

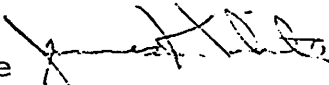


AGENDA ITEM 14 FEB 1979

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF GENERAL COUNSEL
P.O. Box 1668, Juneau, Alaska 99802

DATE: February 20, 1979

MEMORANDUM FOR NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
MEMBERS

FROM: James K. White 
Alaska Regional Counsel

SUBJ: Joint Ventures

During the January Council meeting several issues arose regarding the general effect of Public Law 95-354 -- variously called the "Joint Venture" or "Processor's Preference" amendment -- and in particular the effect of the amendment on FMPs of the North Pacific Council. This memorandum, which was prepared by Mike Stanley of this office, addresses the implications of this amendment for the North Pacific Council.

1. General

The amendment, which went into effect on August 28, 1978, amended the FCMA to clarify congressional intent that the entire U.S. fishing industry, including processors, should benefit from the FCMA's assertion of extended jurisdiction. The FCMA, as now amended, appears to provide three options for utilization of fishery resources in the FCZ. Ranked in order of preference, these options are: first, harvesting and processing by the U.S. fishing industry; second, harvesting by U.S. vessels but processing by foreign vessels; and last, harvesting and processing by foreign fishing industries. When deciding to which of these categories fishery resources will be allocated, the Council must provide a sufficient amount of fish to satisfy the highest, unfilled level of preference.

The amendment essentially imposes two additional requirements for fishery management plans (FMPs). First and foremost, an FMP must "assess and specify the capacity and extent to which United States fish processors, on an annual basis, will process that portion of



such optimum yield that will be harvested by vessels of the United States." (Emphasis added). Joint ventures will be permitted to operate only to the extent that domestic annual processing capacity (DAP) is less than the domestic annual harvest (DAH) from the fishery.

The second requirement is that an FMP must "specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including . . . the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors." Interim final regulations published by NMFS in the Federal Register on February 7, 1979, implement this provision, and specify the types of data which FMP's should obtain from processors. A copy of those regulations is attached.

2. Domestic Annual Processing Capacity (DAP)

Legislative history of the amendment suggests several factors which should be used to measure DAP (and for which the Council may want data submitted):

- a. Contracts. Where contracts or other agreements for purchase of U.S. harvested fish by U.S. processors have been entered into, they should be considered as evidence of the intent of the U.S. fish processor. Absence of such contracts or agreements, however, shall not be deemed, by itself, to show a lack of capacity to process.
- b. Proximity. The geographical proximity of harvest areas to facilities of U.S. fish processors should be considered. Particular attention should be paid to the processing needs of various species (some may need processing relatively soon after being caught) and the refrigeration/freezing capability of U.S. harvesting vessels.
- c. Past Performance. Recent history of the extent to which U.S. fish processors have processed particular species is a significant factor.
- d. Capital Expenditures. Availability and capacity, and plans to increase such availability and capacity, of processing machinery, freezers and cold storage facilities should be considered.
- e. Labor Force. The size of, and any expected increases to, the processing labor force may be evidence of capacity to process.

f. Seasonal Schedules. Some species are not harvested or processed year-round, some are accorded a lower processing priority at certain times, etc. These contingencies will be a factor.

g. Price. Undoubtedly the thorniest and most controversial issue the Council will face with regard to determining DAP is the price domestic processors offer for U.S. harvested fish. It is clear that U.S. fish processors do not have to demonstrate an ability to outbid the prices offered by foreign processors in order to establish capacity and intent. Congress recognizes that because of U.S. minimum wage, safety and anti-pollution laws, U.S. processors are at a competitive disadvantage with foreign processors; which disadvantage is alleviated by giving a preference to domestic processors. However, it is also clearly not the intent of Congress to force domestic harvesters and processors into a business arrangement which they would not voluntarily enter into otherwise. U.S. harvesters are not to be deprived of the right to refuse to deliver fish to a U.S. processor if the harvester is unsatisfied with the terms offered. Prices offered by U.S. fish processors should be considered to reflect DAP only to the extent such prices are realistic from the perspective of both harvesters and processors, and thus useful in estimating the extent to which U.S. processors will process U.S. harvested fish.

As with other specifications required in an FMP (MSY, OY, TALFF), the Council must "review on a continuing basis, and revise as appropriate" the specification of DAP. The guidelines for development of FMPs (50 CFR Part 602) indicate that such review should occur at least once each year and more often where appropriate.

3. Joint Ventures.

The amendment added a provision to the FCMA (204(b)(6)(B)) which provides:

In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations and comments [of the Secretary of State, the Coast Guard, and especially the Council] and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned. (Emphasis added).

Thus, the Secretary of Commerce can approve joint venture permits unless DAP meets or exceeds DAH. Where DAP is less than DAH, the difference, and only that difference, is available for joint ventures. (In this regard, it should be noted that the amended Act appears to authorize the Secretary to make such determinations on the basis of her own estimation of DAP, independent of the specification in the Plan.)

Assuming that DAP is less than DAH, which means there will be some amount of OY that can be given to joint ventures, there are a number of issues which arise concerning how such joint ventures may operate:

a. DAP vs. Joint Ventures. There is no requirement that DAP actually be satisfied prior to allowing joint ventures to operate. Since domestic processors are protected by limiting the amount given to joint ventures to the excess of DAH over DAP, joint ventures can operate concurrently with domestic processing operations.

b. Allocation. Earlier drafts of the amendment contained a provision which would have allowed the Secretary to allocate U.S. harvested fish available for foreign processing among foreign nations using the same criteria for allocating catch. Although this provision was later deleted with no explanation given, normal rules of statutory construction compel the inference that the Secretary is not intended to have authority to so allocate. Rather, each foreign processing vessel which obtains a joint venture permit will compete with other joint ventures to process as much of the excess DAH as possible. As a practical matter, however, joint ventures should be able to take all they can and want (up to the limit of OY minus DAP) since joint ventures are to be accorded a higher preference than foreign fishing.

c. Permits. Pursuant to a new provision of the FCMA (204(b)(7)(E)), a joint venture permit must specify a maximum amount or tonnage of U.S. harvested fish, on a species basis if appropriate, which may be received from vessels of the United States. Since there will be no allocation of U.S. harvested fish among particular foreign processors, this amount or tonnage in the permit will be the entire amount of OY available for joint ventures, that is, DAH minus DAP.

4. Existing FMPs.

The Council currently has two FMPs in effect -- Tanner crab and Gulf of Alaska groundfish -- which must be evaluated to determine their compliance with the FCMA as amended.

a. Groundfish. Our Office has determined that this FMP contains an adequate assessment of DAP, which precludes the need for immediate amendments to the Plan as a prerequisite to issuance of joint venture permits in this fishery. However, the Plan should be amended in the future to comply with the February 7 regulations regarding submission of processor data. Of course, the Council also is not relieved of its obligation to review on a continuing basis, and revise where appropriate, the DAP and other assessments and specifications.

b. Tanner Crab. This FMP specifies a domestic processing capacity for each registration area. In all but one instance, the DAP well exceeds DAH, which means no joint ventures for tanner crab will be allowed. The exception is the South Peninsula district of the South Peninsula/Aleutian registration area, where DAP falls in the middle of a range specified for DAH. Even in this instance, it is not clear if there will be excess DAH over DAP. Taking a conservative approach, and recognizing that processors in nearby registration areas may be available, the conclusion is warranted that there likely will not be any excess DAH and thus no joint ventures for this particular area either. In any event, total DAP in the entire fishery is nearly double the total DAH.

The specifications of DAP (Tables 6 and 11 in the Plan) are estimates made by area shellfish biologists for the Alaska Department of Fish and Game. The Plan (section D.5.1.1) states that these estimates are based on Alaska Department of Fish and Game annual reports and interviews with processing plant managers. This method of deriving DAP values is less sophisticated than in the groundfish FMP, although not to the extent that would lead us to conclude that the Plan needs an amendment in order to comply with the FCMA amendment. The Plan recognizes that there is a lack of information concerning capital expenditures, labor force and economic viability of processors, which hinders derivation of exact DAP values. Moreover, the specifications of DAP in the Plan are based on processors' annual reports and interviews with processors, which should be reliable indicators of processing capacity. The conclusion is, then, that the tanner crab plan contains acceptable specifications of DAP. Eventual amendment of the Plan is necessary only to address the issue of the submission of data by U.S. processors.

2/12/79

Additions - 2/15/79

TO: Jim Branson - NPFMC

FM: Perry Allen - F37 (NMFS, Washington, D.C.)

OTHER ACTIVITIES AUTHORIZED AND ADDITIONAL CONDITIONS AND RESTRICTION
APPLICABLE TO PERMITS FOR VESSELS
BOOK NEUNG AND SOO GONG No. 51

SUPPORT ACTIVITIES AUTHORIZED

Fishery support operations in the FCZ, as discussed in section 611.10 of the Foreign Fishing Regulations, by the vessels BOOK NEUNG and SOO GONG No. 51 in support of vessels of the United States are authorized in the GOA fishery subject to the following additional conditions and restrictions:

(a) Restrictions on Receipt of Fish - If the Assistant Administrator determines that in a fishing area any one of the amounts designated as "Reserve" in Table I to section 611.32(b)(1) of the Foreign Fishing Regulations has been received by foreign fishing vessels from vessels of the United States, no further fish of any species may be received in that fishing area from vessels of the United States.

(b) Area Restrictions - Processing of U.S. caught 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). Processing of foreign caught fish and other operations in support of foreign vessels may not be conducted between those 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.

(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 time. The reports shall be submitted in a manner prescribed in section 611.4(b) and are in addition to the other reports required by section 611.4(a).



DEPARTMENT OF STATE

Washington, D.C. 20520

Agenda #14
February 1979

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

January 19, 1979

Dear Mr. Chairman:

In accordance with Section 204 of the Fishery Conservation and Management Act of 1976, the Department of State herewith transmits for the action of the North Pacific Regional Fishery Management Council those applications which relate to your council from the Government of the Union of Soviet Socialist Republics for fisheries to be conducted during 1979, off the coast of the United States.

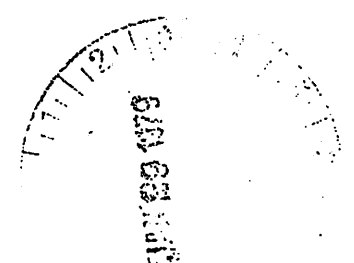
It should be noted that these are only applications and as such do not represent any agreement by the United States to the fisheries, allocations of fish or numbers of vessels requested by the Government of the Union of Soviet Socialist Republics.

Sincerely,

James A. Storer *for*
Director
Office of Fisheries Affairs

Enclosures:
as stated

Mr. Clement Tillion, Chairman,
North Pacific Regional
Fishery Management Council,
Anchorage, Alaska.



copy to N226 1-29-79

APPLICATION FOR VESSEL PERMITS
TO RECEIVE UNITED STATES HARVESTED
FISH FROM VESSELS OF THE UNITED STATES

No. _____

In accordance with the provisions of the Fishery Conservation and Management Act of 1976, as amended, the Government of USSR hereby submits this application for permits for vessels under its jurisdiction to receive United States harvested fish from vessels of the United States within the Fishery Conservation Zone of the United States during the year 1979.

Fishing Vessel Identification Forms will be submitted in support of this application. The fisheries, species, and amounts of United States harvested fish desired to be received by vessels of the USSR flag are as follows:

Fishery	Species	Total Tonnage Requested For Each Species (MT)
WASHINGTON, OREGON, CALIFORNIA	Pacific Hake	30 000
	Jack Mackerel	1 500
GULF OF ALASKA	Pollock	2 000
	Pacific Cod	1 900
	Pacific Ocean Perch	1 400
	Sablefish	400
	Other species	300

JAN 20 1979

Detailed descriptions of the methods of operation proposed for each fishery requested are attached and form a part of this application.

Submitted: January 18, 1979
(Date)

Y. J. Hammond
(Signature)

Counselor
(Title)

A) FISHERY - TRAWL FISHERIES OF WASHINGTON, OREGON AND CALIFORNIA

SPECIES - PACIFIC HAKE - 30 000 mt
JACK MACKEREL - 1 500 mt

(1) NUMBER AND TYPE OF FOREIGN VESSELS TO BE EMPLOYED

14 Soviet processing vessels of the BIRT and RTM type equipped to produce frozen round, headed and gutted, and fillet fish and fish meal.

(2) NUMBER AND TYPE OF VESSELS OF THE UNITED STATES FROM WHICH UNITED STATES HARVESTED FISH WILL BE RECEIVED

8-10 midwater trawl vessels ranging in size from 70-110 feet and 350-1300 HP

(3) NAME AND ADDRESS OF COMPANY WITHIN THE UNITED STATES WHO WILL BE PRINCIPAL CONTACT WITH OWNERS/OPERATORS OF VESSELS OF THE UNITED STATES

MARINE RESOURCES CO. (MRC) 4215 21 ST AVENUE
WEST, # 206, SEATTLE WA 98199

(4) GEOGRAPHICAL AREA IN WHICH VESSELS WILL OPERATE

Fishery Conservation zone in Monterey, Eureka and Columbia areas

(5) MONTHS DURING WHICH VESSELS EXPECT TO OPERATE

May 1 - October 31, 1979

(6) BY SPECIES AND QUANTITY, THE PROCESSED PRODUCTS AND ULTIMATE EXPECTED MARKET OF UNITED STATES HARVESTED FISH, INCLUDING QUANTITIES WHICH ARE TO BE EXPORTED TO THE UNITED STATES

Species will be processed into products given in (1) above. Quantities of each product type will be dependent upon market demand at time of fishery. Products will be sold by MRC in Orient, Eastern Europe, Western Europe and USSR. Small quantity of fillet blocks will be test marketed in U.S.

(7) BY SPECIES, QUANTITY OF INCIDENTAL CATCH TO BE RECEIVED

Incidental species not more than following amounts:

ROCKFISH	- 240 mt
FLOUNDERS	- 30 mt
SABLEFISH	- 30 mt
OTHER SPECIES	- 150 mt

(8) PROCEDURES TO BE EMPLOYED TO MINIMIZE THE AMOUNT OF INCIDENTAL CATCH RECEIVED BY FOREIGN VESSELS AND THE DISPOSITION OF INCIDENTAL CATCH BY SPECIES

All U.S. midwater trawlers fishing for MRC will have sufficient horsepower, winches, midwater trawls and electronics to enable them to avoid contact with the bottom and non-target species.

If quantities of incidental species in received catches should be excessive, operation will move to new fishing ground. Incidental species will be disposed in foreign markets.

(9) METHOD OF TRANSFER FROM VESSELS OF THE UNITED STATES TO FOREIGN VESSELS

Catches will be transferred from catching vessel to processing vessel by zippered cod ends.

(10) RELATIONSHIP TO OTHER FISHING OPERATIONS

Five processing vessels will work entirely with American

vessels during May.

Ten processing vessels (including the above five vessels) will work majority of time with the American vessels from June 1 - October 31, while four vessels will be in reserve during this period to replace any of the ten primary vessels that might have a breakdown or to work with American vessels when fishing is heavy.

After June 1 processing vessels will fish on Soviet quota when they are not receiving sufficient fish from American vessels.

(11) BY SPECIES, APPROXIMATE PRICE (U.S. DOLLARS PER M.T.) TO BE PAID FOR UNITED STATES HARVESTED FISH

Base price for delivered catches of food grade fish of USD
132,27/MT

(B) FISHERY - GROUND FISH OF THE GULF OF ALASKA

<u>SPECIES</u> - ALASKA POLLOCK	- 2 000 mt
PACIFIC COD	- 1 900 mt
PACIFIC OCEAN PERCH	- 1 400 mt
SABLEFISH	- 400 mt
OTHER SPECIES	- 300 mt

(1) NUMBER AND TYPE OF FOREIGN VESSELS TO BE EMPLOYED

Two Soviet processing vessels of BMRT type equipped to produce frozen round, headed and gutted fish, and fish meal.

(2) NUMBER AND TYPE OF VESSELS OF THE UNITED STATES FROM WHICH UNITED STATES HARVESTED FISH WILL BE RECEIVED

2-3 combination bottom/midwater trawl vessels ranging in size from 82-125 FT and 600-1450 HP.

(3) NAME AND ADDRESS OF COMPANY WITHIN THE UNITED STATES WHO WILL BE PRINCIPAL CONTACT WITH OWNERS/OPERATORS OF VESSELS OF THE UNITED STATES

MARINE RESOURCES CO.(MRC) 4215 21ST AVENUE
WEST, # 206, SEATTLE WA 98199

(4) GEOGRAPHICAL AREA IN WHICH VESSELS WILL OPERATE

Fishery Conservation Zone in Gulf of Alaska,
primarily in Chirikof and Shumagin areas.

(5) MONTHS DURING WHICH VESSELS EXPECT TO OPERATE

May 1 -November 30, 1979

(6) BY SPECIES AND QUANTITY, THE PROCESSED PRODUCTS
AND ULTIMATE EXPECTED MARKET OF UNITED STATES
HARVESTED FISH, INCLUDING QUANTITIES WHICH ARE
TO BE EXPORTED TO THE UNITED STATES

Species will be processed into products given in (1)
above. Quantities of each product type will be dependent
upon market demand at time of fishery. Products will be
sold by MRC in Orient, Eastern Europe, Western Europe
and USSR.

(7) BY SPECIES, QUANTITY OF INCIDENTAL CATCH TO BE RECEIVED

Incidental species not more than 300 mt. Species unknown.

(8) PROCEDURES TO BE EMPLOYED TO MINIMIZE THE AMOUNT OF
INCIDENTAL CATCH RECEIVED BY FOREIGN VESSELS AND THE
DISPOSITION OF INCIDENTAL CATCH BY SPECIES

All U.S. midwater trawlers fishing for MRC will have
sufficient horsepower, winches, midwater trawls and
electronics to enable them to avoid contact with the
bottom and non-target species. If quantities of inciden-
tal species in received catches should be excessive,

operation will move to new fishing ground. Incidental species will be disposed in foreign markets.

(9) METHOD OF TRANSFER FROM VESSELS OF THE UNITED STATES
TO FOREIGN VESSELS

Catches will be transferred from catching vessel to processing vessel by zippered codends.

(10) RELATIONSHIP TO OTHER FISHING OPERATIONS

Both processing vessels will work primarily with American vessels but during periods of insufficient transfers they will catch fish for themselves under Soviet quota.

(11) BY SPECIES, APPROXIMATE PRICE (U.S. DOLLARS PER M.T.)
TO BE PAID FOR UNITED STATES HARVESTED FISH

Prices for individual species will be negotiated with fishermen during first quarter of year.

FISHING VESSEL IDENTIFICATION FORM

NO. UR-79-0116

- (1) VESSEL NAME: KAZATIN (2) CALL SIGN: ESKZ
 (3) VESSEL TYPE: STERN TRAWLER (4) LENGTH: 85
 (5) GROSS TONS: 2690 (6) NET TONS: 926 (7) MAX. SPEED: 12
 (8) OWNER'S NAME: PETROPAVLOVSKAYA BAZA OKEANICHESKOGO RYBOLOVSTVA
 ADDRESS: 38 LENINSKAYA, PETROPAVLOVSK-KAMCHATSKIJ, USSR
 (9) PROCESSING EQUIPMENT: FLASH FREEZER, HEADER, EVISCERATOR,
FISH MEAL AND OIL PLANT, CANNERY
 (10) FISHERIES FOR WHICH PERMIT IS REQUESTED:

FISHERY	TARGET SPECIES	GEAR	ACTIVITY		
			CATCH	PROCESS	OTHER
GOA	Pollock		X		X
	Pacific Cod		X		X
	Pacific Ocean Perch		X		X
	Sablefish		X		X
	Other species		X		X

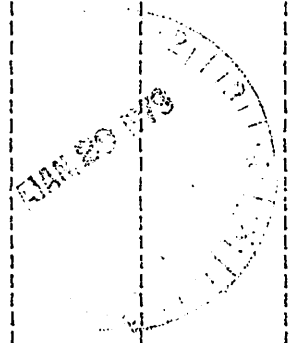
(11) ARE FISHING ACTIVITIES REQUESTED IN SUPPORT OF VESSELS OF THE U.S.
 (IF YES, ATTACH SUPPLEMENTAL SHEET SHOWING
 FISHERY, SPECIES, QUANTITIES, DATES, LOCATIONS
 AND SPECIFIC ACTIVITIES REQUESTED.)
 YES NO

FISHING VESSEL IDENTIFICATION FORM

NO. UR-79-0231

- (1) VESSEL NAME: KAMYSHIN (2) CALL SIGN: ESKT
 (3) VESSEL TYPE: STERN TRAWLER (4) LENGTH: 85
 (5) GROSS TONS: 2690 (6) NET TONS: 926 (7) MAX. SPEED: 12
 (8) OWNER'S NAME: PETROPAVLOVSKAYA BAZA OKEANICHESKOGO RYBOLOVSTVA
 ADDRESS: 38 LENINSKAYA, PETROPAVLOVSK-KAMCHATSKIJ, USSR
 (9) PROCESSING EQUIPMENT: FLASH FREEZERS, HEADER, EVISCERATOR,
FISH MEAL AND OIL PLANT, CANNERY
 (10) FISHERIES FOR WHICH PERMIT IS REQUESTED:

FISHERY	TARGET SPECIES	GEAR	ACTIVITY		
			CATCH	PROCESS	OTHER
GCA	Pollock		X		X
	Pacific Cod		X		X
	Pacific Ocean Perch		X		X
	Sablefish		X		X
	Other species		X		X



(11) ARE FISHING ACTIVITIES REQUESTED IN SUPPORT OF VESSELS OF THE U.S.A.
 (IF YES, ATTACH SUPPLEMENTAL SHEET SHOWING
 FISHERY, SPECIES, QUANTITIES, DATES, LOCATIONS
 AND SPECIFIC ACTIVITIES REQUESTED.)
 YES NO



Agenda #14
February 1979

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northwest and Alaska Fisheries Center
Resource Ecology & Fisheries Management Division
2725 Montlake Boulevard, East
Seattle, Washington 98112

February 7, 1979

Jim Branson, Executive Director
North Pacific Fisheries Management Council
P.O. Box 3136DT
Anchorage, Alaska 99510

Dear Jim:

In response to your query about catch compositions (February 6 phone conversation) in the Western Gulf vis-a-vis the Marine Resources joint venture proposal, I think the attached summary of our observer data should help.

Given Wally Pereyra's explanation of intent, I suspect the rows in the attachment labeled "Small Trawler" would be the most appropriate to refer to. ("Large Trawler" would probably be appropriate for the KMIDC venture.)

An "eyeball" averaging of the "Small Trawler, Shumagin and Cherikof" rows results in the following approximate species compositions:

Pollock -	-	33%
POP	-	33%
Flounders	-	10-20%
Other rockfish	-	5-10%
Cod	-	2%
Sablefish	-	<2%
All others	-	5-10%

Although we could dig out 1978 data (not yet fully computer accessible) and apply all sorts of sophisticated weighting procedures, I don't believe it would be worth the effort because of the vessel-to-vessel, area-to-area, and country-to-country variations that suggest that any skipper (or venture) can obtain almost any species composition he wants.

However, if you would like us to pursue this further, please don't hesitate to ask.

Sincerely,

Bea

H.A. Larkins
Acting Division Director
Attachment
cc: P. Chitwood
HAL:meg



1977 Species Composition in Foreign Trawl Fleets (Observer Data)

<u>Area</u>	<u>Country</u>	<u>Vessel Class</u> %							<u>All Others</u>
			<u>Pollock</u>	<u>Cod</u>	<u>POP</u>	<u>Other Rockfish</u>	<u>Flounder</u>	<u>Sablefish</u>		
Shumagin	Japan	Small Trawler	36	3	49	9	<1	0.02	2	
	USSR	Large Trawler	85	6	4	1	3	0.04	1	
Chirikof	Japan	Small Trawler	30	<1	23	3	32	1.9	10	
		Large Trawler	63	4	18	2	11	0.4	2	
	USSR	Large Trawler	85	7	4	1	2	0.02	1	
		Range	30-85	<1-7	4-49	1-9	<1-32	0.02-1.9	1	

Marine Resources Co., Inc.



HEAD OFFICE:
4215 - 21st Avenue West
Suite 206
Seattle, Washington 98199
Phone: (206) 285-2701
Telex: 32-8041 MRC SEA

NAKHODKA OFFICE:
Hotel Horizon-BAMR
Suite 224
Nakhodka Primorskogo 4
U.S.S.R.
Telex: 213434 MRKNHDSU

AGENDA #14
February 1979

February 15, 1979

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

RE: Joint Venture Permit Applications

Dear Clem:

We understand you have set the joint venture applications of the Soviet vessels Kazatin and Kamyshin as an agenda item for your February Council meeting. We have asked Ted Evans to attend the meeting on behalf of Marine Resources Company to respond to questions which may arise about the operation, although the permit applications are fairly self-explanatory.

We have one concern as a result of our witnessing the action of the Pacific Council on our permit applications for the Pacific whiting fishery which we want to bring to the attention of yourself and the other Council members. During its February meeting the Pacific Council received the NOAA Interim Final Regulations specifying Guidelines for Development of Fishery Management Plans to implement the FCMA joint venture amendments. It was advanced by some who are opposed to our whiting operation that the Council should delay any action pending the outcome of a public hearing on March 13. As you probably heard, that is exactly what the Council did. (I am enclosing a copy of a newspaper article which underscores the frustrations of domestic fishermen as a result of this delay.)

We fail to see the logic or reasonableness in the Pacific Council's decision to delay making a decision because, although the regulations are interim, they are now final. Moreover, since no modifications of the regulations will come until some time after the close of the comment period on April 9, further delay will not provide any additional advantage to the Council in their decision process.

FEB 20 1979

Clement V. Tillion
February 15, 1979
Page 2

As you are aware, we have a pressing need to have the Secretary of Commerce make her final determination on our permit applications by mid-March so we can complete negotiations with our fishermen and finalize plans for our projected starting date on May 1. For this reason, we would like to suggest that the North Pacific Council not defer its action on the subject permits. It should be noted that the interim regulations apply to contents of fishery management plans, not to the permit evaluation process. (The notice does indicate that NOAA will undertake rulemaking for joint venture permit evaluation guidelines, but finalization of those regulations would presumably be later in the year.) Furthermore, it would appear that the Plan contains substantially all of the information required to make a determination of U.S. harvest capability and processor utilization of the resources in question.

On another point, you will recall that the issue of domestic processors' price offerings as an indication of intent was raised during the January meeting. The preamble to the interim final joint venture regulations gives the National Marine Fisheries Service view regarding the intent of the FCMA:

"NMFS does not believe that consideration of (prices offered by domestic processors) should be precluded when estimating the extent to which U.S. fish processors will receive and utilize U.S.-harvested fish.

This important information should not be ignored. Instead, NMFS contends it should be considered as an element among several related factors. For example, price data alone might not be a definitive indicator of the intent of U.S. fish processors to create a reasonable market for U.S. fish harvesters. However, price can be a vital component in the decision by a U.S. harvester to sell his catch to either U.S. or foreign processors..."

This also reflects our understanding of Congressional intent in passing the joint venture amendments to the FCMA.

In summary, we would like to remind the Council that business planning requires that we have some certainty regarding access to the resource. We have developed our proposal for operations in the Gulf based on the existing FMP as amended. Our intentions

Clement V. Tillion
February 15, 1979
Page 3

in this regard were conveyed to you in my letter of 27 November, 1978. We would hope that the Council, as resource managers and planners, would provide the necessary certainty for U.S. fishermen desiring to participate in our limited experimental fishery on certain underutilized groundfish species in the Gulf of Alaska. Moreover, it should be kept in mind that the data generated this year will be quite useful in future Council deliberations on establishing domestic harvesting and processing capability.

Sincerely,



Walter T. Pereyra
Vice-President and General Manager

WTP: ar
enclosure

cc: Keith Specking
Steve Pennoyer
Bert Larkins
Office of the Governor of Alaska
Harry Rietze
Terry Leitzell
Dayton Alverson

Joint U.S.-Russian Hake Venture Delayed

Seattle P I
Feb 10, 1979

By Bruce Ramsey
P-I Marine Writer

"We've caught thousands of 'em. You catch 'em in your shrimp boat, you catch 'em salmon fishing, you catch 'em on your charter boats," said fisherman George McMurrick of Long Beach, Wash. He was describing the fish that has been left almost entirely to foreign fleets: hake.

McMurrick wants to catch 'em for Russian factory ships. He and other fishermen were the plain-spoken witnesses brought to testify at yesterday's meeting at the Airport Hyatt House of the Pacific Fisheries Management Council in favor of an American-Soviet joint venture in hake. The American partner is Seattle's Wally Pereyra, vice president and general manager for Marine Resources Co.

Opposing the joint venture was Ed Furia, the man who represented Seattle's New England Fish Co. (Nefco) last year in lobbying Congress to pass the "processor preference" law. The law says U.S. fish processors are entitled to all the fish they want out of the 200-mile zone before foreign processors can get any—a protectionist measure to create a much larger U.S. fish-processing industry.

Nefco and other companies are worried that joint ventures like the one proposed by Pereyra will nullify the protection they won in Congress, leaving them with no way to convince their backers to support a new American fish-processing industry.

The management council put off its decision until the March 8 and 9 meeting in Eureka, Calif., making the session a tactical victory for the processors. But the question isn't settled.

The immediate proposal is for eight Oregon trawlers to catch 30,000 tons of hake this summer, leaving the netted fish in the water to be picked up and processed by a Russian factory ship. The procedure was tried on a small scale last summer, and the U.S. fishermen found it profitable.

It's a classic case of divvying up a new resource, "created" in this case, by the 1976 law that proclaimed U.S. control of fish out to 200 miles from shore.

For Chuck Wiper of Eugene, hake fishing is a way to make a living. He says he'd like to sell hake to U.S. processors, but there are no processors that can handle even his two trawlers, a 40-foot vessel and a 70-footer.

"Let's say in a few years, we're going to have capable processors," he explains between hearings. "If that American processor were to say, 'I'll give you an unlimited market,' I'd fish for him. Because I believe in my country.

"But one of my drag-boats comes in with 100,000 pounds of fish twice a week. There isn't a processor on the Pacific Coast capable of handling that much fish. I can't mothball either my

fishermen or my boat for five years. I must sell my fish."

Wiper believes Nefco's talk of shore-based processing plants is not how the industry will develop, anyway. Since hake begin to spoil within two hours of being caught, he figures floating plants are more efficient.

"We have to develop the system with the Russians and then apply it in the U.S. industry," he says.

Fisherman McMurrick plans to catch fish for the Russian factory ships. "This year there are eight guys," he says. "There's about twenty that I know of that are having boats built in various stages. If we could just get the word out that this (1979 season) is a successful venture, you could have 20, maybe 30, more guys out there in a year."

That's just the outcome that worries the fish processors.

The only hake plant on the Oregon and Washington coasts is Bill Neff's Pacific Whiting Inc. plant at Astoria. In contrast to Nefco, which buys no hake there, Neff's plant is paying 15 cents a pound. But the fish have to be delivered headed and gutted, and his capacity is a miniscule 15,000 pounds a day.

Neff was at the hearing, too. "I've got an automatic hake processing line designed for my plant," he said. "It's a million-dollar investment." It could boost his capacity to 200,000 pounds of whole fish a day, adding about 20 new jobs. But he said it's not economical to build that plant if he has to pay prices comparable to what the Russians pay.

The law says Neff's plant has preference over the Russian processors for the hake. But it's not clear what the law really means.

"It doesn't say how we're going to get it (the hake), and it doesn't say anything about price."

For the immediate future, price isn't the key issue, because no American plant could process the hake the eight boats plan to catch this summer. But what if a factory were built which could not offer a price as high as the Russian price, but demanded its "fair share" of hake under the Nefco Amendment?

To Nefco's Furia, the law means, "We should give the shoreside processors whatever advantage necessary to make sure they get the fish." That means limiting how close to a U.S. processing plant a Soviet factory ship can sail. It means an observer on every Soviet processor. And most important, says Neff's Washington, D.C., attorney, Jim Seeley, "It means it's not necessary for the U.S. processor to outbid the foreign processor."

Not so, said Dick Sharood, attorney for the fishermen. "There is no paramount right of the processor to have guaranteed fish. The fisherman still has the right to sell his fish where he can get the best price."

The argument went round and round, passions rising. Fisherman McMurrick said Nefco had shown him its plans for a hake plant five years ago, and said he was tired of waiting for it and wanted to catch fish. "This stagnant company is a pain in the ass," he declared.

"Look. When Congress created the 200-mile zone it wasn't just to benefit people who owned deep-water trawl boats," retorted Seeley, trying to explain the processors' case. "We want to spread the goodies around a little bit."