasons:

- 1). Domestic market/time period.
- 2). Foreign market/time period.
- 3). Investment in vessel and gear. No statewide information available/limited data for some management areas only.
(These data could be very important for analysing the limited entry problem but they are very difficult to handle and may therefore not be worth pursuing. It might be better to get a clear picture of replacement costs on the basis of one or more prototype vessels in the fleet.)
- 4). Annual participation in subject fishery/time period.
- 5). Total manpower employed.
- 6). Economic viability/domestic commercial processing characteristics.
- 7). Total gross income of area processors/time period.
- 8). Investment in plant and equipment (category included but no data available).
- 9). Economic viability. (Category included but no data available).
- 10). Subsistence fishery characteristics (No data presented).
- 11). Total population/time period. (Would be useful if done better).
- 12). Total employment/time period. (Tables don't include fish harvesting. If not added, tables useless).
- 13). Total work force (data for fish harvesting not available).

- 14). State revenues derived/time period.

The Working Group thinks the following categories should have been included but weren't:

- 1). Harvesting costs.
- 2). Social conflicts: impacts of limited entry on residents vs non-residents.
- 3). Area community characteristics - probable changes. (Changes are the critical variables here, not absolute magnitude. If the FMP is likely to generate changes, then they must be dealt with analytically).

With respect to the two major analytic problems posed by the King Crab Plan, the following types of information are required:

- A. Limited Entry.
 - 1). Current vs projected capacity vis-a-vis quotas.
 - 2). Presence/absence management problems.
 - 3). Given existence of multipurpose fleet, interrelationships between King Crab and other species.
 - 4). What are the probable administrative costs of alternative limited entry systems? Does limited entry facilitate an increase in the efficiency of management?
 - 5). Harvesting costs/size and age structure of vessels.
 - 6). Price
 - 7). What human populations are involved?
 - 8). How are they likely to react to constraints?
 - 9). What alternatives are available to them especially

with regard to employment?

B. Utilities of Maintaining a Multiple Yearclass

Strategy.

- 1). Prices at different market levels, ex vessel and wholesale.
- 2). Harvesting costs
- 3). Effects of size of crab on price.
- 4). Fleet capacity

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

A GENDA #3
MAY 1979

ROOM 2115 FEDERAL BUILDING
NORTH & NEW STREETS
DOVER, DELAWARE 19901

TELEPHONE: 302-674-2331

DAVID H. HART
Chairman
ELLIOTT GOLDMAN
Vice Chairman

JOHN C. BRYSON, F
Executive Director

May 1, 1979

MEMORANDUM

TO: Council Chairmen and Executive Directors
FROM: John C. Bryson *John C. Bryson*
SUBJECT: Agenda for Chairmen and Executive Directors' Meeting

Attached please find a copy of the proposed agenda for the meeting of the Chairmen. The agenda for the Executive Directors will be the same including a discussion of the Administrative Handbook.

If you have any comments, suggestions, or other items you would like included, please contact me by May 15.

We have scheduled a breakfast meeting for 8:00-9:00 A.M. on June 19 for Councils and the NMFS representatives where we can informally discuss any sensitive items.

cc: Terry L. Leitzell

attachment

JCB/nbw

AGENDA

Council Chairman's Meeting June 19 & 20, 1979

LOCATION:

Sheraton Valley Forge Hotel
Route 363
King of Prussia, Pennsylvania 19406
(215) 337-2000

June 19th

9:00 - 9:05 Welcome
9:05 - 10:15 Joint Plan Review
10:15 - 10:45 Joint Plan Development Process
10:45 - 11:15 Total ECMA Budget Review
11:15 - 11:45 Adequacy of 25K Funding
11:45 - 1:00 Lunch
1:00 - 2:15 Council Role in Fishery Development
2:15 - 2:45 Enforcement Role and Observer Program
2:45 - 3:00 Break
3:00 - 3:45 Reevaluation of Roles/Responsibility in Research
3:45 - 4:30 Clarification of Determination of U.S. Capacity,
and OY, etc., Requirements for Establishment
4:30 - 5:00 FCZ, Territorial Sea, Inland Waters

June 20th

8:30 - 9:15 Joint Ventures
9:15 - 10:00 Environmental Issues
10:00 - Council Chairmen Executive Session (Council personnel)