

them as U.S. fishing vessels, and operate them within the U.S. 200-mile jurisdiction with all the rights and privileges (as well as responsibilities) of U.S. citizens. Since the amendment gave blanket approval only for contracts for the construction of new vessels, MARAD approval is still required, however, for the purchase of used vessels by U.S. corporations with more than 49 percent foreign stockholders.

Concern has been expressed that this situation may, among other things, provide a possible means for foreign fishing interests to monopolize both foreign and domestic quotas for some species and make difficult, or impossible, evolution of a citizen-owned fishing capability for some species within our 200-mile jurisdiction.

On the other side, however, the Administration's general policy is against barriers to foreign investment in the United States. Strong arguments would be required to exclude the fisheries situation from this general policy. Those who favor the Administration's general policy have argued that foreign interests will not rush to establish wholly-owned U.S. fishing corporations because their resulting right to fish within our 200-mile zone is not a strong enough incentive to justify incurring the substantial expense associated with constructing new U.S. fishing vessels. Another argument is that new fishing vessels built in the United States for wholly-owned U.S. corporations will be U.S. fishing vessels regardless of who effectively owns and controls them.

We believe this situation is potentially significant enough (it seems to be building toward some kind of Congressional action) to request review and advice from each of you before we attempt to formulate a recommended agency policy. The situation should be discussed with the Regional Fishery Management Councils in order to obtain their views.

We will appreciate your responses as soon as possible. Please specifically justify your positions.

Attachment

#5

WITNESS LIST

SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT

BRIEFING RE: U.S.-FOREIGN JOINT FISHERIES VENTURES

WEDNESDAY, SEPTEMBER 8, 1976

1:30 p.m.

DEPARTMENT OF STATE

Amb. Rozanne L. Ridgway, Asst. Secy. for
Oceans and Fisheries Affairs

PANEL

DEPARTMENT OF COMMERCE

Maritime Administration

John Halen, Asst. General Counsel

Division of Ship Financing Contracts

Robert Garske, Asst. General Counsel,

Division of Maritime Aids

National Oceanic & Atmospheric Administration

David H. Wallace, Assoc. Adm. for Marine Resources

Jack Gehringer, Asst. Director, NMFS

DEPARTMENT OF TRANSPORTATION

Rear Adm. William M. Benkert, Chief

Ofc. of Merchant Marine Safety, U.S.C.G.

DEPARTMENT OF THE TREASURY

John Tebeau, Dir., Carriers Drawback & Bond Div.

Alfred Scholle, Chief, Carriers Ruling Branch

DEPARTMENT OF LABOR

John Sheeran, Dir., Div. of Labor Certification

U.S. Employment Service

DEPARTMENT OF JUSTICE

Immigration & Naturalization Service

Sol Isenstein, Asst. Commissioner, Adjudications

Thomas Brobson, Asst. Commissioner, Inspections

BELLINGHAM COLD STORAGE COMPANY

Mr. James Talbert, President

September 17, 1976

MEMORANDUM

FROM: Arthur Pankopf

RE: U.S.-Foreign Joint Fisheries Ventures;
Congressional Oversight Hearing, September 8, 1976

I. Introduction

On Wednesday, September 8, 1976, the Subcommittee on Fisheries & Wildlife Conservation & the Environment of the Committee on Merchant Marine and Fisheries, U.S. House of Representatives, conducted an oversight hearing. The stated purpose of the hearing was to brief the Subcommittee on the extent of foreign investment in the U.S. commercial fisheries industry (viz. U.S.-foreign joint fisheries ventures), and the effects, if any, upon the recently enacted 200-mile fisheries zone law (P.L. 94-265), and upon the U.S. commercial fisheries generally.

Subcommittee members in attendance at the hearing were Congressman Robert Leggett (D.-Calif.), Subcommittee Chairman; Congressman E. de la Garza (D.-Texas); Congressman Gerry E. Studds (D.-Mass.); Congressman Les AuCoin (D.-Ore.); Congressman Edwin B. Forsythe (R.-N.J.); Ranking Republican on the Subcommittee; and Joel Pritchard (R.-Wash.).

Congressman de la Garza commenced the hearing on behalf of Chairman Leggett at 1:40 p.m. (Congressman Leggett assumed the chair at 1:55 p.m.) and the hearing was adjourned at 4:57 p.m.

Attached is a copy of the witness list for the subject hearing and one copy each of the prepared statement of Chairman Leggett, Ambassador Rozanne L. Ridgway, Assistant Secretary of State for Oceans and Fisheries Affairs, and Mr. James Talbert, President of Bellingham Cold Storage Company. None of the members of the panel representing the various departments of the Executive Branch had a prepared statement.

II. Highlights

A. Congressman Leggett's opening remarks contained two significant statements. First, he referred to a study by the Bureau of Economic Analysis of the Department of Commerce,

pursuant to the Foreign Investment Study Act of 1974, which was conducted to determine the extent of foreign investment in the U.S. commercial fisheries. This study determined that..."the major factor contributing to the surge of direct foreign investment in the U.S. commercial fisheries during the year of 1974 was the threat of extension of the U.S. exclusive fisheries zone from 12 to 200 miles." Second, he observed that 87% of the ownership of such investments originated in three countries--the United Kingdom, Japan and Canada" and then went on to note the following:

"The largest of the Japanese investments involves Whitney-Fidalgo Seafoods, Inc.,--98 percent of which is owned by a Japanese fishing company--which operates several processing plants in Alaska." (Emphasis supplied.)

B. Ambassador Ridgway testified first, concerning the status of bilateral negotiations with various nations on governing international fishery agreements (GIFA) which the Secretary of State is required to negotiate by March 1, 1977, pursuant to Title II of the Fishery Conservation and Management Act of 1976, and second, on the issue of joint ventures. Ambassador Ridgway stated that although the Department of State was not directly responsible for this issue and its relationship to the Act, she did express the belief that the single controlling element would be the "flag of the vessel". However, she preceded this opinion with an expression of concern that a joint venture involving a foreign country using U.S.-flag vessels might "double its potential for access to United States resources" and thereby result in that nation receiving a "double-dip"--i.e., access to a fishery resource with U.S.-flag vessels, plus if a surplus in that resource, then that same foreign country might apply for an allocation pursuant to its bilateral agreement and to a claim of being a traditional fishing nation (e.g., Japan).

C. The Government panel consisted of representatives from the National Oceanic & Atmospheric Administration (NOAA) and the Maritime Administration of the Department of Commerce; the U.S. Coast Guard of the Department of Transportation; the Bureau of Customs of the Department of the Treasury; the Department of Labor and the Immigration and Naturalization Service of the Department of Justice. Each was called upon by the Subcommittee to express its view on the matter of foreign direct investment in the U.S. commercial fisheries industry. The general thrust of the responses was to, on the one hand, recognize the United States' position of fostering foreign investments (i.e., free trade); and on the other, raise, according to David Wallace of NOAA, the "real problem [of] just how far do we go in allowing this free flow of trade with the possible danger...that this will in some way jeopardize our efforts to restore the stocks along our coast, to upgrade the opportunities and qualities of our fishing by our own nationals, and in general, to restore our fishing

industry to the point where it is the kind of industry that can utilize the stocks that exist here." 1/

After the initial presentation of the panel, Congressman AuCoin expressed the belief that "most people who are concerned about that problem would not want to take corrective action that would be hasty, or ill-conceived and cause serious problems in the course of coming up with a solution." He then went on to ask, "What should the Congress do to address that problem?" 2/

David Wallace of NOAA responded by first commenting upon the concern expressed by Subcommittee members of foreign nations circumventing higher fees under the Act with the observation that "they would be subjected to our tax requirements and other things as a U.S. business would rather than a foreign fisherman paying fees for the right to fish in our waters." He then went on to observe the following:

"How, as to the very specific things in terms of the law that might be written I think it would be--I would like to defer giving a rather specific response to this because I am not sure that we are in a position or that we can give you a precise answer to that question.

"I think we certainly want to review it again and see just what our response ought to be." 3/

It also was Congressman AuCoin who earlier questioned whether there was any evidence that "a foreign nation might be considering putting forth a considerable underwriting of U.S. fishing operations on a relatively large scale in contemplation of...the effective date of the 200-mile legislation. After receiving a response from Wallace of NOAA, who professed no knowledge of such an effort, Congressman AuCoin said, "I have heard reports specifically with regard to Japan that might be so." 4/

John Tebeau of the Bureau of Customs observed that two or three inquiries had been received within the past year as to whether a foreign-built foreign-flag processing vessel could be

1/ Hearings on U.S.-Foreign Joint Fisheries Ventures Before the Subcommittee on Fisheries & Wildlife Conservation & The Environment of the House Committee on Merchant Marine & Fisheries, 94th Cong., 2nd Sess., Uncorrected Transcript, (Not for Publication), at 72 (1976)

2/ Ibid at 101

3/ Ibid at 102

4/ Ibid at 98

*Up Front
Murray
Fishing Fees*

stationed within the territorial waters of the U.S. in a port and accept the catch of an American vessel. This activity, according to Tebeau would not be prohibited by 46 U.S.C. 251, as amended by the Nicholson Act, since it would be nothing more than a landing in the United States and there would be nothing to prohibit it.

Tebeau then noted that Customs has been asked whether or not the transportation of fishing products from the processing vessel to another point in the United States would be considered coastwise trade and prohibited by the Jones Act (46 U.S.C. 883). Customs' response to this inquiry was that this would be prohibited, observing that once the fish is processed on a processing vessel in the U.S., any further transportation to another part [of the United States] would be considered coastwise trade and would have to be accomplished by American coastwise vessels licensed by the U.S. Coast Guard.

Customs' responses to all such inquiries have been limited to the Customs laws, deferring to Immigration, Justice, NOAA and the Coast Guard, as to whether any other statutes might serve to prohibit the operation.

It was following Tebeau's observations that the Subcommittee Majority Counsel, Ned Everett, questioned whether a foreign flag vessel catching fish within the 200-mile zone would be prohibited from transferring that catch to an American vessel which would land a catch in a U.S. port. Tebeau's response was that as far as 46 U.S.C. 251 was concerned, there would be no prohibition, and that in his opinion this provision of law was neither repealed nor modified by the so-called 200-mile Act.

Tebeau also volunteered that on the issue of whether or not foreign vessels might transfer to another vessel in the 200-mile zone for exportation, an interpretation of the definition of the term "fishing vessel" in the Act (i.e., §3(11)) might serve to preclude or control such a transfer since the definition includes but is not limited to "preparation, supply, storage, refrigeration, transportation, or processing." [Emphasis supplied.] William C. Brewer, General Counsel of NOAA confirmed that that agency does take the view that ["a foreign ship purchasing and transporting fish within 200 miles after March 1 of 1977 would have to be licensed as a foreign fishing vessel...because transportation is one of the tests." 5/ But, Brewer went on to

5/ Ibid at 107, 108

observe that he couldn't imagine any reason why if they were outside the 200 miles they could not accept the transshipment from a U.S. fishing vessel or a licensed foreign fishing vessel without the application of U.S. laws, although such fish could not come into the United States in a foreign vessel.

D. Mr. James Talbot, President, Bellingham Cold Storage Co., had a prepared statement concerning the U.S.-U.S.S.R. Marine Resources Co., which was incorporated in the State of Washington with 50% of the stock held by Bellingham Cold Storage Co., and 50% by Sovrybflot, a Soviet Government agency set up to enter into fisheries joint ventures around the world. This joint venture, according to Talbot, is the culmination of discussions over a period of more than 3 years. Talbot expressed the view (1) that he did not believe that such joint ventures were designed to circumvent the 200-mile fisheries zone; but if such is the case, new legislation should be passed closing any loopholes; (2) that with respect to Japanese investments in the Alaska fisheries, these investments have been in the best interest of the U.S. fishing industry; and (3) that he believes in the freest possible flow of capital between countries. But, significantly, Talbot went on to note that Bellingham Cold Storage Co. neither owns any vessels nor does it contemplate such ownership in the future. Also, it should be noted that in the first year, this joint venture plans to buy hake from U.S. fishermen off California, Oregon and Washington, which is a species not now harvested by U.S. fishermen because they have been unable to find a market for it. imp

III. Summary

1. Members of Congress appear to be very sensitive to the potential use of U.S.-foreign joint fisheries ventures which might serve to circumvent the conceived intent of the 200-mile Act.

2. Inquiries of the Bureau of Customs seem indicative of increasing interest and activity of foreign firms seeking means to operate within the parameters of the 200-mile Act.

3. The Bellingham Cold Storage Co. joint venture with the "Sovrybflot" does not represent the situation feared by the Subcommittee inasmuch as, based upon Talbot's testimony, he does not contemplate the ownership of any fishing vessels.

4. There is nothing to preclude a U.S.-flag fishing vessel from catching fish in the U.S. 200-mile zone and delivering it to a foreign vessel outside the zone for exportation. imp

5. The Subcommittee did request each of the Government agencies to submit substantial data concerning regulations and criteria on vessel transfers, as well as statistics on the number of vessel transfers over the last 5 to 10 years. The Subcommittee plans to use this data to ascertain whether vessel transfers are increasing or remaining static and thereby measure the extent of direct foreign investment in the U.S. commercial fisheries.

6. There is little likelihood that there will be any legislative action seeking to amend the 200-mile Act prior to adjournment sine die on October 2, 1976.

⑦ However, there is very good reason to believe that the Congress will act as early as March, 1977 to amend the 200-mile Act and that among the amendments to be considered will be one addressing joint ventures and the issue of U.S.-citizenship ownership of fishing vessels.

AP/rmm
Attachments

SOVIET PERMIT APPLICATIONS

Advisory Panel Sub
Feb 17, 1977

Sheet 1

SPECIES By Metric Tons	A R E A				SPECIES TOTAL	FOREIGN ALLOWABLE CATCH			NUMBER OF DAYS				TOTAL DAYS
	GULF		B.S.			GULF	B.S.	TOTAL	GULF	B.S.			
	STRL	MTRL	STRL	MTRL					STRL	MTRL	STRL	MTRL	
Black Cod	249	45	4		298	19,500	7,400	26,900	3,791	981	9,345	4,488	18,605
Cod	299	90	10,748	845	11,982	2,300	58,000	60,300					
Flatfish	13,391	1,305	23,256	2,855	40,807	20,500	111,000	131,500	<u>Number of Vessels</u>				
Hake	-	-	-	-	-	-	-	-	<u>Vessel Type</u>				<u>No.</u>
Herring	-	-	14,041	2,968	17,009	-	20,000	20,000	STRL				94
Mackerel	-	-	-	-	-	-	-	-	MTRL				42
Grenadier	3,038	-	43	-	3,081	<u>1/</u>	<u>1/</u>	<u>1/</u>	Factory				6
Pollock	43,140	2,490	94,316	58,099	198,045	149,000	950,000	1,099,000	Reserve STRL (Alaska Area)				3
Rockfish	17,268	1,350	11,567	129	30,314	33,000	21,500	54,500	Reserve STRL (No Area)				2
"Yellowfish" (Atka Mackerel)	18,210	1,390	31,710	120	51,430	22,000	<u>1/</u>	22,000	Reserve MTRL (Alaska Area)				17
Other	<u>1,902</u>	<u>1,035</u>	<u>22,738</u>	<u>356</u>	<u>26,031</u>	<u>16,200</u>	<u>93,600</u>	<u>109,800</u>	Reserve MTRL (No Area)				9
Total	97,497	7,705	208,423	65,372	378,997	262,500	1,261,500	1,524,000	Salvage Tug/Rescue				4
									Tanker				16
									Ref/Transport				41
									Passenger				5
									Research				<u>1</u>
									TOTAL VESSELS				240

Grand Total by species = 378,997 mt

1/No separate foreign T.A.C. designated for this species--included in "Other".

Prepared By
National Marine Fisheries Service
Law Enforcement Branch
February 14, 1977

ESTIMATED 1976 AND 1977 SOVIET FISHING EFFORT CATCH

COMPARATIVE NUMBER OF VESSELS

	<u>1976^{1/}</u>	<u>1977^{2/}</u>	
Stern Trawlers	143	94	35% Decrease
Medium Trawlers	210	42	80% Decrease
Factory Ships	22	6	73% Decrease
Reserve STRL (AK Area)		3	
Reserve STRL (No Area)		2	
Reserve Med. TRL (AK Area)		17	
Reserve Med. TRL (No Area)		9	
Salvage Tug/Rescue	8	4	50% Decrease
Tankers	21	16	24% Decrease
Ref. Transports	51	41	20% Decrease
Passenger	6	5	17% Decrease
Research	4	1	75% Decrease
Patrol	6		
TOTAL VESSELS	471	240	

1/ Number of vessels that actually operated in 1976.

2/ Number of vessel applications for 1977.

COMPARATIVE NUMBER OF FISHING VESSEL DAYS

	<u>1976^{1/}</u>		<u>1977^{2/}</u>	
	<u>STRL</u>	<u>MTRL</u>	<u>STRL</u>	<u>MTRL</u>
Bering & Aleutians	8,491	8,589	9,345	4,488
Gulf	3,220	245	3,791	981

1/ Number of fishing days expended based on number of vessels identified in 1976.

2/ Estimated number of fishing days to be expended based on number days shown on applications for 1977.

COMPARATIVE 1976 CATCH ESTIMATES AND 1977 REQUESTS

	<u>1976^{1/}</u>	<u>1977^{2/}</u>
Gulf	61,763 mt	105,202 mt
Bering Sea	295,210 mt	273,795 mt
TOTAL	356,973 mt	378,997 mt

1/ Estimated catch based on effort expended in 1976.

2/ Catch as shown on application for 1977.

Prepared by
National Marine Fisheries Service
Law Enforcement Branch
February 14, 1977

TAIWANESE PERMIT APPLICATIONS

<u>SPECIES</u> (metric tons)	<u>ALASKA AREA*</u>		<u>SPECIES TOTAL</u>	<u>NO. OF DAYS***</u>		
	<u>STRL</u>	<u>LL</u>		<u>STRL</u>	<u>LL</u>	<u>TOTAL DAYS</u>
Flounder**	2,880		2,880	1,220	6,100	7,320
Pollock**	3,840		3,840			
Sablefish**	2,880	16,000	18,880	<u>NO. OF VESSELS</u>		
Other**	9,000		9,000	<u>Type</u>	<u>No.</u>	
Totals**	18,600	16,000	34,600	STRL	4	
				Longliners	<u>20</u>	
				Total Vessels	24	

COMPARATIVE NUMBER OF FISHING VESSEL DAYS

	<u>1976</u>	<u>1977</u>
TOTALS	175 Stern Trawler Days 441 Longliner Days <u>616</u>	1,220 Stern Trawler Days 6,100 Longliner Days <u>7,320</u>

COMPARATIVE 1976 CATCH ESTIMATES AND 1977 REQUESTS

	<u>1976</u>	<u>1977</u>		
TOTALS	1 Stern Trawler <u>3</u> Longliner 4	2,690 mt <u>1,048</u> mt 3,738	4 Stern Trawlers <u>20</u> Longliner 24	18,600 mt** <u>16,000</u> mt** 34,600

* 1977 requests include Gulf of Alaska, Bering Sea, Aleutians and Washington-California coasts.

** All Taiwanese catch requests include January and February of 1978.

*** Number of days is calculated to December 31, 1977.

Prepared by
National Marine Fisheries Service
Law Enforcement Branch
February 14, 1977

*Parboyl and here
committee report*



Attachment #5
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Washington, D.C. 20235

F31/KH

2/3/77

Brown
Hutton

JAN 24 1977

Mr. Elmer Rasmuson
Chairman, North Pacific Fishery
Management Council
P.O. Box 313DT
Anchorage, Alaska 99510

Dear Mr. Rasmuson:

Thank you for your letter dated December 23, 1976, in which you requested funds for studies to be used for fisheries development. Your request contains far-reaching legal, policy, and budgeting implications requiring in-depth analysis before I will be able to respond.

We are giving your concerns our immediate attention and will respond further at an early date.

Sincerely,

Bob

Robert W. Schoning
Director

cc: F F2 F3 F31 Fx5 GCF (FAK w/incoming)

F31:KHensley:47436:1/13/77:er
rewritten:F3:MMPalozzi:1/18/77:mws

RECEIVED
NATIONAL MARINE FISHERIES SERVICE
Administration - Juneau Alaska

JAN 31 1977
4M
7 8 9 10 11 12 1 2 3 4 5 6
PM

FAK



North Pacific Fishery Management Council

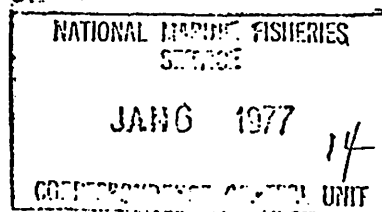
CHAIRMAN

Mr. Elmer Rasmuson
P.O. Box 600
Anchorage, Alaska 99501

INTERIM HEADQUARTERS

C/O Acting Executive Director
P.O. Box 1668
Juneau, Alaska 99802

23 December 1976



Mr. Robert W. Schoning, Director
National Marine Fisheries Service
3300 Whitehaven Street
Washington, D.C. 20235

Dear Mr. Schoning:

Alaska fishermen, many of whom have the vessel capacity for fishing bottomfish, have expressed their frustration at the lack of markets (processors) for catches they could produce. Processors state their reluctance to process bottomfish because of high capital outlays required for automated equipment and expanded facilities in the face of an array of unknown technological, economic and marketing factors.

As a result, the North Pacific Fishery Council requests that \$670,000.00 be transferred in FY77 and FY78 from the national extended jurisdiction budget to the NPFMC for programs to work with industry and State of Alaska agencies to help develop Alaska groundfishes for production by U.S. fisheries. Congress stipulated that one of the purposes of the Fisheries Conservation and Management Act of 1976, Section 2 (b) (6) is "to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottomfish off Alaska."

These funds are requested on the behalf of the Alaska fishing industry who have expressed their desire and intent to eventually harvest, process and market bottomfish which are not taken by foreign fleets off Alaska. These resources have a current estimated first wholesale value of \$500 million.

These funds will be used to initiate and conduct studies which will help industry evaluate some of the economic risk under actual commercial production conditions.



Fisheries development programs from these funds will be planned by a fisheries development steering committee composed of industry members, NOAA/NMFS and State agencies staff appointed by the chairman of the NPFMC. The steering committee will coordinate their planning with the State of Alaska's bottomfish development program (funded for \$300,000.00 in FY77) so that the maximum benefit will result to industry. Industry's contribution in equipment, plant space, manpower, utilities and vessel time to the projects will equal or exceed \$300,000.00.

We anticipate that the initial target species will be Alaska pollack since it is most abundant, but, the more valuable sablefish, cod, and flatfish species will demand attention also. Coordination with the State's bottomfish program and the availability of processing facilities will dictate that initial development projects be conducted in S.E. Alaska and/or Kodiak.

Future bottomfish development effort should be directed toward the exceedingly abundant resources in the Western Gulf of Alaska and the Bering Sea where the major bottomfish fishery will occur.

Attached are preliminary estimates of allocation of the requested funds subject to modification as appropriate by the steering committee.

We urge your immediate affirmative action on this request.

Sincerely,



Elmer Rasmuson, Chairman
North Pacific Fishery Management Council

Enclosures

ALASKA BOTTOMFISH DEVELOPMENT

BUDGET SUMMARY - FY77

Resource assessment (NMFS-ADF&G]	
Production Trial fishing (commercial charter]	
Gear development (U of A - NMFS]	\$250,000.00
Preservation of Catch (NMFS -]	
Harvesting Efficiency Improvement (NMFS-U of A)]	
Maximum Utilization of Catch]	
Product Development]	
Process Engineering Research]	
Commercial production trials]	\$250,000.00
Quality preservation studies]	
Processing waste/utilization/disposal]	
Packaging/shipping/warehousing]	
Market Research and Analysis]	
Market Development/Consumer Education]	\$150,000.00
Economic Feasibility Evaluation]	
Travel for NMFS and Steering Committee		\$ 20,000.00
		<hr/>
	TOTAL	\$670,000.00

Advisory Panel

AGENDA 4:30 PM 2/17/77

CALL TO ORDER:

MINUTES: BRIEF DISCUSSION

PROF. BILL BURKES' LETTER OF "OPINION"

REPORT FROM COMMITTEES AS LISTED:

1. FOREIGN OWNERSHIP OF FISHING VESSELS
2. BLACK COD
3. OTHERS?

HALIBUT COMMISSION DISCUSSION

QUESTION OF STATE DEPT. CLEARANCE OF ADVISORS

DISCUSSION OF THE ROLE OF THE ADVISORY COMMITTEE

DISCUSSION OF THE TOPICS COVERED IN THE "AM" COUNCIL
DELIBERATIONS

SUGGESTIONS FOR AGENDA ITEMS FOR THE NEXT MEETING OF THE
ADVISOR'S AS A BODY

NORTH PACIFIC FISHING VESSEL OWNERS ASSOCIATION

BUILDING C-3, ROOM 133
FISHERMENS TERMINAL
SEATTLE, WASHINGTON 98119

February 3, 1977

FEB 7 1977

Mr. Elmer Rasmuson, Chairman
North Pacific Fisheries Management Council
c/o Mr. Jim Branson, Executive Director
P.O. Box 3136-DT
Anchorage, Alaska 99510

Dear Elmer:

The enclosure is the minority report written January 26th, after the Advisory Panel meeting, and pertains to the vote on motion to support the Board of Fisheries resolution, dated December 7, 1976.

Mr. Al Otness, the other dissenting vote, fully supports the position described, and has a carbon copy of the original handwritten version. His comments and corrections made in Anchorage are incorporated in this typewritten copy.

Our association Board of Directors met today, and unanimously re-affirmed and agreed that the enclosure reflects what we feel is a realistic and responsible position, in view of the constraints we must now operate under PS 94-265.

I did not insist on presenting this minority report at the last council session because:

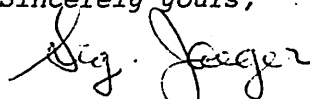
- 1) It was clearly evident that the issues were passe for now in respect to the Tanner PMP, and this report would only add to and protract a painful subject.
- 2) Because of differences in Anchorage, I felt the need of re-confirming with my own Board of Directors that the report was an accurate reflection of our position.

The Board of Directors has instructed that the minority report be forwarded immediately to you for the record, as Chairman of the North Pacific Fisheries Management Council.

Further, that time allowing, permanent management plans for both tanner and king crab be developed under the aegis of the North Pacific Fisheries Management Council.

Please feel free to call or write if this letter or the enclosure is too synoptic or unclear.

Sincerely yours,


Sig Jaeger, Manager

SJ/tp
Enclosure

January 26, 1977

TO: Chairman, Advisory Panel

FROM: Sig Jaeger, Panel Member

SUBJECT: Minority report on dissent with the Advisory Panel motion to support "Alaska Board of Fisheries Resolution Regarding the Allocation of Tanner Crab in the Bering Sea" dated December 7, 1976. Recorded vote for: 11 Against: 2

My negative vote was against the two major points of the resolution with qualifications:

Item #1: No foreign fishing of tanner crab South of 58° North Latitude and East of 173° West Longitude.

Item #2: C. Bairdi tanner crab harvest restricted to male crab greater than 140 mm of carapace width.

The qualifications follow:

Item #1: The total abstention of foreign tanner fishing in the defined area is fully supported by all domestic crab producers in the Bering Sea, without exception, and further, as a goal, we fully support the eventual total harvest of all crab resources within the 200-mile zone by domestic producers. There is no dissent on this position, and the negative vote cast on the motion is not a disagreement with this goal. However, this objective was understood to take effect by an immediate decision of the North Pacific Fisheries Management Council, and was not qualified by a progressive time frame. This is the first point of disagreement; the non-existence of such a time frame.

The basis that the TAC was within the harvesting and processing capability of the industry is a justifiable estimate, but the major element closing the gap - market absorption of the domestic product - was not incorporated. Current estimates based on current ex-vessel prices make feasible a limited meat production and marketing, but these exclude the major product component contributing most to volume, and that is a competitive production cost for sections, which has been historically the major volume portion of the Bering Sea tanner harvest.

Last best estimates of a domestic tanner harvest level of 60 to 70 million pounds of round crab are not today as apparently viable because of market shrinkages, and the displacing of foreign production with domestic production in order to fully satisfy optimum utilization requirements does not now appear realistically possible.

Displacement of foreign production based on separation of the domestic and foreign fleets is a strong argument, the major points being:

- A. Preemption of grounds by foreign fleets saturating highly productive grounds with fishing gear, preventing domestic entry.
- B. In competing on the same grounds, foreign and domestic gear are conflicting modes which cause gear losses, to say nothing of the friction and animosities generated, and consequent gear claim litigation.
- C. Benefits of simplified enforcement procedures may also be a value potential, not yet to my knowledge fully analyzed by the appropriate area of competence.

Respecting Optimum Yield, the fuller development of the contributing socio-economic factors to this standard are in process but hampered by lack of applicable research results which will satisfy the existing scientific rigor presently demanded of this data, and such data does not ordinarily yield explicit results as readily as does the more direct or derived data from biologically oriented research. I respectfully suggest that since socio-economic research data is in large part philosophic and subjective, that the standards for such documentation may need to be modified, perhaps by a more consensual approach through expert judgements, along with the hard facts from available and observable phenomena.

My regretful conclusion is that the harvestable tanner available, and the present domestic capacity to use it more fully in production, processing, and marketing, is a gap that cannot be closed in the forthcoming year. Therefore a stepped phase-out plan for foreign fishing is presently the most certain and feasible alternative available. That problem must be immediately and vigorously resolved.

Item #2: There is sufficient doubt that the 140 mm carapace width minimum for male *C. Bairdi* may not be scientifically justified for this Bering Sea resource, and needs more research.

Second, the necessity for imposing such a minimum size at this time is not clear. This tanner fishery is near virgin and is still in early domestic development stages, and consequently of marginal value income-wise to the producer. The minimum size imposes an added economic burden of a massive measuring effort by each vessel crew, adding to labor costs during a critical developmental period of the fishery.

Third, since the average carapace width of record last year in the domestic catch was 154 mm - mainly because of processing standards on weight - the immediate need for a 140 mm minimum size was not provoked by the industry.

harvesting a marginal or critical size range.

In conclusion, a scientifically determined minimum size is an eventuality in any developed fishery, but superimposing a minimum size requiring an intensive measuring effort in addition to the present size selectivity required by the processor, appears premature and does not enhance the yet marginal stance of this Bering Sea fishery.

SJ/lh

Attachment

WHEREAS the best scientific information available has defined the C. Bairdi stock of tanner crab in the Bering Sea as being primarily south of 58° North latitude and east of 173° West longitude; and

WHEREAS the best scientific information available has established that the total allowable catch of C. Bairdi tanner crab is within the harvesting and processing capability of the United States fishing fleet; and

WHEREAS there exists a conflict of gear between foreign and domestic fisheries;

NOW THEREFORE BE IT RESOLVED by the Alaska Board of Fisheries that no foreign harvest of tanner crab be allowed south of 58° North latitude and east of 173° West longitude.

WHEREAS the minimum legal carapace width of 140 mm for C. Bairdi tanner crab in the Bering Sea has been established by the Alaska Board of Fisheries as necessary for the conservation and continued productivity of the C. Bairdi tanner crab in Alaska; and

WHEREAS there is some evidence of a declining population in the Bering Sea tanner crab stock; and

WHEREAS P. L. 94-265 states that a stock of fish be managed as a unit throughout its range and that conservation and management measures shall not discriminate between residents of different states;

NOW THEREFORE BE IT RESOLVED by the Alaska Board of Fisheries that any foreign fishery of C. Bairdi tanner crab be restricted to male crab greater than 140 mm of carapace width.

SIGNED

Gordon Jensen
Gordon Jensen, Chairman
Alaska Board of Fisheries

DATE:

Dec 1, 1976